

FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME) Report

Arizona Division of Occupational Safety and Health (ADOSH)



Evaluation Period: October 1, 2011 – September 30, 2012

Program Certification Date: September 18, 1981
Final Approval Date: June 20, 1985

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I. Executive Summary

The State of Arizona, under an agreement with OSHA, operates an occupational safety and health plan under the provisions of Section 18(e) of the Occupational Safety and Health Act of 1970. The Industrial Commission of Arizona (ICA) is the designated state agency for the administration of the program. During FY 2012, Ms. Laura L. McGrory was the Director of the ICA and the State Plan Designee. Within the ICA, Arizona Division of Occupational Safety and Health (ADOSH) is responsible for both the enforcement and the voluntary compliance programs of Arizona's occupational safety and health plan. During this evaluation period, Mr. Darin Perkins administered the ADOSH program. Mr. Perkins recently left the program in January, 2013. ADOSH generally adopts Federal OSHA's occupational safety and health standards and most of its interpretations and compliance policies. In FY 2012, the ADOSH program was funded at \$4,812,800 of which \$2,406,400 were federal funds. ADOSH conducted 1,138 enforcement inspections during FY 2012 which exceeded the projected 1,103 inspections recorded in the grant application.

The 23(g) operational program agreement covers enforcement of private and public sector employees and consultation of public sector employees. The state maintains a total of 47 authorized staff positions for their two offices, a central office located in Phoenix and a field office in Tucson. The two offices currently have 28 compliance officers including 18 safety specialists and 10 health specialists. This exceeds the Arizona benchmark of nine safety and six health specialists. ADOSH experienced steady turnover throughout FY 2012, however, turnover has decreased from previous years and ADOSH has made significant progress in training their new compliance staff in a timely manner. ADOSH currently has one health specialist vacancy. Arizona maintains 2.5 fulltime equivalent (FTE) discrimination investigators. These safety and health compliance officers have successfully completed Whistleblower Investigation training at the OSHA Training Institute. Public sector consultation is administered using private sector consultants and 23(g) funds. The 21(d) consultation program agreement covers consultation of private sector employees and has a staff of 10 consultants.

There was one new finding identified, which dealt with residential fall protection. This issue derived from a Complaint About State Program Administration (CASPA) which stemmed from the passage and implementation of Arizona Senate Bill 1441, Fall Protection for Residential Construction. Federal OSHA has determined Senate Bill 1441 renders the enforcement of fall protection in residential construction not "at least as effective" as Federal OSHA's residential construction fall protection requirements. On February 1, 2013, ADOSH submitted a letter to OSHA detailing ADOSH's concerns over the OSHA finding; the letter is currently under review. Resolving this issue is critical for ADOSH to maintain funding and approval as a state plan state. Two recommendations remain open from the 2011 FAME report and three are awaiting verification. The two open recommendations concern the "serious" classification of violations and a need for a policy to address the treatment of third party non-management witnesses during the investigation of discrimination complaints. The three recommendations awaiting verification concern the ADOSH discrimination program and will be verified during the on-site monitoring visit following FY 2013. The remaining 11 recommendations from the 2011 FAME were completed.

FY 2012 marked the final year of the ADOSH Five Year Strategic Plan. Of the seven goals completed by ADOSH: three were successfully accomplished, two did not meet the projected measure, and two were public sector consultation goals not addressed in this report. A positive effort was made in accomplishing the sixth goal that resulted in a significant increase in the number of ADOSH Voluntary Program Participants (VPP). The success of the seventh goal could not be measured due to changes made in the data being used.

Information and data referenced in this report were derived from computerized State Activity Mandated Measures (SAMMs), FY 2012 State OSHA Annual Report (SOAR), FY 2012 23(g) Grant, Complaints About State Program Administration (CASPA), Integrated Management Information System (IMIS) reports, State Policies and Procedures Manual, and discussions with State staff. No on-site state case file monitoring was conducted this fiscal year.

II. Major New Issues

Due to a June 16, 2011 Industrial Commission of Arizona stay of enforcement of Federal OSHA compliance directive STD 03-11-002, ADOSH did not enforce 29 CFR 1926.501(b)(13) as required by Federal OSHA during the first quarter of FY 2012 but instead followed an old directive STD 3.1 – Interim Fall Protection Compliance Guidelines for Residential Construction. Following two public forum hearings regarding implementation of STD 03-11-002, the stay was lifted effective January 1, 2012 and a guidance document was issued for ADOSH compliance staff to utilize the adopted federal standards for enforcement in residential construction. However, on March 27, 2012, Senate Bill 1441 (SB 1441), Fall Protection for Residential Construction, was signed by Governor Jan Brewer. This bill went into effect on May 25, 2012 and limited ADOSH's ability to cite 29 CFR 1910.501(b)(13). Most notably, the bill does not require conventional fall protection of employees exposed to most falls greater than 6 feet, but less than 15 feet.

A multi-party CASPA was filed with the Phoenix Area Office alleging that ADOSH had not adopted STD 03-11-002 and the Commission instituted a stay of enforcement which prevented ADOSH from citing employers for failure to use conventional fall protection in residential construction. The findings of the CASPA have required ADOSH to enforce fall protection standards in Arizona that are at least as effective as federal OSHA standards. In a February 1, 2013 letter, ADOSH disputed the OSHA finding asserting that ADOSH's enforcement of SB 1441 is not identical to Federal OSHA standards but that enforcement in residential construction is at least as effective as OSHA and that ADOSH's inspections and Arizona's statistical data affirm this. Federal OSHA is in the process of reviewing the "side-by-side" analysis of the federal and state standard.

III. State Progress in Addressing FY 2011 FAME Report Recommendations

Finding 11-01: Appropriate condolence letters to the families of victims notifying them of enforcement actions were not contained in all fatality case files.

Recommendation 11-01: Ensure that all appropriate letters are sent at the beginning of a fatality investigation and at the inspection's conclusion which notifies families of victims of the enforcement action(s) taken.

Status: Completed—As of March 13, 2012, sample template letters were created and the staff was instructed on the use of such letters to ensure appropriate communication with victims' families. All appropriate letters are now being sent during the fatality investigation process.

Finding 11-02: ADOSH is not performing a sufficient number of inspections and inspection goals were not met.

Recommendation 11-02: Ensure all available tools and resources are used to achieve inspection goals.

Status: Completed—A total of 1,138 inspections were conducted by September 30, 2012, which was a 24% increase from the previous year and exceeded their goal of 1,103.

Finding 12-01 (formerly 11-03): Citations are not classified as serious in accordance with the FOM. The Percentage of inspections resulting in Serious, Willful and Repeat violations were significantly below the national average. This is substantially similar to the previous Findings 10-16 which stated "ADOSH's policy on classification violations does not ensure violations that would be considered "Serious" under the Federal FOM are classified as "Serious".

Recommendation 12-01 (formerly 11-03): Adopt violation classification policies and procedures equivalent to Federal OSHA regarding descriptions on supporting "serious" classification (Federal FOM, page 4-10 to 4-11), supporting "willful" violations (Federal FOM, page 4-30 to 4-32), and combining/grouping violations (Federal FOM, page 4-37 to 4-39).

Status: Open—Continued analysis of the low rate of serious violations in ADOSH revealed a problem in classification of violations. This issue will be a focus during the onsite case file review at the end of FY 2013.

