

FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

Maryland Occupational Safety and Health (MOSH)



Evaluation Period: October 1, 2018 – September 30, 2019

Initial Approval Date: July 5, 1973
State Plan Certification Date: February 15, 1980
Final Approval Date: July 18, 1985

**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region III
Philadelphia, Pennsylvania**



Contents

I. Executive Summary	3
II. State Plan Background.....	4
A. Background.....	4
B. New Issues.....	5
III. Assessment of State Plan Performance.....	6
A. Data and Methodology.....	6
B. Review of State Plan Performance.....	7
1. Program Administration.....	7
2. Enforcement.....	9
3. Review Procedures.....	15
4. Standards and Federal Program Changes (FPCs) Adoption	17
5. Variances.....	20
6. State and Local Government Worker Program.....	21
7. Whistleblower Program	21
8. Complaint About State Program Administration.....	22
9. Voluntary Compliance Program	22
10. State and Local Government 23(g) On-Site Consultation Program.....	23

Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations and Federal Monitoring Plans.....	B-1
Appendix C – Status of FY 2018 Findings and Recommendations.....	C-1
Appendix D – FY 2019 State Activity Mandated Measures (SAMM) Report.....	D-1
Appendix E – FY 2019 State OSHA Annual Report (SOAR).....	E-1

I. Executive Summary

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the Maryland Occupational Safety and Health (MOSH) program's performance during Fiscal Year (FY) 2019, and its progress in resolving the six outstanding findings identified during previous FAMEs. This FAME included an on-site comprehensive review of safety and health inspection files randomly selected and obtained from the OSHA Information System (OIS). In addition to the safety and health inspection files, OSHA reviewed whistleblower case files obtained from the Web Integrated Management Information System (WebIMIS).

During the FY 2019 performance period, MOSH resolved half (50%) of its FY 2018 FAME findings – some of which have been continued findings that have not been addressed for several years. Out of the six findings OSHA identified in last year's FAME report, MOSH addressed three; two findings remain open; and one finding was converted to an observation. In addition, OSHA identified one new finding concerning the procedures to address safety and health complaints associated with whistleblower complaints. MOSH made some progress to validate complaints with serious hazards and held more informal conferences within 15 working days. MOSH conducted 2,046 total inspections during FY 2019 – accomplishing 89% of its goal, and also increased the number of state and local government (SLG) inspections conducted.

Over the past three years, MOSH has made little progress to address its consistent finding regarding properly documenting serious workplace complaints and hazards. This is a critical issue that MOSH must address in the future. Because MOSH is a small agency, complaints are likely the primary means by which many of the 2.5 million workers – whose worksites would not likely be visited by MOSH – are able to voice their workplace safety and health concerns and issues.

MOSH also made little progress to adopt Federal Program Changes (FPCs) within the required timeframes. One reason for this is current legislation that prevents MOSH from adopting FPCs within six months of OSHA promulgation when there is a delay in OSHA enforcement. In 2019, MOSH attempted to pass new legislation to address this but it was not passed.

However, since a new assistant commissioner came onboard in December 2019, MOSH appears to be taking a more proactive approach to resolve previous FAME findings and other concerns brought to its attention by OSHA. When unforeseen circumstances arise, the new assistant commissioner ensures that MOSH staff follows the proper policies and procedures. In cases where MOSH policies cannot resolve a specific matter, MOSH's new leadership now takes executive action to ensure the issue is addressed. MOSH also has competent and well-trained safety and health compliance officers. OSHA has been impressed with their professionalism, experience, and knowledge.

During FY 2019, the majority of cases were conducted under MOSH's former leadership. OSHA is optimistic that MOSH will address all outstanding findings during FY 2020, though verification will not likely occur until the next comprehensive on-site case file review. However, under its new leadership MOSH appears to be on the right path.

Of the five observations OSHA identified in last year's FAME report, three were addressed and closed. Two observations remain open, and one finding was converted to an observation (as noted above). In summary, a total of three findings and three observations are included in this report. Appendix A presents the new and continued findings from this year's evaluation. Appendix B presents the observations and federal monitoring plans. Appendix C displays the status of the previous findings with the associated corrective actions.

II. State Plan Background

A. Background

As of July 1, 2019, the Maryland Department of Labor, Licensing, and Regulation (DLLR) officially became known as the Maryland Department of Labor (MDOL). MDOL, Division of Labor and Industry (DLI), is the state agency designated by the governor to administer the MOSH program. The Maryland State Plan was initially approved on July 5, 1973, pursuant to Section 18 of the Occupational Safety and Health (OSH) Act. The State Plan was certified on February 15, 1980 and granted State Plan final approval on July 18, 1985.

MOSH operates under the authority of the MOSH Act, Labor and Employment Article, Section 5-101 through 5-901. Early in FY 2019, MOSH operated under the guidance of Kelly M. Schulz, Secretary of DLLR. Tiffany P. Robinson was appointed secretary of the MDOL in July 2019. Matthew Helminiak served as Commissioner of DLI. Michael Stracka replaced William Dallas as Assistant Commissioner of MOSH in early FY 2020. MDOL is headquartered in Baltimore and consists of MOSH representatives stationed in different regional and field offices located in Hunt Valley, Easton, Hagerstown, and Upper Marlboro.

MOSH is the agency responsible for ensuring that employers provide Maryland workers with workplaces free from recognized safety and health hazards. MOSH covers over 2.5 million workers and 171,000 employers in the state of Maryland. MOSH's Compliance Services Unit conducts occupational safety and health inspections for all state and local government workplaces, and private sector places of employment in the state of Maryland. However, MOSH does not inspect places of employment which fall under OSHA's jurisdiction. OSHA's jurisdiction includes federal workers, the United States Postal Service, private sector maritime activities (shipyard employment, marine terminals, and longshoring), and U.S. military bases. Additionally, MOSH's Outreach Unit provides free training and education; and manages its cooperative programs. MOSH also provides free consultation services through its consultation program.

MOSH operates a private sector on-site consultation project under Section 21(d) and an SLG consultation project under Section 23(g) of the OSH Act of 1970. MOSH's Discrimination Unit investigates whistleblower complaints made by workers who feel that they have been retaliated against by their employer for making a safety and health complaint or exercising other protected activity. The Research and Statistic Unit provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses. Industries covered by MOSH include a combination of agricultural, manufacturing, construction, transportation, and

trade and service industries. Similar to OSHA, MOSH has selected certain high hazard industries on which to focus its safety and health activities through the implementation of emphasis programs.

As a State Plan, MOSH has the authority to promulgate standards and regulations which maybe more stringent than OSHA's standards. MOSH has multiple standards and regulations which differ from the federal program including, but not limited to: High Voltage Lines (Title 6), Fall Protection in Steel Erection (Code of MD Regulations (COMAR) 09.12.25), and Tree Care and Removal (COMAR 09.12.28). MOSH also made amendments to OSHA standards that are more stringent than OSHA's such as: Occupational Exposure to Formaldehyde (29 CFR 1910.1048), Lead in Construction Work (29 CFR 1926.62), Excavations (Requirements for Protective Systems (29 CFR 1926.652), and Steel Erection (29 CFR 1926, Subpart R).

B. New Issues

Maximum Penalty Increase

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 according to the Consumer Price Index (CPI). MOSH has not yet completed the legislative changes to increase maximum penalties.

Beryllium Standard

On January 9, 2017, OSHA issued a final rule to prevent chronic beryllium disease and lung cancer in workers by limiting their exposure to beryllium. The rule contains standards for general industry, construction and shipyards. State Plans were required to adopt an "at least as effective as" rule within six months of promulgation or by July 9, 2017. However, by June of 2017, OSHA had already proposed changes to the beryllium standard for general industry and separate changes for both construction and shipyard standards. These rulemakings are still pending. Given the circumstances of this rulemaking, in which substantive changes were proposed to a rule within six months following its initial promulgation, and are still ongoing, the Maryland State Plan has delayed promulgation pending completion of all rulemaking on this rule.

Electronic Reporting Rule

On May 12, 2016, OSHA published the Final Rule to Improve Tracking of Workplace Injuries and Illnesses. The rule amended the regulations on recording and reporting occupational injuries and illnesses to require employers with 250 or more employees to submit injury and illness Forms 300, 300A, and 301 to OSHA electronically through the Injury Tracking Application (ITA) on an annual basis. State Plans were required to adopt an "at least as effective" rule by November 14, 2016 or within six months of OSHA's promulgation. Subsequently, OSHA rescinded the requirement to submit electronically Forms 300 and 301 (NPRM on July 30, 2018, final rule on January 25, 2019). This rescission did not require State Plan adoption, but some State Plans, including Maryland, had delayed adoption of the rule during this subsequent rulemaking process. Six months from OSHA's January 25, 2019 final

rule was July 25, 2019. Maryland is now overdue in adopting the Final Rule to Improve Tracking Workplace Injuries and Illnesses.

Fatality Case

In FY 2019, MOSH prevailed in the Maryland Court of Appeals on a fatality case utilizing the general duty clause. The fatality involved a multi-story concrete garage collapse during the construction process. In overturning the lower court's decision, the appeals court held that there was substantial evidence before the Commissioner of Labor and Industry to conclude that the company's failure to install certain braces and use of an undersized spacer beam during construction constituted recognized hazards in violation of Maryland's general duty clause, Labor and Employment Article, § 5-104(a).

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2019 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A three-person OSHA team, including a whistleblower investigator, was assembled to conduct the comprehensive on-site case file review. The case file review was conducted at the MOSH Hunt Valley Office from January 27, 2020 to January 29, 2020. Due to extenuating circumstances, OSHA returned on February 6, 2020 to complete the case file review. A total of 153 safety, health, and whistleblower inspection case files, were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted and complaints received during the evaluation period (October 1, 2018 through September 30, 2019). The selected population included:

- Eighteen (18) fatality case files
- Thirty (30) incident case files
- Thirty (30) complaint files
- Forty (40) programmed inspection case files
- Thirty-five (35) closed whistleblower case files

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

- State Activity Mandated Measures (SAMM) Report (Appendix D)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan

- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Comprehensive on-site case file review

Each SAMM report has an agreed-upon Further Review Level (FRL) which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents MOSH's FY 2019 SAMM report and includes the FRL for each measure. Throughout the evaluation process MOSH was cooperative, shared information, and ensured staff was available to discuss cases, policies and procedures, and answer questions.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

In 2019, MOSH hired eight new safety and four new health compliance officers. As of the end of FY 2019, these 12 newly hired compliance officers (trainees) were still in the process of completing classroom and on-the-job (OJT) training with senior compliance staff. It is expected that the trainees will complete all initial training in FY 2020.

