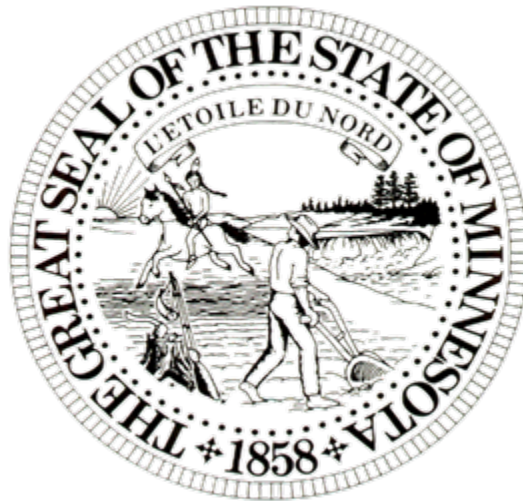


# **FY 2016 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report**

**State of Minnesota**

**Minnesota Department of Labor and Industry  
Occupational Safety and Health Division**



**Evaluation Period: October 1, 2015 – September 30, 2016**

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## Contents

<b>I. Executive Summary .....</b>	<b>3</b>
A. State Plan Activities, Trends, and Progress.....	3
B. State Plan Introduction .....	4
C. Data and Methodology .....	4
D. Findings and Observations .....	5
<b>II. Assessment of State Plan Performance.....</b>	<b>5</b>
A. Major New Issues .....	5
B. Assessment of State Plan Progress in Achieving Annual Performance Goals.....	5
C. Highlights from the State Activity Mandated Measures (SAMM) .....	10
<b>III. Assessment of State Plan Corrective Actions .....</b>	<b>11</b>

## Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations Subject to New and Continued Monitoring.....	B-1
Appendix C – Status of FY 2015 Findings and Recommendations.....	C-1
Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report....	D-1

## **I. Executive Summary**

### **A. State Plan Activities, Trends, and Progress**

The purpose of this follow-up Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's progress towards achieving performance goals established in their federal fiscal year (FY) 2016 Annual Performance Plan and to describe corrections made by the State Plan in response to the FY 2015 FAME Report findings and recommendations. This report assesses the current performance of Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

A detailed explanation of the findings and recommendations of the MNOSHA performance evaluation, and the State Plan's response, is found in Section III, Assessment of State Plan Corrective Actions. The FY 2015 FAME identified four findings and recommendations. Three of the recommendations are completed and one is awaiting verification. A summary of the current findings and recommendations noted, as a result of OSHA's evaluation, is found in Appendix A, New and Continued Findings and Recommendations.

A thorough assessment has been conducted of MNOSHA's progress in achieving their annual performance goals, and the results are found in Section II. B, Assessment of State Plan Progress in Achieving Annual Performance Goals. Noteworthy in the assessment are the following:

- Performance Goal 1.1, Reduction in total recordable cases (TRC) rate: The FY 2016 target was a reduction in the calendar year (CY) TRC rate from the previous five-year average, which was 3.8 per 100 workers. The CY 2015 TRC rate achieved was 3.5; a 7.89% reduction.
- Performance Goal 1.2, Reduction in state fatality rate: During FY 2016, MNOSHA experienced a 17% reduction in worker fatality rate; from 0.692 fatalities per 100,000 workers to 0.577.
- Performance Goal 1.3.b, Conduct inspections in targeted emphasis industries: The FY 2016 goal was for 63% of programmed inspections to be conducted within the emphasis industries. MNOSHA exceeded the goal by conducting 92% of all programmed inspections within the emphasis industries.

Quarterly monitoring team meetings were held during FY 2016, at which time the State Activity Mandated Measures (SAMM) report was reviewed and discussed with MNOSHA compliance staff. The FY 2016 SAMM is Appendix D of this report.

