

**FY 2018**  
**Follow-up Federal Annual Monitoring Evaluation (FAME) Report**

**KENTUCKY LABOR CABINET**  
**DEPARTMENT OF WORKPLACE STANDARDS**  
**OCCUPATIONAL SAFETY AND HEALTH PROGRAM**



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**Prepared by:**  
**U. S. Department of Labor**  
**Occupational Safety and Health Administration**  
**Region IV**  
**Atlanta, Georgia**



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## I. Executive Summary

The Fiscal Year (FY) 2018 Federal Annual Monitoring Evaluation Report (FAME) is a Follow-up FAME Report. This primary purpose of this report is to assess the Kentucky State Plan's (KY OSH) progress in Fiscal Year (FY) 2018 resolving outstanding findings and observations from the FY 2017 Comprehensive FAME Report. In addition, this report also assesses KY OSH's performance and is based on the results of quarterly onsite monitoring visits, the FY 2018 State Office Annual Report (SOAR), and the FY 2018 State Activity Mandated Measures (SAMM) Report. A review of the SAMM data indicated that KY OSH is struggling to meet the federal activity results; however, only two of the measures were addressed as observations. This is discussed further in Section III of the report.

The FY 2017 Comprehensive FAME Report identified 12 findings and six observations, and the State Plan has implemented corrective actions for all of the findings and observations; however, five of the findings and two observations remain open, awaiting verification. Additionally, two new observations were identified during the FY 2018 Follow-up FAME. The following findings remain open:

- In most fatality files, the interviews that were conducted during the investigations were inadequate and statements were essentially non-existent;
- Fatalities are not being completely and thoroughly investigated to identify the cause of the accident;
- Only four programmed planned health inspections were conducted;
- KY OSH has significantly high average citation issuance lapse time for safety and health inspections, which are outside the FRLs; and
- In a majority of both complaint and general case files, there is little to no documentation of the interviews conducted.

The observations that remain open indicate that all violations cited in the fatality files were coded as being related to the cause of the accident, even if the violation had nothing to do with the cause of the accident. Additionally, some of the State Plan's consultation files did not contain diary sheets. OSHA continues to work with the Kentucky State Plan to resolve their findings and observations. The actions taken by KY OSH are highlighted in Section III of this report. The FY 2018 Follow-up FAME Report does not contain new findings.

In Fiscal Year 2018, Governor Matt Bevin appointed David Dickerson as Secretary of the Labor Cabinet. Prior to his appointment, Secretary Dickerson served as Secretary of the Public Protection Cabinet. On July 16, 2018, Governor Bevin appointed a new Commissioner, Dwayne Depp, to the Department of Workplace Standards and on September 26, 2018, Governor Bevin appointed Randy Harris as Director for the Division of Occupation Safety and Health Compliance. Mr. Danny Davis was appointed Executive Advisor to Commissioner Depp and also serves as the Acting Director for the Division of OSH Education and Training. The leadership team has made a significant impact and instituted positive changes to the Division of OSH Compliance. Since this change, KY OSH has been very responsive to the findings and recommendations in the FY 2017 FAME Report.

## II. State Plan Background

The Kentucky State Plan was established by the Kentucky General Assembly in 1972 and approved by OSHA in 1973. The KY OSH program received final 18(e) approval on June 13, 1985. KY OSH was the first State Plan approved under the revised federal benchmarks. The responsibility for enforcing occupational safety and health laws in the Commonwealth of Kentucky is vested in the Labor Cabinet and assigned to the Department of Workplace Standards, headed by a Commissioner, who is appointed by the Secretary with the approval of the governor. The KY OSH program covers all private sector and state and local government workers in the state, with the exception of federal workers, railroad workers, maritime workers (long shoring, shipbuilding, shipbreaking, and marine terminals operations), private contractors working at government-owned/contractor-operated facilities, Tennessee Valley Authority (TVA) workers and contractors operating on TVA sites, as well as U.S. Postal Service workers. In Kentucky, state and local government agencies and workers are afforded the same rights, responsibilities, and coverage as those in the private sector.

The General Assembly enacted legislation giving KY OSH the mission to prevent any detriment to the safety and health of all private sector and state and local government workers arising out of exposure to harmful conditions or practices at their places of work. KY OSH's program consists of the OSH federal-state coordinator, standards specialists, and support staff, all of whom are attached to the Commissioner's Office; the Division of Occupational Safety and Health (OSH) Compliance; and the Division of Education and Training. The Division of OSH Compliance is responsible for the enforcement of KY OSH's standards. The Kentucky Consultation Program is administered by the Kentucky Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Education and Training. The Division of Education and Training assists employers and workers by promoting voluntary compliance with the KY OSH standards. The Division of Education and Training is also responsible for overseeing the Partnership Programs, as well as conducting the annual survey of occupational injuries and illnesses, the census of fatal occupational injuries, and the OSHA data collection. The Office of the Federal-State Coordinator oversees the Office of Standards Interpretation and Development. Safety and health standards specialists from this office serve as support staff to the KY OSH program and OSH Standards Board, promulgate KY OSH regulations, respond to OSHA inquiries, and provide interpretations of KY OSH standards and regulations. This office is responsible for maintaining the Kentucky State Plan, as well as handling day-to-day communications with other government agencies, both at the state and federal level, including the U.S. Department of Labor, Occupational Safety and Health Administration, BLS, and other state OSHA programs.

Through the Frankfort office, KYOSH administers worker protection from workplace retaliation related to occupational safety and health claims [KRS 338.121]. There is one investigator who reports to the Director of OSH Compliance. The Office of the Kentucky Labor Cabinet prosecutes worker retaliation cases that are found to be meritorious.

A total of 110 positions were funded under the 23(g) grant. The approved benchmark for KY OSH is 37 compliance safety and health officers (CSHOs), of which 23 are safety and 14 are health. As of October 1, 2017, there were 27 safety compliance officers and 15 health compliance officers.

KY OSH’s primary objective is to improve occupational safety and health in workplaces throughout the state.

The table below shows KY OSH’s funding levels from FY 2013 through FY 2018.

FY 2011-2016 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2018	3,393,300	3,393,300	4,247,900	11,034,500	69
2017	3,393,300	3,393,300	4,028,200	10,814,800	69
2016	3,393,300	3,393,300	3,892,700	10,679,300	64
2015	3,378,100	3,378,100	3,356,300	10,112,500	64
2014	3,378,100	3,378,100	3,110,200	9,866,400	68

KY OSH conducted 663 workplace inspections during FY 2018, which were 181 inspections below their goal of 844 inspections. KY OSH issued 1,012 violations compared to 1,096 in FY 2017, resulting in the issuance of a total of \$2,761,250 in penalties.

The state’s latest injury and illness rate for private industry achieved an all-time low of 3.3 per 100 full-time workers in 2017. The U.S. Bureau of Labor Statistics (BLS) compiles the injury and illness rate data. Based on the most recent data released, Kentucky continues to be higher than the national average; however, Kentucky’s rates continue to improve and are at an all-time low.

**Total Recordable Cases (TRC) and Days Away Restricted and Transferred (DART) Rate Comparison\***

CY 2017**	Kentucky		National Average		Comparison
TRC Rate	3.1*	3.3**	2.8*	3.1**	.2 Higher Than the National Average*
DART Rate	1.6*	1.6**	1.5*	1.6**	Same as the National Average*

\*Private Sector industries only  
 \*\*All industries, including state and local government  
 \*\*CY = Calendar Year

The Kentucky State Plan administration is working diligently to improve program performance and address the findings and observations documented in the FY 2017 Comprehensive FAME report. The State Plan has:

- Hired and established top leadership positions including a Director of OSH Compliance, Assistant Director of OSH Compliance and Executive Advisors to the Commissioner.
- Secured equipment including digital recorders to assist investigators in capturing accurate and detailed information during inspections and interviews; provided smartphones to compliance

officer's to enhance their communications and technological capabilities during on-site inspections.

- Established and filled new supervisor and administrative support positions in the Division of OSH Compliance, as part of the overall strategy to improve operations in the division.

Supervisors worked with the Director of Professional Development to identify all required training and career development needs for compliance personnel and consultants and develop a learning tracking system to ensure all mandatory training is completed in a timely manner. Additionally, Kentucky coordinated with the OSHA Training Institute (OTI) and an OTI road course was brought to Kentucky at the end of January 2019, which focused on investigative and interviewing techniques.

Several compliance processes were updated in August 2018, including mandatory review for all inspections; weekly activity planning; mandatory documentation of daily compliance activities; a directive requiring compliance officers to identify and interview potential witnesses; acceptance of all complaints, including electronic complaints and complaints from all sources; and a directive requiring that all accident case reports explicitly state the cause of the event.

With assistance from the Director of Professional Development, the State developed, scheduled, and completed mandatory training for all agency employees to enhance customer service, professionalism, and career development, and executive staff routinely met with human resources to review and address salary issues. Additionally, the KY OSH Program has established core values to address cultural issues and employee expectations. The State Plan has also implemented a system of core values focused on Respect, Excellence, Professionalism, Accountability, Integrity, and Resilience (REPAIR), to enhance the overall effectiveness of the program.

The Division of OSH Education and Training conducted 155 training courses that reached over 5,200 attendees, in response to training requests from employers. Seventy-five (75) training sessions were presented at nine (9) Population (POP) Center Training seminars throughout the Commonwealth, and over 1,900 participants attended the training. The training addressed subjects relevant to the targeted industries and included the following: Injury and Illness; Recordkeeping; Fall Protection; Confined Space; Hazard Communication; Basic Electrical Safety; Welding Safety; Bloodborne Pathogens; Personal Protective Equipment; Spray Finishing; Lockout-Tagout; Fire Protection and Egress; Walking and Working Surfaces; Electrical Safe Work Practices; Powered Industrial Trucks; Silica; and Confined Space in Construction.

KY OSH continued their support for safety and health campaigns to prevent falls and heat illness. Through a cooperative effort with LAMAR Advertising Company, nineteen (19) billboards in cities across the Commonwealth, covering four (4) markets, displayed messages promoting fall prevention during the "National Stand-Down to Prevent Falls." The billboards were displayed throughout the campaign. During this review period, Kentucky also continued its outreach efforts in support of heat illness prevention. In August, KYSAFE provided heat stress training in English and Spanish at three (3) events in three (3) different Kentucky cities reaching 753 Spanish speaking participants and 126 English speaking participants. The events were coordinated by GAP Connections, which is a 501(c) (5) nonprofit agricultural membership organization that helps farmers with education and resources. This organization also connects growers, companies,

industry, and the public. Additional outreach was conducted through distance learning with webinars viewed over 490 times. In August, Governor Bevin filmed two (2) videos in support of the Safe + Sound campaign, at Nucor Steel Gallatin. Both videos were published on YouTube during Safe + Sound week.

## **New Issues**

Since the last on-site evaluation in FY 2017, OSHA's Nashville Area Office has responded to two Complaints About State Plan Administration (CASPA's), regarding the KY OSH program. Both CASPA investigations raised concerns regarding the state's investigation of workplace fatalities. OSHA's review of the first CASPA determined that there were several issues regarding the fatality investigation, including the failure to interview the eyewitnesses. OSHA's review of the second CASPA resulted in a determination that KY OSH conducted an adequate and complete investigation, in accordance with the State Field Operations Manual (FOM). The case file contained all necessary documentation, including photographs, measurements and diagrams, and interviews of workers and management representatives. KY OSH also conducted a review of relevant documents, including training and disciplinary records, policies, and procedures, and documents obtained from other investigative organizations. In both cases, OSHA made recommendations to the State Plan, regarding its investigation of workplace fatalities.

Executive Order 2018-586, effective July 16, 2018, abolished the Kentucky Occupational Safety and Health Standards Board. The Board's role had previously been to adopt and promulgate occupational safety and health rules, regulations, and standards. All duties of the Board were transferred to the Office of the Secretary.

## **Maximum Penalties**

In accordance with the Bipartisan Budget Bill passed on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum penalties. As required by law, OSHA then increased maximum penalties annually, on January 1, 2017, January 1, 2018, and January 23, 2019, according to the Consumer Price Index (CPI). State Plans are required to adopt both the initial increase and subsequent annual increases within the corresponding six-month timeframe set by regulation.

December 2018 marked two full years since the first deadline passed for adoption and the Kentucky State Plan has not yet completed the legislative changes to increase maximum penalties. Therefore, if the State Plan does not take significant steps to adopt during FY 2019, this issue may be a finding in the FY 2019 Comprehensive FAME Report.

## **III. Assessment of State Plan Progress and Performance**

### **A. Data and Methodology**

OSHA has established a two-year cycle for the FAME process. FY 2018 is a follow-up year, and as such, OSHA was not required to perform an on-site evaluation and case file review. However, due to concerns regarding the State Plan's failure to address deficiencies identified

in fatality investigation files, OSHA reviewed a sample of select case files to continue to closely monitor the status of previously identified problem areas, as well as progress made to address these deficiencies. A five-person OSHA team was assembled to conduct a focused on-site evaluation in Frankfort, Kentucky, during the timeframe of January 14-17, 2019. The OSHA team's evaluation focused on enforcement and consultation case file reviews, a review of KY OSH's performance statistics, and staff interviews. The enforcement files that were reviewed consisted of all 18 fatality files, 20 random inspection files including ten safety and ten health files, and 20 non-formal complaints and no-inspection files/documents that were selected using a random number table. A total of 18 consultation files were selected for review, primarily focused on the findings of the previous FAME.

The analyses and conclusions described in this report are based on information obtained from this case file review, as well as a variety of monitoring sources, including:

- State Activity Mandated Measures Report (Appendix D)
- State Information Report
- Mandated Activities Report for Consultation
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan

## **B. Findings and Observations**

### **FINDINGS (STATUS OF PREVIOUS AND NEW ITEMS)**

The State Plan made progress addressing the previous 12 findings and six observations reflected in the FY 2017 Comprehensive FAME Report. This follow-up FAME report contains five continued findings and four observations. Two observations are continued, and two observations are new. Seven findings were completed, four observations were closed and no findings from the previous FAME were converted to observations. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2017 recommendation in detail.

#### Completed Findings

**Finding FY 2017-01:** Safety compliance officers are not provided with progressive training opportunities as outlined by the KY OSH training guidelines.

**Status:** Kentucky has addressed this issue by implementing a tracking system to ensure CSHO's attend the required mandatory training. They now have a designated person to oversee the training of compliance staff, and they have scheduled road courses to address immediate training needs and ensure compliance with their training directive. This item is complete.

**Finding FY 2017-02:** KY OSH has elected to not acknowledge complaints with electronic signatures as being valid signed complaints, even though State law KRS 369 – Information



Technology allows agencies to recognize electronic signatures as being acceptable forms of signature. This policy is not at least as effective as OSHA's policy of accepting electronic signatures as valid signatures. KY OSH does not properly address electronic complaints.