Finding 11-04: Sufficient employee interviews were not documented in inspection case files.

Recommendation 11-04: Ensure employee interviews are appropriate in number to document employee exposure to serious and non-serious hazards.

Status: Completed—ADOSH took action as stated in the Corrective Action Plan and has instructed its staff regarding the minimum number of employee interviews for each inspection. This instruction took place on April 13, 2011 and requires a minimum numbers of interviews at each facility inspected and that interview notes are placed in the case file.

Finding 11-05: ADOSH did not reduce the injury and illness rate in the structural steel and precast concrete industry and the FY 2011 annual performance goal 1.2 was not met.

Recommendation 11-05: Implement additional measures to target the structural steel and precast concrete industry to ensure the injury and illness rate turns downward. ADOSH responded to this recommendation from FY 2010 FAME report by modifying their FY 2012 Annual Performance Goal. This was noted as corrected on the CAP for FY 2010.

Status: Completed—ADOSH took corrective action by increasing enforcement and consultation presence in the industry whereby the injury and illness rates for Calendar Year (CY) 2011 were significantly reduced. ADOSH met its annual performance goal for FY 2012 by conducting 26 inspections and meeting its five-year Strategic Plan goal to reduce the injury and illness rate by 10%.

Finding 11-06: There was not a consistent policy or practice of informing discrimination complainants of their right to dually file with Federal OSHA.

Recommendation 11-06: To ensure that discrimination complainants understand their right to dual file with federal OSHA, ADOSH needs to adopt a consistent procedure for informing complainants of their dual-filing right. ADOSH should revise its Investigations Manual to specify the procedure for dual filing of complaints with federal OSHA.

Status: Completed—ADOSH procedures have been updated as of June 1, 2012 to ensure a consistent practice of informing complainants of their right to dually file. Initial letters to complainants summarized their right and investigators are trained to verbally inform complainants of this right. ADOSH maintain a new template with this information.

Finding 12-02 (formerly 11-07): There was no consistent policy or practice regarding contacting third party non-management witnesses privately for discrimination complaints, where possible (without going through respondent's management or representatives), nor was it a standard practice to discuss and offer such witnesses conditional confidentiality.

Recommendation 12-02 (formerly 11-07): ADOSH should adopt a consistent policy on the treatment of 3rd party non-management witnesses for discrimination complaints. ADOSH should revise its Investigations Manual to specify the policy for handling third party non-management witnesses.

Status: Open—ADOSH has reported that it will work with the ICA Legal Department and adopt a more consistent policy regarding the treatment of third party, non-management witnesses for discrimination complaints.

Finding 12-03 (formerly 11-08): In three of the cases reviewed, the discrimination case files did not contain any notes of the interviews and other communications with the complainant or relevant witnesses, though brief references were made to these interviews or communications in the final investigative report for each case.

Recommendation 12-03 (formerly 11-08): ADOSH should consistently document all discrimination complainant and witness interviews to comport with the manual requirements listed above. Notes of the interviews should be taken and kept in the case files.

Status: Corrective Action Taken - Awaiting Verification—ADOSH reported it has trained their investigators on the requirement to consistently document all witness interviews. Interviews are to be recorded, or notes are to be taken if not recorded. In all cases, all interviews are to be summarized in writing as a part of the final investigative report. In addition, ADOSH reports templates have been created for discrimination investigators to ensure interviews are taken and notes are included in case files.

Finding 12-04 (formerly 11-09): Certain elements of whistleblower complaints were not fully or consistently analyzed in some of the final investigative reports, including dual motive, animus, and credibility assessment.

Recommendation 12-04 (formerly 11-09): In cases in which the respondents appeared to have dual or mixed (both retaliatory and legitimate) motives in taking adverse actions against the complainants in question, ADOSH should always discuss and evaluate respondents' dual/mixed motives in the final investigative reports for discrimination complaints.

Status: Corrective Action taken - Awaiting Verification—ADOSH investigators have been trained on the need to discuss and evaluate dual or mixed motives in their final investigative reports. All cases with a dual or mixed motive are being properly documented. The state has taken action as stated in the corrective action plan in June 2012.

Finding 11-10: The original date the complainant filed a discrimination complaint orally with ADOSH should have been used as the filing date rather than the date the complainant returned the follow-up questionnaire.

Recommendation 11-10: The original date a complainant files a discrimination complaint orally with ADOSH should be used as the filing date of the complaint.

Status: Completed—On October 6, 2011, ADOSH took corrective action and has changed its policy such that the original date a complainant files an oral discrimination complaint is now used as the filing date of the complaint.

Finding 11-11: The review of case files indicated that ADOSH was not sending an opening letter to each discrimination complainant.

Recommendation 11-11: An opening letter shall be sent to each and every discrimination complainant for whom an 11(c) complaint was opened and docketed. The ADOSH Investigations Manual, Chapter III; conduct of the Investigation, should be revised to reflect the OSHA requirement for an opening letter to be sent to each complainant.

Status: Completed—ADOSH now ensured an opening letter was being sent to all complainants at the time a discrimination complaint was opened and docketed. ADOSH took corrective action in June 2012.

Finding 12-05 (formerly 11-12): The selective review of discrimination cases indicated that some cases were misclassified as to the way they were resolved on IMIS.

Recommendation 12-05 (formerly 11-12): ADOSH should ensure that the resolution of discrimination cases is classified correctly and entered into IMIS under the proper categories.

Status: Corrective Action Taken - Awaiting Verification—ADOSH reports it does ensure that all discrimination case resolutions are classified correctly and entered into IMIS under the proper categories. ADOSH agrees to regularly monitor their data entry to ensure it is accurate and ensure this issue is corrected.

Finding 11-13: “Administratively closed” discrimination cases were not being recorded in IMIS. Complainant inquiries which were closed due to lack of jurisdiction, untimeliness or, as alleged, was missing one or more prima facie elements were maintained in a separate file by the Phoenix supervisor, but were not recorded in IMIS.

Recommendation 11-13: To ensure that accurate data is kept about each discrimination complaint and inquiry, ADOSH should track and record “administratively closed” discrimination complaints or inquiries in IMIS, which now has the functionality to enable the recording of such complaints or inquiries, including the generation of a local case number.

Status: Completed—ADOSH took corrective action and informed investigators via a memo from the Director about ensuring appropriate cases were entered into IMIS. The state reported it tracked and recorded administratively closed complaints within IMIS and ensured it follows federal OSHA whistleblower procedures regarding entering administrative closings. All cases identified by OSHA were entered into IMIS.

Finding 11-14: Some but not all investigators who investigated discrimination complaints attended OSHA OTI 1420 Basic Investigations course or received comparable basic whistleblower investigations training.

Recommendation 11-14: ADOSH should ensure that all its investigators take the OSHA OTI 1420 Basic Investigations course or its equivalent.

Status: Completed—ADOSH took corrective action in FY 2012 and ensured all investigators have now attended the OTI 1420 Whistleblower Investigations Course.

Finding 11-15: ADOSH should re-evaluate annual performance goal 1.4 to ensure inspections are made and hazards are identified.

Recommendation 11-15: Assign an adequate number of staff and resources to ensure the annual performance goal of 50 inspections and 200 hazards are identified.