In FY 2019, 12 compliance officers received training from eight different training courses at the OSHA Training Institute (OTI). In addition, 67 compliance officers attended three OTI courses in the Hunt Valley office.

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

b) OSHA Information System (OIS)

MOSH has made significant improvement in OIS data entry over the past few years. In FY 2017, the OIS data showed that MOSH inspections were initiated prior to the receipt of the associated UPA in 25% of inspections linked with a UPA. In FY 2018, MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 8% of inspections with a linked UPA. MOSH continued to improve data entry in this area during FY 2019 as a UPA report indicated that MOSH inspections were initiated prior to the receipt of the associated UPA in 14 of 298 (5%) inspections linked with a UPA. OSHA closed the associated observation (FY 2018-OB-01).

Observation FY 2018-OB-01

MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 21 of 255 (8%) inspections with a linked UPA, skewing data reports and distorting complaint documentation accuracy.

Federal Monitoring Plan FY 2018-OB-01

In FY 2020, OSHA will run quarterly reports to determine how MOSH is documenting the receipt date for UPAs associated with inspections. The outliers will be provided to MOSH for prompt correction.

Status: Observation FY 2018-OB-01 is closed.

In FY 2017, MOSH did not enter a complaint hazard description in OIS in more than half (51%) of the 71 cases reviewed. This finding was continued in FY 2018 pending an on-site case file review. During the on-site review in FY 2019, it was determined that MOSH entered the hazardous description in all (100%) of reviewed cases. MOSH completed corrective action for the associated finding (FY 2018-05).

Finding FY 2018-05

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

Recommendation FY 2018-05

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

Status: Finding FY 2018-05 is closed.

c) State Internal Evaluation Program (SIEP) Report

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

d) Staffing

As of July 1, 2019, MOSH was staffed with 81.05 full-time employees (FTEs). In FY 2019, MOSH brought on eight safety and four health compliance officers. A senior safety compliance officer moved to consultation. MOSH surpassed its 36 safety compliance officer benchmark during FY 2019.

However, MOSH has experienced considerable turnover with health compliance staff over the past few years. Although MOSH does not meet its current staffing benchmark of 18 health compliance officers it consistently and actively seeks to

employ new staff. In FY 2019, MOSH was staffed with 10.45 industrial hygiene compliance officers.

2. ENFORCEMENT

a) Complaints

The end-of-year (EOY) SAMM report (Appendix D) indicated that MOSH initiated complaint inspections within 14.11 workdays (SAMM #1A) and complaint investigations within 29.09 workdays (SAMM #2A) – falling considerably outside of the fixed FRLs of 5 and 3 workdays respectively. This increase was not surprising due to corrective action still needed by MOSH regarding the processing of certain complaints.

In response to Finding FY 2018-04, which indicated that MOSH did not validate and process at least 82 of 146 (56%) of electronic complaints from former employees and other complainants alleging serious hazards, MOSH conducted an internal review of the electronic complaints received in FY 2018. It subsequently conducted inspections and investigations for some of the serious electronic complaints that were not addressed in FY 2018 in accordance with its policies and procedures. It was determined that MOSH's corrective action is attributed to the dramatic increase in SAMMs #1A and #2A.

OSHA noted an improvement in MOSH's serious electronic complaint validation and processing procedures. In FY 2018 it was determined that MOSH did not take action on more than half (at least 56%) of serious electronic complaints and in FY 2019 it was determined that MOSH did not take action on at least 43% of serious electronic complaints. Although an improvement is noted, OSHA continued the associated finding (FY 2019-02).

Serious Hazard Complaint Validation and Processing Procedures

Finding FY 2019-02 (FY 2018-04)

MOSH did not validate and process at least 72 of 169 (43%) electronic complaints from former employees and other complainants alleging serious hazards.

Recommendation FY 2019-02

MOSH should adhere to the non-formal complaint processing procedures and requirements set forth in its Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed. MOSH responded to all complaints coded as imminent danger within one day meeting the FRL which is fixed at 100%.

Out of 603 UPAs coded as a complaint and entered into OIS, the FY 2019 EOY SAMM Report indicated that MOSH inspected 87 and investigated 215 complaints – resulting in 50% (302 of 603) of complaints that were not inspected

or investigated. In FY 2017 and FY 2018, MOSH did not inspect or investigate 82% and 70% of UPA complaints respectively. Although MOSH continues to improve it was determined that MOSH is not addressing some of the complaints alleging serious hazards.

In previous years it was determined that improper data entry into OIS contributed to this result. However, MOSH's data entry has improved. In FY 2017 and FY 2018, a report capturing all UPAs received was run independently of the SAMM and indicated that MOSH initiated inspections in response to substantially more complaints than reported on the FY 2017 and FY 2018 EOY SAMM Reports.

It was determined that complaint cases listed on the UPA report were still coded as "draft" which made them undetected by the SAMM algorithm. The FY 2019 UPA report and FY 2019 EOY SAMM align closely. The FY 2019 UPA report indicated that MOSH inspected 89 UPA's coded as complaint and the FY 2019 EOY SAMM indicates that MOSH conducted 87 inspections. This indicates that MOSH is accurately entering complaints and that the SAMM now accurately reflects MOSH complaint activity.

OSHA discovered that MOSH does not always document, validate, and process electronic complaints from former employees and other complainants who have alleged serious hazards. OSHA reviewed a total of 603 electronic complaints received in FY 2019. Of the 603 electronic complaints reviewed, OSHA deemed 169 (28%) to allege one or more serious hazards. Of these 169 electronic complaints, 37 (22%) could not be located in OIS. OSHA continued this observation (FY 2019-OB-02).

Serious Hazard Complaint Documentation/OIS

Observation FY 2019-OB-02 (FY 2018-OB-05)

MOSH did not document 37 of 169 (22%) of electronic complaints alleging serious hazards.

Federal Monitoring Plan Observation FY 2019-OB-02

OSHA will continue to monitor the number of complaints received by MOSH that are entered into OIS quarterly.

The FY 2017 evaluation revealed that MOSH was documenting complaints as received after the actual receipt date in 20 of 71 (28%) cases reviewed. The FY 2019 evaluation revealed that MOSH accurately documented receipt dates for 100% of the cases reviewed. OSHA closed the associated observation (FY 2018-OB-02).

Complaint Response Time by Receipt Date

Observation FY 2018-OB-02

In 20 of 71 (28%) reviewed complaint files, MOSH incorrectly documented that

the complaints were received after the actual receipt date, initiating complaint investigations and inspections after the negotiated three- and five-day timeframes.

Federal Monitoring Plan FY 2018-OB-02

In FY 2020, OSHA will conduct a review of complaint files to document MOSH's progress documenting complaint receipt dates.

Status: Observation FY 2018-OB-02 is closed.

In FY 2017, OSHA also discovered that in 35% of case files reviewed, MOSH did not validate the complaint appropriately. The FY 2019 review revealed only one case where there was a significant delay in validating a complaint. This could be attributed to an administrative error. OSHA closed the associated observation (FY 2018-OB-03).

Complaint Response Procedures

Observation FY 2018-OB-03

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

Federal Monitoring Plan FY 2018-OB-03

In FY 2020, OSHA will conduct a review of complaint files to document MOSH's progress documenting valid dates.

Status: Observation FY 2018-OB-03 is closed.

b) Fatalities

In FY 2017 it was determined that victims' family members or next-of-kin (NOK) were not sent correspondence addressing the final outcome of the inspection in 42% of fatality inspection case files reviewed. Discussions with MOSH officials revealed that phone conversations with NOK are a regular occurrence. NOK letters are maintained in separate files by MOSH. During the FY 2019 evaluation, it was determined that all fatality cases included an NOK involvement letter as well as final letter addressing the outcome of the inspection when appropriate. Finding FY 2018-03 was closed.

NOK Notification Documentation

Finding FY 2018-03

In eight of 19 (42%) fatality case files, there was no documentation showing that the final NOK letter with the inspection results was sent or that contact was made with family members.

Recommendation FY 2018-03

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

Status: Finding FY 2018-03 is closed.

OSHA's fatality case review included fatality cases where MOSH did not have jurisdiction due to deaths from natural causes. If it cannot be determined in a timely manner that a workplace death was due to natural causes, MOSH will initiate an inspection. Case files were appropriately coded to indicate whether MOSH maintained jurisdiction and if the inspection was warranted. MOSH conducted 19 fatality inspection in FY 2019. Employers are required to report all fatalities to MOSH within eight hours.

The FY 2019 EOY SAMM report indicates that 84% (FRL fixed at 100%) of the work-related fatalities were responded to by MOSH within one workday. Three fatalities were not responded to within one workday. These three cases had extenuating circumstances related to the reporting of the fatality and MOSH's response. In the first case, MOSH received a delayed report with limited details. MOSH opened an inspection on the day the fatality was confirmed. The second case was delayed while MOSH gathered information to determine if the incident was related to a pre-existing medical condition. MOSH decided a determination could not be made and initiated an inspection. The third case saw a delay in response due to the proximity of available personnel. MOSH was notified of a fatality in far western Maryland during an all hands meeting. MOSH determined that the incident site was unmanned and held an opening by telephone. Compliance staff met personnel onsite the following day.

c) Targeting and Programmed Inspection

MOSH conducted 2,046 total inspections during FY 2019 – accomplishing 89% of its goal. In particular, MOSH conducted 1,905 safety inspections and 141 health inspections. Safety and health inspections both fell below the FRL. MOSH planned for 2,102 safety inspections and 204 health inspections in FY 2019. The FY 2019 FRL for safety is +/- 5% of the goal established in the FY 2019 grant application (2,102 inspections) or 1,996.90 to 2,207.10 inspections. The FRL for health is +/- 5% of the goal established in the FY 2019 grant application (204 inspections) or 193.80 to 214.20 inspections.

