

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

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



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

**Initial Approval Date: July 23, 1973
Program Certification Date: February 8, 1980
Final Approval Date: June 13, 1985**

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



Contents

I.	Executive Summary.....	3
	A. State Plan Activities, Trends, and Progress.....	3
	B. State Plan Introduction.....	3
	C. Data and Methodology.....	4
	D. Findings and Recommendations.....	5
II.	Assessment of State Plan Performance.....	8
	A. Major New Issues.....	10
	B. Assessment of State Plan Progress in Achieving Annual Performance Goals.....	14
	C. Highlights from the State Activity Mandated Measures (SAMM).....	23
III.	Assessment of State Plan Corrective Actions.....	43

Appendices

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

I. Executive Summary

A. State Plan Activities, Trends, and Progress

The Fiscal Year (FY) 2016 FAME Report is a follow-up FAME Report. This report is focused on the Kentucky Labor Cabinet, Department of Workplace Standards, Occupational Safety and Health (KY OSH) 23(g) program's progress in making corrections in response to findings and observations contained in the FY 2015 FAME Report. In addition, this report also assesses Kentucky's progress toward achieving its performance goals established in the Fiscal Year (FY) 2016 Performance Plan, as well as reviewing the effectiveness of programmatic areas related to enforcement activities, including a summary of an onsite evaluation.

The FY 2015 FAME identified 11 findings and recommendations, as well as 15 observations. The State Plan has not implemented corrective actions for four of the findings, which were identified in the FY 2015 FAME Report. Specifically, the following items remain open: the State's internal audit program remains insufficient; non-formal complaints alleging injuries and serious hazards continue to be classified as invalid; programmed planned health inspections are not being conducted; and construction inspections continue to result in extremely low average number of violations, a high in-compliance rate, and a low percentage of violations classified as serious, repeat, and willful. OSHA continues to work with the State Plan to resolve their findings and observations. The FY 2016 FAME identified two new findings. A summary of all the findings and recommendations can be found in Appendix A, New and Continued Findings and Recommendations. A complete listing of the observations is provided in Appendix B.

KY OSH has experienced a significant problem in the area of staffing and retention, which has directly impacted the State Plan's performance and ability to meet its mandated measures. Kentucky has implemented a strategy to address by maintaining two safety position descriptions and increasing salaries based on the employee's level of certification. The State also pays for the certification preparatory courses and the certification exam. However, at this time these incentives have had limited impact on employee turnover.

KY OSH conducted 992 workplace inspections during FY 2016, exceeding their goal of 843 inspections. This is an increase of 107 inspections compared to the total number of inspections conducted in FY 2015. KY OSH issued 1,096 violations, resulting in the issuance of a total of \$2,678,800 in penalties. This is discussed in further detail in Section II of this report.

The Kentucky OSH Program's Division of Education and Training, as well as the Division of Compliance provide a coordinated and comprehensive safety and health service to the people of the Commonwealth. The State's functions include voluntary compliance services, education and training, enforcement inspections, onsite consultation services, research, statistics, as well as other activities mandate under Title XXVII – Labor and Human Rights, Kentucky Revised Statutes (KRS) Chapter 338, Occupational Safety and Health of Employees. The Cabinet is fully involved in preserving Kentucky's human resources.

KY OSH continues its outreach to employers and employees with outreach letters, industry guides and posters, safety and health surveys, as well as focused training. During FY 2016, the Division of OSH Education and Training conducted 166 health surveys of which all were considered high hazard. The division's safety branch conducted 198 surveys, of which all were considered high hazard. Five (5) safety and health technical assistance visits and 129 face to face training sessions were conducted that reached over 4,400 attendees. The Division of OSH Education and Training continues its Construction Partnership Program (CPP), as well as monitoring the number of training courses, contact hours, surveys, and technical assistance efforts conducted in construction. In FY 2016, the Division of OSH Education and Training conducted seventeen (17) surveys, and presented nineteen (19) training courses in construction representing 2,175 contact hours. During FY 2016, the Division of OSH Education and Training conducted 218 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS and specific high hazard industries. Additionally, forty (40) training sessions were presented at five (5) Population (POP) Center Training seminars throughout the Commonwealth. Subjects addressed by these training sessions include the following: injury and illness recordkeeping; fall protection; confined space; electrical safety; welding safety; bloodborne pathogens; personal protective equipment; spray finishing; lockout-tagout; electrical safe work practices; back care and ergonomics; powered industrial trucks; silica; and confined space in construction. Approximately 1,350 participants attended the training sessions. The Division of OSH Education and Training continues to provide employers and employees a cost-free online eLearning safety and health program management training module through the Labor Cabinet's eLearning website. During FY 2016, 435 individuals viewed the module. In addition, the Division of OSH Education and Training added or updated four (4) cost-free interactive training products to its online training library. These courses included the following: powered industrial trucks, module 1; fork lifts, module 2; introduction to emergency response; and introduction to OSHA, part 1. Additionally, during this period, the following seven (7) webinars were published to the website for viewing: permit-required confined space in construction; asbestos awareness; carbon monoxide: the invisible killer; manual material handling & lower back care; fall protection: common questions, developing & implementing emergency action plans; and health hazard awareness.

During this period, the Kentucky OSH Program participated in four (4) stand-down events across Kentucky in support of the National Fall Prevention campaign, May 2 through 6, 2016. The Kentucky OSH Program staff used the KYOSH IMPACT vehicle to distribute fall prevention campaign materials and provided training to over 800 employees. Through a cooperative effort with Lamar Advertising Company, eleven (11) stand-down billboards appeared in eight (8) cities across the Commonwealth promoting the stand-down. The billboards ran two (2) weeks prior to (and during) the stand-down, and received over 444,800 impressions per week. Kentucky continued their outreach for an additional six weeks distributing flyers addressing specific fall hazards such as aerial lifts, scaffolding, fall protective equipment, ladders, and steel erection are distributed weekly via the cabinet's email distribution list to over 4,000 recipients. The Division of OSH Education and Training also supported the heat illness prevention campaign and conducted concentrated state-wide efforts in construction and general industry to educate the working public concerning the hazards of working in the summer heat. The outreach was conducted through distance

learning, as well as direct face-to-face jobsite contacts. The Labor Cabinet’s eLearning website also hosts the interactive heat stress awareness for construction and general industry module and occupational heat exposure webinar. The module and webinar were viewed over 1,387 times in FY 2016.

The State’s latest injury and illness rate for private industry achieved an all-time low of 3.5 per 100 full-time workers in 2015 the lowest rate in Kentucky since the U.S. Bureau of Labor Statistics began recording the data in 1996. The U.S. Bureau of Labor Statistics (BLS) compiles the injury and illness rate data. Based on the most recent data released by the BLS, Kentucky continues to be higher than the National Average.

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

CY 2015	Kentucky		National Average		Comparison
	TRC Rate	DART Rate	TRC Rate	DART Rate	
TRC Rate	3.5	3.7*	3.0	3.3*	6% Higher Than National Average*
DART Rate	1.9	1.9*	1.6	1.7*	11% Higher Than National Average*

**All industries including state and local government. CY = Calendar Year*

During this review period, one Complaint About State Plan Administration (CASPA), KY CASPA 109–FY16 (Bluegrass Agricultural Distributors Inc.) was filed regarding the State Plan’s handling of a fatality investigation. This matter was fully investigated by OSHA with the State’s cooperation. Letters that included three findings with two recommendations were mailed to the State and complainant on November 9, 2016. A summary of the CASPA investigation findings and the resulting recommendations are provided below:

Finding FY 2016-01: It has been determined that extensive interviews with all known or potential witnesses were not conducted nor were statements including signed statements obtained during all fatality and accident investigations.