Status: Completed—ADOSH attempted to achieve goal 1.4 by assigning additional compliance staff. With the additional personnel assigned, ADOSH conducted 26 inspections and identified 164 hazards. This still fell short of the goal although overall injury and illness rates for the industry dropped by 3%, which met ADOSH's annual performance goal of 2%. This goal has not been continued on the new 5 year plan.

Finding 11-16: Case files are not processed expeditiously causing citation lapse time for safety inspections to increase notably higher than the national average.

Recommendation 11-16: Ensure that citations for safety inspections are issued in a timely fashion with a goal to meet at least the national average.

Status: Completed—ADOSH has instituted internal changes to help reduce its safety citation lapse time. ADOSH supervisory staff increased its oversight of aged case files to ensure they were completed and turned in sooner. SAMM data indicated ADOSH's safety citation lapse time was now below the national average.

IV. Assessment of FY 2012 State Performance of Mandated Activities

A. **Enforcement** **Complaints**

During FY 2012, ADOSH responded to a total of 863 complaints, 362 with on-site inspections. The average time to respond with an on-site inspection during this period was 5.75 days as compared to the negotiated goal of 7 days. ADOSH's reduction in response time is partly attributed to its policy of performing inspections for any residential construction complaint as well as ADOSH's overall commitment to responding to complaint concerns as timely as possible. This decrease in response time is both notable and commendable. In addition, ADOSH responded to 501 complaints by the phone/fax procedure with an average response time of 3.21 days, this is slightly above the requirement of 3 days. It is recommended that ADOSH reduce the response time to phone/fax complaints. Complainants were notified timely 98.88% of the time (Table 1). ADOSH's performance continues to be acceptable.

Table 1
Complaints (SAMM 1, 2, 3)

	FY 2010	FY 2011	FY 2012	Goal
Days to Initiate Inspection (SAMM 1)	11.22 days	3.21 days	5.75 days	7 days
Days to Initiate Investigation (SAMM 2)	1.26 days	1.5 days	3.21 days	3 days
Complainants Notified Timely (SAMM 3)	98.05%	98.91%	98.88%	100%

Fatalities / Imminent Danger

There were 18 fatalities reported in FY 2012 (IMIS Micro-to-Host Report) and all 18 were inspected within one day of notification achieving a 100% response time for inspecting fatalities within one working day of notification.

It is standard procedure for ADOSH compliance officers to make contact with the families of victims at the onset of an inspection and at the close of each inspection to inform families of any findings. No imminent danger situations were identified in FY 2012.

Targeting and Programmed Inspections

During FY 2012, 1,138 inspections were conducted, which was 3% more than the established inspection goal of 1,103. ADOSH set and established reasonable inspection goals for FY 2012 based on their history of inspections in the past (Table 2).

Table 2
Inspection Conducted FY2010 – 2012 (SOAR)

	FY 2010	FY 2011	FY 2012
Compliance Staff	21	26	26
Inspections Goal	1589	1400	1103
Inspections Conducted	1089	913	1138
Difference	(500)	(487)	+35

In FY 2012, ADOSH conducted 448 programmed safety inspections and 115 programmed health inspections for a total of 563. Serious, willful, or repeated violations were cited in 27.90% of the programmed safety inspections and 40.87% of the programmed health inspections.

Citations and Penalties

ADOSH issues citations in a timely manner. The lapse time from opening conference to citation issuance for safety inspections was 48 calendar days for FY 2012. This is better than the corresponding national average of 55.9 days and is markedly better than ADOSH’s average of 60.7 days in FY 2011. ADOSH’s compliance staff and supervisory staff have worked cooperatively to complete case files and issue them as quickly as possible and these efforts are ensuring that workers are removed from hazards much quicker than in the past. For health inspections, ADOSH averaged 32.46 days from opening conference to citation issuance. This is considerably better than the corresponding national average of 67.9 days and a slight decrease from 35.7 days in FY 2011 (SAMM 7). Both outcomes are commendable.

Table 3 represents ADOSH’s five-year performance history for both industrial hygiene and safety citation lapse times.

Table 3
Citation Lapse Time (SAMM 7)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data
Safety	57.6 days	60.7 days	48.57 days	55.9 days
Health	35.7 days	35.7 days	32.46 days	67.9 days

Although the overall Serious/Willful/Repeat (S/W/R) has increased over the past four years, the rate of 1.09 was still significantly lower than that of the national average. Furthermore, a high rate of violations (2.95) were classified as “non-serious” which is the ADOSH equivalent to “other-than-serious” violations as classified by OSHA (Table 4). ADOSH’s marginal improvement in its S/W/R rate still does not approach the FY 2012 national average of 2.1 due to continued reluctance to classify violations as “serious.” This is a finding from last fiscal year’s evaluation which has not been resolved.

Finding 12-01 (formerly 11-03): Citations are not classified as serious in accordance with the FOM. The Percentage of inspections resulting in Serious, Willful and Repeat violations were significantly below the national average. This is substantially similar to the previous Findings 10-16 which stated “ADOSH’s policy on classification violations does not ensure violations that would be considered “Serious” under the Federal FOM are classified as “Serious”.

Recommendation 12-01 (formerly 11-03): Adopt violation classification policies and procedures equivalent to Federal OSHA regarding descriptions on supporting “serious” classification (Federal FOM, page 4-10 to 4-11), supporting “willful” violations (Federal FOM, page 4-30 to 4-32), and combining/grouping violations (Federal FOM, page 4-37 to 4-39).

Table 4
Average Violations per Inspection with Violations (SAMM 9)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data
S/W/R	0.98	1.01	1.09	2.1
Other	3.34	3.03	2.95	1.2

Arizona’s rules and policies require that serious violations be assessed penalties just like OSHA. ADOSH’s average initial penalty per serious violation in the private sector during FY 2012 was less than the national average as noted in table 4. This is related to several factors including the types of inspections performed by ADOSH at businesses with smaller workforces where greater size reductions result in lower penalties.

Table 5
Average Initial Penalty per Serious Violations (SAMM 10)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data
	\$1,306.12	\$1,284.04	\$1,234.42	\$1,990.5

Abatement

ADOSH requires that each hazard be abated and that adequate verification of the correction is included in the case file. For FY 2012, the timely abatement verification of serious, willful and

repeat violations was 94% (Table 6) consistent with their performance the last four years. ADOSH’s performance continues to be acceptable (Table 6).

Table 6
S/W/R Violations Verified (SAMM 6)

	FY 2010	FY 2011	FY 2012	Goal
Private Sector	94.3%	95.5%	93.99%	100%
Public Sector	95.0%	83.3%	100%	100%

Employee and Union Involvement

During ADOSH inspections, employees are given the opportunity to participate either through interviews or by having employee representatives accompany inspectors. Employees are also afforded the opportunity to privately express their views about the workplace away from the employer. In addition, inspection results are provided to employee representatives and complainants. ADOSH policy is to interview 10% of the workforce at sites not represented by a union.

B. Review Procedures

Informal Conferences

As with OSHA, ADOSH’s procedures required that informal conferences be held prior to the expiration of a 15-day contest period. Based on the evidence presented at the informal conference, ADOSH may delete or reclassify the violations and may reduce the penalty.