OSHA received and investigated one Complaint About State Program Administration (CASPA) during FY 2016. The CASPA alleged that MNOSHA did not provide employees health related information discovered during inspections, including chemical identities and potential health effects; and that MNOSHA does not have a record of the inspections. Due to the age of the referenced inspections, it was not possible to determine if the policies and procedures were

followed at that time. Records of inspections, including the standards and rules that were cited, still exist after case file documents have been destroyed.

## **B. State Plan Introduction**

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program began operating on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private sector and in state and local government agencies, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is "to ensure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enable employers to maintain safe and healthful workplaces.

During FY 2016, there were no changes to the current administration. Commissioner Ken Peterson is the head of the DLI. Ms. Cindy Valentine is the Workplace Safety Manager reporting directly to the Commissioner. Mr. James Krueger is the Director of the OSH Compliance Division and, since December 2, 2015, Mr. Tyrone Taylor is the Director of the WSC Division within Minnesota DLI. The FY 2016 grant included funding totaling \$8,780,524 and full-time equivalent (FTE) staffing of 75 positions. The State Plan's expected staffing level is 31 safety investigators and 12 health investigators. MNOSHA allocated funding for 34.24 safety and 14.99 health positions. At the beginning of FY 2016, there were 31 safety and 14 health investigators on staff. By the end of the fiscal year, three safety and four health positions were vacated, of which three safety and three health were ultimately filled.

## **C. Data and Methodology**

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

MNOSHA's performance was compared to their FY 2016 Performance Plan and Five-Year Strategic Management Plan through a detailed analysis of the FY 2016 State OSHA Annual Report (SOAR) and SAMM report. The State Plan's progress in addressing findings identified in the FY 2015 FAME was tracked and monitored through ongoing discussions and plan supplements.

## **D. Findings and Observations**

This FY 2016 Follow-up FAME Report includes one finding and three observations that are continued from the FY 2015 report. MNOSHA continues to emphasize with staff the importance of conducting industrial hygiene sampling and documenting case files in order to evaluate hazards and support citations and determinations. There are no new findings or observations identified for FY 2016.

A complete summary of the FY 2015 findings and observations, and MNOSHA's progress in addressing the findings, are found in Section III, Assessment of State Plan Corrective Actions. A list of the observations is found in Appendix B, Observations Subject to New and Continued Monitoring; and a list of the findings and recommendations is found in Appendix C, Status of FY 2015 Findings and Recommendations.

## **II. Assessment of State Plan Performance**

### **A. Major New Issues**

#### **Maximum Penalty Increase**

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016 and again increased penalties according to the Consumer Price Index (CPI) in January of 2017. As required by law, OSHA will continue to raise maximum penalties each year according to the CPI. State Plans are required to adopt both the catch-up increase and annual increase.

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

The Minnesota Occupational Safety and Health Strategic Management Plan for FY 2014 to FY 2018 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership; and 3) Strengthen and improve MNOSHA's infrastructure. The FY 2016 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2016.

In the FY 2016 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishment of meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, all but two of the annual performance goals have been met or exceeded.

The following summarizes the activities and accomplishments for each of the FY 2016 performance goals.

## **Strategic Goal #1**

Reduce occupational hazards through compliance inspections.

**Performance Goal 1.1:** Reduction in total recordable cases (TRC) rate from a five-year average of 3.8

**Results:** This goal was met.

**Discussion:** The FY 2016 target was a reduction in the calendar year (CY) TRC rate from the previous five-year average for CY 2010 – 2014, which was 3.8 per 100 workers. The CY 2015 TRC rate achieved was 3.5; a 7.89% reduction. MNOSHA Compliance continues to review new information to redefine targeting to reduce injury and illness rates.

