

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

**TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT,
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**



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



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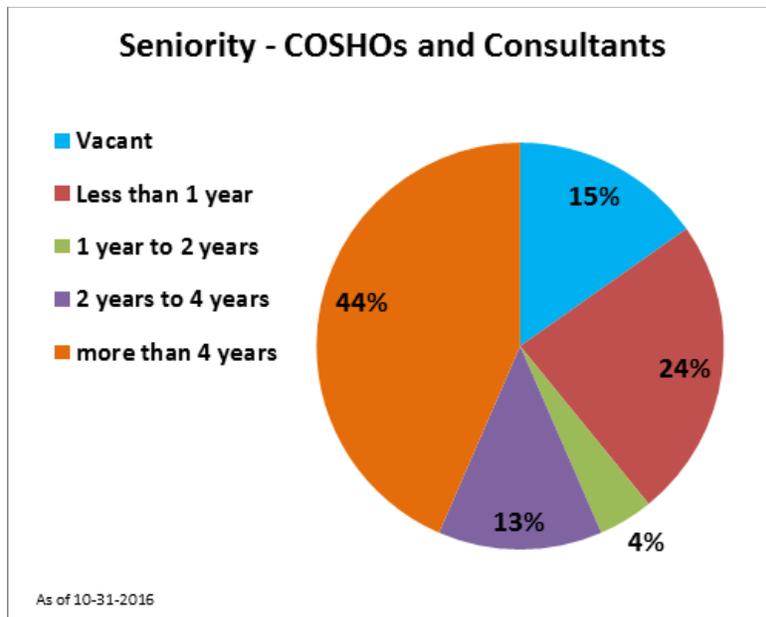
I. Executive Summary

A. State Plan Activities, Trends, and Progress

The Fiscal Year (FY) 2016 FAME Report is a Follow-up FAME Report. This report is focused on the Tennessee Department of Labor and Workforce Development, Tennessee Occupational Safety and Health Administration's (TOSHA's) performance and the results of federal monitoring of the issues underlying the observations contained in the FY 2015 FAME Report. In addition, this report is based on the results of quarterly onsite monitoring visits, the FY 2016 State Office Annual Report (SOAR), and the FY 2016 State Activity Mandated Measures (SAMM) Report. A review of the SAMM data indicated that TOSHA generally met or exceeded federal activity results.

No new findings or recommendations were identified during FY 2016, as outlined in Appendix A. There were also no new observations identified during this evaluation period. TOSHA has resolved the three observations found in the FY 2015 FAME Report. A detailed explanation of TOSHA's performance evaluation is found in this report.

Staffing issues continue to be reviewed with TOSHA. Currently, 41% of compliance officers and consultants have less than four years of experience, and 24% of compliance officers and consultants have less than one year of experience. As of October 31, 2016, 15% of the compliance officer and consultant positions were vacant. Vacancies have been aggressively filled, and the new personnel are in training.



In an effort to permanently improve retention of experienced staff and reduce turnover, in March 2016, TOSHA was successful in getting a 20% pay raise for their compliance and consultation personnel, which is a significant increase in the pay structure. So far, this has proven successful. TOSHA has only lost one worker to other employment since the increase.

TOSHA produces and distributes a variety of publications in support of their outreach and enforcement goals to promote safe and healthful workplaces across the state of Tennessee. TOSHA provides the Tennessee Department of Labor and Workforce Development rules and OSHA general industry, construction, and agriculture standards at cost. Interpretations of TOSHA standards and rules are prepared and provided upon request to the public. TOSHA published a free quarterly newsletter, *“Together with TOSHA”*, distributed through TOSHA’s website and LISTSERV. In addition, many employer and worker associations and other groups forward the newsletter to their members. The electronic publication of the newsletter in portable document format allows the reader to follow embedded web links to additional information or print the document for workers without electronic access. The newsletter offers information, interpretations, best practices, and compliance recommendations on occupational safety and health topics. TOSHA compliance officers and consultants answered approximately 1,000 technical assistance e-mail inquiries and a multitude of calls received daily from the public. In response to the nine fatalities in July 2016, TOSHA issued a press release regarding the fatalities, along with safety and health information and resources. The press release was picked up by multiple news sources across the state. This proved to be very successful.