If ADOSH and the employer are unable to resolve the employer’s concerns through the informal conference, the employer may request a hearing before an Administrative Law Judge (ALJ) of the ICA. Any party aggrieved by a decision of a hearing may request a review by the Review Board. These procedures are adhered to and employer rights are explained.

At informal conferences, penalties are sometimes reduced but ADOSH has been maintaining 70% of the initial cited amounts which is similar to FY 2011’s 68%. Violations are reclassified in less than 1% of ADOSH cases and are vacated in only 2% of cases (SIR 8, 7). Violations are reduced, reclassified, or vacated only where persuasive contravening evidence is presented. Informal conferences documented the reasons behind decisions to reduce, reclassify, or vacate a violation (Table 7).

Table 7
Informal Conference Penalty Negotiations

	% Violations Vacated	% Violations Reclassified	% Violation Penalty Retention
FY 2010	2	0.9	70.6
FY 2011	2.5	0.4	67.8
FY 2012	2.0	0.6	70.2

Formal Review of Citations

The Review Board, consisting of five members appointed by the governor, may affirm, reverse, modify or supplement the decision of the ALJ. The Board's decision may be appealed to the Arizona Court of Appeals.

Post-contest data reflected the outcomes of hearings with the ICA. A higher percentage of violations (35.4%) were vacated in FY 2012 as compared to the federal percentage of 22.5%. The retention rate for penalties after contest was 54.3% compared to the federal rate of 50.2%. Violations were reclassified at a significantly lower rate (0.4%) than the federal rate of 12.4%. ADOSH's defenses are adequate and documentation supports citations. ADOSH's performance is acceptable.

C. Standards and Federal Program Changes (FPCs) Adoption Standards Adoption

ADOSH has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. The issue that arose under residential fall protection occurred due to legislation passed by the state (SB 1441).

Finding 12-06: ADOSH is enforcing SB 1441 which does not protect workers in residential construction between 6 and 15 feet and does not afford the same level of protection as Federal OSHA.

Recommendation 12-06: ADOSH must require conventional fall protection for all residential construction work performed 6 feet or more above lower levels and take enforcement action requiring employers to use conventional fall protection.

During this evaluation period, OSHA issued one final rule that required adoption. Table 8 lists the FY 2012 Standards on the Automated Tracking System:

Table 8

Standard:	State Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Adoption Date:
29 CFR 1910.102 Revising Standards Reference in the Acetylene Standard (03/08/2012)	05/08/2012	Yes	Yes	09/08/2012	11/05/2012
29 CFR 1910, 1915, 1917, 1918, 1926 Hazard Communication-Globally Harmonized System of Classification (03/26/2012)	05/08/2012	Yes	Yes	09/26/2012	11/05/2012

ADOSH continues to adopt federal standards though the date of adoption is somewhat tardy.

Federal Program/State Initiated Changes

Table 11 lists the 6 Federal Program Changes (FPCs) on the Automated Tracking System (ATS) that required a response in FY 2012:

Table 9

FPC Directive/Subject:	State Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Adoption Date:
CPL 02-01-053 2012 482 Compliance Policy for Manufacture, Storage, Sale, Handling, Use, and Display of Pyrotechnics (10/27/2011)	11/07/2011	Yes	Yes	05/07/2012	11/09/2011
CPL 03-00-014 2012 483 National Emphasis Program-PSM Covered Chemical Facilities (11/29/2011)	02/01/2012	Yes	Yes	08/01/2012	02/01/2012
CPL 03-00-016 2012 484 Nursing Home NEP (04/05/2012)	05/08/2012	Yes	Yes	11/08/2012	05/28/2012
CPL 03-00-153 2012 504 Communicating OSHA Fatality Inspection Procedures to a Victim's Family (04/17/2012)	05/25/2012	Yes	Yes	11/25/2012	11/19/2012
CPL 02-00-154-2012 524 Longshoring and Marine Terminals Tool Shed Directive (07/31/2012)	08/28/2012	No	N/A	N/A	N/A
CPL 02-03-004 2012 544 Section 11(c) Appeals (09/12/2012)	09/13/2012	Yes	No	03/13/2013	Pending

ADOSH provided their intent of adoption for program changes in a timely manner. The one exception was CPL -3-00-154 which was not adopted. This change was in the marine and longshoring industry for which Arizona does not have jurisdiction.

Table 10 shows there were 2 State Initiated Changes in FY 2012:

Table 10

Subject	Effective Date
ADOSH – New CSHO Training	01/13/2012
Residential Fall Protection in Construction	05/25/2012

The state submitted a “side-by-side” analysis to federal OSHA for the Residential Fall Protection in Construction change.

D. Variances

ADOSH did not process any variances during this evaluation period.

E. Public Employee Program

ADOSH’s enforcement program for state and local government is identical to that in the private sector. ADOSH scheduled inspections and issued citations and penalties for both in the same manner, but state agencies were represented by the Attorney General’s Office if citations were contested. In FY 2012, 46 public sector inspections were projected and the state exceeded this goal by performing 78 inspections.

F. Discrimination Program

Arizona provides a discrimination program equivalent to that provided by Federal OSHA. In FY 2012, there were a total of 63 cases with 53 cases completed. Thirty seven (37) of these cases were completed timely and 26 were overage cases. Only a single case was litigated, though ADOSH's three investigators found 17 merit cases and settled 17 cases. Ten (10) cases were withdrawn and 27 were dismissed. ADOSH whistleblowers continue to improve both the timeliness and merit findings compared to FY 2011. ADOSH's timeliness of completed cases was 58.18% within 90 days in this period. Arizona's merit rate of 32.73% is considerably higher than the national meritorious rate of 23.4%.

Table 11
11(c) Investigations (SAMM 13, 14, 15)

	FY 2010	FY 2011	FY 2012	FY 2012 National Average (3 years)
Completed Within 90 Days (SAMM 13)	34.5%	35.56%	58.18%	100%
Merit Cases (SAMM 14)	20.69%	24.44%	32.73%	23.4%
Merit Cases Settled (SAMM 15)	100%	90.91%	100%	89.2%

The following findings were identified in the evaluation of fiscal year 2011. The first finding requires long term action by ADOSH and the remaining three are awaiting verification of the corrective action already taken. That verification will occur during the evaluation of the 2013 fiscal year.

Finding 12-02 (formerly 11-07): There was no consistent policy or practice regarding contacting third party non-management witnesses privately for discrimination complaints, where possible (without going through respondent's management or representatives), nor was it a standard practice to discuss and offer such witnesses conditional confidentiality.

Recommendation 12-02 (formerly 11-07): ADOSH should adopt a consistent policy on the treatment of 3rd party non-management witnesses for discrimination complaints. ADOSH should revise its Investigations Manual to specify the policy for handling third party non-management witnesses.

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Finding 12-05 (formerly 11-12): The selective review of discrimination cases indicated that some cases were misclassified as to the way they were resolved on IMIS.

Recommendation 12-05 (formerly 11-12): ADOSH should ensure that the resolution of discrimination cases is classified correctly and entered into IMIS under the proper categories.