Although MOSH fell short of meeting its goal, it conducted 124 more inspections than in FY 2018 and 324 more inspections than in FY 2017. MOSH also utilizes a number of targeting programs to identify and schedule programmed inspections. These include the use of OSHA's National Emphasis Programs (NEPs) and Maryland-specific Local Emphasis Programs (LEPs) which address special emphasis hazards and industries in Maryland. MOSH has adopted LEPs for:

- Maryland High Hazard Industries

- Health Hazards in Construction
- Tree Care and Removal
- Health Hazards in Construction
- Fall Hazards in Construction
- Electrical Hazards in Construction

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

MOSH's in-compliance rate for safety cases was 14.18% and 30.77% for health cases in FY 2019. The health in-compliance rate was within the FRL (+/- 20% of the three-year national average of 36.12% or 28.90% to 43.35%) while the safety in-compliance rate was below the FRL (+/-20% of the three-year national average of 30.30% or 24.24% to 36.36%), indicating that MOSH targets inspections well and that compliance staff is well-trained in hazard recognition. Most case files that were identified as being in-compliance were found to be documented properly with no issues identified. OSHA identified a couple of case files that were lacking justification for no citations and noted that a representative sample of in-compliance cases would be reviewed during the next on-site evaluation to determine if this is a trend.

Case files with citations issued included proper hazard identification and documentation with the correct standard for each violation noted. The on-site review did not reveal any concerns with hazard identification. In FY 2019, MOSH compliance officers conducted 2,046 inspections – issuing violations in 1,614 safety cases and 98 health cases. MOSH issued repeat violations in 16.3% of cases. Thirty-two willful violations were issued in FY 2019. A significant review is conducted for all fatality and significant cases prior to issuance. MOSH consults with the Office of the Attorney General when any questions or concerns arise prior to issuance of citations. According to OSHA's definition, MOSH did not issue any significant cases in FY 2019.

d) Citations and Penalties

During the on-site review, OSHA observed that MOSH's case files were well-organized and well-documented. Each file contained an extensive hazard description and well-developed employer knowledge gleaned from worker and management interviews. Most case files included numerous well-labeled photos. Based on the information and documentation contained in the reviewed case files, it appeared that citations were issued for apparent violations when appropriate.

In FY 2019, MOSH issued 6,805 violations - 52.8% were serious and 9.3% were repeat. MOSH averaged 2.63 serious, willful, or repeat (SWR) violations per inspection, and 1.45 other-than-serious (OTS) violations per inspection surpassing the FRL of +/- 20% of the three-year national average of 1.79 or 1.43 to 2.14 for SWR violations and +/- 20% of the three-year national average of 0.97 or 0.78 to 1.1.6 for OTS violations. Before issuing a citation, MOSH considers the gravity of the violation. To determine this, MOSH considers the severity of the injury or illness that could result from the alleged violation, and the probability that an injury or illness could occur as a result of the alleged violation. The case file review revealed that citation classification (severity/probability) was found to be in accordance with the MOSH FOM.

MOSH grouped citations where appropriate. The case file review did not note any major deviations from MOSH or OSHA policy. The MOSH FOM provides general and standard specific guidance for grouping violations. MOSH issued 32 willful violations and issued 636 repeat violations in FY 2019. The review indicated that MOSH cited repeat violations where it was appropriate. An extensive review with central office staff is conducted prior to issuance of any citations associated with fatality or significant cases. In FY 2019, MOSH average safety lapse time was within the FRL (+/-20% of the three-year national average of 47.61 days or 38.08 to 57.13 days) at 42.71 days. MOSH health lapse time was above the FRL (+/-20% of the three-year national average of 57.23 days or 45.78 to 68.68 days) at 81.88 days. The health lapse time may be attributed to new industrial hygiene staff and turnover.

The average serious penalty based on national data in the private sector in FY 2019 was \$2,871.96. MOSH’s average current penalty in the private sector is \$701.32. Although MOSH’s penalties are low, they maintained 82% of their penalties. A breakdown of MOSH average penalty based on the number of workers is located in the table below:

MOSH Average Penalty	
Number of Workers	Average Serious Penalty
1 – 25	\$629.07
26 – 100	\$784.77
101 – 250	\$1,220.72
Greater than 250	\$1,785.90

e) Abatement

The FY 2019 EOY State Information Report (SIR) identified seven non- contested cases that were awaiting abatement verification for more than 60 days. Based on FY 2019 SIRs, MOSH significantly reduced its cases awaiting abatement verification during the FY. OSHA determined that the action taken for the associated finding was completed (FY 2018-06).

Abatement Verification and Documentation

Finding FY 2018-06

MOSH has not verified and documented abatement for 112 inspection cases which have been open for more than 60 days.

Recommendation FY 2018-06

MOSH should adhere to its procedures outlined in the Field Operations Manual (FOM) to verify and document that abatement has been completed for all cases where abatement is past due.

Status: Finding FY 2018-06 is closed.

OIS reports show that MOSH conducted 12 follow-up inspections in FY 2019. MOSH policies and procedures outline when follow-up inspections are necessary.

f) Worker and Union Involvement

SAMM #13 indicated that in 99.76% of inspections (FRL 100%) MOSH included worker representation. The EOY SAMM report indicated that MOSH included worker representation on all but five inspections. It was determined that the five identified outliers were OIS data entry errors. During the on-site review, OSHA found that MOSH conducts interviews with workers on a consistent basis, and unions are provided the opportunity to participate in opening and closing conferences, as well as during the walkaround portion of inspections. MOSH was able to obtain entry at all sites.

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

3. REVIEW PROCEDURES

a) Informal Conferences

MOSH follows the FOM guidance when determining penalty reductions during the informal conference. The MOSH conferee negotiates the amount of penalty reduction depending on the circumstances of the case, the financial condition of the employer, and what improvements in worker safety and health can be obtained in return. Penalty reductions are not offered for those items which lack proper documentation of abatement.

During FY 2019, MOSH provided effective consideration to the gravity of violations, the size of the business being inspected, good faith of the employer, and the employer's previous inspection history. In addition, MOSH considered the

type, gravity, and severity of the violation when initially assessing penalty adjustment factors.

MOSH provided justification for vacating and/or reclassifying violations and only on rare occasions vacated or reclassified violations. During the FY 2019 on-site review, there were no concerns with the changes made to citations during the informal conference. All changes noted were appropriate to the case.

SAMM #12 indicated that MOSH maintained 82.08% of its penalties – exceeding the FRL of +/- 15% of the three-year national average of 66.38% or 56.42% to 76.33%. Any modifications made to violations did not indicate any systemic problems within the MOSH program. The on-site review did not reveal any settlement pattern concerns.

The FY 2019 EOY SIR indicated that MOSH vacated only 1.65% of violations pre-contest. Similarly, MOSH only reclassified violations in 1.71% of cases pre-contest. Likewise, the case file review did not reveal any issues with citation modification.

The FY 2019 case file review revealed that MOSH held informal conferences beyond the 15-working day period in 26 of 37 (70%) of cases where an informal conference was held. Informal conferences were held an average of 25 working days after the citations were received. The longest gap between receipt of citation and informal conference was 61 working days. MOSH policies do not require MOSH to hold informal conferences within the 15-working day contest period. In FY 2019, MOSH reduced the average number of working days in which an informal conference is held and held the majority of reviewed case file informal conferences – 25 of 37 (68%) within 30 working days. OSHA converted the associated finding to an observation to continue to monitor the impact of holding informal conferences beyond the 15-working day period.

Informal Conferences

Observation FY 2019-OB-03 (Finding FY 2018-02)

In 70% of the case files reviewed, MOSH held informal conferences beyond the 15-working day contest period, and has not determined the effect on abatement verification.

Federal Monitoring Plan FY 2019-OB-03

In FY 2020, OSHA will monitor the number of cases with informal conferences held significantly beyond the 15-working day contest period to determine the effect on abatement verification. The on-site review revealed that MOSH is somewhat consistent when settling cases. The on-site review revealed that of the 29 cases with an initial penalty, 17 (59%) cases were settled by reducing the penalty to less than half of the original penalty.

b) Formal Review of Citations

The employer may preserve the ability to litigate a case when it properly files a Notice of Contest with the commissioner or authorized representative within 15 working days of receipt of the citation. MOSH continues to attempt to settle cases informally after it receives a Notice of Contest. When a case cannot be settled informally and the employer has submitted a Notice of Contest, the commissioner or authorized representative notifies the Office of Administrative Hearing. The commissioner or authorized representative also informs the employer of the time, place, and nature of the hearing as appropriate.

The FY 2019 EOY SIR indicates that 24.06% (45 of 187) of violations in contested cases settled through the Office of the Attorney General, are vacated while the national average is recorded at 13.98%. Similarly, the SIR shows that 25.35% (36 of 142) of violations in contested cases settled through the Office of the Attorney General are reclassified. The national average is recorded at 12.17%. MOSH settled all of reviewed cases informally.

The FY 2019 EOY SIR indicates that 66.50% of penalties are retained after a contest has been filed while the national average was reported as 62.54%. The review did not reveal concerns with the originally issued citations. In general, MOSH may amend or administratively vacate a citation when the citation was issued with an administrative or technical error, when previously unknown additional facts are presented, or when additional facts establishing that no employees were exposed to the hazard are identified. The FOM also defines the circumstances when citation amendment or administrative vacating is not justified. The case file review did not reveal any adverse decisions.

MOSH policy regarding the disclosure of documents is governed by the Maryland Public Information Act (MPIA) and the regulations adopted by DLLR (COMAR 09.01.04). MOSH policy is to disclose all documents to which the public is entitled under the MPIA and the regulations. All decisions were made available to the public and were consistent with federal procedures. OSHA is not aware of any inconsistency with federal precedence nor any poor quality decisions. The on-site review did not reveal any discrepancies with the procedures outlined in the FOM.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

State Plans are required to respond within 60 days of initial notification to declare whether they intend to adopt an OSHA change. According to 29 CFR 1953, when a federal change is identified as having the potential to impact the effectiveness of the State Plan, State Plans are required to either adopt the change identically, or submit an alternative approach with a State Plan supplement that is at least as effective as the federal change.

MOSH continues to be delinquent in its adoption of multiple FPC standards. The current status of FY 2019 federal standards adoption are listed in the table below. Standards that were not yet adopted but that were required to be adopted before FY 2019 are also included.

