

FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

Arizona Division of Occupational Safety and Health (ADOSH)



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I. Executive Summary

A. State Plan Activities, Themes, and Progress

The purpose of this report is to assess the Arizona Division of Occupational Safety and Health (ADOSH)'s activities for Fiscal Year (FY) 2014 and its progress in resolving outstanding recommendations from the FY 2013 Federal Annual Monitoring and Evaluation Report (FAME). ADOSH is the agency responsible for protecting workers from health and safety hazards on the job in Arizona's workplaces.

One notable challenge to their mission was residential fall protection requirements. Arizona's statute A.R.S. §23-492 did not require residential construction industry employers to protect workers with fall protection below 15 feet. On February 7, 2015, A.R.S. § 23-492 through 23-492.09 was repealed. Notice was given to OSHA and the public that ADOSH would enforce 29 CFR 1926.501(b)(13), which regulates fall protection in residential construction. OSHA will continue to monitor the transition and enforcement of fall protection in residential construction throughout the next fiscal year.

Modest advancements were made toward closing corrective action plan (CAP) items from FY 2013, but several findings continue to require attention. Good progress was made at increasing the number of serious violations identified, as well as the number of repeat and willful violations. An increase in response time for investigations to complaints and a continuing high in-compliance rate, however, continued to be problematic. Important outreach work was conducted to various stakeholders regarding fall protection.

B. State Plan Introduction

The state of Arizona operates an approved Occupational Safety and Health Plan administered by ADOSH under the Industrial Commission of Arizona (ICA). Final approval for the State Plan, in place since June 20, 1985, requires a benchmark of nine safety and six health inspectors, which has been easily maintained throughout the year. Laura L. McGrory continued in her position as the Director of the ICA and Designee for the State Plan. Bill Warren serves as the Division Director with Jessie Atencio and Larry Gast as Assistant Directors.

Organizational units include Administration, Safety and Health Compliance, Consultation, Boiler Safety, Elevator Safety, and Research and Statistics. The Boiler and Elevator Safety units are not funded under the OSHA 23(g) grant. In addition, the Research and Statistics Unit operates under a grant from the Bureau of Labor Statistics and is also not part of the OSHA 23(g) grant.

OSHA's standards, most of the Agency interpretations, and compliance policies are generally adopted identically by ADOSH. All private and public sector employers are covered by the State Plan with the exception of federal workers, mining, smelters, and areas of exclusive federal jurisdiction, such as tribal lands. However, ADOSH developed a unique standard for agriculture.

State Plan offices are located in Phoenix and Tucson. Mr. Warren oversees all operations, while Mr. Gast is primarily responsible for the enforcement program and Mr. Atencio is responsible for the Consultation, Outreach and VPP Programs.

The grant provided funding for 56 staff positions, 20 of these are safety officers, ten are industrial hygienists and two are discrimination investigators. Consultation for state and local government employers is provided by seven consultants who spend 15% of their time under the 23(g) grant and the remainder of their time in the private sector consultation program, which is funded by the 21(d) cooperative agreement. The private consultation performance results were covered in the FY 2014 Regional Annual Consultation Evaluation Report (RACER).

The Governor's budget allocated the minimum contribution to meet the Occupational Safety and Health grant requirements. The grant agreement established the initial base award to fund the program at \$4,672,800 (\$2,286,400 federal, \$2,286,400 required State Plan match and \$100,000 in 100% State Plan funds). An increase to the base award was declined in April. In August, a reduction to their award in the amount of \$450,000 was requested by ADOSH (\$175,000 federal, \$175,000 required State Plan match and \$100,000 in 100% State Plan funds). The closeout financial report stated the final program costs under the grant were \$4,222,800 (\$2,111,400 federal and \$2,111,400 State Plan funds). No federal funds were lapsed.

C. Data and Methodology

Information and data referenced in this report were derived from the computerized State Activity Mandated Measures (SAMMs), OSHA Information System, Arizona's FY 2014 State OSHA Annual Report, the Bureau of Labor Statistics data, the FY 2014 23(g) grant, Complaint About State Program Administration (CASPA) investigation results, and OSHA's Integrated Management Information System (IMIS) reports. The review of the State Plan included information from the four quarterly meetings with the state during the period of review. In addition, the Annual Performance Plan and Five-year Strategic Plan results were referenced.

In addition, OSHA conducted discrimination case file reviews of ten randomly selected cases that were closed during FY 2014 to verify if the State Plan has made progress towards meeting the FY 2013 CAP items.

D. Findings and Observations

OSHA identified eight findings (all continued) and one observation (converted from a finding) for FY 2014. Five of the 15 findings from FY 2013 were completed during this year and two findings were reworded and combined into one finding for FY 2014. Four of the five completed findings were from the discrimination program. The State Plan has also taken some action on three additional FY 2013 findings that are still awaiting verification by OSHA. Appendix A describes new and continued findings and recommendations. Appendix B describes the new observation. Appendix C describes the status of each FY 2013 finding in detail. Details on the findings and observations are provided in Section III of this report.

II. Assessment of State Plan Performance

A. Major New Issues

Fall Protection: A Federal Register notice was published on February 6, 2015, which rejected Arizona's State Plan-initiated standard change for Residential Fall Protection. In turn, the state repealed the law; Arizona Revised Statutes Title 23, Chapter 2, Article 13, on February 7, 2015. ADOSH gave notice to OSHA and the public that 29 CFR 1926.501(b)(13) would be enforced commensurate with federal enforcement. Due to the inability to enforce the use of conventional fall protection in residential construction throughout 2014, there was a diminished ability to protect residential construction workers who were exposed to potentially fatal or permanently disabling injuries. This has been a serious concern to OSHA and the Agency will monitor the enforcement of this federal standard in 2015.