G. Voluntary Compliance Program

ADOSH maintains a Voluntary Protection Program (VPP) which is consistent with federal OSHA's policies. In FY 2012, the last year of the ADOSH's five year Strategic Plan, VPP membership increased with the approval of two additional sites. ADOSH has now welcomed 19 employers into the VPP program, which is one less than ADOSH's five year Strategic Plan goal of 20. Regardless, the achievement of 19 employers entering the VPP program is an indication of ADOSH's commitment to voluntary protection and has given more employers in Arizona the opportunity to become leaders in safety and health in their respective industries.

In FY 2012, ADOSH had one safety consultant (60% funding) and one health consultant (90% funding) conducting Public Sector Consultation visits. ADOSH conducted 26 visits to public sector employers during this fiscal period. This accounts for far more consultation visits than the state originally projected to conduct which was 16. The state found 103 hazards all of which were completed timely. There were no public sector employers in the SHARP program.

H. Program Administration

In FY 2012, Arizona's federally-approved state OSHA program was funded at \$4,812,800 of which \$2,406,400 were federal funds. Later in the year, ADOSH de-obligated \$200,000 from its 23(g) federal grant due to the unexpected loss of compliance officers from the ADOSH program, which resulted in reduction of the salary projections.

V. State Progress in Achieving Annual Performance Goals

ADOSH established two broad goals in its five-year Strategic Plan which covered the years 2008-2012. ADOSH's FY 2012 performance goals support Goal 3 of the Strategic Plan of the Industrial Commission of Arizona (ICA) which charges the ICA to ensure that ADOSH is efficient and effective in reducing workplace injuries and illnesses, with the ultimate outcome goal to Reduce Workplace Injuries, Illnesses, and Fatalities.

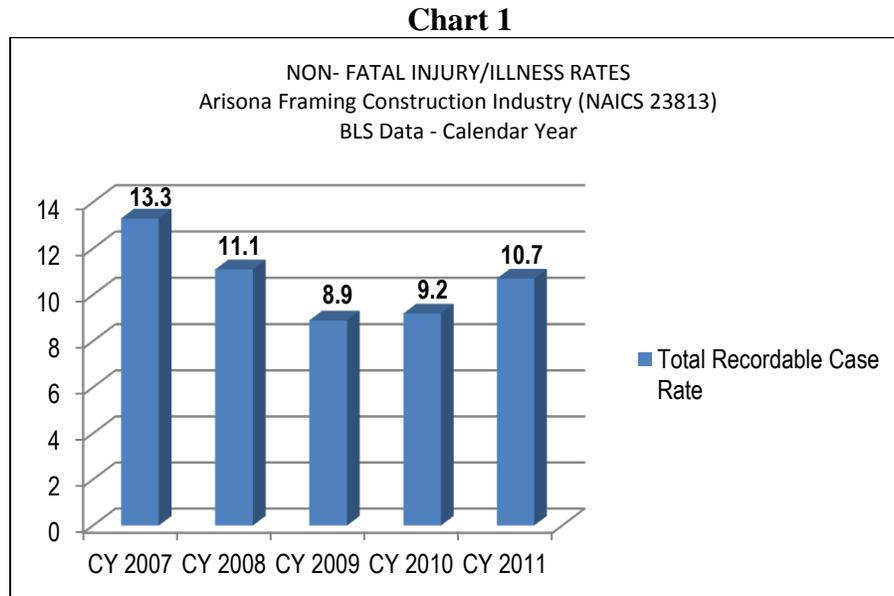
Strategic Goal 1.1: Reduce the injury and illness rate by 10% in the framing construction industry (SIC 1751)

Performance Goal: Reduce the injury and illness rate by 2% in the framing construction industry.

Results: In FY 2012, ADOSH completed 53 compliance inspections in the framing construction industry and identified 87 hazards.

Outcome: ADOSH's annual goal was not met for the second year in a row. Though 53 inspections were conducted, and several hazards were cited this level of enforcement was insufficient to drive FY2012 fiscal rates down by 2%. Fortunately, the overall goal was met

under its five-year strategic plan by reducing injuries and illnesses over 19% from the CY 2007 BLS rate with 2009 as illustrated below Chart 1.

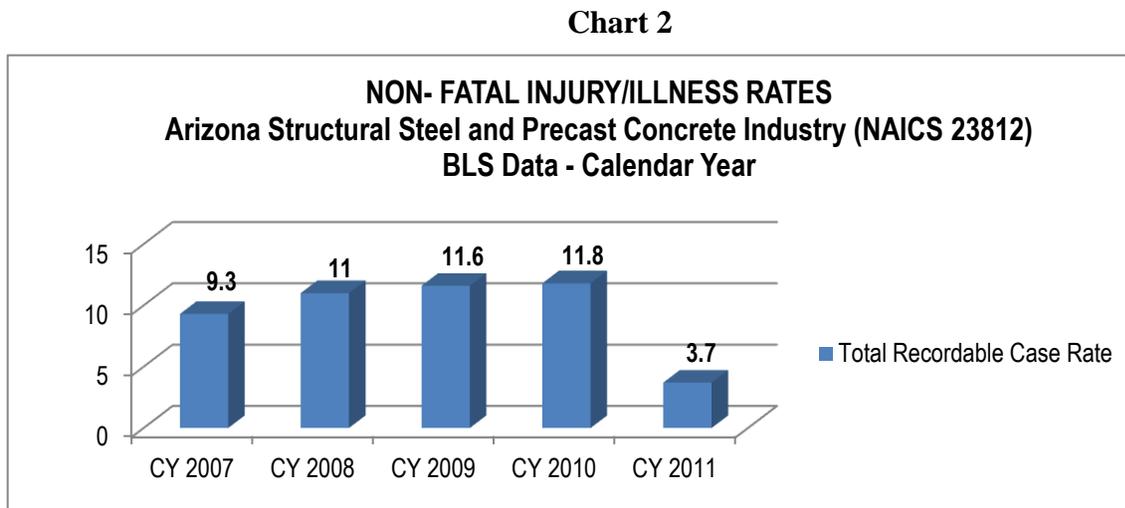


Strategic Goal 1.2: Reduce by 10% the injury and illness rate in the structural steel and precast concrete industry (SIC 1791)

Performance Goal: Reduce by 2% (from the previous year) the injury and illness rate in the structural steel and precast concrete industry.

Results: In FY 2012, ADOSH conducted 20 compliance inspections in the structural steel and precast industry and identified 23 hazards. The injury and illness rate in Arizona dropped from CY 2006 to CY 2007 and then continued to climb each year through CY 2010 until CY 2011 when the rate took a significant decrease as illustrated below Chart 2.

Outcome: Overall, the strategic plan goal to reduce the injury and illness rate in this industry by 10% was met. The reduction in injuries and illnesses in this industry dropped almost 69% last year.