Recommendation: KY OSH should ensure all known and potential witnesses are identified and extensively interviewed and a detailed signed witness statement is obtained from all known potential witnesses during fatality and accident investigations.

Finding FY 2016-02: Extensive interviews were not conducted and statements were not obtained from management officials to document critical information including but not limited to knowledge of the hazard and documentation to support the classification of the hazard.

Recommendation: KY OSH should ensure management officials including supervisors are interviewed and signed statements are obtained to determine the level of knowledge regarding the hazard and to ensure that all violations are appropriately classified. Effective case file reviews should be conducted by management to ensure that all appropriate witnesses are interviewed and adequate statements are taken.

B. State Plan Introduction

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

The General Assembly enacted legislation giving KY OSH the mission to prevent any detriment to the safety and health of all private sector and state and local government workers arising out of exposure to harmful conditions or practices at their places of work. KY OSH's program consists of the OSH federal-state coordinator, standards specialists, and support staff, all of whom are attached to the Commissioner's Office; the Division of Occupational Safety and Health (OSH) Compliance; and the Division of Education and Training. The Division of OSH Compliance is responsible for the enforcement of KY OSH's standards. The Division of Education and Training assists employers and workers by promoting voluntary compliance with the KY OSH standards. The Division of Education and Training is also responsible for overseeing the Partnership Programs, as well as conducting the annual survey of occupational injuries and illnesses, the census of fatal occupational injuries, and the OSHA data collection. The Office of the Federal-State Coordinator oversees the Office of Standards Interpretation and Development. Safety and health standards specialists from this office serve as support staff to the KY OSH program and OSH Standards Board, promulgate KY OSH regulations, respond to OSHA inquiries, and provide interpretations of KY OSH standards and regulations. This office is responsible for maintaining the Kentucky State Plan, as well as handling day-to-day communications with other government agencies, both at the state and federal level, including the U.S. Department of Labor, Occupational Safety and Health Administration, Bureau of Labor Statistics (BLS), and other state OSHA programs. In Kentucky, State and local government agencies and workers are afforded the same rights, responsibilities, and coverage as those in the private sector. Kentucky statutes, regulations, and policies make no distinction between the public and private sectors.

Worker protection from discrimination related to occupational safety and health [KRS 338.121] is administered by KY OSH through the Frankfort office. There is one investigator who reports to the director of OSH Compliance. Worker retaliation cases found to be meritorious are prosecuted by the Office of General Council in the Kentucky Labor Cabinet.

A total of 110 positions were funded under the 23(g) grant. The approved benchmark for KY OSH is 37 compliance safety and health officers (CSHOs), of which 23 are safety and 14 are health. As of September 1, 2016, there were 27 Safety Compliance Officers and 15 Health Compliance Officers. KY OSH's primary objective is to improve occupational safety and health in workplaces throughout the state. The worker population in Kentucky consists of approximately 1,749,657 people. There are approximately 119,115 employers in the State. The total population of private sector and state and local government workers covered by the Kentucky State Plan is approximately 1,549,264 and 260,393 workers, respectively. Program services are administered through a central office in Frankfort.

The table below shows KY OSH's funding levels from FY 2012 through FY 2016:

FY 2011-2016 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2016	3,393,300	3,393,300	3,892,700	10,679,300	64
2015	3,378,100	3,378,100	3,356,300	10,112,500	64
2014	3,378,100	3,378,100	3,110,200	9,866,400	68
2013	3,505,100	3,505,100	2,881,900	9,892,100	65
2012	3,505,100	3,505,100	2,504,000	9,514,200	63

The table below shows the number of KY OSH's full-time and part-time staff as of the end of FY 2016:

FY 2016 Staffing						
23(g) Grant Positions	Allocated FTE* Funded 50/50	Allocated FTE 100% State Plan Funded	50/50 State Plan Funded FTE On Board as of 07/01/16	Total	100% State Plan Funded FTE On Board as of 07/01/16	100% Federal Plan Funded FTE On Board as of 07/01/16
Managers/ Supervisors (Administrative)	6.00		5.00	6.00		
First Line Supervisors (Program)	8.00		7.00	8.00		
Safety Compliance Officers	26.00		23.00	26.00		
Health	15.00		11.00	15.00		

Compliance Officers						
Discrimination Investigator	1.00		1.00	1.00		
Private Sector Safety Consultants	10.00		7.00	10.00		
Private Sector Health Consultants	14.00		11.00	14.00		
Public Sector Safety Consultants	1.00**		1.00**	1.00**		
Public Sector Health Consultants	1.00**		1.00**	1.00**		
Compliance Assistance Specialist	2.00		2.00	2.00		
Trainers	0.00		0.00	0.00		
Clerical	14.00		11.00	14.00		
Other (<i>all positions not counted elsewhere</i>)	12.00	8.00	7.00	20.00	8.00	
Total 23(g) FTEs	110.00	8.00	87.00	118.00	0.00	0.00

* FTE=Full-Time Equivalent

** The Kentucky OSH program utilizes the same resources to provide services to both private and public sectors. Data represented is based on averages and while accurate to the extent feasible, it should not be considered precise.

C. Data and Methodology

This report was prepared under the direction of Kurt A. Petermeyer, Regional Administrator, Region IV, Atlanta, Georgia, and covers the period from October 1, 2015 through September 30, 2016. This is the follow-up year and as such, OSHA did not perform the level of case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME. The report was compiled using information gained from Kentucky's State OSHA Annual Report for FY 2016, interviews with the Kentucky staff, as well as the State Activity Mandated Measures (SAMM) and State Indicator Report (SIR) reports for FY 2016. For this review, a three-person OSHA team was assembled to conduct a focused on-site evaluation in Frankfort, Kentucky, during the timeframe of January 9th through January 11, 2017. The OSHA team's

evaluation consisted of focused enforcement and consultation case file reviews, a review of KY OSH's performance statistics, and staff interviews.

D. Findings and Recommendations

The FY 2015 FAME Report identified 11 findings and 15 observations. Seven of the eleven findings from FY 2015 were completed, and four findings are continued into FY 2017. In addition, three of the 15 observations identified in FY 2015 were closed. Details on the findings and observations are provided in section III of this report. The FY 2016 Follow-up FAME identified two new findings. Appendix A describes new and continued findings and recommendations. Appendix B describes new observations and the observations subject to continued monitoring. Appendix C describes the status of each FY 2015 findings in detail.

II. Assessment of State Plan Performance

A. Major New Issues

{Penalty – OSP plans to have consistent language in the narrative portion of each report regarding penalties.}

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

The State OSHA Annual Report (SOAR) for fiscal year 2016 provides a summary of Kentucky's OSHA activities and results for the strategic plan, grant commitments, and other program accomplishments. The strategic goals have provided the focus for KY OSH's enforcement, education and training, outreach, and administrative programs. Fiscal year (FY) 2016 was the first year of Kentucky's five year strategic plan for FY 2016-2020. The Five Year Strategic Plan incorporated the three goals, as its direction. The three overall strategic goals are:

Goal 1. To improve workplace safety and health for all workers, particularly in high-risk industries, as evidenced by fewer hazards, reduced exposures, and fewer fatalities, injuries, and illnesses.