MOSH intends to adopt the Final Rule on the Standards Improvement Project – Phase IV with minor changes. MOSH does not intend to adopt the Interim Final Rule on Maximum Penalty Increase and therefore will not be adopting any Annual Adjustment to Civil Penalties for Inflation. MOSH did not adopt the Final Rule on Crane Operator Certification Requirements as its existing standard already covers the changes. The below table presents the status of MOSH’s delinquent adoption of FPCs in FY 2019 and in previous years:

Status of FY 2019 and Previously Delinquent Federal Standards Adoption						
Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Final Rule on the Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	3/30/2020	Y	No	11/14/2019	Spring 2020
Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	N/A	No	N/A	7/23/2019	N/A
Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	N/A	No	N/A	5/9/2019	N/A

Status of FY 2019 and Previously Delinquent Federal Standards Adoption

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Final Rule on Occupational Exposure to Beryllium	3/9/2017	4/10/2017	Yes	Yes	7/9/2017	Summer 2020
Interim Final Rule on Maximum Penalty Increases	7/1/2016	N/A	No	N/A	1/1/2017	N/A
Final Rule to Improve Tracking of Workplace Injuries and Illnesses	5/12/2016	11/18/2016	Yes	Yes	11/14/2016	Spring 2020

MOSH has not adopted multiple regulations that were due during and prior to FY 2019. OSHA continues to work with MOSH to adopt overdue standards. MOSH did not adopt any unique enforcement standards in FY 2019.

b) Federal Program Change (FPC) Adoption

MOSH continues to be delinquent in its adoption of multiple FPC directives. FY 2019 FPC directives and directives from previous FYs that have not yet been adopted are listed in the table on the following page:

Status of FY 2019 and Previously Delinquent Federal Program Change (FPC) Adoption						
FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Equivalency Required</i>						
Site-Specific Targeting 2016 (SST-16) CPL 02-18-01 (10/16/2018)	12/15/2018	10/31/2018	Yes	No	4/16/2019	2/12/2019
Field Operations Manual CPL 02-00-160 (8/2/2016)	10/1/2016	4/10/2017	Yes	No	2/2/2017	
Whistleblower Investigations Manual CPL 02-03-007 (1/28/2016)	4/27/2016	4/10/2017	Yes	Yes	7/28/2016	
Mandatory Training Program for OSHA Whistleblower Investigators TED 01-00-020 (October 8, 2015)	12/8/2015				4/8/2016	
OSHA Strategic Partnership for Worker Safety and Health CPL 03-02-003) (11/6/2013)	1/14/2014				5/6/2015	
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019				N/A (Adoption Not Required)	

OSHA continued Finding FY 2018-01.

Federal Program Changes (FPCs)

Finding FY 2019-01 (FY 2018-01)

MOSH did not take action on FPCs within the required timeframes.

Recommendation FY 2019-01

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

5) VARIANCES

MOSH variance provisions are delineated in Sections 5-318 through 5-327 of the MOSH Act and COMAR 09.12.20.17. There were no variances requested during the FY 2019 evaluation period.

6) STATE AND LOCAL GOVERNMENT (SLG) WORKER PROGRAM

MOSH conducted 147 safety and health inspection in state and local government workplaces. MOSH conducted 7.18% of its total inspection activity in SLG for FY 2019, falling below the FRL (+/-5% of the 8.37% negotiated in the FY 2019 grant application or 7.95% to 8.79%). MOSH has been increasing the number of inspections conducted in SLG workplaces since FY 2017. MOSH missed its SLG inspection goal by only 24 inspections in FY 2019. MOSH continued the associated observation.

State and Local Government (SLG) Inspection Goals

Observation FY 2019-OB-01 (Observation FY 2018-OB-04)

MOSH conducted 147 of 2,046 (7.18%) inspections in SLG workplaces – 24 less than its anticipated goal of 8.37% of inspections.

Federal Monitoring Plan FY 2019-OB-01

OSHA will continue to monitor MOSH's activities in SLG workplaces, emphasizing the percent of inspections conducted each quarter.

Although no penalties are assessed against SLG employers, MOSH has worked successfully with these agencies to bring them into compliance with current safety and health standards. Abatement information is required from SLG entities and is reviewed and evaluated in the same manner as private sector abatement documentation.

7) WHISTLEBLOWER (WB) PROGRAM

The whistleblower case file review did not indicate that MOSH's workplace retaliation metrics are below the FRL due to procedural matters or internal decisions. MOSH's major procedures were deemed to be at least as effective. Of the 35 files reviewed, 25 were administratively closed, one was withdrawn, and the remaining nine were dismissals. MOSH did not have any settled cases to review in FY 2019. All dispositions were appropriate and timely.

The on-site review revealed that a serious safety and health complaint was associated with at least 14 of 35 reviewed whistleblower cases. Of the 14 cases, OSHA could not locate an associated UPA or inspection in eight of the cases. Two of the investigation files indicated that there was not enough information to support documentation of hazardous conditions. In six of 14 cases (43%), OSHA could not locate an associated UPA or inspection to ensure that the alleged safety and health items were addressed in accordance with MOSH policies and procedures. OSHA developed Finding FY 2019-03 to address this concern.

Whistleblower Safety and Health Complaint Actions

Finding FY 2019-03

MOSH did not generate an associated UPA or inspection for whistleblower complaints in six of 14 (43%) of whistleblower complaints alleging serious safety and health concerns.

Recommendation FY 2019-03

MOSH should develop a strategy ensuring that a safety and/or health investigation or inspection is conducted in accordance with MOSH policies and procedures when a whistleblower complainant alleges a safety and health concern.

The comprehensive on-site review also revealed that MOSH does not provide complainants and respondents with Designation of Representative forms to designate an attorney or other official representative. However, MOSH allows for complainants and respondents to designate representatives without a form. It was also noted that MOSH does not maintain the postmarked envelope or other information identifying the date the complaint was received in the case file. However, OSHA did not notice any discrepancies concerning the receipt date in the case file. The on-site review also determined that the Final Investigative Report (FIR) – known by OSHA as the Report of Investigation (ROI) – does not include citations to specific exhibits in the case file. However, the review did not indicate any issues with MOSH review procedures and the investigator was available to answer any questions the assistant commissioner may have during the review process.

8) COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA received one CASPA in FY 2019. The CASPA alleged concerns with a whistleblower investigation. The complainant was a SLG employee and could not dual file with OSHA. MOSH provided a timely written response and promptly provided requested documentation to OSHA. It was determined that MOSH conducted the whistleblower investigation in accordance with its policies and procedures, and the CASPA was closed.

9) VOLUNTARY COMPLIANCE PROGRAM

MOSH promotes and recognizes exceptional safety and health efforts through its voluntary programs. MOSH's VPP recognizes mid-to-large size employers for developing a comprehensive safety and health management system that protects workers from harm. These VPP workplaces are recognized for their efforts in achieving an exceptional, progressive program that has management commitment and worker involvement, employs routine hazard identification, hazard control and safety, and health training.

MOSH's VPP mirrors OSHA's VPP with the exception that it only accepts employers who meet the STAR status – the federal program also allows for the MERIT designation to employers who are close, but have not yet met the full criteria of the program. MOSH's VPP also does not extend the program to mobile worksites. The VPP unit awarded one new Star designated site with VPP status, and received one new application in FY 2019. Inspection deferrals are approved under VPP, which mirrors the federal policy. Worksites are removed from programmed inspection lists during participation in MOSH's VPP.

MOSH has also operates a Cooperative Compliance Partnership (CCP) for employers in Maryland that predates VPP in Construction. MOSH's CCP seeks to establish a joint cooperative relationship with private sector companies who are committed to reducing injuries and illnesses and building a positive safety and health culture in the construction

industry. Employers comply with requirements that go above and beyond the minimum standards, and work together to address the complex safety and health issues related to larger construction activities with a mix of employers. Three new partnerships were signed with various general contractors throughout the State of Maryland.

MOSH has implemented the Strategic Partnership for Excellence in Construction Safety (SPECS) which is a strategic partnership agreement signed with Associated Building Contractors, Inc., (ABC). Level 3 participants may designate a job site for exemption from programmed inspections for up to two years. Three construction companies were recognized as partners in FY 2019 – bringing the total number of partner contractors in the program to six.

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

According to the FY 2019 Mandated Activities Report for Consultation (MARC), the MOSH Consultation Program conducted 71 on-site consultation visits at state and local government workplaces in FY 2019. Sixty-one consultation visits were reported as initial visits and 10 were reported as follow-up visits. All hazards were abated within the required timeframe. MOSH projected that 61 total visits would be conducted in state and local government workplaces; surpassing its goal. MOSH responded to all voluntary requests.

Appendix A – New and Continued Findings and Recommendations
 FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 2018-#
FY 2019-01	<i>Federal Program Changes (FPCs)</i> MOSH did not take action on FPCs within the required timeframes.	MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.	FY 2018-01
FY 2019-02	<i>Serious Hazard Complaint Validation and Processing Procedures</i> MOSH did not validate and process at least 72 of 169 (43%) electronic complaints from former employees and other complainants alleging serious hazards.	MOSH should adhere to the non-formal complaint processing procedures and requirements set forth in its Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed.	FY 2018-04
FY 2019-03	<i>Whistleblower Complaints</i> MOSH did not generate an associated UPA or inspection for whistleblower complaints in six of 14 (43%) whistleblower complaints alleging serious safety and health concerns.	MOSH should develop a strategy ensuring that a safety and/or health investigation or inspection is conducted in accordance with MOSH policies and procedures when a whistleblower complainant alleges a safety and health concern.	