The TOSHA Volunteer STAR Program (Voluntary Protection Program (VPP)) is administered according to the TOSHA VPP Policy and Procedures Manual (CSP-TN 03-01-003). TOSHA recognizes only the STAR level of achievement. TOSHA currently has 37 sites and 23,057 workers participating in the Volunteer STAR Program. During FY 2016, two new applications were evaluated and returned for additional information. One was resubmitted, evaluated, and approved. A review of the 2015 annual self-evaluation data for Volunteer STAR sites revealed total case incident rates 56% below and days away, restricted, and transfer rates 63% below their respective national industry averages.

During this review period, there were no Complaints About State Plan Administration (CASPA) filed regarding the State Plan; however, there was one unresolved CASPA from FY 2015 concerning TOSHA’s activities to address hazards of working in the green tobacco industry. This matter was fully investigated by OSHA with TOSHA’s cooperation. After National Office concurrence, there were two recommendations: 1) that TOSHA consider implementing a targeted enforcement strategy in agriculture and 2) that TOSHA consider providing more outreach and compliance assistance to the farming community.

B. State Plan Introduction

TOSHA was created by legislation in 1972, and became operational on July 5, 1973. The program operated as a dual-designee with the health functions housed in the Tennessee Department of Health and the safety functions in the Department of Labor until July 1977. At that time, the General Assembly enacted legislation to transfer the health functions to the Department of Labor. The TOSHA program was certified in May 1978, and received final 18(e) approval on July 22, 1985. During this review period, the Tennessee State Plan was administered by TOSHA under the direction of Burns Phillips, Commissioner; Dustin Swayne, Deputy Commissioner; and Steve Hawkins, TOSHA Administrator.

The General Assembly enacted legislation giving TOSHA the mission of ensuring that employers furnish a safe and healthful place of employment which is free of recognizable hazards. TOSHA is comprised of three sections: the Compliance Section, the Consultative Services Section, and the Training and Education Section. The Compliance Section is responsible for the enforcement of the Tennessee Occupational Safety and Health Act of 1972, with emphasis on worker exposures to chemical and physical hazards. The Consultative Services Section offers a free consulting program to smaller employers who seek safe and healthful working conditions for their workers and administers the Safety and Health Achievement and Recognition Program (SHARP). The Training and Education Section assists employers, workers, and their representatives in reducing safety and health hazards in their workplaces and in complying with the requirements of TOSHA standards and regulations.

A total of 82.55 positions are funded under the 23(g) grant. There were a total of two safety and three health vacancies in FY 2016. The approved benchmark for TOSHA is 36 compliance safety and health officers (CSHOs), of which 22 are safety and 14 are health, who are assigned to field offices throughout the state. TOSHA is meeting the benchmark. The program services are administered through a central office in Nashville and seven field offices located strategically throughout the state in Knoxville, Memphis, Chattanooga, Kingsport, and Jackson, as well as two in Nashville. The worker population in Tennessee is approximately 2,694,288 people. There are approximately 143,465 employers in the state.

The table below shows TOSHA’s funding levels from FY 2012 through FY 2016.

FY 2012-2016 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2016	3,850,300	3,850,300	483,014	8,183,614	52.95
2015	3,833,000	3,833,000	517,623	8,183,623	53.16
2014	3,833,000	3,883,000	517,615	8,183,615	53.77
2013	3,777,100	3,777,100	629,426	8,183,626	53.85
2012	3,977,100	3,977,100	229,424	8,183,624	51.40

Worker protection from discrimination related to occupational safety and health claims, as provided by Section 11(c) of the Occupational Safety and Health Act, is administered by TOSHA through the central office in Nashville. There are a total of five investigators, including one compliance manager and two compliance supervisors. TOSHA does not have a designated position for a whistleblower investigator, but whistleblower investigations are performed by the compliance manager and two compliance supervisors. Discrimination cases found to be meritorious are prosecuted by the state attorney general.