Goal 2. To change workplace culture to increase employer and employee awareness of, commitment to, and involvement in occupational safety and health.

Goal 3. To maximize the efficient and effective use of human and technological resources.

The Fiscal Year (FY) 2016 Annual Performance Plan developed by KY OSH was intended to support the overall goals of the five-year Strategic Plan. The 2016 Performance Plan included specific performance goals designed to produce measurable progress toward realization of KY OSH's strategic goals.

Goal 1.1: Reduce the rate for repeat, serious, and willful violations in residential construction.

This goal is focused on reducing the rates for repeat, serious, and willful violations in residential construction. FY 2016 is the first year under the new 2016-2020 (five (5) year) strategic plan and is a baseline year. During the evaluation period, the Division of OSH Compliance conducted twenty-seven (27) residential construction inspections resulting in two (2) repeat serious violations and thirty-five (35) serious violations. Total penalties were \$110,900.

Year	Inspection	Willful	Repeat	Serious
FY 2016	27	0	2	35

Goal 1.2: Reduce amputations, hospitalizations, and illnesses in general industry and construction.

This goal aims to reduce amputations, hospitalizations, and illnesses in general industry and construction. FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year.

In FY 2016, the Division of OSH Compliance received 304 hospitalization reports. Ninety-nine (99) inspections were conducted resulting in four (4) repeat serious violations, forty-five (45) serious violations, and sixteen (16) other than serious violations. Total penalties were \$297,575.

Additionally, the Division of OSH Compliance received 101 reported amputations. Eighty-three (83) inspections were conducted with four (4) repeat serious violation, seventy (70) serious violations, and sixteen (16) other than serious violations. Total penalties were \$347,300.

Year	Inspections	Amputations	Repeat	Serious	Total Penalty
FY 2016	83	101	4	70	\$347,300

Goal 1.3: Total number of workers removed from hazards through a multi-pronged strategy.

This goal addresses the total number of workers removed from hazards through a multi-pronged strategy. It incorporates efforts for both the Division of OSH Compliance and the Division of Education and Training.

The Division of OSH Compliance’s portion of this goal consists of response to imminent dangers, staff training, and conducting inspections for reports of hospitalization of fewer than three workers. In FY 2016, the Division of OSH Compliance conducted 992 inspections in general industry and construction.

The Division of OSH Education and Training’s portion of this goal consist of surveys and training contact hours conducted in high hazard industries, as well as the total number of training courses, contact hours, surveys, and technical assistance visits conducted in all

industries. During FY 2016, the Division of OSH Education and Training conducted 166 health surveys of which all were considered high hazard. The division’s safety branch conducted 198 surveys, of which all were considered high hazard. Five (5) safety and health technical assistance visits and 129 face to face training sessions were conducted that reached over 4,400 attendees. Other efforts conducted by the division in FY 2016 and data related to this goal are addressed throughout this report.

Goal 1.4: Ensure that employers are adhering to settlement provisions and have abated imminent danger and fatality violations.

FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year. The Division of OSH Compliance conducted eleven (11) follow-up inspections in FY 2016. However, none of the follow-up inspections were conducted to verify adherence to settlement provisions of fatality and imminent danger investigations within ten (10) working days of the signed settlement agreement.

This performance goal, as written, is problematic and will be re-evaluated. The Division of OSH Compliance will improve Performance Goal 1.4 to better reflect intent and measurability.

Goal 1.5: Reduce the number of injuries caused by falls, struck-by, and crushed-by incidents in construction by 10% through a six-part strategy.

This goal aims to reduce the number of injuries caused by falls, struck-by, and crushed-by incidents in construction by 10% through a six-part strategy that combines efforts by the Division of OSH Compliance and the Division of OSH Education and Training which are discussed throughout this report. FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year. The following Kentucky and national incident rates for 2015 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2015	Falls	Struck-by	Crushed
Kentucky	13.2	14.8	0
National	18.8	27.3	4.3

Kentucky’s rates remain below the national averages.

Goal 1.6: Initiate all fatality and catastrophe inspections by the Division of OSH Compliance within one working day of notification.

This goal addresses the initiation of all fatality and catastrophe inspections by the Division of OSH Compliance within one working day of notification. Five (5) fatalities appear as outliers in FY 2016. (More information coming.) During FY 2016, the State Plan did not meet this goal.

Goal 1.7: Initiate Division of OSH Compliance inspections of imminent danger reports within one working day of notification for 100% of occurrences.

This goal addresses response time by the Division of OSH Compliance in critical situations. During FY 2016, KY OSH met this goal. According to the SOAR, four cases appear as outliers; however, appropriate explanations were provided regarding the delayed responses by the State Plan. This goal was met by the State Plan.

Goal 1.8: Reduce Kentucky's total case rate for injuries and illnesses.

This goal strives to reduce Kentucky's total case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and the Division of Education and Training. FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year. The 2011 baseline incident rate for all industries is 4.5. The total recordable incidence rate in 2015, and new baseline, for all industries was 3.7; a significant improvement from the 2011 baseline rate.

Goal 1.9: Reduce Kentucky's lost time case rate for injuries and illnesses.

This goal addresses the reduction of Kentucky's lost time case rate for injuries and illnesses. It combines the efforts of both the Division of OSH Compliance and the Division of Education and Training. FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year. For 2015, the incident rate, and new baseline, for lost time events (cases away from work, job transfer, or restriction) is 1.9.

Goal 1.10: Reduce total fatalities in general industry and construction.

FY 2016 is the first year under the new five (5) year strategic plan and is a baseline year. In FY 2016, eighty-five (85) fatalities were reported to the Division of OSH Compliance. There were twenty-one (21) fatality investigations conducted in general industry and seven (7) fatality investigations conducted in construction.

Goal 1.11: Reduce the total case rate in five (5) of the top fifteen (15) industries in Kentucky with the highest injury and illness total case incident rates.

This goal is focused on reducing the total case rate in five (5) of the top fifteen (15) industries in Kentucky with the highest injury and illness total case incident rates and incorporates efforts for both the Division of OSH Compliance and the Division of OSH Education and Training. Based on 2014 Bureau of Labor Statistics (BLS) data, the ten industries in Kentucky with the highest injury and illness total case incident rates and the total case rate

for each industry were identified. The Division of OSH Education and Training selected five (5) of the aforementioned industries in FY 2016 using the 2014 BLS data collected by the division's Statistical Services Branch for outreach and assistance. The division mailed an offer to employers in those selected industries encouraging their utilization of Division of OSH Education and Training services. Non-responders were referred to the Division of OSH Compliance. The 2015 BLS data for the FY 2016 selected industries reflects the results of those efforts. The reduction in total case rate for the five (5) selected industries was dramatic and significant; Kentucky met the goal.