Appendix B – Observations Subject to New and Continued Monitoring

FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

Observation # FY 2019-OB-#	FY 2018-#	Observation	Federal Monitoring Plan	Current Status
FY 2019-OB-01	FY 2018-OB-04	<p><i>State and Local Government (SLG) Workplace Inspection Goals</i></p> <p>MOSH conducted 147 of 2,046 (7.18%) inspections in SLG workplaces – 24 less than its anticipated goal 8.3%.</p>	In FY 2020, OSHA will continue to monitor MOSH’s activities in SLG workplaces, emphasizing the percent of inspections conducted each quarter.	Continued
FY 2019-OB-02	FY 2018-OB-05	<p><i>Serious Hazard Complaint Documentation/OSHA Information System (OIS)</i></p> <p>MOSH did not document 37 of 169 (22%) of electronic complaints alleging serious hazards.</p>	In FY 2020, OSHA will continue to monitor the number of complaints received by MOSH that are entered into OIS quarterly.	Continued
FY 2019-OB-03	FY 2018-02	<p><i>Informal Conferences</i></p> <p>In 70% of the case files reviewed, MOSH held informal conferences beyond the 15-working day contest period, and has not developed or implemented a policy ensuring that employers abate serious hazards when informal conferences were scheduled and held beyond the 15-working day contest period.</p>	In FY 2020, OSHA will monitor the number of cases with informal conferences held significantly beyond the 15-working day contest period to determine the effect on abatement verification.	New

Appendix B - Observations and Federal Monitoring Plans
 FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

Observation # FY 2019-OB-#	Observation# FY 2018-OB-#	Observation	Federal Monitoring Plan	Current Status
	FY 2018-OB-01	<p><i>Unprogrammed Activity (UPA) Documentation Accuracy</i> MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 21 of 255 (8%) inspections with a linked UPA, skewing data reports and distorting complaint documentation accuracy.</p>	<p>In FY 2019, OSHA will run quarterly reports to determine how MOSH is documenting the receipt date for UPAs associated with inspections. The outliers will be provided to MOSH for prompt correction.</p>	Closed
	FY 2018-OB-02	<p><i>Complaint Response Time by Receipt Date</i> In 20 of 71 (28%) reviewed complaint files, MOSH incorrectly documented that the complaints were received after the actual receipt date, initiating complaint investigations and inspections after the negotiated three- and five-day timeframes.</p>	<p>In FY 2019, OSHA will conduct a review of complaint files to document MOSH's progress documenting complaint receipt dates.</p>	Closed
	FY 2018-OB-03	<p><i>Complaint Response Procedures</i> In six of 17 (35%) valid complaints reviewed, MOSH did not validate the complaint appropriately, responding to the complaints after the negotiated three-day timeframe.</p>	<p>In FY 2019, OSHA will conduct a review of complaint files to document MOSH's progress documenting valid dates.</p>	Closed

Appendix C – Status of FY 2018 Findings and Recommendations
 FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Item is Not Completed)
FY 2018-01	<p><i>Federal Program Changes(FPCs)</i> MOSH did not take action on FPCs within the required timeframes.</p>	<p>MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.</p>	<p>MOSH is planning to introduce legislation that will allow for adoption of federal standards in accordance with 29 CFR 1953.5(a)(1) when adopting by reference. MOSH is working to adopt overdue FPCs unrelated to standards (directives).</p>	<p>Not Applicable</p>	<p>Open (September 30, 2019)</p>
FY 2018-02	<p><i>Informal Conferences</i> In 80% of the case files reviewed, MOSH held informal conferences beyond the 15-working day contest period, and has not developed or implemented a policy ensuring that employers abate serious hazards when informal conferences were scheduled and held beyond the 15 working day contest period.</p>	<p>MOSH should develop a policy in its FOM ensuring that informal conferences are held within the 15- working day contest period and develop, formalize, and implement a policy requiring serious hazard abatement when informal conferences are held beyond the 15-working day period.</p>	<p>MOSH holds informal conferences within a 15-working day period or as soon as practicable and ensures abatement is reviewed and discussed at the informal conference.</p>	<p>Not Applicable</p>	<p>Converted to an Observation</p>

Appendix C – Status of FY 2018 Findings and Recommendations
 FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Item is Not Completed)
FY 2018-03	<p><i>Next-of Kin (NOK) Notification Documentation</i> In eight of 19 (42%) fatality case files there was no documentation showing that the final NOK letter with the inspection results was sent or that contact was made with family members.</p>	<p>MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to NOK in all fatality cases.</p>	<p>MOSH retrained staff to ensure documentation related to NOK notification of inspection results are maintained in the related case file with the exception of the decedent as the sole proprietor of the company.</p>	September 30, 2019	Completed
FY 2018-04	<p><i>Serious Hazard Complaint Validation and Processing Procedures</i> MOSH did not validate and process at least 82 of 146 (56%) electronic complaints from former employees and other complainants alleging serious hazards.</p>	<p>MOSH should adhere to the non-formal complaint processing procedures set forth in its Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed.</p>	<p>MOSH developed a strategy to ensure that all valid, serious electronic complaints, with the exception of complaints from former employees and other non-employees, are addressed with the employer in a timely manner. All complaints are acknowledged the same day they are received. Additional training for operations staff and written policies were distributed on April 10, 2019.</p>	Not Applicable	Open (September 30, 2019)

Appendix C – Status of FY 2018 Findings and Recommendations
 FY 2019 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY 2018-05	<i>OSHA Information System (OIS)</i> In 36 of 71 (51%) reviewed complaints, the hazardous condition described by the complainant was not documented in OIS.	MOSH should adhere to the procedures outlined in its Field Operations Manual (FOM) and ensure that the hazardous conditions are documented on a MOSH form.	MOSH is adhering to the procedures in its Field Operating Manual (FOM). Hazardous conditions are documented in the case file and on documents utilized by inspectors.	October 1, 2018	Completed
FY 2018-06	<i>Case File Documentation</i> MOSH has not verified and documented abatement for 112 inspection cases which have been open for more than 60 days.	MOSH should adhere to its procedures outlined in the Field Operations Manual (FOM) to verify and document that abatement has been completed for all cases where abatement is past due.	MOSH reduced its abatement backlog by assigning additional duties to existing staff and is seeking an additional position to assist in verifying documented abatement.	September 30, 2019	Completed

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MOSH Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Maryland – MOSH			FY 2019	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	14.11	5	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.47	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)	29.09	3	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	1.28	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 2.63 Other: 1.45	+/- 20% of SWRU: 1.79 +/- 20% of Other: 0.97	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
6	Percent of total inspections in state and local government workplaces	7.18%	+/- 5% of 8.37%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 7.95% to 8.79%.
7	Planned v. actual inspections – safety/health	S: 1,905	+/- 5% of S: 2,102	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 1,996.90 to 2,207.10 for safety and from 193.80 to 214.20 for health.
		H: 141	+/- 5% of H: 204	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$701.32	+/- 25% of \$2,871.96	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	a. Average current serious penalty in private sector (1-25 workers)	\$629.07	+/- 25% of \$1,915.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	b. Average current serious penalty in private sector (26-100 workers)	\$784.77	+/- 25% of \$3,390.30	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,220.72	+/- 25% of \$4,803.09	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$1,785.90	+/- 25% of \$5,938.59	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
9	Percent in-compliance	S: 14.18% H: 30.77%	+/- 20% of S: 30.30% +/- 20% of H: 36.12%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
10	Percent of work-related fatalities responded to in one workday	84.21%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 42.71	+/- 20% of S: 47.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health.
		H: 81.88	+/- 20% of H: 57.23	
12	Percent penalty retained	82.08%	+/- 15% of 66.38%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.76%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	38%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	15%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
16	Average number of calendar days to complete an 11(c) investigation	148	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.95%	+/- 25% of 1.23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.

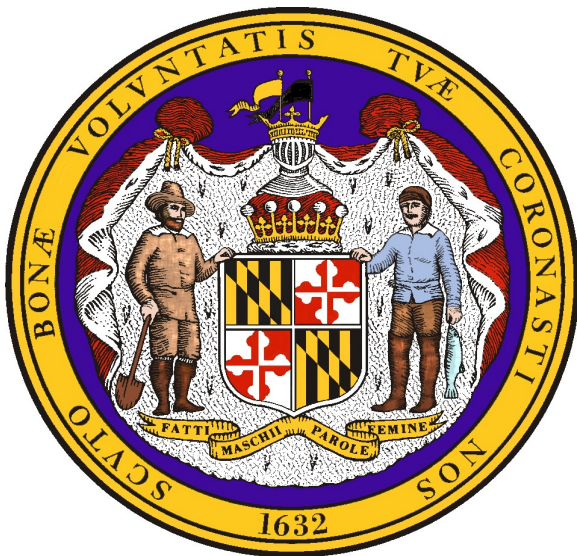
Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MOSH Comprehensive FAME Report

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS Report run on November 12, 2019 as part of OSHA's official end-of-year data run.

SOAR - State OSHA Annual Report: Maryland Occupational Safety and Health Compliance Annual Report for Fiscal Year 2019

December 2019



Larry Hogan, Governor
Tiffany Robinson, Secretary
Matthew S. Helminiak, Commissioner

Table of Contents

Section 1: Year in Review.....1

- Instructions and Standard Notice.....2**
- Staff Training.....2**
- Organizational Changes.....3**

Section 2: Unit Review

- Enforcement.....4**
- Case Highlights.....5**
- Consultation.....6**
- Outreach.....7**
- Cooperative Compliance Partnerships (CCP).....7**
- Voluntary Protection Program (VPP)8**
- Strategic Partnership for Excellence in Construction Safety (SPECS)9**
- Safety and Health Achievement Recognition Program (SHARP)10**
- Education Unit10**

APPENDIX A: Summary of Annual Performance Plan Goals for MOSH FY19

APPENDIX B: Performance and Activity Results

Section 1: Year in Review

During FY19, MOSH welcomed eight new Safety Compliance Officers and four new Industrial Hygienists. Additionally, a Safety Compliance Officer III moved to Consultation to fill a vacancy.

In fiscal year 2019 MOSH completed 1,905 safety inspections and 141 health inspections, for a total of 2,046 inspections. In safety inspections, MOSH identified 8,589 hazards. In health inspections, MOSH identified 920 hazards. That brings the total to 9,509 hazards identified.

During the month of June, MOSH employees conducted trench safety stand downs during to raise awareness about the rising number of trenching and excavation accidents and fatalities throughout the nation in 2019. Over ten companies and approximately 400 employees participated in these trench stand-downs.

The Voluntary Protection Program (VPP) unit awarded Star Recognition VPP status to one new site and received an application from one other company. VPP also performed eight pre-application visits.

The Strategic Partnership for Excellence in Construction Safety (SPECS) program recognized three construction companies as new Partner Contractors. Two applications are expected in the first half of FY20.