**Performance Goal 1.2:** Reduction in state fatality rate from a five-year average of 0.692

**Results:** This goal was met.

**Discussion:** The FY 2016 target was a reduction in the state's fatality rate from the previous five-year average for FY 2011 – 2015, which was 0.692 per 100,000 workers. The FY 2016 fatality rate achieved was 0.577; a 17% reduction. There were 16 fatalities in FY 2016 compared to 20 fatalities in FY 2015. MNOSHA Compliance continues to address workplace fatalities in its outreach materials, and during construction seminars.

**Performance Goal 1.3.a:** Conduct 1,800 inspections.

**Results:** This goal was met.

**Discussion:** The FY 2014-2018 Strategic Management Plan does not provide targets for the number of inspections; rather, they are projected in the Annual Performance Plan and may change from year to year. The FY 2016 Performance Plan projected 1,800 inspections: 1,746 in the private sector and 54 in state and local government agencies. During FY 2016, a total of 1,979 inspections were conducted: 1,882 in the private sector and 97 in state and local government agencies. Seventy-two percent (72%) of the inspections resulted in violations; 72% of the violations were cited serious.

**Performance Goal 1.3.b:** Conduct 63% of programmed inspections in targeted emphasis industries.

**Results:** This goal was met.

**Discussion:** MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries. The FY 2016 goal was for 63% of programmed inspections to be conducted within the emphasis industries. MNOSHA conducted 92% of all programmed inspections within the emphasis industries. Seven inspections of temporary employers were conducted.

**Performance Goal 1.3.c:** Ongoing support in the areas of ergonomics, workplace violence, and safe patient handling.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was ongoing support of Minnesota Workplace Safety Consultation's ergonomics, workplace violence, and safe patient handling efforts. MNOSHA conducted 42 programmed inspections in the meat processing and healthcare industries.

**Performance Goal 1.4:** Eight-six percent of inspections will be designated as programmed inspections.

**Results:** This goal was not met.

**Discussion:** The FY 2016 target was for 86% of all inspections to be conducted as programmed inspections. In FY 2016, 80% of MNOSHA's 1,979 inspections were opened as programmed inspections.

## **Strategic Goal #2**

Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership.

**Performance Goal 2.1.a:** Maintain three Partnerships.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to maintain three Partnerships. In FY 2016, MNOSHA maintained a Partnership with Minnesota Department of Transportation and two contractors relating to the construction of the St. Croix Bridge's superstructure. The agreement is designed to ensure safety and maintain an open line of communication. MNOSHA also maintained Partnerships with the Associated Builders and Contractors (ABC) and the Associated General Contractors (AGC). Employers in the construction industry are placed in one of three participation levels depending on the extent of their safety and health program.

**Performance Goal 2.1.b:** Increase Voluntary Protection Programs (MNSTAR) participation through one new and three re-certified participants.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to add one new MNSTAR participant and accomplish three re-certifications. There are currently 38 employers in the MNSTAR program. One site was granted initial STAR certification and nine sites were re-certified during FY 2016.

**Performance Goal 2.1.c:** Continue to identify compliance assistance opportunities.

**Results:** This goal was met.

**Discussion:** MNOSHA continues to strive to improve communication with immigrant and hard-to-reach employers and workers. MNOSHA employs two investigators who are fluent in both English and Spanish. Two Spanish television stations interviewed MNOSHA staff and aired the interviews throughout the year. Presentations were provided to the Latino Economic Development Center and for the Mexican Consulate on multiple occasions. MNOSHA provides written materials to immigrant and other hard-to-reach employers in coordination with DLI's community services representative. In addition, the State Plan's webpage was updated with information in response to the Zika virus.

**Performance Goal 2.2:** Maintain the total number of people participating in outreach / training at a five-year average of 4,063.

**Results:** This goal was not met.

**Discussion:** The FY 2016 target was to maintain the baseline five-year average for FY 2008 – 2012 of 4,063 participants in outreach training sessions. In FY 2016, MNOSHA conducted 95 presentations to 3,456 participants, 15% below the baseline. Ninety-nine percent (99%) of the presentations were given in emphasis areas including construction, youth, and immigrant employers and workers.