**Status:** Kentucky initiated a change in its complaint intake procedure, and as a result of that change, electronic complaints with electronic signatures are accepted as valid complaints. In August 2018, the Division of OSH Compliance started accepting electronic complaints. Kentucky has a process in place to address every complaint, electronic or written. This item is complete.

**Finding FY 2017-03:** KY OSH interprets their state law as prohibiting inspection or investigation of a non-formal (non-employee) complaint. As a result, six of the 10 non-formal complaints reviewed were classified as invalid, even though they contained allegations of serious hazards and/or serious injuries.

**Status:** As of 11/20/2018, when KY OSH receives a non-employee complaint, the complainant is informed of the statute, and KY OSH inquires if the complainant can contact a current employee or representative of a current employee to file a complaint. If the complainant cannot contact a current employee or representative of an employee to file a complaint, Kentucky processes it as a non-formal complaint. At which point, an investigation would be initiated under the non-formal complaint process. The non-formal complaint process involves KY OSH contacting the employer to make them aware of the alleged hazards, and require the employer to respond in writing on how the hazards were abated, or explain how there were no hazards. This item is complete.

**Finding FY 2017-09:** In most safety and health consultation case files, the OSHA Form 33 was used with scores between one and two, and the required comments for improvement were not included as required by the CPPM, Chapter 4, II, F.

**Status:** Case file reviews confirm comments are being included for scores between one and two. This item is complete.

**Finding FY 2017-10:** Consultation case file documentation (field notes) was lacking the following: hazard description; processes; locations; measurements; the number of workers exposed; the duration of exposure; pictures; and abatement recommendations.

**Status:** Case file reviews confirm the following documentation was included in the case files: hazard description; processes; locations; measurements; the number of workers exposed; the duration of exposure; pictures; and abatement recommendations. This item is complete.

**Finding FY 2017-11:** In most cases, the employer's request date was not accurately reflected on the request form, and the scheduled site visit date was incorrectly entered as the employer's request date, with the majority of delays existing for three to six months. Therefore, delays in KY OSH conducting visits were not tracked due to incorrect data entry.

**Status:** Case file reviews confirm that the employer's request date was correctly reflected on the request form, and letters are sent out to the employer if the visit is not being conducted within 30 days. This item is complete.

**Finding FY 2017-12:** In FY 2017, in 9 of 18 (50%) of consultation case visits recorded as comprehensive visits, there were potential (or likely) health hazards present and yet there was no health sampling done to evaluate the potential, and there was no documentation in the file to explain why this sampling was not conducted.

**Status:** Case file reviews show that KY OSH is properly recording their visits based on the employer's request (comprehensive or limited) and explanations/reasons for sampling are included in the file. This item is complete.

### Continued Findings

**Finding FY 2018-01 (Finding FY 2017-04):** In most fatality files, the interviews that were conducted during the investigations were inadequate and statements were essentially non-existent.

**Status:** As previously stated in this report, a leadership change was made in July of 2018, beginning with the appointment of a new Commissioner to the Division of Workplace Standards, followed by the appointment of a new Director of OSH Compliance, and the hiring of an Executive Advisor to the Commissioner that was appointed as the acting Director of Education and Training. The new leadership has been very responsive to the identified findings and recommendations in the FY 2017 FAME report. In August of 2018, a directive was issued to all officers to interview all potential witnesses. On November 16, 2018, 40 digital recorders were purchased for the compliance officers to assist the investigators in capturing accurate information during inspections. This is also intended to more accurately document pertinent information provided by persons interviewed. At the time of the onsite review, management was in the process of issuing the digital recorders. Per the August 2018 Quality and Accountability Directive, interviews are required to be documented by recording, or by a detailed typewritten narrative. In January 2019, twenty Compliance Officers received required Investigative and Interviewing Techniques training through the OTI. This training taught the CSHOs needed investigative and interviewing techniques. KYOSH developed and implemented witness statement forms for developing and documenting witness statements. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. This item is completed; however, it is necessary to verify that the implementation has the desired results. This item is complete, awaiting verification.

**Finding FY 2018-02 (Finding FY 2017-05):** A review of the fatality inspection files found that fatalities are not being completely and thoroughly investigated to identify the cause of the accident. The cause of the accident was not identified in 19 of the 44 fatality files that were reviewed.

**Status:** Following the previously discussed leadership change, the new leadership has been very responsive to these findings and recommendations. In August of 2018, a Quality and Accountability Directive was issued requiring all compliance officers to explicitly state the cause of the accident in all case reports. KY OSH managers and supervisors continue to re-emphasize with regards to open fatality inspections, requiring a written "cause" in all cases. In October of 2018, a mandatory review process for all inspections was implemented to ensure that each inspection is thoroughly reviewed in a timely manner by the supervisor. An inspection checklist is currently being developed for both CSHOs and supervisors to follow to ensure quality in the investigation. On 11/20, KY OSH began providing supporting information, supporting

documentation, and providing cause/conclusion for fatalities that result in no inspection, such as heart attacks and other natural cause deaths. KY OSH intends to refine this protocol by establishing standard questions for fatalities that result in no inspection. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. This item is open, pending verification.

**Finding FY 2018-03 (Finding FY 2017-06):** KY OSH conducted four programmed health inspections during this period.

**Status:** KY OSH conducted a total of four programmed health inspections in FY 2018. At the time of this review, Kentucky had surpassed the number of programmed health inspections conducted in FY 2018 inspections. This item is complete, awaiting verification.

**Finding FY 2018-04 (Finding FY 2017-07):** KY OSH has significantly high average citation issuance lapse time for safety and health inspections, which are outside the FRLs.

**Status:** As of 10/15/2018, KY OSH has implemented measures required of each investigator to assist them in completing case files in a more timely fashion. These measures include weekly activity plans and regular meetings with their supervisor. These meetings involve discussion of all cases 90 days or older. In addition, Case Status Reports for lapse time per CSHO are being run monthly for management review, as well as holding executive staff meetings to discuss progress towards goals. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. This item is complete, awaiting verification.

**Finding FY 2017-08:** In a majority of both complaint and general case files, there is little to no documentation of the interviews conducted. In cases where employees were interviewed, the interviews were minimally documented with short bullet notes in fragmented sentences.

**Status:** Following the previously discussed leadership change, the new leadership has been very responsive to these findings and recommendations. On November 16, 2018, 40 digital recorders were purchased for the compliance officers to assist the investigators in capturing accurate information during inspections. This is also intended to more accurately document pertinent information provided by persons interviewed. At the time of the onsite review, management was in the process of issuing the digital recorders. Per the Directive, interviews are required to be documented by recording or by a detailed written narrative. In January 2019, Compliance Officers received required Investigative and Interviewing Techniques training through OTI. This training taught the CSHOs needed investigative and interviewing techniques. In March 2019, Kentucky delivered an in-house Investigative Report Writing training to all CSHOs. CSHOs were trained in the areas of taking recorded interviews and written statements, as well as developing detailed narratives and interview summaries. The training, provided by seasoned Kentucky investigative law enforcement officers, was designed to improve CSHO work products and assist compliance with recently established internal directives. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. This item is complete, awaiting verification.

## OBSERVATIONS

### Closed FY 2017 Observations

**Observation FY 2017-OB-02 (FY 2016-OB-04):** Findings provided to complainants contained generic language; without a basis for the conclusion to allow for meaningful appeals.

**Status:** KY OSH includes a copy of the case file narrative with the complaint letter to inform the complainant of the detailed findings for each complaint item. Case file reviews verified that the narratives are being included as an attachment to the complaint letters. This observation is closed.

**Observation FY 2017-OB-03:** There is a lack of consistency when disposing of whistleblower cases, where a complainant fails to return the initial questionnaire within the required timeframe. Some complaints have been administratively closed, due to a lack of cooperation. Others have been dismissed with investigative findings issued.

**Status:** Following the 2017 on-site review, the whistleblower protection investigator immediately began closing all cases for lack of cooperation administratively and documenting the lack of cooperation. This observation is closed.

**Observation FY 2017-OB-04:** Closing conferences for consultation visits were often delayed and conducted at a much later date than the site visit.

**Status:** Case file reviews show that KY OSH has addressed this issue. This observation is closed.

**Observation FY 2017-OB-06:** The OSHA injury illness data (OSHA 300) for only one prior year was analyzed and documented on the written tab addressed this issue. This observation is closed.

### Continued FY 2017 Observations

**Observation FY 2017-OB-01:** Violations cited in fatality files that were not related, or had nothing to do with the cause of the accident, were coded as being related to the cause of the accident.

**Status:** Case file reviews determined that all non-accident related violations in fatality files are coded as being related to the accident (Related Event Code (REC)), even if the violation was neither related to the fatality, nor a cause of the fatality. Kentucky indicated that they would address this issue through training with the compliance offices and a possible update to OSHA Express.

**Observation FY 2017-OB-05:** Some of the reviewed consultation files did not have a diary sheet to document the chronological actions taken during the consultation activity. About half of the diary sheets were limited to only one or two entries, even though more notations were warranted. Field notes and other file documentation were not always conducive to achieving the highest level of hazard recognition and hazard abatement.

**Status:** Case file reviews show that KY OSH has implemented measures to ensure the documentation of consultation activities; however, some files did not reflect the change. This observation remains open.

## New FY 2018 Observations

**Observation FY 2018-03:** The Kentucky State Plan completed 559 safety inspections compared to the 730 safety inspections the State committed to doing in the FY 2018 Grant, and completed 104 health inspections compared to the 114 health inspections the State committed to doing in the FY 2018 Grant.

**Federal Monitoring Plan:** OSHA will monitor the Kentucky State Plan during FY 2019 to identify possible causes of this disparity to ensure KY OSH meets or exceeds its negotiated planned inspection goal.

**Discussion:** The FRL for SAMM 7, planned versus actual inspections for safety is +/- 5% of 730 inspections (2018 Grant), which equals a range of 693.5 to 766.5 inspections. The Kentucky State Plan's planned versus actual inspections for safety is 559 inspections and a cause for concern. The FRL for planned versus actual inspections for health is +/- 5% of 114 (2018 Grant) inspections, which equals a range of 108.3 to 119.7 inspections. The Kentucky State Plan's planned versus actual inspections for health is 104 inspections, which is also below the FRL and warrants a closer look at the situation. Since this is the first year that this State Plan has dipped below the FRL on SAMM 7, OSHA will monitor this activity measure as an observation.

**Observation FY 2018-04:** The Kentucky State Plan's percent in-compliance for safety (SAMM 9) is 50.66% and is outside the further review level range of 23.92% to 35.88%. The Kentucky State Plan's percent in-compliance for health (SAMM 9) is 61.04% and is outside the further review level range of 28.88% to 43.32%.

**Federal Monitoring Plan:** OSHA will monitor the Kentucky State Plan during FY 2019 to identify possible causes of this disparity to ensure the State is within the FRL range for percent in-compliance for safety and health.

**Discussion:** The FRL for SAMM 9, percent in-compliance for safety inspections is +/- 20% of the three-year national average of 29.90%, which equals a range of 23.92% to 35.88%. The Kentucky State Plan's percent in-compliance for safety is 50.66%, which is substantially higher than the FRL and a cause for concern. The FRL for percent in-compliance for health inspections is +/- 20% of the three-year national average of 36.10%, which equals a range of 28.88% to 43.32%. The Kentucky State Plan's percent in-compliance for health is 61.04%, which also significantly exceeds the FRL and warrants a closer look at the situation. OSHA will monitor this activity measure as an observation.

### **C. State Activity Mandated Measures (SAMM) Highlights**

Each State Activity Mandated Measure (SAMM) 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 the State Plan's FY 2018 State Activity Mandated Measures (SAMM) Report and includes the FRLs for each measure. There

were deviations identified, where Kentucky operated outside the further review levels for some of the SAMMs. OSHA closely monitored the data and discussed it with KYOSH, where deviations or outliers were identified. Kentucky was outside the FRL for the following SAMMs:

### **SAMM 6 – Percent of total inspections in state and local government workplaces**

Discussion of State Plan data and FRL: The FRL for the percent of total inspections in state and local government workplaces is +/- 5% of 4.38%, which equals a range of 4.16% to 4.60%. The Kentucky State Plan's percent of total inspections in state and local government workplaces is 3.92%, which is below the FRL.

Explanation: Kentucky state law [KRS 338 "Occupational Safety and Health of Employees"] establishes definitions for employer and worker, which do not exclude state and local government employers and workers. Consequently, Kentucky statutes, regulations, and policies make no distinction between public and private sector employers and workers; and, public employers are treated no differently than private sector employers. State and local government workers are included in all of the programmed and unprogrammed inspection activity, and do not receive separate attention.

### **SAMM 8 – Average current serious penalty in the private sector – total (1 to greater than 250 workers)**

Discussion of State Plan data and FRL: The FRL for a total average current penalty per serious violation (1 to greater than 250 employees) is +/- 25% of the three-year national average of \$2,603.32, which equals a range of \$1,952.49 to \$3,254.15. The Kentucky State Plan's total average current penalty per serious violation (1 to greater than 250 employees) is \$4,910.75, which is substantially higher than the FRL.

Explanation: The Kentucky State Plan's high penalties are attributed to the States penalty calculation policy in Kentucky's Field Operations Manual (FOM). There is no concern, regarding Kentucky's average penalty for serious violations.

### **SAMM 10 – Percent of work-related fatalities responded to in one work day**

Discussion of State Plan data and FRL: The FRL for percent of work-related fatalities responded to in one workday is fixed at 100%. The Kentucky State Plan's percent of work-related fatalities responded to in one workday is 94.74, which warranted a closer look at this performance.

Explanation: Six outliers contributed to the State Plan's low percent of work-related fatalities responded to in one work day. However, a review of case files determined that the State responded timely upon notification. They include:

1. On Sunday, November 19, 2017, the death of a Douglas Amphibious Inc. employee was reported by a family member to a compliance supervisor's office voicemail. The accident occurred November 1 and the employee died November 2. The CSHO was unable to contact and locate the employer until November 27, 2017 when the inspection was opened.

2. On Saturday evening, November 11, 2017, the fatality of a Critchfield Meats Inc. employee was reported to a compliance supervisor's office voicemail. The notification was not reported to the OSHA Hotline or the after-hours number established in Kentucky's reporting regulation. An inspection opened Monday, November 13 as soon as Kentucky was aware of the fatality.
3. On March 2, 2018, the city manager for the City of Hickman reported the death of a law enforcement officer. Attempts were made to contact the city manager but Kentucky's calls were not returned. The city was contacted March 3 but an opening was not possible due to no one being onsite. An inspection opened March 5.
4. On June 23, 2018, the Fayette County coroner reported the June 22 fatality of a Wee Construction Company Inc. employee. Kentucky responded the same day as reported; however, an opening conference was not conducted until June 25. The victim was determined to be the sole proprietor of the business.
5. The fatality of a Central Farm Supply employee was reported late Saturday, July 21, 2018. A call to the employer contact number that was provided went to a number that was not answered. A CSHO was dispatched to the site Sunday, July 22 but the employer was closed. An opening conference was conducted Monday, July 23.
6. A fatality was reported by the Fayette County Coroner on August 31, 2018 regarding the August 29 injury of an employee who fell while hanging tobacco. The employer or worksite information could not be obtained until the Lexington Fire Department Battalion Chief returned Monday, September 3. In the meantime, a CSHO was dispatched to the hospital to speak with family members; the CSHO learned employer and contact information. Calls to the employer were not returned until September 5 and an inspection opened.
7. On October 2, 2018, the Kentucky Fatality Assessment and Control Evaluation program reported the death of a sixteen (16) year old employee working for Jose Luis Hernandez Sanchez dba Jose Luis Hernandez Sanchez. A CSHO was on site October 3 and opened with the general contractor. The general contractor provided the name of the employer; however, the employer could not be located. An opening conference was conducted October 10 after the next of kin forced the employer, who was also related to the victim, to appear.