NAICS	Description	2014 Rate	2016 Rate
3211	Sawmill and Wood Preservation	15.0	5.8
3273	Cement and Concrete Product Manufacturing	13.6	3.8
327	Nonmetallic Mineral Product Manufacturing	9.0	3.4
321	Wood Product Manufacturing	8.8	6.8
3327	Machine Shops, Turned Products and Screw Nut and Bolt Manufacturing	8.5	4.5

Goal 2.1: Ensure settlement agreements that have a monetary penalty reduction of more than \$15,000 also include OSHA's 1989 Safety and Health Management Guidelines or engage outside safety and health consultation.

This goal is focused on expanding the number of employers with safety and health management systems. In settlement cases with penalties reduced by more than \$15,000, the Division of OSH Compliance requires employers to adhere to the OSHA 1989 Safety and Health Guidelines or engage the services of an outside safety and health consultant. However, exceptions to this requirement are granted in the following cases: financial hardship, construction companies, or the reclassification of violations.

Fiscal Year	Penalties Reduced by More Than \$10,000	1989 Safety and Health Guidelines	Not Applicable
FY 2016	10	2	8

Goal 2.2: Incorporate an evaluation of safety and health management systems in 100% of the full service comprehensive surveys.

All FY 2016 Division of OSH Education and Training comprehensive consultative surveys incorporated an evaluation of safety and health management systems. The State Plan met this goal.

Goal 2.3: Utilize the Safety and Health Program Assessment Worksheet in all general industry full-service surveys, in addition to a narrative safety and health program evaluation in all full-service surveys.

Once again, all general industry full-service surveys included a Safety and Health Program Assessment Worksheet, as well as a narrative safety and health program evaluation. The State Plan met this goal.

Goal 2.4: Include a narrative safety and health program evaluation in 100 percent of the full-service consultation surveys.

All general industry full-service surveys conducted by the Division of OSH Education and Training included a narrative safety and health program evaluation. The State Plan met this goal.

Goal 2.5: to provide safety and health program management training.

The Division of OSH Education and Training provided employers and employees a cost-free online eLearning safety and health program management training module on the Labor Cabinet's eLearning website, www.laborcabinetetrain.ky.gov. During FY 2016, 435 individuals viewed the module.

Goal 2.6: Ensure that the evaluations of worksites are conducted in a timely manner, including certification of VPP sites, the development of construction partnership agreements, and the addition of new SHARP sites.

This goal was effectively accomplished during FY 2015. The State Plan continues to evaluate worksites for its VPP in a timely manner. However, during this period, two (2) SHARP participants were released in FY 2016. One (1) facility went out of business and the other was bought out.

Goal 2.7: Implement a targeted outreach plan for all new KY OSH standards.

The Division of Education and Training continues to offer free outreach training addressing KY OSH standards at Population Centers for employers and workers across the commonwealth. In addition, KY OSH utilizes their e-learning website to conduct outreach training.

During this review period, the Kentucky OSH Program undertook an extensive state-wide campaign in FY 2015 and continued in FY 2016 to educate employers who are newly required to record work-related injuries and illnesses subsequent to OSHA's September 18, 2014 final rule which is effective in Kentucky on January 1, 2016.

Goal 3.1: Maintain a reliable data repository to support the KY OSH program goals and strategies.

The KY OSH program employs two individuals dedicated to ensuring the maintenance of a reliable data repository. Additionally, in FY 2015, KY OSH deployed a customized interface that provided the State Plan's compliance and consultation data to OSHA's OIS and Kentucky transmitted data to OSHA in both systems, IMIS and OIS in FY 2016.

Goal 3.2: Ensure new supervisory staff completes formal leadership training or certification programs.

This goal aims for new supervisory staff to complete formal leadership training or complete certification. In FY 2016, the Division of OSH Compliance and the Division of Education and Training did not hire any new supervisory staff.

Goal 3.3: Encourage and aid in the staff's professional certification.

In FY 2016, this goal was once again effectively accomplished. During FY 2016, the Division of OSH Compliance maintained three (3) certified Construction Health and Safety Technician (CHST) employees. During this period, the Division of OSH Compliance also sent several employees to certification preparation courses. Additionally, the Division of OSH Compliance maintained four (4) Certified Safety Professional (CSP) employees.

Goal 3.4: Encourage and aid completion of continuing education.

During this review period, this goal was once again effectively accomplished as the State Plan continued to reward staff members that obtained advance degrees with an increase in pay. In FY 2016, the Division of OSH Compliance aided the completion of an Eastern Kentucky University graduate degree for one (1) compliance officer in the Division of OSH Compliance. The individual graduated with a Master of Science in Safety, Security, and Emergency Management degree.

Goal 3.5: Develop and publish electronic learning products.

This goal was accomplished in FY 2016. The Division of OSH Education and Training added or updated four (4) cost-free interactive training products to the www.laborcabinettrain.ky.gov library. Seven (7) new webinars were conducted, recorded, and published to the website for instant viewing.

Goal 3.6: Include photographs of actionable hazards in all consultation surveys.

During this review period, photographs of actionable hazards were included in all appropriate consultation surveys. The State Plan met this goal.

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

In FY 2016, the 990 inspections conducted by KY OSH resulted in an average of 1.59 violations (Serious/Willful/Repeat) per inspections. A total of 1,026 violations were issued with 2.48 violations (Serious/Willful/Repeat/ Other) per inspection.

According to the SAMM report, in FY 2016, the average lapse time (in days) from opening conference to citation issuance is identified below:

Average Lapse Time	KY OSH	OSHA
Safety	56	46
Health	64	62

In FY 2016, the average current penalty per serious, repeat and willful violations for private sector inspections was as follows:

Classification	KY OSH	OSHA
Willful	\$21,250	\$41,027
Repeat	\$9,991	\$8,548
Serious	\$3,276	\$2,490

In FY 2016, KY OSH issued six willful violations, 32 repeat violations and one FTA violation. All willful violations are reviewed by the Director of OSH Compliance, the program manager, supervisor, and an attorney in the Office of General Council prior to issuance. According to the OIS data, KY OSH’s percent serious/ willful/ repeat/ unclassified was 61.3% in FY 2016, compared to OSHA serious/ willful/ repeat/ unclassified at 77%.

Percent of Violations Cited Serious/Other-Than-Serious (OTS) or Non-Serious

	KY OSH	OSHA
Serious	58.8%	71.6
OTS	38.7%	20.1

There were some deviations from the national average indicated in the data, where deviations or outliers were identified, the data was closely monitored by OSHA and discussed with the State Plan at quarterly meetings. Those measures, which are noted to have deviations or outliers during this evaluation period, are explained below:

SAMM 2a and 2b - Average number of work days to initiate complaint investigations (2a - state formula) and (2b – federal formula)

During this period, the program managers no longer utilize the complaint by letter (phone and fax process) for non-formal complaints therefore no complaints were handled as investigations. This is addressed further in Section III of this report.

SAMM 3 - Percent of complaints and referrals responded to within one workday (imminent danger)

The State responded to 157 of 162 imminent danger complaints and referrals within 1 day. It was noted that if the complainant/referring party states that the hazard is an imminent danger,

they treat is as such without making any determination or verification. This is driving the numbers up as indicated by the large number (162) of imminent danger complaints and referrals. The OSHA Express report using the IMIS formula shows 100%, however the other reports show 96.9%. The OIS report identified five outliers which were explainable.