**Performance Goal 2.3:** Continue the current practice of participating in homeland security efforts at state and national levels.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to continue with the current practice. During FY 2016, MNOSHA management attended four meetings of the Emergency Preparedness and Response Committee and four federal Homeland Security conference calls. MNOSHA continued to participate on the State Emergency Response Plan. The Minnesota Emergency Operations Plan was reviewed in January 2016.

During FY 2016, a MNOSHA supervisor became the point of contact for Homeland Security. New member training for the Emergency Response Preparedness Committee was attended.

**Performance Goal 2.4:** Maintain performance in the areas of response time and service level to stakeholders.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to maintain the baseline as an on-going



performance. MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and emails. During FY 2016, these two positions responded to 4,635 phone calls and 1,873 written requests for assistance. During FY 2016, 71% of phone calls were received from employers, workers, and consultants. The information requested covers a wide variety of topics, which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

During FY 2016, MNOSHA received 1,165 workplace safety and health complaints of which 291, or 25%, resulted in an on-site inspection with an average response time of 3.3 days. The remaining complaints were handled through MNOSHA's phone/fax process (nonformal complaint).

MNOSHA provides a variety of safety and health information on its website, including printable handouts and information about its audio visual library, which offers a selection of safety and health videos and DVDs available for a free two-week loan. The MNOSHA website also provides links to other websites where safety and health regulations can be accessed. In total, there were 65,962 hits to the MNOSHA web page.

### **Strategic Goal #3**

Strengthen and improve MNOSHA's infrastructure.

**Performance Goal 3.1:** Review rules annually for effectiveness: ongoing evaluation, development of rules, standards, guidelines, and procedures.

**Results:** This goal was met.

**Discussion:** MNOSHA staff continually monitors OSHA standard and policy activities and coordinates updates accordingly. During FY 2016, two federal standards were adopted and three Minnesota rules were amended. Twenty-one (21) existing directives were reviewed and updated according to schedule and 15 directives received unscheduled updates throughout the year. They included scheduling, steel erection, AWAIR, complaint handling, discrimination, serious injuries, fatalities, right-to-know, confined spaces in construction, and ergonomics.

**Performance Goal 3.2:** Finalize and implement updates to the workforce development and retention plan.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to finalize and implement updates to the workforce development and retention plan which were drafted during FY 2015. MNOSHA has updated their training directive to include soft skills such as presenting, time management, organization, interviewing, conflict resolution, and creative training techniques. Specialized training has been created for specific industries to address foundries, grain handling, asbestos, combustible dust, HAZWOPER recertification, health care, process safety management (PSM), traffic controls, and window washing.

MNOSHA staff act as an expert in each area and gain experience in leadership and interaction with stakeholders.

MNOSHA has been able to retain field staff with significant safety and health consulting experience. MNOSHA's staff includes seven industrial hygienists with over 15 years of experience, including two CIHs, and 15 safety investigators with over 10 years of experience.

**Performance Goal 3.3:** Evaluate and improve consistency and quality of inspection files and conduct a 7525 Program analysis, to ensure the business needs of MNOSHA, the requirements of OSHA, and the services provided to stakeholders are met.

**Results:** This goal was met.

**Discussion:** The FY 2016 target was to evaluate and improve consistency and quality of inspection files and conduct an analysis of the 7525 Program. During FY 2016, MNOSHA began assigning fatality and serious injury inspections to investigators in any of the work groups or areas to more effectively manage resources. The eligibility requirements for the 7525 Program were reviewed and a determination was made to not include employers on the Severe Violator Enforcement Program (SVEP) list or penalties less than \$10,000.

## **Highlights from the State Activity Mandated Measures (SAMM)**

Data from the FY 2016 State Activity Mandated Measures (SAMM) Report was reviewed for deficiencies and notable changes. The SAMM consists of performance indicators, the expected performance reference or standard, and the State Plan's performance data. The State Plan's performance is compared to the criteria established by regulation, grant agreement, negotiation with OSHA, or national data.