The Tennessee Occupational Safety and Health Review Commission is a quasi-judicial body empowered to hear and rule on appeals regarding citations issued by the State Plan. The Occupational Safety and Health Review Commission may affirm, modify, or revoke a citation,

as well as any monetary penalty. The commission consists of three members who are appointed by the governor to serve on the body for three-year terms.

Private sector consultative services are provided through a 21(d) grant with TOSHA to employers, especially smaller employers, to assist in achieving safe and healthful workplaces for their workers. TOSHA also operates a public sector program under the 23(g) grant, which enforces workplace safety and health standards among the majority of state and local government employers. The State Plan's public sector program also extends onsite consultative support to employers in the public sector.

C. Data and Methodology

This report was compiled using information gained from the FY 2016 SOAR, interviews with the TOSHA staff, Web Integrated Management Information System reports, as well as the State Indicator Report and SAMM Report for FY 2016. In addition, information collected during the routine monitoring of the TOSHA program by OSHA's Regional and Nashville Area Offices was also used as a basis for this evaluation.

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.

D. Findings and Observations

No new findings and recommendations were identified in FY 2016, nor were there any findings and recommendations identified in FY 2015 as outlined in Appendix C.

Appendix B details the three observations identified during the FY 2015 onsite review. An observation is an item that has not proven to impact the effectiveness of the state's program but should continue to be monitored by the Region.

II. Assessment of State Plan Performance

A. Major New Issues

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 the annual increase.

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

The SOAR for FY 2016 provides a summary of TOSHA’s activities and results for the Strategic Plan, grant commitments, and other program accomplishments. The strategic goals have provided the focus for TOSHA’s enforcement, education and training, outreach, and administrative programs. FY 2016 was the final year of TOSHA’s Five-Year Strategic Plan. The Five-Year Strategic Plan incorporated three overall goals as its direction. The three strategic goals are:

Goal 1. Improve workplace safety and health for all employees as evidenced by eliminating hazards, reducing exposures, injuries, illnesses, and fatalities.

Goal 2. Increase employer and employee awareness of, commitment to, and involvement in occupational safety and health.

Goal 3. Maximize effectiveness by striving for continuous improvement in the area of service delivery.

TOSHA continues to demonstrate a high degree of success in accomplishing its targeted goals. In FY 2016, TOSHA accomplished 12 of its 15 performance goals. Details regarding the State Plan’s performance are provided in this section.

Goal 1.1: Eliminate 6,000 serious violations or hazards in workplaces where interventions take place.

The table below illustrates the State Plan’s performance in this area. Through a combination of compliance inspections and consultation visits, the State Plan established a goal to effectively eliminate over 6,000 serious workplace hazards. According to the table below, TOSHA identified 3,728 serious hazards during compliance inspections and 2,770 serious hazards during consultation visits, which resulted in the identification of 6,498 total serious hazards. Once identified, the hazards were addressed through citations. These figures compare favorably to the 6,168 serious violations and hazards identified by TOSHA in FY 2015. TOSHA exceeded this goal.

	Compliance	Consultation	Total
Inspections and Visits	1,589	352	1941
Serious Violations and Hazards	3,728	2,770	6,498
Non-Serious Violations and Hazards	1,737	329	2,066
Repeat Violations	40	N/A	40
Willful Violations	5	N/A	5
Regulatory Hazards	N/A	3,466	8,976
Total Violations and Hazards	7,099	6,917	19,526

Goal 1.2: Reduce carbon monoxide exposures for 300 workers each year.

Carbon monoxide levels have been documented and reduced through elimination and engineering controls. TOSHA has a Special Emphasis Program for Worker Exposure to Carbon Monoxide (CPL-TN-04-00-001 – effective date 09/16/1999). Safety CSHOs are cross-trained to identify sources and potential exposures to carbon monoxide so they can make good referrals. CSHOs are required to address carbon monoxide on every inspection. Activities related to this program are tracked and communicated with the field on a monthly basis. In FY 2016, the Compliance and Consultation Sections documented the elimination of carbon monoxide hazards, impacting nine employers and resulting in the reduced exposure of 923 workers; these figures compare well to the 11 employers and 1,072 workers identified in FY 2015. TOSHA exceeded this goal.

Goal 1.3: Reduce noise exposure to 400 workers through facilitating improvements in hearing conservation programs.