SAMM 8 – Average Current Serious Penalty

The national average for this measure is \$2,279, with an acceptable range of +/- 25%, which is between \$2,848 and \$1709. The State Plan's current penalty for this measure is \$1,084, which is 36.6% below the acceptable low range for this national average.

SAMM 8a (1-25 Workers)

The national average for this measure is \$1,559, with an acceptable range of +/- 25%, which is between \$1,949 and \$1169. The State Plan's current penalty for this measure is \$730, which is 37.6% below the acceptable low range for this national average.

SAMM 8b (26-100 Workers)

The national average for this measure is \$2,549, with an acceptable range of +/- 25%, which is between \$3,186 and \$1,912. The State Plan's current penalty for this measure is \$1,051, which is 45% below the acceptable low range for this national average.

SAMM 8c (101-250 Workers)

The national average for this measure is \$3,494, with an acceptable range of +/- 25%, which is between \$4,368 and \$2,621. The State Plan's current penalty for this measure is \$1,581, which is 39.7% below the acceptable low range for this national average.

SAMM 8d (Greater than 250 Workers)

The national average for this measure is \$4,436, with an acceptable range of +/- 25%, which is between \$5,545 and \$3,327. The State Plan's current penalty for this measure is \$1,830, which is 45% below the acceptable low range for this national average.

SAMM 9 - Percent In-compliance

The national average for this measure for safety inspections is 28.9%, with an acceptable range of +/- 20%, which is between 34.6% and 23.1%. The State Plan's percent in-compliance for safety inspections for this measure is 52.9%, which is 34.6% above the acceptable high range for the national average. The national average for this measure for health inspections is 35.7%, with an acceptable range of +/- 20%, which is between 42.8% and 28.5%. The State Plan's percent in-compliance for health inspections for this measure is 58.9%, which is 27.3% above the acceptable high range for the national average.

SAMM 10 - Percent of work-related fatalities responded to in one workday

There were five fatalities that were outliers in FY 2016. Further investigation of the outliers revealed that, with one exception, when the State Plan did not meet the one work day response goal, it was due to reasonable delays. Two fatalities did not appear to be work-related, one was opened late due to inclement weather affecting access to a remote location, one was opened timely, and one was responded to late.

SAMM 11 - Average Lapse Time

The national average for this measure for safety is 45.2 days, with an acceptable range of +/- 20%, which is between 54.2 days and 36.1 days. The State Plan's average safety lapse time for this measure is 55.7 days, which is 2.7% above the acceptable high range for the national average. The State Plan's health lapse time for this measure is within the acceptable range for the national average. Health lapse time is discussed further in Section III of this report.

SAMM 14 - Percent of 11(c) investigations completed within 90 days

KY OSH completed 67% of their discrimination investigations within 90 days.

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

The goal for this measure is 24%, with an acceptable range of +/- 20%, which is between 28.8% and 19.2%. The State Plan's percent of discrimination cases that are meritorious for this measure is 5%, which is 74% below the acceptable low range for the national average.

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

III. Assessment of State Plan Corrective Actions

Findings and Recommendations:

Finding FY 2015-01: KY OSH has not completed the revision to 803 KAR 2:412 - Residential Construction Fall Protection.

Recommendation: KY OSH should take appropriate action to revise 803 KAR 2:412 - Residential Construction Fall Protection to ensure that it is in line with the federal regulation.

Status-Completed: On May 10, 2016, the Standards Board adopted amendments to 803 KAR 2:412, Fall Protection related to Federal enforcement of a 6-foot trigger height. The amendment to 803 KAR 2:412 is effective in January 2017.

Finding FY 2015-02: Data indicated that there has been a significant decline in the number of inspections conducted by KY OSH, a difference of 349 from FY 2009 to FY 2015, accounting for an overall reduction of 28.2%.

Recommendation: KY OSH should identify the cause of the significant and gradual decline in the number of compliance inspections and develop and implement a strategy to increase and maintain the number of inspections that are conducted.

Status-Completed: Analysis determined that KY OSH conducted 855 inspections in 2015, compared to 998 inspections in FY 2014, which was a decrease of 143 inspections. Additionally, KY OSH met the goal that was provided in the 2015 Grant which was approved by OSHA. Additionally, there were a number of underlying reasons for the gradual reduction in inspections. These factors include: 1) The State Plan lost experienced and productive compliance safety and health officers (CSHOs) as a result of KY OSH salaries that were not competitive with other employers. 2) Less experienced CSHOs and new hires require more time to complete inspections, especially more complicated investigations. Finally, KY OSH has shown an increase in the number of inspections in FY 2016.

Finding FY 2015-03: KY OSH's Division of OSH Compliance has not implemented an internal self-evaluation program as required by the State Plan Policies and Procedures Manual.

Recommendation: KY OSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is completed and implemented. KY OSH should also ensure that periodic evaluations of all areas of the program are evaluated and that documentation of the evaluations is made available to OSHA.

Status-Open: Kentucky provided that the implementation of a robust and effective internal self-evaluation program has taken longer than anticipated. During FY 2016 Kentucky indicated that they were nearing completion of its program and plans to deploy it in the near future. KY OSH has made progress towards completion of a program.

Finding FY 2015-04: All of the 20 non-formal complaints that were reviewed were classified as invalid even though they contained allegations of serious hazards, and nothing was done to address them.

Recommendation: KY OSH should handle non-formal complaints alleging serious hazards as a referral or, at a minimum, as a complaint by letter (phone/fax investigation).

Status-Open: As part of the on-site follow-up review on January 9-11, 2017 thirty non-formal complaints and no inspection files/documents were randomly selected and reviewed to determine the status of this finding and recommendation. A review of these records documented serious allegations that went unaddressed including injuries to workers, potential chemical exposures, asbestos exposure, combustible dust hazards, confined space hazards, lockout tagout and machine guarding hazards, fall hazards, and an instance of workplace violence not to mention several potential recordkeeping and reporting violations. Six complaints alleged very serious injuries including several amputations. The program managers sent these employees, former employees, and others a letter requesting them to formalize the complaint or informing them that they are not employees and cannot file a complaint.

Finding FY 2015-05: KY OSH conducted a total of three targeted programmed inspections of the high-hazard industries from the inspection lists under the Targeted Outreach Program or Safety Tops Our Priority Program in FY 2015.

Recommendation: KY OSH should develop and implement a strategy to ensure a representative number of targeted programmed safety and health inspections are conducted at facilities within Kentucky's high-hazard industries.

Status-Completed: During this review period, KY OSH completed 26 Targeted Outreach Program (TOPS) and 97 other programmed planned inspections.

Finding FY 2015-06: KY OSH conducted a total of six programmed planned health inspections during this evaluation period.

Recommendation: KY OSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries.

Status-Open: During this period, KY OSH did not conduct any programmed planned health inspections. The State has established a goal to do two programmed planned health inspections per health compliance officer (CSHO) which equates to a total of twelve inspections. This finding and recommendation remains open.

Finding FY 2015-07: KY OSH has an extremely low average number of violations, a high in-compliance rate, and a low percentage of violations classified as serious, repeat, and willful for programmed construction inspections.

Recommendation: KY OSH should evaluate the cause of the extremely low average number of violations, high in-compliance rate, and the low percentage of violations classified as serious, repeat, and willful for programmed construction inspections and develop and implement a strategy to increase the average number of violations, decrease the in-compliance rate, and the increase the percentage of violations classified as serious, repeat, and willful for programmed construction inspections.