MNOSHA consistently meets or exceeds a majority of the mandated measures. Noteworthy measures are listed below. The complete FY 2016 SAMM is Appendix D of this report.

### **Average Current Penalty Per Serious Violation**

MNOSHA's average current penalty per serious violation in private sector (SAMM 8: 1-250+ workers) was \$857.93 in FY 2016. The Further Review Level (FRL) is -25% of the National Average (\$2,279.03) which equals \$1,709.27. Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies and procedures that are "at least as effective" (ALAE) as those contained in OSHA's FOM, which was revised on August 2, 2016, to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection. OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

**Percent of work related fatalities responded to in one work day**

In FY 2016, MNOSHA responded to 100% of the work related fatalities within one work day.

**Average Lapse Time – Safety**

With an average lapse time of 14.76 days, MNOSHA performed significantly better than the national average of 45.16 days.

**Average Lapse Time – Health**

With an average lapse time of 18.45 days, MNOSHA performed significantly better than the national average of 57.28 days.

**Percent Penalty Retained**

During FY 2016, MNOSHA retained 90.64% of the initial penalties, considerably better than the national average of 70%.

### **III. Assessment of State Plan Corrective Actions**

OSHA conducted an onsite review of MNOSHA's compliance division on January 11 – 15, 2016. The onsite visit included a review of complaint, inspection, and whistleblower case files. As a result of the onsite review, four findings and three observations were identified and noted in the FY 2015 Comprehensive FAME Report. An update on the State Plan's progress addressing each of the findings and recommendations is included below.

**Finding FY 2015-01:** MNOSHA does not send a letter to the complainant at the conclusion of the nonformal complaint investigation to inform them of the outcome.

**Status: Completed.** MNOSHA modified the initial letter to the complainant to inform the complainant of the procedure to request a copy of the employer's response after the complaint file is closed and becomes releasable as a public record. Additionally, MNOSHA initiated rulemaking to allow a copy of a citation to be mailed to the complainant.

**Finding FY 2015-02:** Noise and Respiratory Hazards LEP case files did not contain documentation showing that a comprehensive evaluation of the employer's hearing conservation program and/or noise reduction efforts had been conducted. Two of the three (66%) Noise and Respiratory Hazards LEP case files reviewed did not appear to contain evidence of a comprehensive evaluation of noise hazards.

**Status: Completed.** MNOSHA evaluated their emphasis programs and determined the hazards included in the Noise and Respiratory Hazards LEP, when present, are addressed by other programs. MNOSHA determined this emphasis program would be discontinued, beginning October 1, 2016 (FY17). MNOSHA Instruction CPL 2-2.1 *Noise Measurements and Citations in General Industry* will continue to be followed when noise hazards are encountered.

**Finding FY 2015-03 (FY 2016-01):** Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection. Ten of 18 (56%) programmed comprehensive inspections appeared to miss reasonable opportunities to conduct exposure monitoring for serious health hazards.

**Status: Awaiting Verification.** MNOSHA determined areas for improvement in the documentation of conditions and hazards and trained all health staff on September 8, 2016 and December 8, 2016. On October 19, 2016, three senior industrial hygienists (IH) were assigned to report to the IH Supervisor and the findings were reviewed to ensure file adequacy during the review process. On December 21, 2016, expectations for IH sampling and reporting were clarified for the health staff. MNOSHA will continue to require exposure monitoring when appropriate as a regular part of all health inspections. If circumstances determine that conducting sampling is not possible, specific documentation explaining the circumstances will be included in the case file. Implementation of this finding will be verified during the FY 2017 on-site case file review.