### **SAMM 11 – Average lapse time**

Discussion of State Plan data and FRL: The FRL for lapse time for safety is +/- 20% of the three-year national average of 46.20, which equals a range of 36.96 to 55.44. The Kentucky State Plan's average lapse time for safety is 71.63, which is substantially higher than the FRL. The FRL for lapse time for health is +/- 20% of the three-year national average of 56.56, which equals a range of 45.25 to 67.87. The Kentucky State Plan's average lapse time for health is 94.24, which is substantially higher than the FRL. The significantly high safety and health lapse times are a cause for concern and warranted a closer look at the situation.

Explanation: The Kentucky State Plan's attributes the high lapse times for both safety and health to the high staff turnover, and low number of experienced staff. As stated previously in the discussion involving Finding FY 2018-07, with the leadership change in August, the new leadership has been very responsive to these findings and recommendations. In August of 2018, a directive to address lapse time was implemented.

### **SAMM 12 – Percent penalty retained**

Discussion of State Plan data and FRL: The FRL for percent penalty retained is +/- the three-year national average of 66.81%, which equals a range of 56.79% to 76.83%. The Kentucky State Plan's percent penalty retained is 82.04%, which is above the FRL.

Explanation: KY OSH is retaining penalties at a rate that is higher than the FRL range, which is a positive indicator.

### **SAMM 14 - Percent of 11(c) Investigations Completed Within 90 Days**

Discussion of State Plan data and FRL: The FRL for percent of 11(c) investigations completed within 90 days is fixed at 100%. KY OSH did not complete any of their retaliation investigations within 90 days. Even though the State Plan is below the further review level of 100%, the overall state data is not significantly lower than the national rate of 35%, and the quality of the whistleblower protection program has not been impacted.

Explanation: KY OSH places emphasis on completing 11(c) investigations within 90 days; however, as stated above the State Plan's data is not significantly different from the national data.

### **SAMM 15 - Percent of 11(c) complaints that are meritorious**

Discussion of State Plan data and FRL: The FRL for the percent of 11(c) complaints that are meritorious is +/- 20% of the three-year national average of 24%. KY OSH did not have any retaliation complaints that were meritorious. Even though the State Plan is below the further review level, the data is not significantly different from the national and the quality of the whistleblower protection program has not been impacted.

Explanation: KY OSH places emphasis on completing quality investigations resulting in appropriate findings. Many of the cases are settled, prior to a merit finding. The State Plan's program evaluation data is not significantly different from the national data.

### **SAMM 16 - Average Number of Calendar Days to Complete an 11(c) Investigation**

Discussion of State Plan data and FRL: KY OSH averaged 129 days to complete their retaliation investigations. Although the State Plan is above the FRL, this does not impact the quality of the whistleblower protection program. Also, the national data shows 277 calendar days, which is significantly higher than the State Plan.

Explanation: KY OSH places emphasis on completing 11(c) investigations within 90 days; however, as stated above the State Plan's data is not significantly different from the national data.



## **SAMM 17 – Percent of enforcement presence**

Discussion of State Plan data and FRL: The FRL for the percent of enforcement presence is +/- 25% of the three-year national average of 1.24%, which equals a range of 0.93% to 1.55%. The Kentucky State Plan's percent of enforcement presence was 0.89%, which is below the FRL.

Explanation: This measure is a ratio of the number of inspections compared to the number of employers. Kentucky's lower percent of enforcement presence is attributed to the decline in the number of enforcement inspections, and their failure to meet the number of planned inspections in the 2018 Grant and addressed in Observation 2018-03.

## Appendix A – New and Continued Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

FY 2018-#	Finding	Recommendation	FY 2017-# or FY 2017-OB-#
FY 2018-01	In most fatality files, the interviews that were conducted during the investigations were inadequate and statements were essentially non-existent.	KY OSH should develop and implement a strategy to ensure adequate and thorough interviews are conducted and statements are developed for all witnesses, workers, supervisors, and managers with knowledge of the incident, hazards, conditions, work practices, policies and procedures, and any other pertinent information. Corrective action complete; awaiting verification.	FY 2017-04
FY 2018-02	A review of the fatality inspection files found that fatalities are not being completely and thoroughly investigated to identify the cause of the accident. The cause of the accident was not identified in 19 of the 44 fatality files that were reviewed.	KY OSH should develop and implement a strategy to ensure all fatalities are completely and thoroughly investigated identifying and documenting the cause. Corrective action complete; awaiting verification.	FY 2017-05
FY 2018-03	KY OSH conducted a total of four programmed health inspections during this period.	KY OSH should develop and implement an effective strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries. Corrective action complete; awaiting verification.	FY 2017-06
FY 2018-04	KY OSH has significantly high average citation issuance lapse time for safety and health inspections, which are outside the FRLs.	KY OSH should develop and implement a process to reduce the average lapse time for non-in-compliance safety and health inspections to reduce lapse times to the national average. Corrective action complete; awaiting verification.	FY 2017-07
FY 2018-05	In a majority of both complaint and general case files, there is little to no documentation of the interviews conducted. In cases where employees were interviewed, the interviews were minimally documented with short bullet notes in fragmented sentences.	KY OSH should develop and implement a strategy to ensure adequate and thorough interviews are conducted and documented for workers, supervisors, and managers with knowledge of the hazards, work practices, policies and procedures, and any other pertinent information. Corrective action complete; awaiting verification.	FY 2017-08

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2018-OB-01	FY 2017-OB-01	Violations cited in fatality files that were not related or had nothing to do with the cause of the accident were coded as being related to the cause of the accident.	During next year's FAME, a sample of case files will be reviewed to determine if this issue has been fully resolved.	Continued
FY 2018-OB-02	FY 2017-OB-05	Some of the reviewed consultation files did not have a diary sheet to document the chronological actions taken during the consultation activity. About half of the diary sheets were limited to only one or two entries, even though more notations were warranted. Field notes and other file documentation were not always conducive to achieving the highest level of hazard recognition and hazard abatement.	During next year's FAME, a sample of consultation files will be reviewed to determine if this issue has been fully resolved.	Continued
FY 2018-OB-03		The Kentucky State Plan completed is 559 safety inspections compared to the 730 safety inspections the State committed to doing in the FY 2018 Grant and completed 104 health inspections compared to the 114 health inspections the State committed to doing in the FY 2018 Grant.	OSHA will monitor the Kentucky State Plan during FY 2019 to identify possible causes of this disparity to ensure meets or exceeds its negotiated planned inspection goal.	New
FY 2018-OB-04		The Kentucky State Plan's percent in-compliance for safety (SAMM 9) is 50.66% and is outside the further review level range of 23.92% to 35.88%. The Kentucky State Plan's percent in-compliance for health (SAMM 9) is 61.04% and is outside the further review level range of 28.88% to 43.32%.	OSHA will monitor the in-compliance rates for safety and health during FY 2019 to ensure meets or exceeds its negotiated planned inspection goal. Additionally, a sample of case files will be reviewed during the FY 2019 Comprehensive FAME to identify possible causes of this disparity.	New

## Appendix B – Observations and Federal Monitoring Plans

### FY 2018 Kentucky Follow-up FAME Report

	FY 2017-OB-02 (FY 2016-OB-04)	Findings provided to complainants contained generic language; without a basis for the conclusion to allow for meaningful appeals.		Closed
	FY 2017-OB-03	There is a lack of consistency when disposing of whistleblower cases, where a complainant fails to return the initial questionnaire within the required timeframe. Some complaints have been closed administratively, due to a lack of cooperation. Others have been dismissed with investigative findings issued.		Closed
	FY 2017-OB-04	Closing conferences for consultation visits were often delayed and conducted at a much later date than the site visit.		Closed
	FY 2017-OB-06	The OSHA injury illness data (OSHA 300) for only one prior year was analyzed and documented on the written report to the employer and in the consultation case file.		Closed

## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

FY-2017#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2017-01	Safety compliance officers are not provided with progressive training opportunities as outlined by the KY OSH training guidelines.	KY OSH should implement a process to ensure compliance officer training is compliant with TED 01-00-019 "Training Program for OSHA Compliance Personnel," as adopted by KY OSH.	KY OSH has addressed this issue by implementing a tracking system to ensure CSHO's attend the required mandatory training; they now have a designated person to oversee the training of compliance staff, and they have scheduled road courses to address immediate training needs and ensure compliance with their training directive.	1/18/2019	Completed 1/18/2019
FY 2017-02	KY OSH has elected to not acknowledge complaints with electronic signatures as being valid signed complaints, even though State law KRS 369 – Information Technology allows agencies to recognize electronic signatures as being acceptable forms of signature. This policy is not at least as effective as OSHA's policy of accepting electronic signatures as valid signatures. Electronic complaints that are forwarded to KY OSH are not being properly addressed. This policy is not at least as effective as OSHA's policy of	KY OSH should elect to accept complaints with electronic signatures as valid signed complaints and process these complaints in accordance with their policies and procedures for processing complaints.	Kentucky initiated change in its complaint intake procedure, and as a result of that change, electronic complaints with electronic signatures are accepted as valid complaints. Kentucky has a process in place to address every complaint, electronic or written.	8/1/2018	Completed 1/18/2019

## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

	accepting electronic signatures as valid signatures.				
FY 2017-03	KY OSH interprets their state law as prohibiting inspection or investigation of a non-formal (non-employee) complaint. As a result, six of the 10 non-formal complaints reviewed were classified as invalid, even though they contained allegations of serious hazards and/or serious injuries.	KY OSH and its attorneys should work with OSHA to change their current interpretation of the state law and start handling non-formal complaints alleging serious hazards either with an inspection or, at a minimum, by letter (phone/fax investigation).	Kentucky initiated change in its complaint intake procedure and as a result of that change, the State has a process in place to address every complaint, electronic or written and from all sources.	8/1/2018	Completed 1/18/2019
FY 2017-04	In most fatality files, the interviews that were conducted during the investigations were inadequate and statements were essentially non-existent.	KY OSH should develop and implement a strategy to ensure adequate and thorough interviews are conducted and statements are developed for all witnesses, workers, supervisors, and managers with knowledge of the incident, hazards, conditions, work practices, policies and procedures, and any other pertinent information.	In August of 2018, a directive was issued to all officers to interview all potential witnesses. On November 16, 2018, 40 digital recorders were purchased for the compliance officers to assist the investigators in capturing accurate information during inspections. This is also intended to more accurately document pertinent information provided by persons interviewed. At the time of the onsite review, management was in the process of issuing the digital recorders. Per the August 2018 Quality and Accountability Directive, interviews are required to be documented by recording, or by a detailed typewritten narrative. In January 2019, twenty Compliance Officers received required Investigative and Interviewing Techniques training through the OTI. Due to the timing of the implementation of the		Open

## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

			corrective actions, the case file reviews did not verify the correction. Corrective action complete; awaiting verification.		
FY 2017-05	A review of the fatality inspection files found that fatalities are not being completely and thoroughly investigated to identify the cause of the accident. The cause of the accident was not identified in 19 of the 44 fatality files that were reviewed.	A review of the fatality inspection files found that fatalities are not being completely and thoroughly investigated to identify the cause of the accident. The cause of the accident was not identified in 19 of the 44 fatality files that were reviewed.	In August of 2018, a Quality and Accountability Directive was issued requiring all compliance officers to explicitly state the cause of the accident in all case reports. KY OSH managers and supervisors continue to re-emphasize with regards to open fatality inspections, requiring a written “cause” in all cases. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. Corrective action complete; awaiting verification.		Open
FY 2017-06	KY OSH conducted a total of four programmed health inspections during this period.	KY OSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries.	KY OSH conducted a total of four programmed health inspections in FY 2018. At the time of this review, Kentucky had surpassed the number of programmed health inspections conducted in FY 2018 inspections. Corrective action complete; awaiting verification.		
FY 2017-07	KY OSH has significantly high average citation issuance lapse time for safety and health inspections, which are outside the FRLs.	KY OSH should develop and implement a process to reduce the average lapse time for non-in-compliance safety and health inspections to reduce lapse times to the national average.	As of 10/15/2018, KY OSH has implemented measures required of each investigator to assist them in completing case files in a more timely fashion. These measures include weekly activity plans and regular meetings with their supervisor. These meetings involve discussion of all cases 90 days or older. In addition, Case Status Reports for lapse time per CSHO are being run monthly for management review, as well as holding		

## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

			executive staff meetings to discuss progress towards goals. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. Corrective action complete; awaiting verification.		
FY 2017-08	In a majority of both complaint and general case files, there is little to no documentation of the interviews conducted. In cases where employees were interviewed, the interviews were minimally documented with short bullet notes in fragmented sentences.	KY OSH should develop and implement a strategy to ensure adequate and thorough interviews are conducted and documented for workers, supervisors, and managers with knowledge of the hazards, work practices, policies and procedures, and any other pertinent information.	On November 16, 2018, 40 digital recorders were purchased for the compliance officers to assist the investigators in capturing accurate information during inspections. This is also intended to more accurately document pertinent information provided by persons interviewed. At the time of the onsite review, management was in the process of issuing the digital recorders. Per the Directive, interviews are required to be documented by recording or by a detailed written narrative. In January 2019, Compliance Officers received required Investigative and Interviewing Techniques training through OTI. In March 2019, Kentucky delivered an in-house Investigative Report Writing training to all CSHOs. CSHOs were trained in the areas of taking recorded interviews and written statements, as well as developing detailed narratives and interview summaries. Due to the timing of the implementation of the corrective actions, the case file reviews did not verify the correction. Corrective action complete; awaiting verification.		
FY 2017-09	In most safety and health consultation case files, the OSHA Form 33 was used with scores between one and two, and the required	KY OSH should provide additional training to consultants to ensure that all the required improvement comments are entered in the OSHA	Case file reviews confirm comments are being included for scores between one and two.	1/18/2019	Completed 1/18/2019



## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

	comments for improvement were not included as required by the CPPM, Chapter 4, II, F.	Form 33.			
FY 2017-10	Consultation case file documentation (field notes) was lacking the following: hazard description; processes; locations; measurements; the number of workers exposed; the duration of exposure; pictures; and abatement recommendations.	The Kentucky Consultation Program should closely monitor consultation file documentation to ensure the appropriate information is included in the files.	Case file reviews confirm the following documentation was included in the case files: hazard description; processes; locations; measurements; the number of workers exposed; the duration of exposure; pictures; and abatement recommendations.	1/18/2019	Completed 1/18/2019
FY 2017-11	In most cases, the employer's request date was not accurately reflected on the request form, and the scheduled site visit date was incorrectly entered as the employer's request date, with the majority of delays existing for three to six months. Therefore, delays in KY OSH conducting visits were not tracked due to incorrect data entry.	The Kentucky Consultation Program should provide additional training to consultants to ensure they are correctly entering the employer's request date in OSHA express.	Case file reviews confirm that the employer's request date was correctly reflected on the request form and letters are sent out to the employer if the visit is not being conducted within 30 days.	1/18/2019	Completed 1/18/2019
FY 2017-12	In 9 of 18 (50%) of consultation case visits	The Kentucky Consultation Program	Case file reviews show that KYOSH is properly recording their visits based on the	1/18/2019	Completed 1/18/2019

## Appendix C - Status of FY 2017 Findings and Recommendations

### FY 2018 Kentucky Follow-up FAME Report

	recorded as comprehensive visits, there were potential (or likely) health hazards present and yet there was no health sampling done to evaluate the potential and there was no documentation in the file to explain why this sampling was not conducted.	should provide additional training to consultants to ensure they are conducting sufficient sampling and/or evaluations of health hazards specific to the type of industries visited. Ensure consultants provide an adequate explanation when sampling is not conducted.	employer's request (comprehensive or limited) and explanations/reasons for sampling are included in the file.		
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**Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report**  
 FY 2018 Kentucky Follow-up FAME Report

<b>U.S. Department of Labor</b>				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Kentucky – <b>KYOSH</b>			FY 2018	
<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	14.11	30 days for serious hazards; 120 days for other than serious hazards	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	10.45	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	0.00	TBD	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	0.00	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

## Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report

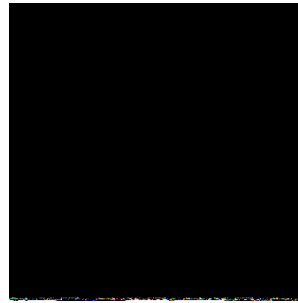
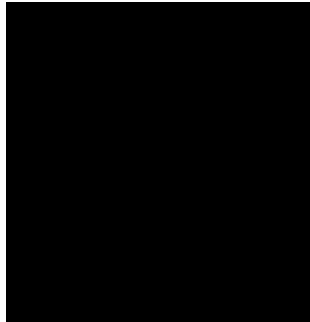
### FY 2018 Kentucky Follow-up FAME Report

<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.56	+/- 20% of SWRU: 1.82	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.18 for SWRU and from 0.78 to 1.18 for OTS.
		Other: 0.91	+/- 20% of Other: 0.98	
<b>6</b>	Percent of total inspections in state and local government workplaces	3.92%	+/- 5% of 4.38%	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 4.16% to 4.60%.
<b>7</b>	Planned v. actual inspections – safety/health	S: 559	+/- 5% of S: 730	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 693.50 to 766.50 for safety and from 108.30 to 119.70 for health.
		H: 104	+/- 5% of H: 114	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$4,910.75	+/- 25% of \$2,603.32	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,952.49 to \$3,254.15.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,494.43	+/- 25% of \$1,765.19	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,323.89 to \$2,206.49.
	b. Average current serious penalty in private sector (26-100 workers)	\$3,227.03	+/- 25% of \$3,005.17	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,253.88 to \$3,756.46.
	c. Average current serious penalty in private sector (101-250 workers)	\$12,124.00	+/- 25% of \$4,203.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,152.55 to \$5,254.25.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$7,802.57	+/- 25% of \$5,272.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,954.30 to \$6,590.50.

## Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report

### FY 2018 Kentucky Follow-up FAME Report

<b>9</b>	Percent in-compliance	S: 50.66%	+/- 20% of S: 29.90%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 23.92% to 35.88% for safety and from 28.88% to 43.32% for health.
		H: 61.04%	+/- 20% of H: 36.10%	
<b>10</b>	Percent of work-related fatalities responded to in one workday	94.74%	100%	The further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 71.63	+/- 20% of S: 46.20	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 36.96 to 55.44 for safety and from 45.25 to 67.87 for health.
		H: 94.24	+/- 20% of H: 56.56	
<b>12</b>	Percent penalty retained	82.04%	+/- 15% of 66.81%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.79% to 76.83%.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	0%	100%	The further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	0%	+/- 20% of 24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 19.20% to 28.80%.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	129	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	0.89%	+/- 25% of 1.24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.93% to 1.55%.



KENTUCKY  
OCCUPATIONAL SAFETY AND HEALTH PROGRAM

STATE OFFICE ANNUAL REPORT

FOR

FEDERAL FISCAL YEAR 2018

David Dickerson, Acting Secretary  
Dwayne Depp, Commissioner

## **INTRODUCTION**

The Kentucky Occupational Safety and Health (OSH) Program was established in 1972 by the Kentucky General Assembly. In July of 1973, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) approved Kentucky's state plan

The Kentucky Labor Cabinet has experienced two (2) significant reorganizations. By Executive Order 2004-731, issued by Governor Ernie Fletcher in 2004, the Labor Cabinet was abolished with all duties, responsibilities, employees, and functions transferred to the Environmental and Public Protection Cabinet, Department of Labor. Executive Order 2004-731 was ratified into law during the 2005 General Assembly by Senate Bill 41.

Executive Order 2008-472, issued by Governor Steven L. Beshear and effective June 16, 2008, re-established the Labor Cabinet, headed by a Secretary appointed by the Governor, and assigned to it all organizational entities within, attached to, or associated with the former Department of Labor, including all duties, functions, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to those entities. All duties, responsibilities, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to the Office of Occupational Safety and Health were assigned to the Department of Workplace Standards, headed by a Commissioner appointed by the Governor.

Executive Order 2008-472 was not ratified in the 2009 Regular Session of the General Assembly. Therefore, Executive Order 2009-537 was issued by Governor Beshear on June 12, 2009, to preserve the organizational structure established in Executive Order 2008-472.

Executive Order 2009-537 once again established the Labor Cabinet and assigned to it all organizational entities associated with the former Department of Labor as stated in Executive Order 2008-472.

Under the reorganization, the appointed directors of the Division of OSH Compliance and Division of OSH Education and Training report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet.

On March 25, 2010, Governor Beshear signed into law House Bill 393, an act relating to reorganization. House Bill 393 amended and created various sections of the Kentucky Revised Statutes to abolish the Environmental and Public Protection Cabinet and created (re-established) the Labor Cabinet. Kentucky's OSH Program now consists of the Division of OSH Compliance, headed by a Director; the Division of OSH Education and Training, headed by a Director; and the OSH Federal-State Coordinator. The OSH Federal-State Coordinator and the appointed directors of the Division of OSH Compliance and Division of OSH Education and Training report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet. Supplementing the functions of these units directly is a standards promulgation unit, the OSH Standards Board, as well as an adjudicatory body, the OSH Review Commission. Administrative staffs support the division directors, the commissioner's office of the Department of Workplace Standards, and the OSH Federal-State Coordinator's office.

Executive Order 2018-586, issued by Governor Bevin and effective July 16, 2018, abolished the OSH Standards Board. The Board adopted and promulgated occupational safety and health rules, regulations, and standards. All duties of the Board transfer to the Office of the Secretary.

The Kentucky OSH Program encompasses all areas, issues, and responsibilities that are covered by OSHA with the exception of private sector maritime activities, non-OSH related discrimination, temporary labor camps and field sanitation, federal employers and employees, private contractors on properties ceded to the Federal Government (including Job Corps Centers



And Federal Correctional Institutions), Tennessee Valley Authority facilities, and federal military bases. Kentucky's jurisdiction also extends to all state and local public employers and employees. The state's effort, with the exception of state and local government, does not include enforcement in any area over which OSHA does not exercise jurisdiction.

Kentucky's OSH statutes, KRS 338, include definitions of employer and employee that do not exclude public employers and public employees. The exclusions to KRS 338 cover only employees of the United States government and places of employment over which Federal agencies other than OSHA exercise statutory authority. In addition, written opinions of the Kentucky Attorney General's Office have supported the Labor Cabinet's position that public employees are included in the OSH Program jurisdiction, which subjects Kentucky's public employers and employees to the same requirements, sanctions, and benefits as private sector employers and employees. Kentucky statutes, regulations, and policies make no distinction between the public and private sectors.

The Division of OSH Education and Training and the Division of OSH Compliance have an effective and comprehensive effort to promote the safety, health, and general welfare of the people of the Commonwealth. This effort focuses on preventing hazardous working conditions and practices at places of work. The Divisions of OSH Education and Training and OSH Compliance provide for voluntary compliance services, education and training, enforcement through inspections of workplaces, onsite consultation services, research, statistics, and other functions that meet the mandate of the Title XXVII – Labor and Human Rights, Kentucky Revised Statutes (KRS) Chapter 338, Occupational Safety and Health of Employees.

The Kentucky Labor Cabinet remains fully committed to promoting the safety, health, and general welfare of the Commonwealth of Kentucky by preventing any detriment to the safety

and health of all employees, both public and private, arising out of exposure to harmful conditions and practices at places of work. In addition, the Cabinet is fully involved in preserving our human resources by providing for education and training, inspection of workplaces, consultation services, research, reports, statistics, and other means of advancing progress in occupational safety and health.

The Labor Cabinet renewed its focus in FY 2017 on the Division of OSH Education and Training with the launching of KYSAFE. KYSAFE is a re-branding of the cost-free consultative services offered by the Division of OSH Education and Training to all employees and employers in Kentucky. The Division of OSH Education and Training now markets itself as KYSAFE and includes a new website, [www.kysafe.ky.gov](http://www.kysafe.ky.gov), promotional materials, and web-based training.

Kentucky's Division of OSH Compliance maintains, at a minimum, benchmark staff of twenty-three (23) Compliance Safety and Health Officers (CSHO) and fourteen (14) Industrial Hygienists (IH). One (1) of these positions is devoted to investigating cases of alleged OSH discrimination. The Division of OSH Education and Training maintains three (3) main operational branches, safety, health, and partnership. Full staffing in safety and health branches are nine (9) consultants for each branch. In FY 2018, there were six (6) consultants in the safety branch and seven (7) IHs in the health branch. The Partnership Branch maintains a staff of five (5) safety consultants and IHs as well as a Voluntary Protection Partnership (VPP) Administrator, a Safety and Health Achievement Recognition Program (SHARP) Administrator, and a Construction Partnership Program (CPP) Administrator.

The Kentucky OSH Program implemented a five (5) year strategic plan for Fiscal Years (FY) 2016-2020 that utilizes a combination of resources to address workplace hazards, including enforcement strategies, consultations, training and education, partnership programs, technical

assistance, and standards development. The synergistic effect of these combined resources enables the OSH Program to significantly impact worker safety and health in the Commonwealth of Kentucky.

This report is presented in three (3) sections. Section I addresses Kentucky's success in achieving FY 2018 Performance Plan goals. Section II addresses mandated activities during FY 2018. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2018.

Information presented in this report reflects accurate data for the period sampled. Some case files have matured since preparation of this report while others are still working through the process. Subsequently, some of the information may vary if resampled. It is important to note that at the time of this report, there were 264 FY 2018 open enforcement inspections. The data has not fully matured.

## **SECTION I SUCCESS ACHIEVING PERFORMANCE GOALS**

The first strategic goal of the 2016-2020 Strategic Plan is to improve workplace safety and health for all workers, particularly in high-risk industries, as evidenced by fewer hazards, reduced exposures, and fewer fatalities, injuries, and illnesses.

Goal 1.1 of the FY 2018 Annual Performance Plan addresses the aforementioned Strategic Plan goal. Goal 1.1 aims to reduce the recidivism rate for repeat, serious, and willful violations in residential construction.

The baseline set in FY 2016 was twenty-seven (27) residential construction inspections resulting in two (2) repeat serious violations, thirty-five (35) serious violations, and no willful violations with penalties totaling \$110,900. In FY 2018, the Division of OSH Compliance conducted seventeen (17) residential construction inspections resulting in fifteen (15) serious citations and five (5) other than serious citations with penalties totaling \$47,000.

KYSAFE offers training, technical assistance, and consultative services, upon request, to employers engaged in residential construction. The division also publishes several internet-based training modules applicable to residential construction, such as fall protection. Several offerings are available in Spanish. The modules were viewed 629 times in FY 2018. Kentucky met the goal.

Performance Goal 1.2 is to reduce the hazards associated with hospitalizations, amputations, and illnesses in general industry as well as construction.

In the FY 2016 baseline year, the Division of OSH Compliance received 101 reported amputations. Eighty-three (83) inspections were conducted with four (4) repeat serious violations, seventy (70) serious violations, and sixteen (16) other than serious violations with

penalties totaling \$347,300. In FY 2018, ninety (90) amputations were reported to the Division of OSH Compliance. Eighty (80) inspections were conducted with four (4) repeat serious violations, fifty-eight (58) serious violations, and thirty (30) other than serious violations. Total penalties were \$442,400.

In the FY 2016 baseline year, the Division of OSH Compliance received 304 hospitalization reports. Ninety-nine (99) inspections were conducted resulting in four (4) repeat serious violations, forty-five (45) serious violations, and sixteen (16) other than serious violations with penalties totaling \$297,575. In FY 2018, 337 hospitalizations were reported to the Division of OSH Compliance and 116 inspections were conducted with eighty-three (83) serious violations, and thirty-six (36) other than serious violations. Total penalties were \$539,550.

Performance Goal 1.3 addresses the total number of hazards identified through a multi-pronged strategy that incorporates efforts for both the Division of OSH Compliance and KYSAFE.

The Division of OSH Compliance's portion of this goal consists of the number of inspections in construction and general industry. In the FY 2016 baseline year, the Division of OSH Compliance conducted 990 inspections, 544 were in general industry and 446 were in construction. In FY 2018, the Division of OSH Compliance conducted 633 inspections, 477 in general industry, 182 in construction, and four (4) in maritime.

The Division of OSH Education and Training's portion of this goal consist of surveys and training contact hours conducted in high hazard industries, as well as the total number of training courses, contact hours, surveys, and technical assistance visits in all industries. Kentucky's injury and illness data is also an indicator for this goal.

During the FY 2016 baseline year, KYSAFE conducted 166 health surveys of which all were considered high hazard. The division's safety branch conducted 198 surveys, of which all were considered high hazard. Five (5) safety and health technical assistance visits and 129 face-to-face training sessions were conducted that impacted over 4,400 persons. In FY 2018, KYSAFE conducted 142 health surveys of which all were considered high hazard. The division's safety branch conducted 135 surveys, all were considered high hazard. Nine (9) safety and health technical assistance visits and 155 face to face training sessions were conducted that impacted over 5,200 persons.