This goal addresses the elimination of noise hazards in Tennessee workplaces, and it was effectively achieved by the State Plan. As illustrated in the table below, noise levels were reduced through improvements in hearing conservation programs in 20 workplaces, impacting a total of 468 workers.

Fiscal Year	Companies	Workers
2015	13	673
2016	20	468

Goal 1.4: Reduce the number of fatalities due to falls by 1.7%.

TOSHA showed a slight improvement; however, they did not achieve this goal in FY 2016. Significantly reducing falls on a consistent basis has proven to be elusive for TOSHA. During this review period, the state experienced nine fatalities, compared with 10 in FY 2015 and four in FY 2014. TOSHA is currently working to reduce falls through a combination of enforcement activities and outreach efforts. An example of the latter includes TOSHA’s continued participation in OSHA’s National Fall Prevention Campaign and its related stand-down event. It is noted that 450 fall hazards were eliminated in FY 2016.

Goal 1.5: Reduce amputation injuries in the workplace by 1%.

This goal was completed and was not tracked in FY 2016 as a result of the new reporting requirements for hospitalizations and amputations. TOSHA determined that it was duplicative, and the new requirements in place now are more effective.

Goal 1.6: Reduce the number of bloodborne pathogen exposures for 1,000 workers.

TOSHA met this goal several years ago; however, they have continued their targeting initiative using the Bloodborne Pathogens Standard to address needle-stick injuries in hospitals and ambulatory surgical centers. TOSHA met this goal in FY 2016, reaching a total of 2,983 workers, compared with 4,468 workers in FY 2015.

Hospital and Surgical Center Violations			
	Inspections or Visits	Violations or Hazards	Workers
Compliance	86	235	2,346
Consultation	99	419	637
TOTAL	185	654	2,983

Goal 2.1: Train 9,500 people in occupational safety and health.

TOSHA continues to conduct a significant number of occupational safety and health training sessions for employers, as well as workers. During this review period, TOSHA personnel performed 602 formal training sessions, compared to 726 in FY 2015. In FY 2016, these training sessions reached 11,038 workers. TOSHA met this goal.

Goal 2.2: Implement significant improvements in employer occupational safety and health programs in 850 workplaces where TOSHA compliance had an intervention.

TOSHA exceeded this goal by improving employer occupational safety and health programs in over 922 workplaces through a combination of consultation program assistance and compliance inspections. These program assistance visits provided the companies with evaluations of their safety and health programs and offered recommendations on how those companies could improve their programs. Compliance inspections identified more than 1,900 program violations in 665 workplaces.

Goal 2.3: Increase employer/employee awareness of safety and health management systems through onsite outreach during 1,150 private sector compliance inspections, 550 public sector compliance inspections, and 300 consultation visits.

As detailed in the chart below, TOSHA exceeded this goal in two of the three sections, public sector compliance inspections and consultation visits. Private sector compliance fell short with 942 workplaces. TOSHA attributes this to the level of experience of their compliance staff.

	Goal	Workplaces
Private Sector Compliance	1,150	942
Public Sector Compliance	550	641
Consultative Services	300	352
TOTAL	2,000	1,935

Goal 2.4: Evaluate two applications for participation in the Voluntary Protection Program (Volunteer Star).

During this review period, TOSHA accomplished this goal. TOSHA evaluated two applications in the Volunteer Star program. One new site achieved Volunteer Star status, and the other remains in process.

Goal 2.5: Evaluate two applications for the Safety and Health Recognition Program (SHARP).

During this review period, TOSHA’s On-site Consultative Services did not meet this goal. TOSHA received only one application, which was the sole application that was evaluated. The number of applications received is beyond the control of the State Plan.

Goal 3.1: Ensure effective service by maintaining an average report turnaround time within the following targets: less than 35 days for safety compliance; less than 55 days for health compliance; less than 20 days for consultation; and less than 25 days for state and local government sector compliance.

TOSHA exceeded the goal. A detailed review of TOSHA’s performance regarding average report turnaround time is provided in the following table.