Status-Open: Data during this period shows that average number of violations and the percent of violations classified as serious, willful, and repeat remain low and the percent of inspections that are in-compliance remain high. This finding and recommendation remains open.

Finding FY 2015-08: Based on data provided by the state, KY OSH has significantly high average citation issuance lapse time for health inspections.

Recommendation: KY OSH should develop and implement a process to reduce the average lapse time for non-in-compliance health inspections.

Status-Closed: The lapse time for health remains high however Kentucky has made an effort to reduce it. The Director of OSH Compliance is managing lapse time by holding the Program Manager and supervisors accountable. The Program Manager and supervisors are holding the CSHOs accountable. There are currently two compliance officers on a Performance Improvement Plan (PIP) as a result of their lapse times. In FY 2016, the health lapse time was reduced significantly and is within the acceptable range for SAMM Measure 11.

Finding FY 2015-09: Consultation reports are sent to the employers more than 20 calendar days after the closing conference.

Recommendation: KY OSH should ensure that written consultation reports are sent to the employers as soon as possible but no more than 20 calendar days after the closing conference.

Status-Closed: The Assistant Director of Education and Training has placed an emphasis on completing and sending employers consultation reports within 20 days. During this period, consultation reports were completed and sent to employers on average of 16 days.

Finding FY 2015-10: A review of the 23(g) consultation case files revealed that the description of the workplace and the working conditions at the site was not included in the employer reports.

Recommendation: KY OSH should provide additional training to consultants to ensure that all required information is included in the employer reports.

Status-Closed: KY OSH has included these recommendations in files and reports to the employers they serve.

Finding FY 2015-11: A review of three 23(g) consultation case files revealed that sampling and the evaluation of health hazards inherent to specific industries was not always completed by consultants.

Recommendation: KY OSH should provide additional training to consultants to ensure they are conducting sufficient sampling and/or evaluations of health hazards specific to the type of industries visited.

Status-Closed: The Assistant Director of Education and Training has developed procedures to ensure consultants are conducting sufficient sampling and/or documenting their rationale for those instances where sampling is not conducted.

Observations:

FY 2015-OB-1: According to the state's data, 55.9% of programmed safety inspections and 66.7% of programmed health inspections had violations. Additional data indicates that an average of 2.2 violations were cited per inspection and that 34.6% of safety violations and 2.3% of health violations were classified as serious, repeat, and willful. This data indicates that KY OSH is below the national average in these areas.

Status-Continued: According to the FY 2016 State Indicator Report (SIR), 36.2% of programmed safety inspections had violations. No programmed health inspections were conducted in FY 2016. Additional data indicates that averages of 4.74 violations were cited per inspection and that 81.5% of safety violations were classified as serious, repeat, and willful. This data indicates that KY OSH is below the national average in these areas.

FY 2015-OB-2: According to the state's data, 35.7% of programmed safety inspections in construction had violations. This is a significant decline from FY 2013 when 92.1% had violations. The national average was 77.9%.

Status-Continued: According to OIS data, 6% or 9 of 151 programmed safety inspections in construction had violations. This is a significant decline from FY 2013 when 92.1% had violations.

FY 2015-OB-3: In FY 2015, KY OSH did not issue any willful violations; however, 19 repeat violations were issued.

Status-Closed: In FY 2016, KY OSH issued six willful violations, 32 repeat violations, and one failure to abate violation.

FY 2015-OB-4: A review of state's data showed that there are 98 cases with open abatement from 1991 through 2011. This is significantly less than the 149 cases with open abatements identified during the FY 2013 FAME evaluation.

Status-Closed: According to the FY 2016 State Indicator Report (SIR), there are currently 54 cases with open abatement.

FY 2015-OB-5: In FY 2015, 1.6% of inspections conducted were follow-ups compared to OSHA at 3.1%.

Status-Open: The Division of OSH Compliance strives to perform at least ten (10) percent of safety and health inspections as follow-up inspections however the Division of OSH Compliance performed eleven (11) follow-up inspections in FY 2016, representing 1.1 percent of all safety and health inspections which is a decrease from 1.6 in FY 2015.

FY 2015-OB-6: Findings provided to complainants contained generic language without a basis for the conclusion to allow for meaningful appeals.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and focus on correspondence with complainant as part of a review of complaint files during the FY 2017 on-site FAME review.

FY 2015-OB-7: Correspondence is sent without a method to allow for confirmation of delivery.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and review correspondence in discrimination files during the FY 2017 on-site FAME review.

FY 2015-OB-8: Administrative closures and withdrawals are not being documented correctly in IMIS.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and review administrative closures and withdrawals in IMIS during the FY 2017 on-site FAME review.

FY 2015-OB-9: Third-party agreements are not closely reviewed to ensure compliance with the applicable regulations (non-inclusion of gag orders, non-inclusion of language prohibiting the participation in protected activity, and acknowledgement that KY OSH is not a party to the agreement) and to ensure they are in the best interest of the complainant and respondent.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and review third-party agreements during the FY 2017 on-site FAME review.

FY 2015-OB-10: Respiratory protection is not provided to consultants for use when monitoring for a potential overexposure to air contaminants.

Status-Closed: Respiratory protection has been provided to consultants.

FY 2015-OB-11: Consultation case file documentation (field notes) was lacking information, such as, but not limited to: hazard description, process, location, measurements, number of workers exposed, the duration of exposure, pictures, and abatement recommendations.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and review consultation file documentation (field notes) for adequate documentation during the FY 2017 on-site FAME review.

FY 2015-OB-12: Four sites surveys (SHARP Renewals), each one with over a hundred workers in the company, were found to need additional workers interviews. On two of these surveys, only one worker was interviewed. Worker's interview is a critical component of the evaluation of the effectiveness of the employer's safety and health management system and the consultation process. Interviews should include a representative number of employees in the company (interview at least 10% of site/company employees).

Status-Closed: The Assistant Director of Education and Training has reinforced the established procedures to ensure consultants are conducting interviews that reflect a good representation of the workforce. The OSHA Area Office will verify this has been resolved during the FY 2017 on-site FAME review.

FY 2015-OB-13: Consultation files do not include a diary sheet to document dates of important actions, date reports are sent, etc.

Status-Closed: KY OSH will include a combined diary sheet and telephone log in future files and reports to the employers they serve.

FY 2015-OB-14: Field notes and other documentation contained in consultation files were not always conducive to achieving the highest level of hazard recognition and hazard abatement. The OSHA Region IV Office will closely monitor consultation case files to ensure diary sheets are included.

Status-Open: The OSHA Area Office will closely monitor this observation during FY 2017 and consultation files for appropriate documentation during the FY 2017 on-site FAME review.

FY 2015-OB-15: The number of worker interviews conducted did not reflect a good representation of the workforce at facilities that received consultation services. In facilities where there were workers totaling over 100, there were files that documented less than five worker interviews. Many times, only one worker was interviewed.

Status-Closed: The Assistant Director of Education and Training has reinforced the established procedures to ensure consultants are conducting interviews that reflect a good representation of the work force.