Injury and illness data is addressed in the discussion of Performance Goal 1.5. Other efforts conducted by the division in FY 2017 as well as data related to this goal are addressed throughout this report. Kentucky met the goal.

Performance Goal 1.4 strives to ensure that employers are adhering to settlement provisions for fatality investigations through follow-up inspections.

In the FY 2016 baseline year, the Division of OSH Compliance conducted eleven (11) follow-up inspections. None of the inspections were conducted to verify adherence to settlement provisions of fatality investigations. Eleven (11) follow-up inspections were conducted in FY 2018. There were no inspections conducted to verify adherence to settlement provisions of fatality investigations because there were no applicable FY 2018 fatality settlement agreements; however, two (2) inspections were follow-ups to ensure fatality-related abatement.

Performance Goal 1.5 aims to reduce by two (2) percent the number of construction industry injuries caused by falls, struck-by, and crushed-by incidents through a six (6) part strategy that combines efforts by the Division of OSH Compliance and the Division of OSH

Education and Training. In addition to the information presented immediately below, Performance Goal 1.1 and 2.6 also relate to this goal.

In the FY 2016 baseline year, 444 inspections were conducted in the construction industry. In FY 2018, 182 inspections were conducted in the construction industry.

In the FY 2016 baseline year, twenty (20) sites were enrolled in the CPP. In FY 2018, there were twenty-two (22) sites enrolled in the CPP.

In the FY 2016 baseline year, KYSAFE conducted seventeen (17) surveys, and presented nineteen (19) training courses totaling 2,175 contact hours in the construction industry. In FY 2018, KYSAFE conducted eight (8) surveys, one (1) technical assistance visit, and presented thirty-seven (37) training courses totaling 2,456 contact hours in the construction industry.

FY 2016 baseline year data collected by the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and Illness in cooperation with the Division of OSH Education and Training’s Statistical Services Branch, established the following Kentucky and National incident rates for 2015. This baseline data represents nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2015	Falls	Struck-by	Crushed
Kentucky	13.2	14.8	0
National	18.8	27.4	4.3

All of Kentucky’s rates presented in the FY 2016 SOAR were notably below national rates.

Data collected by the BLS Survey of Occupational Injuries and Illness in cooperation with the Division of OSH Education and Training’s Statistical Services Branch, established the

following Kentucky and National incident rates for 2017. This data represents nonfatal



occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2017	Falls	Struck-by	Crushed
Kentucky	15.3	24.3	3.7
National	17.1	28.0	5.0

Once again, all of Kentucky's rates are below national rates.

KYSAFE continues the CPP as well as monitoring the number of training courses, contact hours, surveys, and technical assistance efforts conducted in construction.

Performance Goal 1.6 aims to initiate all fatality inspections as well as hospitalizations of three (3) or more employees within one (1) working day of notification. Kentucky conducted eighteen (18) fatality inspections in FY 2018 and seven (7) appear as outliers. A brief summary is provided below for each outlier.

1. On Sunday, November 19, 2017, the death of a Douglas Amphibious Inc. employee was reported by a family member to a compliance supervisor's office voicemail. The accident happened November 1 and the employee died November 2. A compliance supervisor was contacted by the victim's brother on November 20, 2017 to discuss the accident. The supervisor contacted law enforcement in the county where the accident occurred. Law enforcement and internet research revealed three (3) telephone numbers. The supervisor called the numbers over a period of three (3) days and left messages on two (2) of the numbers; the third number was not accepting calls. The contact information was given to a CSHO in the area close to where the accident occurred. The

CSHO unsuccessfully attempted to make contact with the employer for two (2) days.

Voice messages were left; the employer did not return the calls. The CSHO successfully contacted the employer November 27, 2017 and opened an inspection.

2. On Saturday evening, November 11, 2017, the fatality of a Critchfield Meats Inc. employee was reported to a compliance supervisor's office voicemail. The notification was not reported to the OSHA Hotline or the after-hours number established in Kentucky's reporting regulation. An inspection opened Monday, November 13 as soon as Kentucky was aware of the fatality.

3. On March 2, 2018, the city manager for the City of Hickman reported the death of a law enforcement officer. Attempts were made to contact the city manager but Kentucky's calls were not returned. The city was contacted March 3 but an opening was not possible due to no one being onsite. An inspection opened March 5.

4. On June 23, 2018, the Fayette County coroner reported the June 22 fatality of a Wee Construction Company Inc. employee. Kentucky responded the same day as reported; however, an opening conference was not conducted until June 25 with individuals who were friends of the victim. The victim was the sole proprietor of the business.

5. The fatality of a Central Farm Supply employee was reported late Saturday, July 21, 2018. A call to the employer contact number that was provided went to a number that was not answered. A CSHO was dispatched to the site Sunday, July 22 but the employer was closed. An opening conference was conducted Monday, July 23.

6. A fatality was reported by the Fayette County Coroner on August 31, 2018 regarding the August 29 injury of an employee who fell while hanging tobacco. The victim was in

grave condition. Employer or worksite information could not be provided until the Lexington Fire Department Battalion Chief returned Monday, September 3. In the meantime, a CSHO was dispatched to the hospital to speak with family members; the CSHO learned employer and contact information. Calls to the employer were not returned until September 5 and an inspection opened.

7. On October 2, 2018, the Kentucky Fatality Assessment and Control Evaluation program reported the death of a sixteen (16) year old employee working for Jose Luis Hernandez Sanchez dba Jose Luis Hernandez Sanchez. A CSHO was on site October 3 and opened with the general contractor. The general contractor provided the name of the employer; however, the employer could not be located. An opening conference was conducted October 10 after the next of kin forced the employer, who was also related to the victim, to appear.

Performance Goal 1.7 aims to initiate Division of OSH Compliance inspections of all imminent danger reports within one (1) working day of notification.

The Division of OSH Compliance received ninety-four (94) reports of imminent danger in FY 2018 and met the goal for ninety-three (93) of the reported imminent dangers. An imminent danger referral for Anatole Construction Company was reported October 9, 2018. The Division of OSH Compliance did not respond within one (1) working day (October 10) due to inclement weather that prohibited construction work. The weather cleared and the division responded October 11. An inspection opened on the same day.

Performance Goal 1.8 strives to reduce Kentucky's total case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and

KYSAFE.

The FY 2016 baseline total case rate for injuries and illness, established from FY 2015 BLS data, was 3.7. The FY 2018 total case rate for injuries and illness, established from FY 2017 BLS data, is 3.3.

Performance Goal 1.9 aims to reduce the lost time case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and the Division of OSH Education and Training.

The FY 2016 baseline lost time case rate for injuries and illnesses, established from FY 2015 BLS data, was 1.9. The FY 2018 lost time case rate for injuries and illnesses, established from FY 2017 BLS data, was 1.6.

Performance Goal 1.10 aims to reduce total fatalities in general industry and construction.

In the FY 2016 baseline year, eighty-five (85) fatalities were reported to the Division of OSH Compliance resulting in twenty-one (21) fatality investigations conducted in general industry and seven (7) fatality investigations conducted in construction. Fifty-four (54) fatalities were reported to the Division of OSH Compliance in FY 2018 and eighteen (18) inspections were conducted. Ten (10) fatality inspections were conducted in general industry resulting in thirty-two (32) serious and fourteen (14) other than serious violations with penalties totaling \$203,700. Eight (8) construction industry fatality inspections were conducted resulting in two (2) willful, fourteen (14) serious, and two (2) other than serious violations totaling \$181,700 in penalties.

Performance Goal 1.11 aims to reduce the total case rate in four (4) of the top ten (10) industries in Kentucky with the highest injury and illness total case incident rates. This goal combines efforts for both the Division of OSH Compliance and KYSAFE.

Based on 2016 BLS data, the ten (10) industries in Kentucky with the highest injury and illness total case incident rates and the total case rate for each industry were:

<b>NAICS</b>	<b>Description</b>	<b>Rate</b>
485	Transit and ground passenger transportation	13.1
622	Hospitals	10.7
4849	Transportation and warehousing	9.5
92	Public administration	8.5
623	Nursing and residential care facilities (state government)	8.1
623	Nursing and residential care facilities (private)	7.6
92214	Correctional institutions	7.2
62	Health care and social assistance	7.2
2213	Water, sewage and other systems	6.4
9221	Justice, public order and safety activities	5.8

Three (3) of the aforementioned NAICS, 485, 4849, and 92214, were selected in FY 2017 and efforts continued with those NAICS in FY 2018. Twenty-two (22) surveys were conducted that identified 158 serious and 103 other than serious hazards potentially exposing 5,371 employees. KYSAFE selected an additional industry in FY 2018 for outreach and assistance using BLS data collected by the division’s Statistical Services Branch. The division mailed an offer to 176 employers in NAICS 623, Nursing and residential care facilities (private and state government), encouraging them to utilize KYSAFE services. Forty-six (46) employers responded and KYSAFE conducted safety and health surveys. KYSAFE identified 410 serious hazards potentially exposing 21,333 employees and identified 238 other than serious hazards potentially exposing 18,335 employees. Non-responders were referred to the Division of OSH Compliance.

Kentucky’s efforts were successful. The injury and illness total case rate in state government nursing and residential care facilities dropped from 8.1 to 5.5 while the injury and illness total case rate in private sector nursing and residential care facilities dropped from 7.6 to 6.8.

Additionally, seventy-five (75) training sessions were presented at nine (9) Population (POP) Center Training seminars throughout the Commonwealth; over 1,940 participants attended the training. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Hazard Communication, Basic Electrical Safety, Bloodborne Pathogens, Personal Protective Equipment, Lockout-Tagout, Fire Protection and Egress, Walking-Working Surfaces, Electrical Safe Work Practices, and Powered Industrial Trucks.

Through a partnership with Eastern Kentucky University's OSHA Training Institute Education Center, participants that successfully completed the four (4) hour Injury and Illness Recordkeeping training received an OSHA OTI certificate. In FY 2018, 190 participants received the certificate.

In an effort to supplement resources in addressing high hazard industry issues, KYSAFE continued to coordinate outreach with professional and industry associations.

KYSAFE remains committed to working with employers and continues its focus on industries and employers with the worst injury and illness rates. The Division of OSH Compliance continues its programmed inspection focus in the industries with the highest injury and illness total case incident rates. In FY 2018, 122 establishments in NAICS 623, Nursing and residential care facilities (private and state government) were referred for programmed planned inspections.

The Division of OSH Compliance conducted eighteen (18) general schedule inspections from the referrals. An additional five (5) programmed planned inspections were attempted or completed in FY 2018 from KYSAFE's FY 2016 referrals.

The second goal of Kentucky's 2016-2020 Strategic Plan is to change workplace culture to increase employer and employee awareness of, commitment to, and involvement in occupational safety and health.

Performance Goal 2.1 addresses settlement agreements; agreements with a monetary penalty reduction of \$15,000 or more include documented implementation of OSHA's 2016 "Recommended Practices for Safety & Health Programs" if general industry; or OSHA's 2016 "Recommended Practices for Safety & Health Programs in Construction" if construction; or the ANSI/AIHA/ASSE Z10 "Occupational Health and Safety Management Systems"; or engage the services of an outside safety / health consultant.

During FY 2018, the Division of OSH Compliance signed sixty-three (63) settlement agreements. Penalties were reduced \$15,000 or more in three (3) settlement agreements that included documented implementation of OSHA's 2016 "Recommended Practices for Safety & Health Programs" if general industry; or OSHA's 2016 "Recommended Practices for Safety & Health Programs in Construction" if construction; or the ANSI/AIHA/ASSE Z10 "Occupational Health and Safety Management Systems"; or engaged the services of an outside safety / health consultant. Penalties were reduced \$15,000 or more in four (4) agreements that did not include documented implementation of OSHA's 2016 "Recommended Practices for Safety & Health Programs" if general industry; or OSHA's 2016 "Recommended Practices for Safety & Health Programs in Construction" if construction; or the ANSI/AIHA/ASSE Z10 "Occupational Health and Safety Management Systems"; or engage the services of an outside safety / health consultant. In general, settlement agreements that did not include documented implementation of an internal safety and health management program or engage use of outside consultation may be permitted based on, or a combination of:



1. The documented financial condition of the employer.
2. The employer was a construction company. Construction activities are covered by 29 CFR Part 1926, Subpart C.
3. The citation(s) were reclassified resulting in a penalty reclassification of \$15,000 or more.

A brief synopsis of the aforementioned four (4) agreements follows.

- The penalty in KES Acquisitions dba Kentucky Electric Steel was reduced from \$120,000 to \$8,600 due to the reclassification of Citation 2 from failure to abate to repeat serious.
- The penalty in Texas Roadhouse Management was reduced from \$150,000 to \$8,500 at the discretion of the then Deputy Commissioner taking into consideration the deterrent effect of the penalty and the employer's compliance with the standard.
- The penalty in Perdue Foods LLC was reduced from \$23,400 to \$6,650 due to the dismissal of Citation 1, Items 1a and 1b as well as the reclassification of Citation 2, Item 1 from serious to other than serious.
- The penalty in RPM Interiors Inc., was reduced from \$71,700 to \$24,000 to facilitate payment of prior outstanding penalty and more importantly, facilitate compliance with fall protection training requirements. The settlement included a payment plan as well as a reversion clause regarding the penalties. The company has defaulted on their agreed upon payments and the penalties were sent to the Department of Revenue for collection.

Performance Goal 2.2 is to incorporate evaluation of safety and health management systems in 100 percent of the full-service comprehensive surveys. All FY 2018 KYSAFE

comprehensive consultative surveys incorporated an evaluation of safety and health management systems. Kentucky met the goal.

Performance Goal 2.3 seeks to utilize the Safety and Health Program Assessment Worksheet in 100 percent of the general industry full-service surveys. All FY 2018 KYSAFE comprehensive general industry consultative surveys utilized the Safety and Health Program Assessment Worksheet. Kentucky met the goal.

Performance Goal 2.4 aims to include a narrative safety and health program evaluation in 100 percent of the full-service consultation surveys. All general industry full-service surveys conducted by KYSAFE in FY 2018 included a narrative safety and health program evaluation.

Performance Goal 2.5 aims to provide safety and health program management training. KYSAFE provided employers and employees a cost-free online eLearning safety and health program management training module on the Labor Cabinet's eLearning website, [www.laborcabinetetrain.ky.gov](http://www.laborcabinetetrain.ky.gov). During FY 2018, 230 individuals viewed the module. Seventy-Seven (77) employees were trained in Auditor I hazard recognition by KYSAFE's Partnership Branch staff in four (4) separate training classes. Kentucky met the goal.

Performance Goal 2.6 addresses the evaluations of worksites on a timely basis to certify and re-certify VPP sites, develop CPP agreements, and add new employers to the SHARP as well as the maintenance and re-certification of current SHARP sites. The Partnership Program was very active in FY 2018 working with current participants, adding new participants as well as reaching out and looking for new VPP, SHARP, and CPP participants.