Program	Goal (Days)	Average Turnaround in FY 2016 (Days)
Safety Compliance	<35	34.7
Health Compliance	<55	52.7
On-site Consultation	<20	16.6
State and Local Government Sector Compliance	<25	20.1

Goal 3.2: Ensure effective service by responding to complaints within the negotiated timeframes: less than 15 days for inspections and less than five days for inquiries.

In FY 2016 TOSHA exceeded this goal with the following response time results.

Activity	Goal (Days)	Average Days in FY 2016
Compliance Inspections	<15	4.00
Inquiries	<5	0.69

Goal 3.3: Ensure effective service by meeting a discrimination case file turnaround time of 90 days for at least 75% of cases.

This goal was complete and was not tracked in FY 2016.

Goal 3.4: Ensure effective service by requiring at least 90% of staff to attend professional development training.

In FY 2016, TOSHA achieved this goal with the following results.

Number of Professional Staff	Goal (90%)	Number that Attended Training
65	100%	65

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

TOSHA’s average current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) was \$1,568.42 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 Field Operations Manual (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.

According to OIS, in FY 2016, the 1,589 workplace inspections conducted by TOSHA resulted in an average of 2.12 violations (serious/willful/repeat) per inspections with violations. A total of 3,933 violations were issued, with 3.2 violations (serious/willful/repeat/other-than-serious) per inspection with violations.

TOSHA routinely places significant emphasis on keeping citation lapse times low. According to the SAMM Report, in FY 2016, the average lapse time (in days) from opening conference to citation issuance is identified as follows:

Average Lapse Time	TOSHA	Further Review Level (+20% of the National Average)
Safety	22.50	54.19
Health	43.21	68.74

According to SAMM 5, TOSHA’s average number of serious/willful/repeat/unclassified violations per inspection was 2.12 in FY 2016, compared to the further review level of 1.5. In FY 2016, TOSHA issued five willful violations, 28 repeat violations, and three failure-to-abate violations. All willful violations were reviewed by the supervisor, manager, Assistant Administrator, Administrator, and if necessary, the state’s attorney prior to issuance.

According to SAMMs 1A and 2A, TOSHA responds timely to complaints. Complaint investigations were initiated within an average of 1.83 days, and complaint inspections were initiated within an average of 6.76 days, well below the negotiated numbers of 5 days and 15 days, respectively.

There were some deviations from the national average indicated in the data, and these deviations were closely monitored by OSHA and discussed with the State Plan at quarterly meetings. The measures that were noted to have deviations or outliers during this evaluation period are explained here.

SAMM 6 – Percent of Total Inspections in State and Local Government Workplaces

Over 40% of total inspections in Tennessee were in the state and local government, which is higher than the further review level of 30.46% (-5% of the negotiated inspection goal of 32.06 provided in TOSHA's grant application). Tennessee state law requires that all public sector employers be inspected a minimum of every two years, resulting in a high percentage of public sector inspections.

SAMM 10 – Percent of Work-Related Fatalities Responded to in One Work Day

This measure is showing that TOSHA responded to 85.71% fatalities within one day, which is lower than the further review level of 100%. However, there were five outliers that were all explainable, including that they were not work-related and they were responded to prior to the death of the victim.

SAMM 13 – Percent of Initial Inspections with Worker Walk-around Representation or Worker Interview

The State Plan's percentage at 99.43% is just below the fixed further review level of 100%. This was caused by an isolated incident that did not have a negative impact on the program.

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

TOSHA completed 22% of their discrimination investigations within 90 days. Even though the State Plan is below the further review level, the data is not significantly different than the federal data and does not impact the quality of the discrimination program.

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

TOSHA averaged 162 days to complete their discrimination investigations. Although the State Plan is above the further review level, this does not impact the quality of the discrimination program. Also, the federal data shows 270 calendar days, which is significantly greater than the State Plan.

For a complete list of SAMM results, reference Appendix D.

III. Assessment of State Plan Corrective Actions

Findings and Recommendations:

No new findings and recommendations were identified in FY 2016, nor were there any findings and recommendations found in FY 2015 as outlined in Appendix C.

Observations:

FY 2015-OB-1: The State Plan has several compliance officers trained in ergonomics; however, it has been a decade since all but one had the training. Only the one compliance officer is utilized for ergonomics inspections.