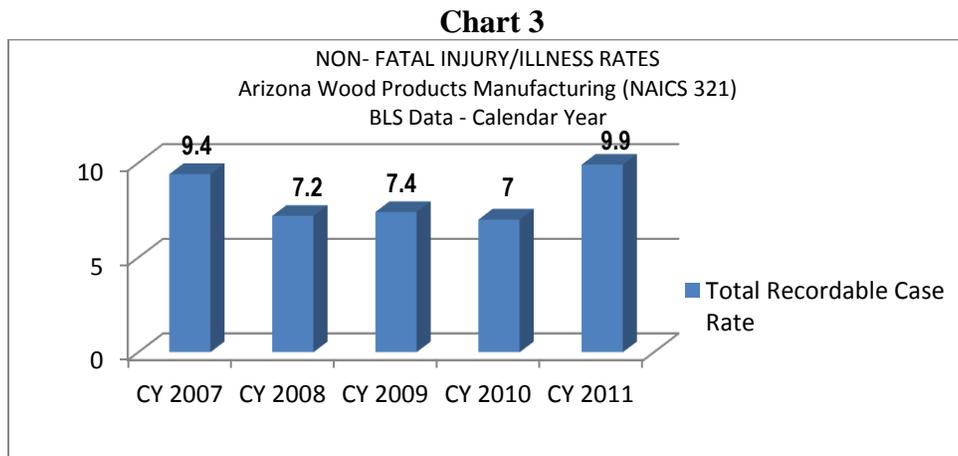


Strategic Goal 1.3: Reduce by 10% the injury and illness in the wood products manufacturing industry, NAICS 321. (SIC 2441 - 2449, 2493 - 2499, and 2511 - 2512)

Performance Goal: Reduce by 2% the injury and illness rate in the wood products manufacturing industry.

Results: In FY 2012, ADOSH completed nine compliance inspections in the wood products manufacturing industry and identified 56 hazards.

Outcome: From CY 2007 until CY 2010, the overall industry case rate in Arizona has dropped by 23.9% (FY 2010 BLS data for NAICS 321). In CY 2011, this rate took a significant jump as the industry rebounded and quickly ramped up production increasing the rate by 7% above the baseline for CY 2006. This represents a 70% hike in the injury and illness rate in just the last year. The Chart 3 below illustrates the change in the Total Recordable Case Rate for NAICS 321 over the last five years of BLS data. Thus, the state did not meet their annual performance goal or their five-year strategic goal. No finding is proposed by OSHA due to this being the final year of the state's strategic goal in this industry.



Strategic Goal 1.4: Reduce by 10% the injury and illness rate in the architectural and structural metals manufacturing industry, NAICS 3323 (SIC 3441 – 3449).

Performance Goal: Reduce by 2% the injury and illness rate in the architectural and structural metals manufacturing industry.

Results: In FY 2012, 26 compliance inspections were conducted in the architectural and structural metals manufacturing industry and 164 hazards were identified. Their annual performance activity goal was to conduct 50 inspections in this industry, with at least 200 hazards identified. However, ADOSH achieved their annual goal of reducing the injury and illness rate by 2%.

Outcome: The annual goal of reducing the injury and illness rate by 2% was met. However, the goal over the five-year period was unable to be assessed in that BLS did not report the same industry rate as initially used in the baseline year. A new rate was used for comparison purposes in CY 2009. The new rate was the parent industry (Fabricated Metal Products). This rate was much lower and not comparable to the sub-category rate from CY 2006 for purposes of this goal.

Strategic Goal 1.5: -- (This is a 21(d) Cooperative Agreement goal.)

Strategic Goal 1.6: -- (This is a 21(d) Cooperative Agreement goal.)

Strategic Goal 1.7: Approve at least 20 new workplaces for inclusion in the Arizona Voluntary Protection Program (VPP).

Performance Goal 1.7: Approve at least 4 new workplaces for inclusion in the VPP.

Results: In FY 2012, only two new employers were added to the Voluntary Protection Program (VPP). ADOSH continued to include more businesses into the voluntary compliance programs throughout the five-year period in pursuit of this goal. ADOSH brought 19 new workplaces into the VPP.

Outcome: The five-year goal of increasing active VPP sites to 20 new employers was not achieved.

Strategic Goal 2.1: Obtain first-level decision in 90% of discrimination investigations within 90 calendar days of receipt.

Performance Goal 2.1: Obtain first-level decision in 75% of discrimination investigations within 90 calendar days of receipt.

Results: In FY 2012 69% of the case files were completed within the mandated timeframe of 90 days.

Outcome: Although the annual goal and five-year strategic goals were not met, the timeliness for completion of cases was still better than the federal performance and above the FY 2007 baseline of 56%.

Strategic Goal 2.2: Reduce citation lapse times by 25%.

Performance Goal: Reduce citation lapse times by 5%.

Results: In FY 2012, citation lapse time averaged 46.83 days for safety and 32.76 days for health, which is a significant decrease from the FY 2011 lapse times for safety (60.74 days) and health (35.68 days).

Outcome: Although the five-year results of 25% reduction in lapse time were not achieved for both safety and health, the overall lapse time is lower than the FY 2007 baseline of 56.34 days for safety and 43.29 days for health as well as lower than the current National Average of 55.9 days and 67.9 days respectively.

VI. Other Areas of Note

Complaint About State Plan Administration (CASPA):

Two CASPAs were filed in FY 2012.

2012-AZ 27: This significant CASPA was addressed in Section II Major New Issues of this report. OSHA has found that ADOSH's enforcement of SB 1441 is not at least as effective as 29 CFR 1926.501(b)(13). ADOSH was informed of OSHA's findings on December 7, 2012. On February 1, 2013, ADOSH submitted a letter to OSHA detailing ADOSH's concerns over the

OSHA finding; the letter is currently under review. ADOSH must ensure at least as effective as Federal enforcement in residential construction to maintain funding and approval as a state plan state.

2012-AZ 28: This CASPA alleged that ADOSH failed to take a whistleblower complaint when it was first made. OSHA findings agreed that ADOSH did not take a whistleblower complaint when an allegation was first made. ADOSH was first informed of this finding on March 6, 2013 and sent a response letter with appropriate corrective action on April 1, 2013.

Appendix A – New and Continued Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11#
12-01	Citations are not classified as serious in accordance with the FOM. The Percentage of inspections resulting in Serious, Willful and Repeat violations were significantly below the national average. This is substantially similar to the previous Findings 10-16 which stated “ADOSH’s policy on classification violations does not ensure violations that would be considered “Serious” under the Federal FOM are classified as “Serious”.	Adopt violation classification policies and procedures equivalent to Federal OSHA regarding descriptions on supporting “serious” classification (Federal FOM, page 4-10 to 4-11), supporting “willful” violations (Federal FOM, page 4-30 to 4-32), and combining/grouping violations (Federal FOM, page 4-37 to 4-39).	11-03
12-02	There was no consistent policy or practice regarding contacting third party non-management witnesses privately for discrimination complaints, where possible (without going through respondent’s management or representatives), nor was it a standard practice to discuss and offer such witnesses conditional confidentiality.	ADOSH should adopt a consistent policy on the treatment of 3 rd party non-management witnesses for discrimination complaints. ADOSH should revise its Investigations Manual to specify the policy for handling third party non-management witnesses.	11-07
12-03	In three of the cases reviewed, the discrimination case files did not contain any notes of the interviews and other communications with the complainant or relevant witnesses, though brief references were made to these interviews or communications in the final investigative report for each case.	ADOSH should consistently document all discrimination complainant and witness interviews to comport with the manual requirements listed above. Notes of the interviews should be taken and kept in the case files. Corrective Action Taken - Awaiting Verification	11-08
12-04	Certain elements of whistleblower complaints were not fully or consistently analyzed in some of the final investigative reports, including dual motive, animus, and credibility assessment.	In cases in which the respondents appeared to have dual or mixed (both retaliatory and legitimate) motives in taking adverse actions against the complainants in question, ADOSH should always discuss and evaluate respondents’ dual/mixed motives in the final investigative reports for discrimination complaints. Corrective Action Taken - Awaiting Verification	11-09
12-05	The selective review of discrimination cases indicated that some cases were misclassified as to the way they were resolved on IMIS.	ADOSH should ensure that the resolution of discrimination cases is classified correctly and entered into IMIS under the proper categories. Corrective Action Taken - Awaiting Verification	11-12
12-06	ADOSH is enforcing SB 1441 which does not protect workers in residential construction between 6 and 15 feet and does not afford the same level of protection as Federal OSHA.	ADOSH must require conventional fall protection for all residential construction work performed 6 feet or more above lower levels and take enforcement action requiring employers to use conventional fall protection.	N/A

Appendix B – Observations subject to Continued Monitoring

FY 2012 Arizona State Plan Abridged FAME Report

There were no observations to report during this fiscal year.