There were twenty-two (22) active CPP sites in FY 2018 with a total project cost over \$750 million. The Partnership Branch had fifty-five (55) contacts/visits with CPP sites in FY 2018 affecting over 3,730 employees. The most significant CPP project in FY 2018 was with

Brasfield and Gorrie for the construction of the Omni Hotel, an upscale mixed use business and residential facility situated in the heart of downtown Louisville with a project cost of \$270+ million dollars. The project was very successful with Brasfield and Gorrie being a very active partner. Some new CPP projects of note that began in FY 2018 include:

- A \$176 million dollar expansion project at Nucor Steel Gallatin that involves construction of a pickling/galvanizing line with Nucor acting as the general contractor; and
- A \$241 million dollar renovation of the Lexington Convention Center/Rupp Arena with Messer Construction.

VPP continues to be successful and sets the standard for program and participant quality.

The Partnership Program is working diligently with several facilities in their quest to become VPP while maintaining twelve (12) very strong, successful sites for most of the year.

One facility, Marathon Big Sandy Asphalt Terminal, was added to the VPP family in FY 2018. Phase I and II VPP audits were conducted at Nucor Steel in FY 2018 and they are expected to become an active VPP site early in fiscal year 2019. Work continued in FY 2018 with two (2) very large PSM facilities with the goal of reaching VPP status.

SHARP had twenty (20) active sites in FY 2018, adding two (2) new sites. They are Lixil in Somerset and Minova USA Inc. in Georgetown. Unfortunately, three (3) sites departed SHARP in FY 2018, one due to discovering systemic issues in the company's PSM program, another due to increased injury and illness rates coupled with an unwillingness to make requested improvements, and the last due to management changeover and change of attitude towards safety.

The Partnership Branch conducted a grand total of 190 visits/contacts in FY 2018 affecting 16,668 employees, identifying 1,890 hazards of which 684 were serious. Kentucky met the goal.

Performance Goal 2.7 addresses the implementation of a targeted outreach plan for 100 percent of new Kentucky OSH standards. There were no new standards in FY 2018.

KYSAFE continues to offer free outreach training at population centers (POP Centers) for employers and employees across the Commonwealth addressing other Kentucky OSH standards. The Kentucky Labor Cabinet also maintains updated and accurate information on the Kentucky OSH webpage as well as cost free publications for employers and employees. The Division of OSH Education and Training distributes a compact disc that contains all state OSH regulations, federal OSH standards, Kentucky safety and health manuals, posters, conference information, and other resource links. The Kentucky OSH Program provides the compact disc free of charge.

The Kentucky OSH Program does not print the federal regulations. Kentucky prints a document entitled “Kentucky Occupational Safety and Health Standards for Construction and General Industry.” The document contains Kentucky specific OSH general industry and construction regulations that supersede OSHA’s standards.

The third goal of Kentucky’s 2016-2020 Strategic Plan is to maximize the efficient and effective use of human and technological resources.

Performance Goal 3.1 is to maintain a reliable data repository.

The Kentucky OSH Program deployed comprehensive data management software in FY 2013 for both the Division of OSH Compliance and KYSAFE that “replaced” OSHA’s NCR/IMIS and OIS system. The software did not actually replace OSHA’s systems; NCR

equipment was maintained as required by OSHA but Kentucky OSH Program staff members did not utilize it. Kentucky's software communicated to OSHA's systems "behind the scenes." In FY 2015, Kentucky deployed a customized interface that provides the state's compliance and consultation data to OSHA's OIS system.

In addition to the collection, retention, and transmission of Kentucky's data to OSHA, Kentucky's software provides advanced OSH Program capabilities including report writing, inspection and survey milestone tracking, time management, program performance reports, etc. Each division also has specific functionality and capabilities unique to their individual needs. The software is very beneficial to the OSH Program.

The Division of OSH Compliance employs one (1) individual dedicated to maintaining reliable data. The Division of OSH Education and Training also employs one (1) individual dedicated to maintaining reliable data. Both divisions continue to maintain a reliable data repository. Kentucky met the goal.

Performance Goal 3.2 aims for new supervisory staff to complete formal leadership training or complete certification.

The Division of OSH Compliance did not hire supervisory staff in KY 2018. KYSAFE hired one (1) new supervisory staff during FY 2018. The individual is a Certified Public Manager and also completed supervisor training. Kentucky met the goal.

Performance Goal 3.3 encourages and aids attainment of professional certification. During FY 2018, the Division of OSH Compliance maintained three (3) certified Construction Health and Safety Technician (CHST) employees and one (1) Occupational Health and Safety Technologist (OHST). The Division of OSH Compliance maintained four (4) Certified Safety Professional (CSP) employees.

The Division of OSH Compliance continues to encourage and promote professional certification by maintaining two (2) safety position descriptions and increased salaries for the level of certification, paying for certification preparatory courses, and paying for the certification examination after successful completion. The Health Program Manager holds a Certificate of Management Fundamentals.

During FY 2017, KYSAFE maintained one (1) Certified Industrial Hygienist (CIH) employee, six (6) CIH-CSP employees, three (3) CSP employees, three (3) OHST certified employees, and two (2) CHST certified employees. Three (3) division employees have completed the Certified Public Manager (CPM) Program through Kentucky State University's Governmental Services Center.

The Office of the Federal-State Coordinator maintained one (1) dual CIH-CSP employee and one (1) dual CSP-ASP employee. Kentucky met the goal.

Performance Goal 3.4 encourages and aids completion of continuing education. In FY 2018, no staff members in the Division of OSH Compliance completed continuing education. However, since 2009, the Division of OSH Compliance has supported eleven (11) compliance officers attaining Master of Science degrees.

Performance Goal 3.5 aims to develop and publish electronic learning products. KYSAFE added two (2) cost-free interactive training products to the KYSAFE online library at [www.laborcabinetetrain.ky.gov](http://www.laborcabinetetrain.ky.gov), *Mechanical Power Press Safety IV* and *Introduction to KYSAFE*. Kentucky met the goal.

Performance Goal 3.6 seeks to include photographs of actionable hazards in 100 percent of surveys. Photographs of actionable hazards were included in all consultation surveys when

feasible. This continues to be monitored through the review of all consultation reports.

Kentucky met the goal.

## **SECTION II MANDATED ACTIVITIES**

The Occupational Safety and Health Act and 29 CFR 1902 establish a number of mandated activities or core elements for any state plan program. Kentucky's Annual Performance Plan, while involving many of these core elements, does not address every mandated activity. Mandated core elements of Kentucky's OSH program are addressed in this section.

### Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2018, the Division of OSH Compliance conducted 663 unannounced inspections of work sites under the authority of KRS 338.101. Advance notice of inspections is prohibited and punishable under KRS Chapter 338.991(9).

### Employee Involvement in Inspection Process

803 KAR 2:110 establishes that an authorized representative of the employees is given an opportunity to accompany compliance officers during inspections. The Division of OSH Compliance contacts a representative(s) of employee-organized groups upon entry onto a site in order to afford employees' participation in the inspection process. Representatives of employee groups may participate in the inspection process by attending the opening conference, accompanying the inspector and employer on the walk around, and attending the closing conference. Employee representatives are also allowed to observe employee interviews. If no employee-organized group exists at the facility, employee interviews are conducted.

Following the inspection, 803 KAR 2:130 requires that employee representative(s) be afforded the opportunity to observe any informal conference requested by the employer. 803 KAR 50:010 Section 14 allows the employee organization, or any interested employee, to intervene in any subsequent contest.



## First Instance Sanctions Against Employers Who Violate the Act, Including Citations

KRS Chapter 338.141 mandates the issuance of citations for violations of any OSH requirement. The Division of OSH Compliance continued to improve Kentucky's work environment through enforcement operations, which include first instance citations for violations of workplace safety and health standards and regulations.

The Division of OSH Compliance conducted a total of 663 inspections in FY 2018, 559 safety inspections and 104 health inspections. 573 inspections were un-programmed, breaking down as:

- 267 referrals;
- 187 complaints;
- 90 un-programmed related;
- Eleven (11) follow-ups; and
- Eighteen (18) fatalities/catastrophes.

Ninety (90) programmed inspections break down as:

- Sixty-nine (69) planned; and
- Twenty-one (21) programmed related.

182 inspections were in the construction industry, 477 were in manufacturing, and four (4) in maritime. 637 private sector and twenty-six (26) public sector employers were inspected. The Division of OSH Compliance conducted 559 safety inspections, which constitutes 84.3% of total inspections while health conducted 104 inspections, representing 15.7% of total inspections. Thirty-eight (38) inspections were conducted under the national emphasis programs. Thirty-five (35) of these were safety and three (3) were health related.

Safety averaged thirty-five (35) hours per case with 104 average days from opening conference to citation issuance. Health averaged ninety-two (92) hours per inspection with 138 average days from opening conference to citation issuance. 845 citations were issued in FY 2018 with penalties totaling \$2,755,850 and break down as:

Eight (8) willful violations with penalties issued totaling \$224,000;  
Sixteen (16) repeat violations with penalties issued totaling \$297,300;  
641 violations classified as serious with penalties issued totaling \$2,129,600; and  
327 violations classified as other than serious with penalties issued totaling \$52,500.

In FY 2018, the total amount of penalties collected by the Division of OSH Compliance was \$916,205. Sixty-one (61) cases were contested representing 9.2% of total inspections.

The Division of OSH compliance inspected establishments employing 451,037 employees and the inspections covered 52,508 employees. The Division of OSH Compliance vacated five (5) private sector violations pre-contest, which represents .7% of the violations issued. The Division of OSH Compliance vacated twenty-seven (27) private sector violations post-contest, which represents 3.9% of the violations issued. Additionally, the division reclassified seventeen (17), or 2.4%, violations pre-contest. The division reclassified twenty-seven (27), or 3.8%, violations post-contest.

The overall penalty retention in FY 2018 was 73.87%.

#### Ensuring Abatement of Potentially Harmful or Fatal Conditions

Hazardous conditions identified by Kentucky compliance officers and consultants are required to be abated. In order to ensure the correction of violations, KRS 338.991(4) provides specific penalties for any employer who fails to correct a cited violation. In addition, 803 KAR 2:060 establishes that employers must certify that each cited violation has been abated. Follow-up inspections are conducted to verify that potentially harmful conditions have been abated. The Division of OSH Compliance strives to perform at least ten (10) percent of safety and health inspections as follow-up inspections. The division follows up to ensure employers are complying with settlement provisions and abated hazards for fatality investigations. Also on the follow-up list are employers who fail to provide the Division of OSH Compliance with abatement documentation. The Division of OSH Compliance conducted eleven (11) follow-up

inspections in FY 2018, representing 1.7% of all safety and health inspections. There were no inspections conducted to verify adherence to settlement provisions of fatality investigations because there were no applicable FY 2018 fatality settlement agreements; however, two (2) inspections were follow-ups to ensure fatality-related abatement.

Discrimination rights established in KRS 338.121 and 803 KAR 2:250 are explained to complainants when they contact the Division of OSH Compliance. Employees interviewed during OSH inspections are also informed of their rights. The Division of OSH Compliance prints discrimination rights on the back of staff business cards which are given to employees during inspections.

The Division of OSH Compliance has the force of KRS 338.131(1) which gives the executive director who is the Commissioner of Workplace Standards the authority to issue an immediate abatement order in the event of “. . .an imminent danger which reasonably could be expected to cause death or serious physical harm.” This ensures prompt abatement or removal of employees from the hazard. If an employer fails to comply with an abatement order issued under KRS 338.131(1), the Division of OSH Compliance shall apply to the Franklin Circuit Court through its Office of General Counsel for an order to restrain such condition or practice.

Serious hazards identified by KYSAFE consultants must also be corrected. Employers who fail to correct serious hazards identified in KYSAFE consultative surveys are subject to referrals to the Division of OSH Compliance for inspection.

### Prompt, Effective Standard Adoption and Promulgation

House Bill 314, signed by Governor Bevin March 9, 2018, gave the Secretary of the Labor Cabinet the ability to suspend, delay, or alter enforcement of a promulgated standard by an administrative order (AO) if the federal government has suspended, delayed, or enjoined the corresponding federal regulation or suspended, delayed, enjoined, or altered the enforcement thereof. Any action taken by the Secretary to suspend, delay, or alter the enforcement of an occupational safety and health administrative regulation pursuant to this subsection shall be consistent with those taken by the federal government, except the Secretary may enforce an administrative regulation or standard which immediately preceded the administrative regulation whose enforcement is amended, delayed, or altered.

Kentucky adopted OSHA's beryllium final rule on June 2, 2017. This rule had an obligation for employers to comply on March 12, 2018. On March 2, 2018, OSHA delayed the obligation by policy to May 11, 2018. The Secretary issued AO 2018-001 on March 9, 2018; it delayed Kentucky's enforcement consistent with OSHA's policy.

On May 11, 2018, the Secretary issued AO 2018-002, which delayed enforcement of the general industry beryllium standards consistent with OSHA's Interim Enforcement Memorandum issued May 9, 2018. OSHA's memorandum delayed enforcement of provisions of the standard until June 25, 2018.

In an August 9, 2018 final rule, OSHA extended the compliance dates for certain ancillary general industry beryllium requirements to December 12, 2018. AO 2018-007 was issued August 20, 2018 by the Secretary to delay enforcement to be consistent with OSHA's August 9 final rule.

### Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the program's needs. Kentucky's ratio of state to federal funds for FY 2018 was 69:31.

### Counteraction of Imminent Dangers

KRS 338.131 provides enforcement personnel with the authority to order that imminent danger conditions be immediately abated. Such authority includes the enforcement of necessary measures to avoid, correct, or remove the imminent danger and prohibit the presence of individuals where the imminent danger exists. Reports of imminent danger are given the highest priority for inspection by the Division of OSH Compliance.

The Division of OSH Compliance received ninety-four (94) reports of imminent danger in FY 2018 and met the goal for ninety-three (93) of the reported imminent dangers. An imminent danger referral for Anatole Construction Company was reported October 9, 2018. The Division of OSH Compliance did not respond within one (1) working day (October 10) due to inclement weather that prohibited construction work. The weather cleared and the division responded October 11. An inspection opened on the same day.

### Response to Complaints

Kentucky's statutes ensure that employees and their representatives have a right to notify the OSH Program of perceived workplace violations. KRS 338.121 requires that a special inspection be conducted upon receipt of such notifications if reasonable grounds exist that there is a violation or danger. The Division of OSH Compliance prioritizes the employee complaints it receives.

Valid, formal complaints are scheduled for workplace inspections. Formal complaints are given priority based upon classification and gravity of the alleged hazard. Formal serious complaints, for example, are inspected within thirty (30) days; however, it is stressed to compliance officers to respond within five (5) days after assignment of the complaint.