On August 29, 2019, MOSH signed the 93rd Cooperative Compliance Partnership (CCP) agreement since the inception of the program in 1997. During FY19, MOSH signed three new partnership agreements with general contractors. The total project value of these partnerships is estimated at \$400M.

The Training and Education unit offered 92 educational seminars across Maryland covering 32 topics at no cost to the participants. Federal employees and contractors also attended some of these training programs.

Earlier in November, Commissioner Matthew Helminiak from Labor & Industry and a team from MOSH welcomed a delegation from Belarus. During the visit, management provided information about the agency's workplace safety and health policies and procedures. They also talked about their outreach efforts to reduce injuries and illnesses through the various educational programs. The highlight of the visit was a tour of the MOSH training lab.



In September 2019, the MOSH Research and Statistics unit completed the reference year 2018 data collection for the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Illnesses (SOII) program. The statistics generated from this employer-based survey are the U.S. government's official accounting of the safety and health issues facing America's workplaces. The SOII charts the nature and magnitude of occupational injuries and illnesses across the United States. The dedication and perseverance of the Research and Statistics staff helps ensure that MOSH has reliable and timely occupational injury and illness data at its disposal for industry outreach initiatives and other surveillance purposes.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Instructions and Standards Notices

Four MOSH Instructions were issued in FY19

MOSH Instructions and Standards Notices Issues in FY19			
<i>OSHA Directive/Standards</i>	<i>Topic</i>	<i>MOSH Instructions/ Standards Notices</i>	<i>Effective Date</i>
MOSH Instruction	Local Emphasis Program (LEP) Maryland High Hazard Industries	MI 19-1	Feb 12, 2019
MOSH Instruction	Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyards Employment	MI 19-2	August 1, 2019
MOSH Instruction	Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyards Employment	MI 19-3	August 1, 2019
MOSH Instruction	Shipyards Employment "Tool Bag"	MI 19-4	August 1, 2019

MOSH Instructions and Standard Notices are available online at:

<http://labor.maryland.gov/labor/instructions/>

<http://labor.maryland.gov/labor/standards/>

Staff Training

During FY19, MOSH sent 12 compliance officers to eight different technical training courses offered by the Occupational Safety and Health Administration (OSHA) Training Institute (OTI) in Chicago, Illinois. Additionally, MOSH brought three OTI courses to the Hunt Valley, Maryland office; Incident Accident Investigative, Interviewing Techniques, and Forklift Best Practices Seminar. Sixty-seven compliance officers benefited from these in-house courses.

Topics of Study	
Inspection Techniques and Legal Aspects	Respiratory Protection
Industrial Hygiene Chemistry	Introduction to Health Standards for Industrial Hygienists
Industrial Noise	Combustible Dust Hazards
Hazard Analysis in the Chemical Processing	Incident Accident Investigation*
Fire Protection and Life Safety	Investigative Interviewing Techniques*
Forklift Best Practice Seminar*	

*OTI sponsored classes offered at Hunt Valley location

Organizational Changes

FY 2019 Industrial Hygiene unit gained four new industrial hygienists, increasing the total number of industrial hygienists (IH) in the unit to 11. One inspector was assigned to the MOSH Hagerstown office and another is slated to transition to the MOSH Easton office. MOSH has been focusing on providing classroom and on-the-job training to the 4 new inspectors, and direct support and assistance to the rest of the IH team.

Section 2: Unit Review

Enforcement

According to the OSHA derived State Activity Mandated Measures (SAMM) report, MOSH Compliance Officers opened 2,046 enforcement inspections in FY19, including 1,905 safety inspections and 141 health inspections. MOSH projected 2,306 inspections would be conducted; the agency was able to accomplish 89% of this goal.

Compliance officers continued to focus their efforts on the Maryland industries that have high injury and illness rates. Of the 2,046 enforcement inspections, 1,855 (91%) were conducted under one or more of the state's Local Emphasis Programs (LEP), and 201 (10%) of the inspections were conducted under one or more of the adopted National Emphasis Programs (NEP). MOSH compliance officers investigated approximately 137 accidents, an increase of 5 from FY18. According to the SAMM issued by federal OSHA, MOSH investigated 19 workplace fatalities; 16 were opened within one day of notification.

End-of-year SAMM data shows MOSH initiated complaint inspections, on average, in 14.11 days, which is beyond the five-day requirement. Complaint investigations were initiated within an average of 29.09 days. The reason for the increase in lag time can be attributed to findings associated with complaints during the recent FAME audit. There were complaints found during the audit that had not been addressed. MOSH undertook an effort to address those complaints and in doing so there was a significant lag time between the receipt of the complaint and date action was taken. This accounts for the increase in the average number of days for complaint inspections and complaint investigations. MOSH has instituted measures for complaint tracking that will prevent this from recurring in the future.

There were no instances where a Compliance Officer did not gain entry to a facility after an employer originally denied the inspection.

Per SAMM Measure 5, MOSH Compliance Officers and Industrial Hygienists averaged 2.63 serious, willful, or repeat violations and 1.45 other-than-serious violations per case, for a total average of 4.08 violations per case file.

MOSH's average penalty per serious violation was \$701.32. MOSH issued an average penalty of \$629.07 per serious citation for employers with 25 employees or fewer, \$784.77 for employers between 26 and 100 employees, \$1,220.72 for employers between 101 and 250, and \$1,785.90 for employers with over 250 employees. MOSH will continue to follow its Field Operations Manual (FOM) and applicable policies regarding penalty levels. Based on the most recent U.S. Bureau of Labor Statistics data, of the 41 states and the District of Columbia where occupational injury and illness data are available, Maryland's private sector total recordable case incidence rate was 2.6 injuries and illnesses per 100 full-time equivalent (FTE) workers for 2017. By contrast, the U.S. private sector rate was 2.8. Significance testing shows that the difference in these two rates is statistically significant. Maryland's rate was 7% below the U.S private sector average. Maryland was one of 15 states and the District of Columbia whose total recordable case incidence rate was statistically lower than the national average.

SAMM Measure 9 shows there were 1,784 qualifying safety inspections completed, with 14.18% in compliance. There were also 117 qualifying health inspections completed with 30.77% of

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

them in compliance. According to MOSH documentation, 74% of health inspections in FY19 were un-programmed, and 48% were complaint driven.

Just over 7% of all MOSH inspections were completed in the public sector. MOSH continued to use an LEP to help focus on public sector establishments. While MOSH recognizes that this number is still below our projected goal for public sector inspections, it is an area where recent focus has created a significant increase over past fiscal years. This focus will continue to increase the public sector inspection numbers going forward, allowing MOSH to better reach its goal.

Lapse time (number of days from the inspection open date to the citation issuance date) remained steady for both safety and health. As the new class of trainees began to write their own cases, the number of reviews and time spent on each case increased as they learned the process. During FY19, safety inspections averaged 43 days and health inspections averaged 82 days.

Case Highlights

Patapsco Wastewater Treatment Plant Baltimore City employee fell into the effluent outfall of Aerated Grit Chamber.

On June 3, 2019, an employee of the Patapsco Wastewater Treatment Plant fell into the effluent outfall of Aerated Grit Chamber #6 when two catwalk grates measuring approximately 47 ½ inches wide and 36 inches long became dislodged from the structure I-beam. The employee and the two catwalk grates plummeted into the effluent waste outfall where the employee died of drowning. The employee was found deceased in the solids reclamation area after traveling the length of the underground 1,000-foot, 96 inch diameter effluent waste pipe. The structural I-beam where the two grates had been dislodged was observed to be damaged and bent, most likely from being hit by the 7.5-ton clamshell attachment connected to the overhead crane that employees operated to remove grit and debris. The grates that remained on the I-beam, that did not fall into the effluent outfall, were not resting flush on the I-beam and were observed to be missing clip attachments that secured the grates to the structure.

The decedent and two Grounds Maintenance workers proceeded to the Grit Facility where they were to remove grit from one of the six chambers using one and or both of the overhead cranes with clamshell bucket attachments. The decedent had driven a dump truck to the Grit Facility so the grit could be placed into a dump truck and disposed of later. As they were to start work it was discovered that the remote control for the crane had a dead battery. The decedent and another employee drove back over to the main facility to get new batteries for the remote control. When the batteries were obtained, the decedent stated she had some work to take care of and instructed another employee to return to the Grit Facility and start removing the grit along with another employee.

Employee who assisted the decedent returned to the Grit Facility at approximately 4:30 PM, and the decedent and another employee proceeded to remove grit from chamber #4. They alternated operating the crane and handling the tag line. At 5:48 PM and again at 5:53 PM, the employee who assisted the decedent made calls to the decedent that went straight to voicemail. The employee stopped and they shut down the crane. As they were exiting the facility by walking to the stairs located at the east end of the building where the employee had parked the vehicle. As they rounded chamber #6, they noticed an opening in the catwalk on the east side. They became nervous and climbed down the ladder to the ground and they saw the decedent's vehicle was

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

there and was still running. They started to look for the decedent and when they did not find her they returned to the main facility and reported the decedent missing and explained that there was an opening in the grates in the Grit facility. Employee said she spoke to a supervisor and another employee spoke to another supervisor, and he and both supervisors returned to the Grit facility. Employee then called 911.

When interviewed, the employee stated she had earlier walked across the area where it was discovered that two grates were missing after she returned with the replacement batteries for the remote control. Both the Baltimore City Police and Fire Departments responded to the scene. Decedent's body was found approximately 1,000 feet from the Grit Facility at approximately 8:30 PM. It was determined that the decedent had fallen into the area where the water from the chambers flow into a chamber where the water flows out of the facility through a 96 inch effluent. The chamber where she fell into was 17-18 feet deep. It was determined that two grates, measuring 3 feet by 4 feet each, had given way, causing the decedent to fall into the chamber. There were no witnesses to the decedent falling into the chamber, as the two co-workers were not aware that their supervisor had returned to the facility. Multiple citations were recommended as a result of the investigation inside of the Grit facility.