Status - Closed: TOSHA currently has six compliance officers that were trained in ergonomics more than a decade ago. In response to this observation, the State Plan has included ergonomics training in their training and development plans.

FY 2015-OB-2: Only 34.7% (66.7% - national) of safety violations and 42.3% (49.7% - national) of health violations for programmed inspections were classified as serious, repeat, and willful.

Status - Closed: TOSHA has placed an emphasis on programmed inspections, specifically the classification of violations, resulting in a significant increase in the percentage of safety and health violations classified as serious, repeat, and willful. During this period, TOSHA classified 70.1% (85.3% - federal) of safety violations and 60.3% (65.6% - national) of health violations for programmed inspections as serious, repeat, and willful.

FY 2015-OB-3 (formerly FY 2014-OB-1 and FY 2013-OB-1): TOSHA's procedures for determining the classification of violations are the same as those of OSHA; however, TOSHA classifies a lower percentage of safety violations [36.7% (62.2% - national)] and health violations [46.3% (53.3% - national)] as serious.

Status - Closed: TOSHA has continued to place an emphasis on the classification of violations. During this period, TOSHA classified 46% (75.1% - national) of safety violations and 46.3% (64.8% - national) of health violations as serious. This is a 20% increase for safety; however, the classification of health violations has remained consistent during this period. Although, the State Plan's performance in this area is below the national average, there is no evidence that this has had a detrimental on the overall effectiveness of the TOSHA program. Therefore, this observation is closed.

Appendix A – New and Continued Findings and Recommendations

FY 2016 Tennessee Follow-up FAME Report

FY 2016-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
	NONE		

Appendix B – Observations Subject to New and Continued Monitoring

FY 2016 Tennessee Follow-up FAME Report

Observation # FY 2016-OB-#	Observation# FY 2015-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
	FY 2015-OB-01	The State Plan has several compliance officers trained in ergonomics; however, it has been a decade since all but one had the training. Only the one compliance officer is utilized for ergonomics inspections.		Closed
	FY 2015-OB-02	Only 34.7% (66.7% - national) of safety violations and 42.3% (49.7% - national) of health violations for programmed inspections were classified as serious, repeat, and willful.		Closed
	FY 2015-OB-03 FY 2014-OB-01 FY 2013-OB-01	TOSHA's procedures for determining the classification of violations are the same as those of OSHA; however, TOSHA classifies a lower percentage of safety violations [36.7% (62.2% - national)] and health violations [46.3% (53.3% - national)] as serious.		Closed

Appendix C - Status of FY 2015 Findings and Recommendations

FY 2016 Tennessee Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
	NONE				

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

FY 2016 TOSHA Follow-up FAME Report

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

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

FY 2016 TOSHA Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Tennessee – TOSHA			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	6.76	15	Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.97	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.83	5	Further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.69	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2016. Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	Further review level is fixed for all State Plans.
5	Average number of violations per inspection	SWRU: 2.12	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.

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

FY 2016 TOSHA Follow-up FAME Report

	with violations by violation type	Other: 1.07	+/- 20% of Other: .99	
6	Percent of total inspections in state and local government workplaces	40.45%	+/- 5% of 32.06%	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 1,243	+/- 5% of S: 1,220	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 344	+/- 5% of H: 355	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,568.42	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	a. Average current serious penalty in private sector (1-25 workers)	\$1,154.00	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,355.26	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,707.89	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$2,535.95	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
9	Percent in compliance	S: 18.79%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 26.13%	+/- 20% of H: 35.68%	

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

FY 2016 TOSHA Follow-up FAME Report

10	Percent of work-related fatalities responded to in one workday	85.71%	100%	Further review level is fixed for all State Plans.
11	Average lapse time	S: 22.50	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 43.21	+/- 20% of H: 57.28	
12	Percent penalty retained	89.26%	+/- 15% of 69.86%	Further review level is based on a one-year national rate.
13	Percent of initial inspections with worker walk around representation or worker interview	99.43%	100%	Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	22%	100%	Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	22%	+/- 20% of 24%	Further review level is based on a three-year national average.
16	Average number of calendar days to complete an 11(c) investigation	162	90	Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.51%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.