Appendix A – New and Continued Findings and Recommendations
FY 2016 Kentucky State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2016-01	<p>Extensive interviews with all known or potential witnesses were not conducted nor were statements including signed statements obtained during all fatality and accident investigations.</p> <p>All known and potential witnesses should be identified and extensively interviewed and a detailed signed witness statement should be obtained from all known potential witnesses during fatality and accident investigations.</p>	<p>KY OSH should ensure all known and potential witnesses are identified and extensively interviewed and a detailed signed witness statement is obtained from all known potential witnesses during fatality and accident investigations.</p>	
FY 2016-02	<p>Extensive interviews were not conducted and statements were not obtained from management officials to document critical information including but not limited to knowledge of the hazard and documentation to support the classification of the hazard.</p>	<p>KY OSH should ensure management officials including supervisors are interviewed and signed statements are obtained to determine the level of knowledge regarding the hazard and to ensure that all violations are appropriately classified. Effective case file reviews should be conducted by management to ensure that all appropriate witnesses are interviewed and adequate statements are taken.</p>	
FY 2016-03	<p>KY OSH’s Division of OSH Compliance has not implemented an internal self-evaluation program as required by the State Plan Policies and Procedures Manual.</p>	<p>KY OSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is completed and implemented. KY OSH should also ensure that periodic evaluations of all areas of the program are evaluated and that documentation of the evaluations is made available to OSHA.</p>	<p>FY 2015-03 FY 2014-08 FY 2013-09 FY 2010-08 FY 2009-20</p>
FY 2016-04	<p>All of the 30 non-formal complaints that were reviewed were classified as invalid even though many contained allegations of injuries and serious hazards, and nothing was done to address them.</p>	<p>KY OSH should handle non-formal complaints alleging serious hazards, at a minimum, as a complaint by letter (phone/fax investigation).</p>	<p>FY 2015-04</p>

FY 2015-05	KY OSH did not conduct any programmed planned health inspections during this evaluation period.	KY OSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries.	FY 2015-06 FY 2014-05 FY 2013-05 FY 2011-06
FY 2016-06	KY OSH has an extremely low average number of violations, a high in-compliance rate, and a low percentage of violations classified as serious, repeat, and willful for programmed construction inspections.	KY OSH should evaluate the cause of the extremely low average number of violations, high in-compliance rate, and the low percentage of violations classified as serious, repeat, and willful for programmed construction inspections and develop and implement a strategy to increase the average number of violations, decrease the in-compliance rate, and the increase the percentage of violations classified as serious, repeat, and willful for programmed construction inspections.	FY 2015-07

Appendix B – Observations Subject to Continued Monitoring
 FY 2016 Kentucky State Plan Comprehensive FAME Report

Observation # FY 2015-OB-#	Observation# FY 20XX-OB- # or FY 20XX- #	Observation	Federal Monitoring Plan	Current Status
FY 2016-OB-1	FY 2015-OB-1	According to the FY 2016 State Indicator Report (SIR), 36.2% or 114 of the 226 programmed safety inspections had violations. No programmed health inspections were conducted in FY 2016.	The OSHA Area Office will closely monitor the data associated with programmed inspections to ensure it is equivalent to OSHA.	Continued
FY 2016-OB-2	FY 2015-OB-2	According to OIS data, 6% or 9 of 151 programmed safety inspections in construction had violations. This is a significant decline from FY 2013 when 92.1% had violations.	The OSHA Area Office will closely monitor the data associated with programmed safety construction inspections to ensure that there is no further decline and that the in-compliance rate improves.	Continued
FY 2015-OB-3	FY 2015-OB-5 FY 2014-OB-1	In FY 2015, 1.6% of inspections conducted were follow-ups compared to OSHA at 3.1%. The Division of OSH Compliance has a goal to complete at least ten percent of safety and health inspections as follow-ups.	The OSHA Area Office will continue to monitor this issue and continue to encourage KY OSH to increase its number of follow-up inspections.	Continued
FY 2015-OB-4	FY 2015-OB-6	Findings provided to complainants contained generic language without a basis for the conclusion to allow for meaningful appeals.	The OSHA Area Office will closely monitor the information provided to complainants regarding the basis for determination to ensure there is sufficient information for meaningful appeals.	Continued
FY 2015-OB-5	FY 2015-OB-7	Correspondence is sent without a method to allow for confirmation of delivery.	The OSHA Area Office will closely monitor correspondence to ensure delivery confirmation is received and maintained.	Continued
FY 2015-OB-6	FY 2015-OB-8	Administrative closures and withdrawals are not being documented correctly in IMIS.	The OSHA Area Office will closely monitor administrative closures and withdraws to ensure they are recorded accurately in the tracking system.	Continued

FY 2015-OB-7	FY 2015-OB-9	Third-party agreements are not closely reviewed to ensure compliance with the applicable regulations (non-inclusion of gag orders, non-inclusion of language prohibiting the participation in protected activity, and acknowledgement that KY OSH is not a party to the agreement) and to ensure they are in the best interest of the complainant and respondent.	The OSHA Area Office will closely monitor third-party agreements to ensure compliance with the applicable regulations and confirm they are in the best interests of the parties.	Continued
FY 2015-OB-8	FY 2015-OB-11	Consultation case file documentation (field notes) was lacking information, such as, but not limited to: hazard description, process, location, measurements, number of workers exposed, duration of exposure, pictures, and abatement recommendations.	The OSHA Region IV Office will closely monitor site consultation file documentation to ensure the appropriate information is included in the files.	Continued
FY 2015-OB-11	FY 2015-OB-14	Field notes and other documentation contained in consultation files were not always conducive to achieving the highest level of hazard recognition and hazard abatement.	The OSHA Region IV Office will closely monitor consultation case files to ensure diary sheets are included.	Continued
PREVIOUS FAME				
FY 2015-OB-3		In FY 2015, KY OSH did not issue any willful violations; however, 19 repeat violations were issued.		Closed
FY 2015-OB-4		A review of state's data showed that there are 98 cases with open abatement from 1991 through 2011. This is significantly less than the 149 cases with open abatements identified during the FY 2013 FAME evaluation.		Closed
FY 2015-OB-10		Respiratory protection is not provided to consultants for use when monitoring for a potential overexposure to air contaminants.		Closed
FY 2015-OB-9	FY 2015-OB-12	Four sites surveys (SHARP Renewals), each one with over a hundred workers in the company, were found to need additional		Closed

		workers interviews. On two of these surveys, only one worker was interviewed. Worker's interview is a critical component of the evaluation of the effectiveness of the employer's safety and health management system and the consultation process. Interviews should include a representative number of employees in the company (interview at least 10% of site/company employees).		
FY 2015-OB-10	FY 2015-OB-13	Consultation files do not include a diary sheet to document dates of important actions, date reports are sent, etc.		Closed
FY 2015-OB-12	FY 2015-OB-15	The number of worker interviews conducted did not reflect a good representation of the workforce at facilities that received consultation services. In facilities where there were workers totaling over 100, there were files that documented less than five worker interviews. Many times, only one worker was interviewed.		Closed

Appendix C - Status of FY 2015 Findings and Recommendations
 FY 2015 Kentucky State Plan Comprehensive FAME Report