Cold Brew Coffee Manufacturing

In February 2019, two employees were hospitalized due to carbon monoxide overexposure while removing five pound coffee bags from a 700-gallon mixing tank. On the day of the accident, the employer was attempting to increase cold brew coffee production from several 50-gallon batches to one 700-gallon batch. In doing so, the employer switched from loose coffee grounds to 5-pound permeable bags of coffee grounds, which required employees to enter the tank to retrieve them post-production. After the coffee had steeped for 16 hours in the mixing tank, the cold brew coffee was drained and two employees then entered the tank at approximately 9:00 a.m. to remove 172 five-pound permeable bags of coffee. Within 15 minutes, one employee lost consciousness and both had to be rescued from the tank by a co-worker. During the inspection, it was determined that carbon monoxide had built up inside the tank during the steeping process as a result of roasted coffee naturally off-gassing. Direct reading measurements taken by the fire department on the day of the accident found carbon monoxide levels in excess of 500 parts per million (ppm) inside the tank. Citations were recommended for deficiencies related to carbon monoxide overexposure, confined space entry, lockout-tagout, respiratory protection, hazard communication, fall protection, electrical, walking working surfaces, personal protective equipment, and powered industrial trucks.

Consultation

MOSH had one public sector safety consultant in 23(g) for FY19. When there are specific health concerns on a public sector site, one of the health consultants from the 21(d) program will temporarily transfer to the 23 (g) program and perform the health visit.

There were 73 public sector visits conducted; 59 safety and 14 health-related. The goal of 61 total visits was surpassed.

All of the public sector requests for service were fulfilled in a timely manner and employer surveys received by the Consultation unit rated the public sector consultant's service as "excellent."

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Consultation's public sector safety consultant was asked to serve on the State Employees Risk Management Association's (SERMA) board. This position allows the unit to learn about trending safety and health related issues and provide assistance when appropriate.

Consultation supported the Outreach unit by providing Consultants to fulfill speaker and seminar presentation requests.

The public sector Consultant continued increasing and expanding his knowledge by attending training events for Violence in The Workplace Prevention, Fire Prevention and Life Safety Code.

Outreach

In FY19, Cooperative Partnership webpages with quick links were added to the MOSH website to help users to easily find information pertaining to specific cooperative program such Alliances, Strategic Partnerships (CCP, SPECS), VPP, and SHARP. A "Find a Cooperative Program" webpage was also added to aid employers in determining the right type of cooperative program for their business.

The Focus Four campaign provided over 16 weeks of toolbox talks to employers via booklets provided during inspections and seminars. The Safe and Sound Kick-Off Event provided classroom and hands on learning activities such as examples of safety training using Virtual Reality. This year's safe and sound event once again attracted positive attention from OSHA's National Office who requested specific information that could be used as a model for other states who might like to emulate the presentation.

Cooperative Compliance Partnerships (CCP)

Three new partnerships were signed in FY19 with various general contractors throughout the state of Maryland. The estimated value of these projects totaled over \$400M. On August 29, 2019, MOSH signed their 93rd partnership since the inception of the program in 1997. Several new applications are currently going through the review process and are likely to become new partnerships in FY2020.

The CCP Unit performed eight site visits and conducted 59 inspections on some of the largest construction projects in the state of Maryland. The CCP team removed 1178 employees from the 34 hazards found on these sites. At the end of FY19, there were five active CCP sites.

Companies Awarded a Partnership in FY19

Company Name	Project Name	Signing Date	Project Value
Barton Malow Company	Morgan State Univ. Student Services Building	01/28/2019	\$69 M
Clark Construction Group, LLC	Univ. of MD Medical System Capital Region Medical Center	03/19/2019	\$285 M
The Whiting-Turner Contracting Company	Easton Elementary School	08/29/2019	\$46 M

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Active CCP Sites as of End FY19

Company Name	Project Name	Expected Completion Date
Gilbane Building Company	Cole Field House Phase II	12/2019
Barton Malow	Morgan State Student Services	4/2020
Wagman Heavy Civil	I-270 at Watkins Mill Road Interchange	6/2020
Clark Construction Company	Univ. of MD Medical System Capital Region Medical Center	10/2020
The Whiting-Turner Contracting Company	Easton Elementary	4/2021

Voluntary Protection Program (VPP) - Star Only

The VPP unit awarded one new Star-designated site with VPP status, and received two applications and approved two in FY19. Two approval and five re-approval evaluations are conducted in FY19. The unit also performed eight pre-application visits and continues to work with each company. The VPP program manager attended the Region III and National VPP Participants' Association, Inc. (VPPPA) conferences in FY19. A Special Government Employee (SGE) training course was conducted at Monsanto Galena Research Station in Galena, Maryland, in FY19. The Maryland VPP continues to support the OSHA and VPPPA SGE program by using SGEs as evaluators, mentors, and to review applications and annual submissions.

Active VPP Sites FY19		
<i>Approval Date</i>	<i>STAR Designated Site</i>	<i>Location</i>
3/7/2003	Frito-Lay	Aberdeen
11/5/2005	Performance Pipe	Hagerstown
3/3/2006	Covanta Energy	Dickerson
11/27/2006	Monsanto Galena Research Station	Galena
3/12/2007	Wheelabrator	Baltimore
6/17/2008	Sherwin Williams	Crisfield

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

5/25/2009	Clean Harbors Environmental Services	Baltimore
6/18/2009	Thermo Fisher Scientific	Frederick
8/15/2011	Covanta Montgomery Transfer Station	Derwood
3/7/2012	Sherwin Williams	Beltsville
3/13/2012	(Raytheon) Solipsys Corp.	Fulton
6/6/2012	GE Healthcare	Laurel
10/31/2015	Cintas Corporation 42	Baltimore
12/29/2015	Sherwin Williams	Baltimore
3/4/2016	Cintas Corporation 387	Frederick
3/4/2016	Cintas Corporation 41	Landover
5/5/2016	Cintas Corporation 393	Hughesville
5/9/2016	Raytheon IIS Riverdale	Riverdale
2/2/2018	Cintas Corporation D52 Fire Protection Division	Jessup
4/2/2018	Cintas Corporation 386	Cumberland
4/2/2018	Cintas Corporation B22 (CRT)	Cumberland
3/26/2019	NuStar Terminal Baltimore	Baltimore

Strategic Partnership for Excellence in Construction Safety (SPECS)

The Strategic Partnership for Excellence in Construction Safety (SPECS) is a strategic partnership agreement signed with Associated Builders and Contractors, Inc., (ABC). Three construction companies were recognized as Partner Contractors: Miller & Long Concrete Construction, Gilbane Building Company, and Manganaro Midatlantic, LLC, in FY19. Two new applications are expected in the first half of FY20.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Active SPECS Partner Contractors FY19	
<i>Company</i>	<i>Location</i>
Coakley-Williams Construction Inc.	Bethesda
Forrester Construction Company	Rockville
Scaffold Resources, LLC	Lanham
Miller & Long Concrete Construction	Bethesda
Gilbane Building Company	Baltimore
Manganaro Midatlantic, LLC	Beltsville

Safety and Health Achievement Recognition Program (SHARP)

Please refer to the FY19 Consultation Annual Program Report (CAPR) for these results.

Education Unit

In FY19, the Training and Education Unit offered 92 educational seminars covering 32 topics at no cost to the participants, including many federal employees and contractors. Most of the seminars were taught by MOSH compliance officers and consultants and were offered at locations throughout the state. Just over 1,600 employees and employers participated in the half-day and full-day seminars. MOSH also offered employers the opportunity to request speaking engagements where compliance officers gave presentations on relevant, technical safety and health topics. In FY19, 93 different employers, institutions, and government agencies requested a MOSH compliance officer to speak at their job site. MOSH speakers spent over 139 hours presenting various safety and health topics to over 4,400 employees. MOSH continues to consider teen safety to be an important topic to cover with high school students who are preparing to enter the workforce. Each year MOSH completes numerous speaker requests at various high schools throughout the state. In FY19, MOSH spent over 30 hours speaking to 810 students at 15 different events about workplace hazards.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Educational Seminars Offered in FY19

Course Name	Course Name
Accident Investigation	Introduction to OSHA Recordkeeping
Blood Borne Pathogens	Job Safety Analysis
Safe and Sound - Construction & General Industry	Preventing Runovers and Backovers
Confined Spaces	Machine Guarding
Construction Site Safety I	MD Tree Care & Removal
Construction Site Safety II	Occupational Exposure to Noise
Electrical Safety & Lockout Tagout	Personal Protective Equipment
Emergency Response and Disaster Preparedness	Powered Industrial Truck Safety
Excavation Safety	Respiratory Protection
Fall Protection – Construction	Scaffolding Safety in Construction
General Industry – I	Seguridad en la Construction
General Industry – II	This is MOSH
Hand and Power Tool Safety	Walking-Working Surfaces
Hazard Communication	Workplace Hazard Assessment
Heat Stress	Workplace Violence
Silica in Construction	OSHA 10hr Construction

Conclusion

Beginning in FY18 and continuing on through FY19, MOSH increased staffing levels and further developed inspectors from the FY17 and FY16 new hire classes. Moreover, the number of enforcement inspections increased significantly compared to previous years. MOSH remains committed to its mission of ensuring the safety and health of Maryland workers. The efforts made by the MOSH staff show the commitment each individual made in a personal way to show their concerns to the safety and health of Maryland employers and their employees. After seeing a number of trenching and excavating incidents occur, the MOSH staff rose to the occasion by focusing on trenching and excavation inspections and worked to increase compliance by reaching out to employers and collaborating on a safety stand down to help educate workers whose job was to perform trenching and excavation activities. These efforts were extremely successful in protecting Maryland workers and as a result MOSH was recognized by Federal OSHA as a leader in this field for trenching and excavation Compliance for FY19.