**Finding FY 2015-04:** MNOSHA's settlement agreement for whistleblower cases contains a confidentiality provision contrary to OSHA's Whistleblower Investigations Manual and MNOSHA Instruction ADM 3.7 *Data Practices and Release of Case File Information*.

**Status: Completed.** MNOSHA removed the confidentiality provision from their settlement agreement.

**Observation FY 2015-OB-01 (FY 2016-OB-01):** Whistleblower case files did not contain information from enforcement case files to support or negate allegations in the case.

**Status: Continued.** OSHA will continue to monitor this issue.

**Observation FY 2015-OB-02 (FY 2016-OB-02):** MNOSHA did not send a closing letter to the complainant for administratively closed cases and, in the alternative, did not note that the complainant declined to receive a letter.

**Status: Continued.** OSHA will continue to monitor this issue.

**Observation FY 2015-OB-03 (FY 2016-OB-03):** The "Tennessean Warning" was provided to management witnesses whose interview statements are not considered confidential.

**Status: Continued.** OSHA will continue to monitor this issue.

## Appendix A – New and Continued Findings and Recommendations

### FY 2016 MNOSHA Follow-up FAME Report

FY 2016-#	Finding	Recommendation	FY 2015-# or FY 2015-OB-#
FY 2016-01	Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection. Ten of 18 (56%) programmed comprehensive inspections appeared to miss reasonable opportunities to conduct exposure monitoring for serious health hazards.	Ensure exposure monitoring is conducted to evaluate and document worker exposure to health hazards.	FY 2015-03

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2016 MNOSHA Follow-up FAME Report

Observation # FY 2016-OB-#	Observation# FY 2015-OB-# or FY 2015-#	Observation	Federal Monitoring Plan	Current Status
FY 2016-OB-01	FY 2015-OB-01	Whistleblower case files did not contain information from enforcement case files to support or negate allegations in the case.	OSHA will periodically check case files to ensure information from enforcement case files is included in worker retaliation case files.	Continued
FY 2016-OB-02	FY 2015-OB-02	MNOSHA did not send a closing letter to the complainant for administratively closed cases and, in the alternative, did not note that the complainant declined to receive a letter.	Whistleblower cases will be discussed and evaluated during quarterly monitoring meetings.	Continued
FY 2016-OB-03	FY 2015-OB-03	The “Tennessean Warning” was provided to management witnesses whose interview statements are not considered confidential.	Whistleblower cases will be discussed and evaluated during quarterly monitoring meetings.	Continued

## Appendix C - Status of FY 2015 Findings and Recommendations

### FY 2016 MNOSHA Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2015-01	MNOSHA does not send a letter to the complainant at the conclusion of the nonformal complaint investigation to inform them of the outcome.	Send a letter to the complainant at the conclusion of the investigation, including a copy of the employer's response, to inform them of the outcome and provide an opportunity to request the matter be reviewed.	<p>Minn. Rules 5210.0420, subp. 2, requires employers to post a copy of the letter from MNOSHA and the employer's response in the workplace for 15 days, and to provide copies to the union representative. If the information is not posted or the items are not corrected, MNOSHA conducts an on-site enforcement inspection.</p> <p>Upon request, MNOSHA provides a copy of the employer's response to the complainant in accordance with Minn. Stat. 13.02, subd 7, and MNOSHA Instruction ADM 3.7. The initial letter to the complainant has been modified to inform the complainant of the procedure to request a copy.</p> <p>MNOSHA completed rulemaking to allow copies of the citation to be sent to each complainant that has provided an address.</p>	09/19/2016	Completed 02/21/2017
FY 2015-02	Noise and Respiratory Hazards LEP case files did not contain documentation showing that a comprehensive evaluation of the employer's hearing conservation program and/or noise reduction efforts had been conducted. Two of the three (66%) Noise and Respiratory Hazards LEP case files reviewed did not appear to contain evidence of a comprehensive evaluation of noise hazards.	Ensure that MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> is followed when evaluating the employer's hearing conservation program and/or noise reduction efforts and the file is documented accordingly.	MNOSHA evaluated their emphasis programs and determined the hazards included in the Noise and Respiratory Hazards LEP, when present, are addressed by other programs. MNOSHA determined this emphasis program would be discontinued, beginning October 1, 2016 (FFY17). MNOSHA Instruction CPL 2-2.1 <i>Noise Measurements and Citations in General Industry</i> will continue to be followed when noise hazards are encountered.	10/01/2016	Completed 02/21/2017