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status and Date
FY 2015-01 (formerly FY 2014-01)	Kentucky's state-specific regulation 803 KAR 2:412, which addresses residential construction fall protection, differs significantly from OSHA's policies and standards.	KY OSH should take appropriate action to revise 803 KAR 2:412 - residential construction fall protection to ensure that it is in line with the federal regulation.	At this time all issues have been resolved. The Kentucky Administrative Regulation is now in line with the federal requirement. KY OSH worked diligently with federal OSHA regarding proposed changes to its fall protection standard for residential construction. The changes were approved during the May 2016 Standards Board meeting. The effective date was January 2017.	05/2016	Closed 01/02/2017
FY 2015-02	Data indicated that there has been a significant decline in the number of inspections conducted by KY OSH, a difference of 349 from FY 2009 to FY 2015, accounting for an overall reduction of 28.2%.	KY OSH should identify the cause of the significant and gradual decline in the number of compliance inspections and develop and implement a strategy to increase and maintain the number of inspections that are conducted.	Analysis determined that KY OSH conducted 855 inspections in 2015, compared to 998 inspections in FY 2014, which was a decrease of 143 inspections. Additionally, KY OSH met the goal that was provided in the 2015 Grant which was approved by OSHA. Finally, KY OSH has shown an increase in the number of inspections in FY 2016.	05/2016	Closed

<p>FY 2015-03 (formerly FY2014-08, FY 2013-09, FY 2010-08, and FY 2009-20)</p>	<p>KY OSH’s Division of OSH Compliance has not implemented an internal self-evaluation program as required by the State Plan Policies and Procedures Manual.</p>	<p>KY OSH should implement a process to ensure that an internal self-evaluation program possessing integrity and independence is completed and implemented. KY OSH should also ensure that periodic evaluations of all areas of the program are evaluated and that documentation of the evaluations is made available to OSHA.</p>	<p>Implementation of a robust and effective internal self-evaluation program has taken longer than anticipated. Kentucky is nearing completion of its program and plans to deploy it in the near future.</p>	<p>Not Applicable</p>	<p>Open 09/30/2016</p>
<p>FY 2015-04</p>	<p>All of the 20 non-formal complaints that were reviewed were classified as invalid even though they contained allegations of serious hazards, and nothing was done to address them.</p>	<p>KY OSH should handle non-formal complaints alleging serious hazards as a referral or, at a minimum, as a complaint by letter (phone/fax investigation).</p>	<p>Kentucky has a system in place to address non-formal complaints. Kentucky sends the complainant a letter, and complaint form, asking the individual to complete, sign, and return the form. To reclassify a complaint as a “referral” is semantics and would most likely not withstand legal challenge.</p> <p>Kentucky also requested OSHA update a single field in OSHA’s online complaint form to better assist the state addressing complaints that do not conform to state statute. OSHA advised the field could</p>	<p>Not Applicable</p>	<p>Open 09/30/2016</p>

			be updated but has not done so.		
FY 2015-05 (formerly FY 2014-05, FY 2013-05 and FY 2011-06)	KY OSH conducted a total of three targeted programmed inspections of the high-hazard industries from the inspection lists under the Targeted Outreach Program or Safety Tops Our Priority Program in FY 2015.	KY OSH should develop and implement a strategy to ensure a representative number of targeted programmed safety and health inspections are conducted at facilities within Kentucky's high-hazard industries.	Significant staff turnover accounted for the low number of targeted programmed safety and health inspections. Kentucky anticipates increased targeted programmed safety and health inspections in FY 2016 as staff becomes qualified to conduct inspections. However, progress will continue to be measured.	01/10/2017	Closed
FY 2015-06	KY OSH conducted a total of six programmed planned health inspections during this evaluation period.	KY OSH should develop and implement a strategy to ensure a more representative number of programmed planned health inspections are conducted to adequately address the scope and seriousness of the hazards found in high-hazard health industries.	Significant staff turnover accounted for the low number of programmed planned health inspections. During FY 2015, nearly 40% of the industrial hygiene enforcement officers had one (1) year or less experience. Kentucky has a strategy in place to ensure a representative number of programmed health inspections are conducted and will stay the course. Kentucky anticipates increased programmed planned health inspections in FY 2016 as staff becomes	Not Applicable	Open 09/30/2016

			qualified to conduct inspections. However, progress will be measured.		
FY 2015-07	KY OSH has an extremely low average number of violations, a high in-compliance rate, and a low percentage of violations classified as serious, repeat, and willful for programmed construction inspections.	KY OSH should evaluate the cause of the extremely low average number of violations, high in-compliance rate, and the low percentage of violations classified as serious, repeat, and willful for programmed construction inspections and develop and implement a strategy to increase the average number of violations, decrease the in-compliance rate, and the increase the percentage of violations classified as serious, repeat, and willful for programmed construction inspections.	Kentucky received this finding because the state inspects all contractors onsite and does not limit the inspection(s) to “focus four” issues. However, there is no detrimental effect on its program or the safety and health of Kentucky’s construction workers, based on the information OSHA presents regarding this finding. Kentucky suggests this issue may be related to targeting and is not a finding	Not Applicable	Open 9/30/2016
FY 2015-08	Based on data provided by the state, KY OSH has significantly high average citation issuance lapse time for health inspections.	KY OSH should develop and implement a process to reduce the average lapse time for non-in-compliance health inspections.	The lapse time for health remains high however Kentucky has made an effort to reduce it. The Director of OSH Compliance is managing lapse time by holding the Program Manager and supervisors accountable. The	9/30/2016	Completed

			<p>Program Manager and supervisors are holding the CSHOs accountable. There are currently two compliance officers on a Performance Improvement Plan (PIP) as a result of their lapse times. In FY 2016, the health lapse time was reduced significantly and is within the acceptable range for SAMM Measure 11.</p>		
FY 2015-09	<p>Consultation reports are sent to the employers more than 20 calendar days after the closing conference.</p>	<p>KY OSH should ensure that written consultation reports are sent to the employers as soon as possible but no more than 20 calendar days after the closing conference.</p>	<p>Consultants conduct onsite, population center training, webinars, attend professional development training, develop/present online modules, as well as conducting surveys and producing a written report. Currently, Kentucky's consultation program averages twenty-seven (27) days to send its report to employers. Never-the-less, Kentucky will endeavor to send written consultation reports no more than twenty (20) days after the closing conference.</p> <p>During FY 2016, the Acting Director of Education and Training has placed an emphasis on completing and</p>	01/10/2017	Completed

			<p>sending employers consultation reports within 20 days. During this period, consultation reports were completed and sent to employers on average of 16 days.</p>		
FY 2015-10	<p>A review of the 23(g) consultation case files revealed that the description of the workplace and the working conditions at the site was not included in the employer reports.</p>	<p>KY OSH should provide additional training to consultants to ensure that all required information is included in the employer reports.</p>	<p>KY OSH has included these recommendations in files and reports to the employers they serve.</p>	01/10/2017	Completed
FY 2015-11	<p>A review of three 23(g) consultation case files revealed that sampling and the evaluation of health hazards inherent to specific industries was not always completed by consultants.</p>	<p>KY OSH should provide additional training to consultants to ensure they are conducting sufficient sampling and/or evaluations of health hazards specific to the type of industries visited.</p>	<p>The Acting Director of Education and Training has developed procedures to ensure consultants are conducting sufficient sampling and/or documenting their rationale for those instances where sampling is not conducted.</p>	01/10/2017	Completed

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2015 Kentucky State Plan Comprehensive FAME Report