The Complaint Audit Log Report indicates that the average response time to all complaints was 11.4 days for safety and twenty-four (24) days for health. The division's overall average for serious complaints was thirteen (13) days from the date the complaint is received to the date the inspection is opened. The Complaint Audit Log indicates the average response time to complaints alleging other than serious hazards for safety was 14.1 days, and twenty-four (24) days for health. The division's overall average was 18.9 days for other than serious hazards from the date the complaint was received to the date the inspection was opened.

Of the 680 complaints received in FY 2018, 183 were processed as formal complaints resulting in 177 inspections and 497 were processed as informal complaints.

#### Response to Referrals

The Division of OSH Compliance responded to 267 referrals in FY 2018. Kentucky places the same level of importance to referrals as it does complaints. As provided in Chapter 9 of Kentucky's FOM, serious complaints must be opened within thirty (30) working days and non-serious complaints within 120 working days. In FY 2018, the Division of OSH Compliance responded to all serious referrals with thirty (30) days and all non-serious referrals within 120 working days.

The Referral Audit Log indicates the average response time to referrals alleging imminent dangers for safety was 0.1 days and 0.0 days for health. The overall average for all

safety referrals was 5.1 days and 2.5 days for health from the date of all referrals received to the date the inspection opened.

#### Fatality/Catastrophe Investigations

Only imminent danger investigations are given a higher priority in the scheduling of inspections by the Division of OSH Compliance than fatality/catastrophe investigations. It is the policy of the Division of OSH Compliance to investigate all job-related fatalities and hospitalizations of three (3) or more employees as thoroughly and expeditiously as possible. There were eighteen (18) work-related fatalities in FY 2018. There were no hospitalizations of three (3) or more employees reported to the Division of OSH Compliance in FY 2018.

#### The Investigation of Discrimination and Employee Protection from Discrimination

KRS 338.121(3) offers protection to employees from reprisals which might result from the exercise of rights afforded by the OSH statutes. A system of citations and penalties, appeals to the OSH Review Commission, and reinstatement authority by the Commissioner while final determination is pending before the Review Commission, distinguishes the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he or she has been discriminated against, to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of OSH Compliance is responsible for the enforcement of the state's anti-discrimination provisions.

During FY 2018, the Division of OSH Compliance received 259 discrimination complaints or perceived discrimination complaints. Seventeen (17) cases were accepted, 118 were referred, 195 were addressed by telephone conversation, eleven (11) were denied, and sixteen (16) were investigated. Twenty-five (25) were determined to have no merit, five (5)

cases were administratively closed, and three (3) cases were withdrawn. The average lapse time for discrimination cases was 110 days per case due to two (2) cases under appeal.

When complainants call, they are informed of their discrimination rights, as are employees interviewed during OSH inspections. The Division of OSH Compliance also prints discrimination rights on the back of its business cards which are given to employees during inspections.

#### Ensuring Employees Access to Health and Safety Information

KRS 338.161(2) and 803 KAR 2:060 require employers to post notices informing employees of the protections and obligations provided for them in the law, including the proper contact for assistance and information. Kentucky regulations also provide for the availability of copies of the law and all regulations through the Kentucky Labor Cabinet. Employers who have obtained copies of these materials are required to make them available to employees or their authorized employee representatives. Failure to comply with posting requirements and information sharing provisions are citable offenses that may carry penalties. There were no citations issued in FY 2018 for failure to ensure employee access to health and safety information.

#### Ensuring Employee Access to Information on Exposure to Toxic or Harmful Agents

Kentucky adopted 29 CFR 1910.1020, which assures employee access to information on exposure to toxic materials and medical records. Employers who fail to comply with these requirements are subject to citations and monetary penalties. In addition, Kentucky has a regulation, 803 KAR 2:062, entitled “Employers’ Responsibility Where Employees are Exposed to Toxic Substances.” The regulation requires employers to monitor areas of exposure to potentially toxic substances and to notify employees who have been or are being exposed to



toxic materials. Monitoring records are to be maintained and made available to employees, former employees, or employee representatives.

In FY 2018, the Division of OSH Compliance conducted eleven (11) inspections relating to toxic material and harmful agents breaking down as:

- Two (2) inspections relating to lead with penalties totaling \$13,250 for seven (7) serious citations;
- One (1) inspection related to hexavalent chrome with penalties totaling \$3,750 for one (1) serious citation; and
- One (1) inspection specifically related to bloodborne pathogens resulting in three (3) serious citations with penalties totaling \$4,900.

#### Coverage of Public Employees

KRS 338 “Occupational Safety and Health of Employees” establishes definitions for employer and employee which do not exclude public employers and public employees. The exclusions to KRS Chapter 338 cover only employees of the United States government and places of employment over which federal agencies other than OSHA have exercised statutory authority. In addition, written opinions of the Kentucky Office of the Attorney General support the Kentucky Labor Cabinet’s position that public employees are included in the Kentucky OSH Program’s jurisdiction. Therefore, Kentucky’s public employers and employees are subject to the same requirements, sanctions, and benefits as Kentucky’s private sector employers and employees. Consequently Kentucky statutes, regulations, and policies make no distinction between public and private sector employers and employees. During FY 2018, the Division of OSH Compliance conducted twenty-six (26) inspections of public sector work sites, which includes programmed inspections and responses to public employee complaints. This calculates to 3.9% of the total number of Division of OSH Compliance inspections.

Services offered by KYSAFE are available to state and local public agencies in the same

manner and to the same degree as private employers. During FY 2018, forty-six (46) training

sessions were provided to public sector employers and employees totaling 1,172 participants.

Thirty-two (32) safety and health consultative surveys were conducted in public sector facilities resulting in the identification of 238 serious and 151 other than serious hazards.

### Recordkeeping and Reporting

KRS Chapter 338.161 “Statistical records – Posting of notices” requires that employers keep, preserve, and make available to the Kentucky OSH Program and the Secretary of the U.S. Department of Labor or the Secretary of the U.S. Department of Health and Human Resources, records relating to occupational safety and health as may be prescribed by regulation. Kentucky promulgated a regulation, 803 KAR 2:180, which specifically addresses occupational injury and illness recordkeeping, as well as reporting of fatalities, hospitalizations, and loss of an eye. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report any amputation or loss of an eye suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees, as well as amputations and loss of eye injuries, must be reported to the Kentucky OSH Program within seventy-two (72) hours after the employer, his agent, or another employee is informed of such a condition.

The Division of OSH Compliance inspection scheduling system prioritizes reported hospitalizations, amputations, and loss of eye injuries. This allows compliance resources to be focused on serious hazards in the workplace. In FY 2018, 337 hospitalizations were reported to the Division of OSH Compliance and 116 inspections were conducted with eighty-three (83) serious violations, and thirty-six (36) other than serious violations. Total penalties were \$539,550.

Ninety (90) amputations were reported to the Division of OSH Compliance in FY 2018. Eighty (80) inspections were conducted with four (4) repeat serious violations, fifty-eight (58) serious violations, and thirty (30) other than serious violations. Total penalties were \$442,400.

In FY 2018, the Division of OSH Compliance received no reports of loss of eye injuries.

Total penalties for violations related to amputation and hospitalization injuries in FY 2018 was \$981,900.

### Education, Training, and Consultation Services

The Kentucky General Assembly, in enacting the Commonwealth's occupational safety and health laws, clearly expressed in its Statement of Purpose and Policy, found at KRS 338.011, that the means of preventing workplace injuries and illnesses were to include education, training, and consultation services. The Legislature created a Division of OSH Education and Training for Occupational Safety and Health to help serve this purpose.

Since 1973, the Division of OSH Education and Training has offered a full range of services, including cost-free on-site consultation, technical assistance, training programs, and publications.

The division also has a full range of partnership and recognition programs including:

1. The Kentucky VPP which is similar to OSHA's VPP.
2. The Safety Partnership Program (SPP) offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs.
3. The CPP focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry.

4. The Kentucky SHARP mirrors the federal SHARP by encouraging small high hazard employers to operate exemplary safety and health management systems.
5. The Governor's Safety and Health Award Program recognizes employers who have reached certain milestones without a lost work time injury or illness.

KYSAFE conducted 277 consultative surveys in FY 2018 identifying and ensuring the abatement of 2,104 serious hazards. The division also conducted 155 training courses and reached over 5,200 attendees in response to training requests from employers. Division staff members provided nine (9) on-site technical assistance visits and responded to hundreds of inquiries from public and private employers regarding OSH concerns.

The Kentucky OSH Program, through KYSAFE, offers a full range of education, training, and consultation services to employers and employees in the Commonwealth.

### SECTION III NOTEWORTHY ACCOMPLISHMENTS

Many daily activities of the Kentucky OSH Program result in accomplishments that are not easily measured. The impact of the on-site presence of OSH personnel; the hazards identified and corrected through inspection or consultation; and the injuries, illnesses and fatalities that were prevented, while critically important, are ones that do not easily lend themselves to be singularly classified as outstanding accomplishments. Nevertheless, the day-to-day efforts of Kentucky OSH field and office personnel should not go unrecognized. During FY 2016, there were events, activities, and results that merit attention as outstanding accomplishments.

#### Decrease in Fatalities

Kentucky has a state specific requirement that requires all employee fatalities to be reported to the Division of OSH Compliance. The requirement ensures that all employee fatalities are known and can be addressed.

Kentucky thankfully experienced a thirteen (13) percent decrease in fatalities in FY 2018. Fifty-four (54) fatalities were reported to the division of OSH Compliance in FY 2018.

Fatalities Reported to the Division of OSH Compliance					
2017			2018		
Work Related	Non-Work Related	Motor Vehicle	Work Related	Non-Work Related	Motor Vehicle
21	36	5	24	28	2
Total: 62			Total: 54		

For comparison, sixty-nine (69) fatalities were reported to the Division of OSH Compliance in FY 2015 and eighty-five (85) fatalities were reported in FY 2016.

Although the fifty-four (54) fatalities reported in FY 2018 is improvement from FY 2017 and FY 2016, it is too many. Kentucky will continue efforts with employers and employees to reduce fatalities in Kentucky.

#### Lowest Injury and Illness Rate in Kentucky History

For the third year in a row, the total recordable incidence rate for all industries in Kentucky was the lowest rate in Kentucky since the BLS began recording the data in 1996. The FY 2018 rate, based on 2017 BLS data, was 3.3, down .1 from the then record low FY 2017 rate of 3.4. It is worth noting that Kentucky's rate in 1996, when BLS began recording the data was 8.4. Although Kentucky's FY 2018 incidence rate is .5 higher than the national average of 2.8, Kentucky is closing the gap, going from 4.2 in 2012 to 4.1 in 2013, 4.5 in FY 2014, 3.8 in 2015, 3.7 in 2016, 3.4 in 2017, and now to 3.3. Kentucky remains committed to further reducing the state's total case rate.

#### Workplace Safety Report

In March 2017, the Labor Cabinet launched a "Monthly Workplace Safety Report" to highlight the total amount of on-site surveys KYSAFE conducted for employers across the Commonwealth in the previous month and the savings to employers from those surveys. The monthly report is very popular.

In 2018, KYSAFE identified 2,115 serious hazards that exposed over 75,290 employees and saved employers over \$14,805,000 in potential fines. In 2018, KYSAFE also identified 1,121 other than serious hazards that exposed over 59,420 employees and saved employers \$2,242,000 in potential fines.

## Voluntary Protection Partnership

Kentucky's VPP Program recognizes employers who have reached a level of excellence in their safety and health programs and removes them from programmed inspection lists. Detailed reviews of records and written programs, as well as intensive on-site surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

The twelve (12) Kentucky VPP sites are:

- ABB (formerly General Electric Energy Service and Repair Center), Louisville;
- Cintas, Grayson;
- Dow Corning Corporation, Carrollton;
- General Electric Aircraft Engines, Madisonville;
- General Electric Aviation Infrastructure, Erlanger;
- International Paper Corporation, Bowling Green;
- Kimberly-Clark, Owensboro;
- L'Oreal (USA) Florence Manufacturing, Florence;
- Marathon Big Sandy Asphalt Terminal, Catlettsburg;
- Raytheon Corporation, Louisville;
- Southwire, Hawesville; and
- WestRock, Nicholasville.

VPP continues to be successful and sets the standard for program and participant quality.

The Partnership Program is working diligently with several facilities in their quest to become VPP while maintaining twelve (12) very strong, successful sites.

One facility, Marathon Big Sandy Asphalt Terminal, was added to the VPP family in FY 2018. Work is underway with two (2) very large PSM facilities with the goal of reaching status, as well as a large steel manufacturer.



### Construction Partnership Program

KYSAFE continues to focus on the construction industry by promoting CPP. There were twenty-two (22) active CPP sites in FY 2018 with a total project cost of over \$750 million. The Partnership Branch had fifty-five (55) contacts/visits with CPP sites in FY 2018 affecting over 3,730 employees. The most significant CPP project in FY 2018 continued to be with Brasfield and Gorrie for the construction of the Omni Hotel, an upscale mixed use business and residential facility situated in the heart of downtown Louisville with a project cost of \$270+ million. The project has so far been very successful with Brasfield and Gorrie being a very active partner.

Some new CPP projects of note that began in FY 2018 include:

- A \$176 million expansion project at Nucor Steel Gallatin that involves construction of a pickling/galvanizing line with Nucor acting as the general contractor:
- A \$241 million renovation of the Lexington Convention center/Rupp Arena with Messer Construction.

### SHARP

SHARP had twenty (20) active sites in FY 2018 adding two (2) new sites. They were Lixil in Somerset and Minova USA in Georgetown. Unfortunately, three (3) SHARP sites departed in the FY 2018, one due to discovering systemic issues in their PSM program, another due to increased injury and illness rates and an unwillingness to make requested improvements, and the last due to management changeover and change of attitude.

### TRACK Partnership

Tech Ready Apprentices for Careers in Kentucky (TRACK) is a partnership between the Kentucky Department of Education's Office of Career and Technical Education and the Labor Cabinet. The goal of this partnership is to prepare students for the workforce, help create and

retain local jobs for students and upon successful completion will result in acceptance in a Registered Apprenticeship Program. The partnership between the Office of Career and Technical Education (OCTE) and the Labor Cabinet provides pre-apprenticeship opportunities to high school students through existing programs offered at secondary tech centers across the state.

Employers may design secondary vocational training programs that best suit their needs. A minimum of four (4) courses are required, with one (1) of the courses being a cooperative education placement. In addition to the four (4) courses, students complete eight (8) safety and health modules developed by KYSAFE. The OCTE has specific training modules for students enrolled in the electrical, welding, or carpentry tracks, and is currently developing requirements for students in information technology and health sciences concentrations.

The modules are provided through the Labor Cabinet's e-learning website, [www.laborcabinetetrain.com](http://www.laborcabinetetrain.com). Upon completing each module with quiz, students receive a certificate from the Division of OSH Education and Training that must be turned in to their instructor and employer. The Division of OSH Education and Training believes this is a great opportunity to educate the young workforce regarding the importance of occupational safety and health. The division's participation in TRACK began January 1, 2015 and there were 1,290 visits to the modules. There were 3,619 visits to the modules in FY 2018.

#### Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. In FY 2018, the Division of OSH Compliance cited:

- 641 serious violations with penalties issued totaling \$2,129,600;
- Sixteen (16) repeat violations with penalties issued totaling \$297,300; and
- Eight (8) willful violations with penalties issued totaling \$224,000.

The Division of OSH Compliance also cited 327 other than serious violations with penalties issued totaling \$52,500 in FY 2018.

Information presented in this report reflects accurate data for the period sampled. Some case files have matured since preparation of this report while others are still working through the process. Subsequently, some of the aforementioned information may vary if resampled. It is important to note that at the time of this report, there were 264 FY 2018 open enforcement inspections. The data has not fully matured.

Citations issued in FY 2018 with noteworthy penalties include:

- \$330,000 to a general industry employer for three (3) serious violations related to powered truck operator training, first aid training, and powered industrial truck general requirements;
- \$86,650 to a general industry employer for one (1) repeat serious lockout-tagout violation; ten (10) serious violations related to emergency action plans, lockout-tagout, electrical, bloodborne pathogens, and hazard communication; and six (6) other than serious violation related to recordkeeping, walking-working surfaces, electrical, and lock-out;
- \$77,000 to a general industry employer for one (1) repeat serious violation related to machine guarding and one (1) serious violation related to cranes;
- \$67,000 to a construction industry employer for one (1) serious willful fall protection violation, and twelve (12) serious violations related to head protection, disposal of waste materials, scaffolds, fall protection, stairways, as well as concrete and masonry construction;

- \$65,000 to a construction industry employer for one (1) serious willful fall protection violation, and twelve (12) serious violations related to abrasive wheel machinery and portable powered tool guarding violations, and one (1) other than serious electrical violation related to a complaint;
- \$56,000 to a general industry employer for eight (8) serious violations related to hazard assessment, energy control procedure and periodic inspection, energy control training and communication, machine guarding, electrical, safety data sheets, and chemical hazard employee information and training;
- \$47,500 to a general industry employer for four (4) serious violations related to walking-working surfaces and fall protection as well as one (1) other than serious violation for walking-working surfaces; and
- \$42,000 to a general industry employer for eight (8) serious violations related to personal protective equipment, lockout-tagout, machine guarding, electrical, and hazard communication, and one (1) other than serious electrical violation.

All of the aforementioned penalties were assessed using \$70,000 as the maximum penalty for a willful violation, \$70,000 as the maximum for a repeat serious violation, and \$7,000 as the maximum for a serious violation.

### Combustible Dust

The Kentucky Labor Cabinet entered into an Interagency Agreement in 2005 with the Office of Housing, Building and Construction, Division of Fire Prevention (State Fire Marshal). Under the agreement, during the inspection of industrial facilities by the State Fire Marshal in which the potential for combustible dust hazards may exist, the State Fire Marshal informs employer representatives of the availability of education and technical assistance services that

are available from the Kentucky OSH Program's Division of OSH Education and Training. If there are safety and health issues, the State Fire Marshal will make a referral to the Division of OSH Compliance.

If the Kentucky OSH program becomes aware of the existence of fire and safety issues, it will notify the State Fire Marshal. Both the State Fire Marshal and the Division of OSH Compliance will cooperate in the investigation of all fires and explosions involving combustible dust. The Kentucky Labor Cabinet and State Fire Marshal are cooperating to identify facilities and conduct joint investigations, when possible, where combustible dust hazards exist.

The Division of OSH Compliance conducted one (1) combustible dust inspection in FY 2018 resulting in two (2) serious citations with penalties totaling \$3,500.

#### Notification of Asbestos Abatement/Demolition/Renovation or Ten (10) Day Notice

The Division of OSH Compliance has an agreement with the Division of Air Quality (DAQ) in the Department for Environmental Protection of the Energy and Environment Cabinet in which the Division of OSH Compliance is alerted of asbestos removals conducted in the Commonwealth. Employers are required to notify the Division of Air Quality ten (10) days in advance of any job involving asbestos removal.

The Division of OSH Compliance did not receive any referrals from DAQ in FY 2018. However, the Division of OSH Compliance conducted five (5) inspections relating to asbestos in FY 2018 resulting in four (4) serious citations with penalties totaling \$34,200.

#### Occupational Poison Alerts

The Division of OSH Compliance receives notices of incidents involving occupational exposure to toxins and poisons from The Kentucky Regional Poison Center of Kosair Children's Hospital. These notices made the Division of OSH Compliance aware of events that may have

otherwise been overlooked. Many have resulted in citations and penalties. This informal arrangement and notice provides a mechanism to protect employees from future exposures.

During FY 2018, the Division of OSH Compliance did not receive any notices from the Poison Control Center that involved occupational exposure to toxins or poisons.

### Professional Development

During FY 2018, KYSAFE maintained three (3) CIH-CSP employees, two (2) CSP employees, one (1) CIH employee, three (3) OHST certified employees, and two (2) CHST certified employees. Three (3) division employees have completed the CPM Program through Kentucky State University's Governmental Services Center.

The Office of the Federal-State Coordinator maintained one (1) dual CIH-CSP employee and one (1) dual CSP-ASP employee.

The Division of OSH Compliance followed OSHA's TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel during FY 2018. The Division of OSH Education and Training utilized TED 01-00-018 as guidance for training newly hired employees.

The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. Since the development of the CSP/OHST/CHST position within the division, a number of compliance officers have attained certification and more are in the process of doing so.

During FY 2018, the Division of OSH Compliance maintained three (3) board certified CHST employees. The Division of OSH Compliance maintained four (4) board certified CSP employees. The Division of OSH Compliance continues to encourage and promote additional personnel to achieve certification in the safety and health field by maintaining two (2) safety

certified position descriptions, paying for certification preparatory courses, and paying for the certification examination upon successful completion of the examination. The Health Program Manager holds a Certificate of Management Fundamentals.

During FY 2018, the Division of OSH Compliance supported employees' professional certification preparation as well as OSHA Training Institute attendance. One (1) employee earned ASP board certification.

Since 2009, the Division of OSH Compliance has supported eleven (11) compliance officers attaining Master of Science degrees.

#### Focused OSH Public Speaking / Presentations

The Kentucky OSH Program continues to serve as a resource for associations, employers, organizations, etc. requesting specialized and insightful speakers addressing various OSH-related topics.

The Division of OSH Education and Training conducted 155 face-to-face training courses and reached over 5,200 attendees in response to training requests from employers.

Seventy-five (75) training sessions were presented at nine (9) POP Center Training seminars throughout the Commonwealth; over 1,900 participants attended the training. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Fall Protection, Confined Space, Hazard Communication, Basic Electrical Safety, Welding Safety, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Fire Protection and Egress, Walking and Working Surfaces, Electrical Safe Work Practices, Powered Industrial Trucks, Silica, and Confined Space in Construction.

Through a partnership with Eastern Kentucky University's OSHA Training Institute Education Center, participants that successfully completed the four (4) hour Injury and Illness

Recordkeeping training received an OSHA OTI certificate. In FY 2018, 190 participants received the certificate.

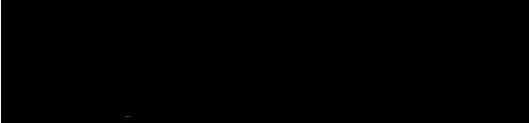
Attendance and positive feedback demonstrate that Kentucky OSH Program staff participation at such events is beneficial for the Labor Cabinet, employers, and employees.

The KYSAFE Partnership Branch Manager and the VPP Partnership Manager presented a workshop at the 2018 VPPA National Safety+ Symposium in Nashville, Tennessee. The presentation, “*All In: Kentucky’s Auditor Training for Employees*,” discussed Kentucky OSH Partnership Program consultants who train VPP site employees and potential VPP site employees, from line workers to management, in hazard recognition as well as the recognition of hazard recognition and abatement. The workshop was very well received. The auditor training significantly enhances the abilities of KYSAFE partners preparing for VPP. It helps them maintain a robust OSH program with strong employee involvement.

#### Standards Interpretation and Development

The OSH Standards Specialists and OSH Federal-State Coordinator provided 1,287 OSH interpretations during FY 2018.

#### Governor’s Safety and Health Conference and Exposition

The Labor Cabinet, in conjunction with the Kentucky Safety and Health Network, Inc., presented the 34<sup>th</sup> Annual Governor’s Safety and Health Conference and Exposition in Bowling Green on  May 8-11, 2018. This year’s very successful event, which is the largest safety and health exposition in the Commonwealth, featured pre-conference technical courses, facility and social tours, technical training, twenty-eight (28) concurrent workshops, and outstanding keynote speakers.



Additionally, Scholastic Achievement for Education Awards, or “SAFE” awards, totaling \$40,000 were presented at the conference to twenty-four (24) university students matriculating in the areas of occupational safety and health, industrial hygiene, or a closely related field. Kids Chance of Kentucky, Inc. also presented scholarships to children of Kentucky workers killed or seriously injured in work-related incidents.

Twenty-one (21) Kentucky employers were presented with the Governor’s Safety and Health Award at the event. The award is presented to employers and employees who together achieve a required number of hours worked without experiencing a lost time injury or illness. An additional twenty-four (24) companies received the Governor’s Safety and Health Award at their facilities in FY 2018.

#### Collection of Delinquent OSH Penalties

Pursuant to KRS 45.239(4) and 45.241, the Kentucky OSH Program entered into an agreement with the Kentucky Department of Revenue in FY 2013 to collect delinquent debts. Employers who have outstanding OSH debts are reported to the Department of Revenue for collection and further action. Such action may include:

- Adding a 25% collection fee to the total debt to defray the cost of collection.
- Filing a notice of State Lien. The filing of a lien is reflected in credit reports maintained by various credit bureaus.
- Seizing all property rights, both real and personal. This includes, but is not limited to, the attachments of any funds held by a bank, any wages paid to the employer, and the seizure and sale of any real estate.
- Using any tax refund or other monies that may become due to the employer from the Commonwealth of Kentucky to offset the outstanding debt.

The effort has proven successful; delinquent debts have been collected by Revenue and returned to the OSH Program. And, the OSH Program has seen an increase in employer’s efforts

to resolve debt payment to avoid being reported to the Department of Revenue. Since October 2013, the Division of OSH Compliance has submitted 163 cases to the Department of Revenue for collection totaling \$1,255,700.00. To date, \$313,739.38 has been collected.

#### Additional Efforts

The Labor Cabinet recognized the need to make occupational safety and health training more accessible and economical for all of Kentucky's employers and employees and charged the OSH Program with achieving the goal. The Kentucky OSH Program applied for, and received, a one (1) time federal award in FY 2011 to purchase web conferencing software, a video editing computer, and video equipment. After much planning and preparation, the Cabinet launched an online workplace safety and health training website, [www.laborcabinetetrain.ky.gov](http://www.laborcabinetetrain.ky.gov), the same year. Employers and employees have cost-free, 24/7 access to a variety of OSH webinars and training courses. The eLearning program has grown by leaps and bounds since its launch. To date, more than 100,000 participants have utilized the website.

Webinars are streamed and provide real-time instruction and offer immediate feedback to participants. Advanced registration for webinars is required and is free to all participants. As each webinar is presented, it is recorded and available for review at any time.

KYSAFE added two (2) cost-free interactive training products to the [www.laborcabinetetrain.ky.gov](http://www.laborcabinetetrain.ky.gov) library, *Mechanical Power Press Safety IV* and *Introduction to KYSAFE*.

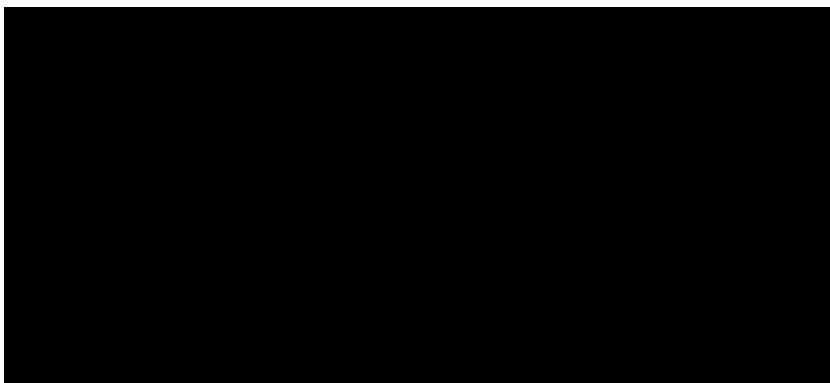
Kentucky is particularly proud of the fact that [www.laborcabinetetrain.org](http://www.laborcabinetetrain.org) was created, designed, and developed solely by Labor Cabinet staff. In addition to performing their full plate of regular duties, Division of OSH Education and Training consultants compose all course

content and a division training development specialist assists with presentation and production details.

#### Fall Prevention Stand-Down

Through a cooperative effort with LAMAR Advertising Company, nineteen (19) fall prevention

“National Stand-Down to Prevent Falls” billboards appeared in cities across the Commonwealth covering four (4) markets.



The billboards ran prior to, during, and after the Stand-Down for a minimum of four (4) weeks and received over 2,500,000 impressions!

#### Heat Campaign

Since 2011, the Division of OSH Education and Training has participated in the heat awareness campaign and conducted concentrated state-wide efforts to educate the working public concerning the hazards of working in the summer heat. The efforts targeted construction as well as general industry.

Kentucky continued the outreach in FY 2018, reaching out to educate Kentucky’s workforce regarding the hazards of heat stress. In August, KYSAFE provided Heat Stress training at three (3) events in three (3) different Kentucky cities. The events were coordinated by GAP Connections, a 501(c)(5) nonprofit agricultural membership organization that helps farmers with education and resources. They serve as an agriculture “Connection” between growers, companies, industry, and the public. The target audience were growers, migrant, seasonal, and local farm workers. KYSAFE provided the heat stress training in English and Spanish. The

## Appendix E – FY 2018 State OSHA Annual Report (SOAR)

### FY 2018 Kentucky Follow-up FAME Report

information was presented to 753 Spanish speaking participants and 126 English speaking participants. 879 individuals were impacted over the three (3) events! Additional outreach was conducted through distance learning. The Labor Cabinet's eLearning website hosts the interactive *Heat Stress Awareness for Construction and General Industry* module and *Occupational Heat Exposure* webinar. The module and webinar were viewed over 490 times in FY 2018.

#### Safe + Sound Campaign

In August, Governor Bevin shot two (2) videos in support of the Safe + Sound campaign at Nucor Steel Gallatin. Nucor Steel Gallatin is an active CPP site and is also pursuing VPP certification. (The CPP effort at Nucor Steel Gallatin is a \$176 million pickle galvanizing line project that began November 2017 and concludes in mid-2019.) Both videos were published on YouTube during Safe + Sound week and can be viewed at:

<https://www.youtube.com/watch?v=zN9jdzJon5E> and

<https://www.youtube.com/watch?v=6R9ueOsOc3g>.