**Appendix C - Status of FY 2015 Findings and Recommendations**  
 FY 2016 MNOSHA Follow-up FAME Report

<p style="text-align: center;">FY 2015-03</p>	<p>Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection. Ten of 18 (56%) programmed comprehensive inspections appeared to miss reasonable opportunities to conduct exposure monitoring for serious health hazards.</p>	<p>Ensure exposure monitoring is conducted to evaluate and document worker exposure to health hazards.</p>	<p>MNOSHA determined areas for improvement in the documentation of conditions and hazards and trained all health staff on 09/08/2016 and 12/08/2016. On 10/19/2016, three senior industrial hygienists (IH) were assigned to report to the IH Supervisor and the findings were reviewed to ensure file adequacy during the review process. On 12/21/2016 expectations for IH sampling and reporting were clarified for the health staff. MNOSHA will continue to require exposure monitoring when appropriate as a regular part of all health inspections. If circumstances determine that conducting sampling is not possible, specific documentation explaining the circumstances will be included in the case file.</p>	<p style="text-align: center;">12/28/2016</p>	<p style="text-align: center;">Awaiting Verification 02/21/2017</p>
<p style="text-align: center;">FY 2015-04</p>	<p>MNOSHA's settlement agreement for whistleblower cases contains a confidentiality provision contrary to OSHA's Whistleblower Investigations Manual and MNOSHA Instruction ADM 3.7 <i>Data Practices and Release of Case File Information</i>.</p>	<p>Ensure confidentiality provisions are not included in settlement agreements for whistleblower cases.</p>	<p>MNOSHA removed the confidentiality provision from their settlement agreement.</p>	<p style="text-align: center;">04/01/2016</p>	<p style="text-align: center;">Completed 02/21/2017</p>



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

### FY 2016 MNOSHA Follow-up FAME Report

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

## U.S. Department of Labor

### Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: <b>Minnesota – MNOSHA</b>			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	4.01	9	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)	3.47	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)	0.33	2	Further review level is negotiated by OSHA and the State Plan.

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

### FY 2016 MNOSHA Follow-up FAME Report

<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	0.33	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)	60%	100%	Further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	Further review level is fixed for all State Plans.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.78	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.
		Other: 0.69	+/- 20% of Other: .99	
<b>6</b>	Percent of total inspections in state and local government workplaces	4.90%	+/- 5% of 3%	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
<b>7</b>	Planned v. actual inspections – safety/health	S: 1,517	+/- 5% of S: 1,445	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 462	+/- 5% of H: 355	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$857.93	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$594.20	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.

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

### FY 2016 MNOSHA Follow-up FAME Report

	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$652.07	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$1,293.43	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$2,528.64	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
<b>9</b>	Percent in compliance	S: 26.24%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 36.14%	+/- 20% of H: 35.68%	
<b>10</b>	Percent of work-related fatalities responded to in one workday	100%	100%	Further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 14.76	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 18.45	+/- 20% of H: 57.28	
<b>12</b>	Percent penalty retained	90.64%	+/- 15% of 69.86%	Further review level is based on a one-year national rate.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	Further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	35%	100%	Further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	15%	+/- 20% of 24%	Further review level is based on a three-year national average.

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

### FY 2016 MNOSHA Follow-up FAME Report

<b>16</b>	Average number of calendar days to complete an 11(c) investigation	225	90	Further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	1.71%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.