APPENDIX A

Summary of Annual Performance Plan Goals for MOSH FY19

- Performance Goal 1.1 – Total Reduction in the Fatality Rate by 1% (5% by end of FFY 2022)
- Performance Goal 1.2 – Reduce the rate of occupational injuries and illnesses in Maryland’s private sector by 1% (5% by end of FFY 2022)
- Performance Goal 1.3 – Reduce the rate of occupational injuries and illnesses in Maryland’s State and local government sector by 2% (10% by the end of 2022)
- Performance Goal 2.1 – Increase Recognition Programs from 22 to 23 (5 new Recognition programs by end of FFY 2022)
- Performance Goal 2.2 – Increase Cooperative Compliance Partnerships (CCP) from 91 to 94 (add 15 new cooperative partnerships by the end of FY 2022)
- Performance Goal 2.3 – Increase SPECS partnerships from 3 to 6 (add 15 new partnerships by the end of FY 2022)
- Performance Goal 2.4 – Maintain the total number of people participating in MOSH outreach and training programs at 6,000 participants
- Performance Goal 3.1 – Percent of fatality and catastrophe inspections initiated within one working day of notification maintained at least 100%
- Performance Goal 3.2 – Percent of serious complaint inspections initiated within five working days of notification maintained at 95%
- Performance Goal 3.3 – Percent of discrimination complaint investigations completed within 90 working days maintained at least 90%
- Performance Goal 3.4 – Achieve overall satisfaction rating of at least 90% of surveyed responses from the MOSH website and Facebook users
- Performance Goal 3.5 – 90% of responding employers are satisfied with the consultation visit received.
- Performance Goal 3.6 – Provide prompt consultation service.

APPENDIX B

Program Activity Projections:

Total Inspections- Enforcement				
	Safety		Health	
	Projected	Actual	Projected	Actual
Private Sector Inspections	1934	1785	179	114
Public Sector Inspections	168	120	25	27
Total	2102	1905	204	141

Projected Inspection - Consultation		
	Safety	Health
21(d)	237*	72*
23(g)	53**	8**

Total Inspections – Consultation

* For results of the 21(d) consultation unit please see the FY19 CAPR

** In all, 73 23g consultation visits were conducted. 48 were initial visits, six were follow-up visits and one was an initial health visit.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Performance Standards

Strategic Goal 1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations.

Performance Goal 1.1: Total Reduction in the Fatality Rate by 1% (5% by end of FFY 2022)

Performance Goal 1.2: Reduce the rate of occupational injuries and illnesses in Maryland’s private sector by 1% (5% by end of FFY 2022)

Performance Goal 1.3: Reduce the rate of occupational injuries and illnesses in Maryland’s State and local government sector by 2% (10% by the end of 2022)

Unit Responsible (date source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance Consultation OIS Data for various metrics (BLS survey of occupational injuries and illnesses)	Perform inspection and intervention activity in the following areas: <u>Industry 2019</u> <u>Projected</u> a. Construction (NAICS 23).....1534 b. Other high-hazard industries..... 511 (NAICS 11, 5617, 562, 622-624, 71, 721) c. Public Sector204 d. Manufacturing (NAICS 31-33)....180 e. Trade, Transportation, Utilities....127 (NAICS 2213, 424, 44-45, 48-49) Conduct the following number of Consultation visits: <u>Industry</u> a. Construction (NAICS 23).....158 b. Other high-hazard industries.....24 (NAICS 11, 5617, 562, 622-624, 71, 721) c. Public Sector61 d. Manufacturing (NAICS 31-33)....91 e. Trade, Transportation, Utilities.....36 (NAICS 2213, 424, 44-45, 48-49)	<u>Industry 2019</u> <u>Actual</u> a. Construction (NAICS 23)1610 b. Other high-hazard industries 154 (NAICS 11, 5617, 562, 622-624, 71, 721) c. Public Sector..... 163 d. Manufacturing (NAICS 31-33).....106 e. Trade, Transportation, Utilities..... 104 (NAICS 2213, 424, 44-45, 48-49) <u>Industry 019</u> a. Construction (NAICS 23)See CAPR b. Other high-hazard industries..... See CAPR (NAICS 11, 5617, 562, 622-624, 71, 721) c. Public Sector62 d. Manufacturing (NAICS 31-33).....See CAPR e. Trade, Transportation, Utilities.....See CAPR (NAICS 2213, 424, 44-45,	<p>NOTE: The Maryland private sector DART rate for reference year (RY) 2018 was 1.6 injuries and illnesses per 100 full-time equivalent workers.</p> <p>MOSH had one 23(g) public sector consultant. All parameters for consultation can be found in the FY19 CAPR.</p>

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

		48-49)	
--	--	--------	--

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

		See CAPR for consultation results on Goal 1.2	
--	--	---	--

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

Performance Goal 2.1: Increase Recognition Programs from 22 to 23 (5 new Recognition programs by end of FFY 2022)

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from consultation unit and VPP unit)	Increase Recognition Programs by 1 new company for FY19.	There were 2 new VPP sites in FY19, with 1 site leaving the program, for a total increase of 1 site.	By the end of FY19, MOSH maintained five Consultation SHARP programs and 22 VPP programs meeting the goal of twenty-five recognition programs by the end of the MOSH five-year strategic plan.

Performance Goal 2.2: Increase Cooperative Partnerships from 91 to 94 (add 15 new cooperative partnerships by the end of 2022)

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from partnership and alliance unit)	Increase MOSH Cooperative Partnerships by 3 new partnerships in FY19.	MOSH signed 3 new cooperative partnerships in FY19.	MOSH is currently on pace to exceed the goal laid out in the 5 year strategic plan.

Performance Goal 2.3: Increase SPECS partnerships from 3 to 6 (add 15 new partnerships by the end of FY 2022)

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from training and education unit)	Increase SPECS Partnerships by 3 new partnerships in FY19	MOSH increased SPECS partnerships by 3 in 2019.	This is a new pilot program added in FY18

Performance Goal 2.4: Maintain attendance in MOSH outreach and training programs annually at 6,000 participants

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from training and education unit)	Maintain the total number of trainees/participants anticipated to be affected by outreach activities in the areas covered by MOSH LEP's, current SST, and Federal NEP's including formal training, workshops, seminars, speeches, conferences, and informal worksite training at 6,000.	The total number of employees/employers participating in MOSH outreach and training programs in FY19 was approximately 6,122. The total number of participants in the full day and half day educational seminars was approximately 1,600. There were approximately 4,500 participants in speaking engagements done by MOSH personnel. MOSH spent over thirty-six hours speaking to 810 students at thirteen different events about workplace hazards.	The annual goal of 6,000 participants was exceeded by over 122. The MOSH Training and Education Unit continues to develop, train, and support senior compliance officers to complete speaker requests and teach seminars.

Performance Goal 3.1: Percent of fatality and catastrophe inspections initiated within one working day of notification maintained at least 100%

Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (OIS/IMIS)	Percentage of fatal case investigations initiated within one working day of notification.	According to SAMM Measure 10, MOSH investigated 19 workplace fatalities, 16 of which were opened within one day of notification.	The three cases identified had extenuating circumstances related to the reporting of the fatality and MOSH's response. Once case saw a delay in reporting with limited details but once a fatality was confirmed, we opened that day. One case saw a delay as we were gathering information related to whether or not the incident was clearly related to a pre-existing medical condition. When that could not be determined, we initiated the inspection. The last's delayed response was related to proximity to available personnel. The site was in far western Maryland and we were notified during an all hands meeting. The site of the incident was unmanned so we held a telephonic opening and then met personnel onsite the following day.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Performance Goal 3.2: Percent of serious complaint inspections initiated within an average of five days of notification

Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (OIS/IMIS) SAMM Report	Serious complaint inspections are initiated within an average of five days of notification.	In FY19 MOSH initiated complaint inspections within an average of 14.11 days.	The reason for the increase in lag time can be attributed to findings associated with complaints during the recent FAME audit. There were complaints found during the audit that had not been addressed. MOSH undertook an effort to address those complaints and in doing so there was a significant lag time between the receipt of the complaint and date action was taken. MOSH has instituted measures for complaint tracking that will prevent this from recurring in the future.

Performance Goal 3.3: Percent of discrimination complaint investigations completed within 90 days maintained at least at 90%

Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (whistleblower web-based application)	Percent of discrimination complaint investigations completed within 90 days.	According to MOSH records, there were 36 discrimination complaints received in FY19. Of those, 33 (91%) were completed within the 90-day timeframe.	The unit continues to work towards getting complaints completed within the negotiated timeframe.

Performance Goal 3.4: Achieve overall satisfaction rating of at least 90% of surveyed responses from the MOSH website and Facebook users

Unit Responsible (date source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance	This is a continuing Performance Goal carried over from the previous 5-year Strategic Plan, whereas, 90%	In 2019, the DLLR launched an expanded outreach program to	The agency continues to support a user-friendly website. As we

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

	of website users indicate a positive	support interdepartmental	move forward we
--	--------------------------------------	---------------------------	-----------------

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

<p>Consultation (online review of website)</p>	<p>overall experience when polled at the end of the five-year Strategic Plan.</p> <p>Consultation will share in the technical development of the website and continue to maintain their Federal OSHA requirements, current information, and forms.</p>	<p>training, information dissemination, and communication. MOSH continues to work towards better content management and can update the website on a timelier basis. MOSH is still working toward the goal of having a poll online for users to fill out. MOSH has also continued to utilize social media links such as our website, Facebook page, and the State of Maryland YouTube page. We use the Facebook page to keep Maryland employers and employees up to date on the latest safety & health information, educational seminars, and local agency news. We use the two YouTube videos to inform employees and employers about MOSH’s mission. The videos are shown at all our educational seminars and at safety conference informational booths.</p>	<p>continue to make all of our processes and information easier to find for the final user. We continue with our efforts to make a “two click” process to locate information such as ordering publications, filing a complaint, and registering for our seminars.</p>
<p>Performance Goal 3.5: 90% of responding employers are satisfied with the consultation visit received</p>			
Unit Responsible (data source)	Performance Indicator	Result	Comments
<p>Consultation (returned and completed DLLR external customer survey from)</p>	<p>Percent of responding employers that rate “overall satisfaction” as satisfactory or better.</p>	<p>All employer surveys received from our public sector consultant(s) were rated as “excellent.” Please see the FY19 CAPR for information on our private sector consultants.</p>	<p>This measure was exceeded for our public sector consultant(s).</p>
<p>Performance Goal 3.6: Provide prompt consultation service</p>			

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MOSH Comprehensive FAME Report

Unit Responsible (data source)	Performance Indicator	Result	Comments
Consultation (OIS reports)	On average, small high-hazard employers are visited within thirty days of their request for an initial visit; on average, initial visit reports are mailed within twenty days of the closing conference. Public sector only – see CAPR for private sector.	On average, the initial high-hazard public sector visits were conducted ten days after their request, and the initial visit reports were mailed seven days after the closing conference.	Our public sector consultant in FY19 met both time requirements.