Appendix C – Status of FY 2011 Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-01	Appropriate condolence letters to the families of victims notifying them of enforcement actions were not contained in all fatality case files.	Ensure that all appropriate letters are sent at the beginning of a fatality investigation and at the inspection's conclusion which notifies families of victims of the enforcement action(s) taken.	ADOSH will ensure that all appropriate letters are sent during the fatality investigation process. Sample letters have been created and staff has been instructed on the use of such letters to ensure appropriate communication with victims' families.	The state completed the corrective action stated in the plan by providing CSHOs with a template letter and requiring it to be standard practice to include condolence letters in fatality case files since 3/13/12. This corrective action was verified by OSHA.	Completed
11-02	ADOSH is not performing a sufficient number of inspections and inspection goals were not met.	Ensure all available tools and resources are used to achieve inspection goals.	ADOSH will continue to ensure that all available tools and resources are used to achieve inspection goals. Inspection goals are set at the beginning of each fiscal year and are based upon resources we believe will be available throughout the year. Unfortunately, unforeseen circumstances such as staff turnover often prevent us from reaching the goals. We are on track to meet FY 2012 inspection goals.	The state took action by conducting 1138 inspections in FY 2012, which represents a 24% increase from the previous year and exceeded the state's goal of 1103. This corrective action was verified by state and federal data.	Completed

Appendix C – Status of FY 2011 Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-03	Citations are not classified as serious in accordance with the FOM. The Percentage of inspections resulting in Serious, Willful and Repeat violations were significantly below the national average. This is substantially similar to the previous Findings 10-16 which stated “ADOSH’s policy on classification violations does not ensure violations that would be considered “Serious” under the Federal FOM are classified as “Serious”.	Adopt Violation Classification policies and procedures equivalent to Federal OSHA regarding descriptions on Supporting “Serious” Classification (Federal FOM, page 4-10 to 4-11), Supporting “Willful” Violations (Federal FOM, page 4-30 to 4-32), and Combining/Grouping Violations (Federal FOM, page 4-37 to 4-39).	ADOSH believes its violation classification policies are appropriate. While we are willing to look at individual hazards to see if a change in classification is appropriate, we do not believe we need to make broad, sweeping changes. The fact that ADOSH reclassifies very few citations at settlement is evidence of the appropriateness of the original classification. We respectfully decline to implement any corrective action, other than to continue reviewing individual citations to ensure they are classified appropriate to the hazard.	Uncorrected. The state declines to take any corrective action.	Open
11-04	Sufficient employee interviews were not documented in inspection case files.	Ensure employee interviews are appropriate in number to document employee exposure to serious and non-serious hazards.	Staff has been instructed regarding the target number of employee interviews for each inspection. This instruction took place as recently as 10/17/12.	The state took action as stated in the corrective action plan. This corrective action was verified by OSHA. ADOSH requires a minimum number of inspections to be performed at each job site based on the size of the facility.	Completed

Appendix C – Status of FY 2011 Findings and Recommendations
FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-05	ADOSH did not reduce the injury and illness rate in the structural steel and precast concrete industry and the FY 2011 annual performance goal 1.2 was not met.	Implement additional measures to target the structural steel and precast concrete industry to ensure the injury and illness rate turns downward. ADOSH responded to this recommendation from FY 2010 FAME report by modifying their FY 2012 Annual Performance Goal. This was noted as corrected on the CAP for FY 2010.	ADOSH is attempting to positively affect the injury and illness rate in this industry. We note that FY 2012 is our last year working with this particular goal. Other activities such as OSHA mandated national emphasis programs have required staff and resources that would otherwise have been directed to this goal.	ADOSH took corrective action by increasing enforcement and consultation presence in the industry whereby the injury and illness rates for 2011 were significantly reduced. ADOSH met its annual performance goal for FY12 and its five-year Strategic Plan goal to reduce this rate by 10%. This corrective action was verified by state and federal data.	Completed
11-06	There was not a consistent policy or practice of informing discrimination complainants of their right to dually file with federal OSHA.	To ensure that discrimination complainants understand their right to dual file with federal OSHA, ADOSH needs to adopt a consistent procedure for informing complainants of their dual-filing right. ADOSH should revise its Investigations Manual to specify the procedure for dual filing of complaints with federal OSHA.	ADOSH procedures have been updated to ensure a consistent practice of informing complainants of their right to dually file. Initial letters to complainants all summarize this right, and investigators are trained to verbally inform complainants of this right.	The state completed the corrective action stated in their plan on 6/1/12. A new template is being used. This item has been verified by the region.	Completed

Appendix C – Status of FY 2011 Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-07	There was no consistent policy or practice regarding contacting third party non-management witnesses privately for discrimination complaints, where possible (without going through respondent's management or representatives), nor was it a standard practice to discuss and offer such witnesses conditional confidentiality.	ADOSH should adopt a consistent policy on the treatment of 3 rd party non-management witnesses for discrimination complaints. ADOSH should revise its Investigations Manual to specify the policy for handling third party non-management witnesses.	ADOSH will work with the ICA Legal Department and adopt a more consistent policy regarding the treatment of 3 rd party, non-management witnesses for discrimination complaints.	OSHA did not verify completion of the corrective action during FY 2012.	Open
11-08	In three of the cases reviewed, the discrimination case files did not contain any notes of the interviews and other communications with the complainant or relevant witnesses, though brief references were made to these interviews or communications in the final investigative report for each case.	ADOSH should consistently document all discrimination complainant and witness interviews to comport with the manual requirements listed above. Notes of the interviews should be taken and kept in the case files.	ADOSH investigators have been trained on the requirement to consistently document all witness interviews. Interviews are to be recorded, or notes are to be taken if not recorded. In all cases, all interviews are to be summarized in writing as a part of the final investigative report	ADOSH reported it has trained their investigators on the requirement to consistently document all witness interviews. In addition, ADOSH reports templates have been created for discrimination investigators to ensure interviews are taken and notes are included in case files.	Awaiting Verification
11-09	Certain elements of whistleblower complaints were not fully or consistently analyzed in some of the final investigative reports, including dual motive, animus, and credibility assessment.	In cases in which the respondents appeared to have dual or mixed (both retaliatory and legitimate) motives in taking adverse actions against the complainants in question, ADOSH should always discuss and evaluate respondents' dual/mixed motives in the final investigative reports for discrimination complaints.	ADOSH investigators have been trained on the need to discuss and evaluate dual or mixed motives in their final investigative reports. In the future, all cases that appear to have a dual or mixed motive will be properly documented.	ADOSH reports templates have been created for discrimination investigators to ensure consistent documentation and evaluation of dual and mixed motives.	Awaiting Verification

Appendix C – Status of FY 2011 Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-10	The original date the complainant filed a discrimination complaint orally with ADOSH should have been used as the filing date rather than the date the complainant returned the follow-up questionnaire.	The original date a complainant files a discrimination complaint orally with ADOSH should be used as the filing date of the complaint.	ADOSH has changed its policy such that the original date a complainant files an oral discrimination complaint is now used as the filing date of the complaint.	The state took action as stated in the corrective action plan on 10/06/11. OSHA concurs with this action and has verified the change in policy. A memo was sent to staff regarding the policy change in filing of oral complaints.	Completed
11-11	The review of case files indicated that ADOSH was not sending an opening letter to each discrimination complainant.	An opening letter shall be sent to each and every discrimination complainant for whom an 11(c) complaint was opened and docketed. The ADOSH Investigations Manual, Chapter III; conduct of the Investigation, should be revised to reflect the OSHA requirement for an opening letter to be sent to each complainant.	An opening letter is now being sent to all complainants where a discrimination complaint is opened and docketed.	The state took action as stated in the corrective action plan on 6/1/12. OSHA concurs with this action and has verified the change in policy. A new template for the letter for complaints has been provided for staff and is in use.	Completed
11-12	The selective review of discrimination cases indicated that some cases were misclassified as to the way they were resolved in IMIS.	ADOSH should ensure that the resolution of discrimination cases is classified correctly and entered into IMIS under the proper categories.	ADOSH does ensure that all discrimination case resolutions are classified correctly and entered into IMIS under the proper categories. We will regularly monitor our data entry to ensure it is accurate.	The state is continuing to regularly monitor data entry to ensure this issue is corrected. ADOSH reports that changes in IMIS have corrected this situation.	Awaiting Verification

Appendix C – Status of FY 2011 Findings and Recommendations
 FY 2012 Arizona State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-13	“Administratively closed” discrimination cases were not being recorded in IMIS. Complainant inquiries which were closed due to lack of jurisdiction, untimeliness or, as alleged, was missing one or more prima facie elements were maintained in a separate file by the Phoenix supervisor, but were not recorded in IMIS.	To ensure that accurate data is kept about each discrimination complaint and inquiry, ADOSH should track and record “administratively closed” discrimination complaints or inquiries in IMIS, which now has the functionality to enable the recording of such complaints or inquiries, including the generation of a local case number.	ADOSH does track and record administratively closed complaints within IMIS. It was not until mid-way through FY 2011 that federal OSHA modified the IMIS system to allow the tracking of administratively closed complaints. The fact that such complaints could not be recorded in IMIS was not an issue that ADOSH had authority to resolve.	ADOSH follows federal OSHA Whistleblower (WB) procedures regarding entering administrative closings. All cases identified by OSHA are entered. OSHA concurs with this action. ADOSH reports that changes in IMIS have corrected this situation.	Completed
11-14	Some but not all investigators who investigated discrimination complaints attended OSHA OTI 1420 Basic Investigations course or received comparable basic whistleblower investigations training.	ADOSH should ensure that all its investigators take the OSHA OTI 1420 Basic Investigations course or its equivalent.	Some investigators have already attended this class, and as space permits, ADOSH is committed to sending its remaining investigators to this course.	All ADOSH investigators have attended and passed the OTI 1420 WB Course. ADOSH has now sent all of its investigators to OTI 1420. OSHA concurs and verified this corrective action.	Completed
11-15	ADOSH should re-evaluate annual performance goal 1.4 to ensure inspections are made and hazards are identified.	Assign an adequate number of staff and resources to ensure the annual performance goal of 50 inspections and 200 hazards are identified.	ADOSH conducted 26 inspections in this industry and identified 164 hazards during FY 2012. The overall injury and illness rate for the industry dropped 3%, which met ADOSH’s annual performance goal of 2%.	OSHA concurs with this action and has verified the corrective action is complete through state data (Appendix E).	Completed
11-16	Case files are not processed expeditiously causing citation lapse time for safety inspections to increase notably higher than the national average.	Ensure that citations for safety inspections are issued in a timely fashion with a goal to meet at least the national average.	ADOSH has instituted internal changes to help reduce its safety citation lapse time. Recent data indicate success and in fact, our safety citation lapse time is now below the national average.	The state has taken corrective action as stated in the plan on 12/31/2011. OSHA concurs and has verified the corrective action is complete.	Completed

Appendix D – FY 2012 State Activity Mandated Measures (SAMM) Report
FY 2012 Arizona State Plan Abridged FAME Report

NOV 09, 2012
 RID: 0950400

MEASURE	From: 10/01/2011		CURRENT		REFERENCE/STANDARD
	To: 09/30/2012		FY-TO-DATE		
1. Average number of days to initiate Complaint Inspections	2084	143	5.75	4.20	Negotiated fixed number for each state
	362	34			
2. Average number of days to initiate Complaint Investigations	1613	140	3.21	3.68	Negotiated fixed number for each state
	501	38			
3. Percent of Complaints where Complainants were notified on time	354	35	98.88	100.00	100%
	358	35			
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0	0	0	0	100%
	0	0			
5. Number of Denials where entry not obtained	0	0			0
6. Percent of S/W/R Violations verified					
Private	532	16	93.99	69.57	100%
	566	23			
Public	10	1	100.00	100.00	100%
	10	1			
7. Average number of calendar days from Opening Conference to Citation Issue					
Safety	24240	4753	48.57	57.26	2032800 55.9 National Data (1 year)
	499	83			36336
Health	8180	674	32.46	29.30	647235 67.9 National Data (1 year)
	252	23			9527

0*AZ FY12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D – FY 2012 State Activity Mandated Measures (SAMM) Report
FY 2012 Arizona State Plan Abridged FAME Report

RID: 0950400

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	125	22	76860
Safety	27.90	33.33	58.5
	448	66	131301
	47	3	9901
Health	40.87	27.27	53.0
	115	11	18679
9. Average Violations per Inspection with Violations			
	823	100	367338
S/W/R	1.09	.93	2.1
	750	107	175950
	2213	266	216389
Other	2.95	2.48	1.2
	750	107	175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	978900	86850	624678547
	1234.42	895.36	1990.5
	793	97	313826
11. Percent of Total Inspections in Public Sector	78	2	123
	6.86	1.64	3.9
	1137	122	3177
12. Average lapse time from receipt of Contest to first level decision	4447	169	3197720
	117.02	169.00	187.0
	38	1	17104
13. Percent of 11c Investigations Completed within 90 days*	32	7	
	58.18	50.00	100%
	55	14	
14. Percent of 11c Complaints that are Meritorious*	18	8	1619
	32.73	57.14	23.4
	55	14	6921
15. Percent of Meritorious 11c Complaints that are Settled*	18	8	1444
	100.00	100.00	89.2
	18	8	1619

*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/2013

0*AZ FY12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E - FY 2012 State OSHA Annual Report (SOAR)
FY 2012 Arizona State Plan Abridged FAME Report

[Available Upon Request]