BNSF Railroad: As a result of a referral from OSHA, an investigation was opened pursuant to a rail yard worker complaint in Winslow. The railroad did not allow the CSHO to conduct air sampling, even after a warrant was issued, citing jurisdictional issues. ADOSH is in communication with the Federal Railroad Administration (FRA) for clarification of jurisdictional issues related to the rail tracks, rail bed and cars. This inspection has been open for over 500 days while a determination is being made between the two parties regarding ADOSH's legal ability to conduct air sampling. Because the inspection has been open for an extended time, the lapse time indicator is negatively impacted. It is hoped that resolution of this jurisdictional issue will have an impact on safety and health monitoring at rail yards throughout the country.

Nestle Purina Petcare Company, Flagstaff, AZ: The Purina Pet food factory combustible dust explosion in Flagstaff resulted in burn injuries to four contract workers. The workers injured were performing welding on a bucket elevator that contained an explosive atmosphere. The explosion attracted national attention and significant resources were dedicated to the inspection.

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

The Five-year Strategic Plan covers the years 2013-2017 and has two goals. The FY 2014 Annual Performance Goals also support the strategic plan of the ICA, which is to ensure that ADOSH is efficient and effective with the ultimate outcome of reducing workplace injuries, illnesses, and fatalities.

Five-year Strategic Goal 1: Improve workplace safety and health for all workers as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities.

Annual Performance Goal 1.1: Nursing Homes and Residential Care Facilities.

- Conduct 15 nursing home and residential care inspections.
- Identify and ensure correction of 100 serious hazards.
- Remove 200 workers from exposure to serious hazards.

Results:

- Nine compliance inspections were conducted in the nursing home and residential care facilities industry in FY 2014.
- Twenty-one serious hazards were identified and corrected.
- The number of workers removed from exposure to serious hazards was 177.

Assessment: This Annual Performance Goal was not met. Due to not finding significant hazards in the facilities visited, resources were allocated to other areas. Discussions between ADOSH and the OSHA Area Director about the lack of impact in this industry suggest this goal should be re-evaluated in FY 2016.

Annual Performance Goal 1.2: Residential Construction.

- Conduct 50 residential construction inspections.
- Identify and ensure correction of 200 serious hazards.
- Remove 300 workers from exposure to serious hazards.

Results:

- The number of inspections conducted in the residential construction industry was 112
- The number of serious hazards identified and corrected was 182.
- The number of workers removed from exposure to hazards was 742.

Assessment: Good progress was made toward meeting this goal. The number of inspections was exceeded, but the number of hazards identified fell a bit short.

Five-year Strategic Goal 2: Strengthen public confidence through continued excellence in the development and delivery of ADOSH services.

Annual Performance Goal 2.1: In addition to other training classes and outreach services, deliver 2 webinars or other online or broadcast training events.

Results:

ADOSH conducted 11 webinars and one broadcasting event in FY 2014. The webinars had at least 20 participants in each class and addressed employer responsibilities, worker rights, and workplace violence among other topics.

Assessment:

This annual performance goal was met.

Annual Performance Goal 2.2: Through ADOSH’s recognition and exemption programs, recognize two new workplaces in the Voluntary Protection Program (VPP).

Results:

ADOSH evaluated and approved three new workplaces into VPP.

Assessment:

This annual performance goal was met.

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

The following SAMM results were significant this fiscal year. Refer to Appendix D for a complete list of the State Activity Mandated Measures.

Complaints (SAMM 1 and SAMM 2):

Table 1 shows an increase over the last three years in the number of days the State Plan is taking to initiate both inspections and complaints.

Table 1

	FY 2012	FY 2013	FY 2014	Negotiated Goal
Days to Initiate an Inspection	5.75 days	6.55 days	8.29 days	7 days
Days to Initiate an Investigation	3.21 days	3.82 days	4.32 days	3 days

The average response time to initiate inspections was 8.29 days and the average time to initiate inquiries was 4.32 days. This deficiency is noted in Finding FY2014-01.

Serious/Willful/Repeat Violations (SAMM 9a):

The average of 1.12 serious, willful, or repeat violations per inspection was below the national average of 1.99. This deficiency is noted in Finding FY 2014-04.

Total Number of Inspections (SAMM 17)

According to the grant, the projected number of safety inspections was 922 and the number of health inspections was 453, for a total of 1,325 inspections. The number of inspections completed was 882 safety and 195 health inspections for a total of 1,077 inspections; 248 short of their goal. The State Plan conducted 1,077 inspections in FY 2014 compared to 1,158 in FY 2013. This is a year-to-year decrease of 81 inspections.

Percentage In-Compliance (SAMM 20 a/b)

In-compliance inspections have increased over the past three years as shown in the table below. This remains a finding from FY 2013.

Table 2

Percent In-Compliance	FY 2012	FY 2013	FY 2014	Reference Standard
Safety	33.29%	37.98%	42.65%	29.1%
Health	29.43%	33.57%	34.43%	34.1%

Fatality Response (SAMM 21)

Twenty-one fatality investigations were conducted during this fiscal year. Eighty-six percent of fatalities were responded to within one work day. Three inspections were not recorded into the system as being responded to in one day: Salt Mine Farms (Inspection #317602308), Cal Wrecking (Inspection #317871069), and CJ's Bathtub Refinishing & Repair, LLC Inspection (#317695104). All three instances suffered from data being entered into the NCR incorrectly. Once proper determinations were done, the data was updated accordingly.

III. Assessment of State Plan Corrective Actions

Finding FY 2013-01: The average response time to initiate a complaint investigation was 3.82 days, exceeding the negotiated response time of three days.

Recommendation FY 2013-01: Streamline the process for complaint processing and initiation of complaint investigations to reduce the response time to phone/fax complaints to within the negotiated response time of three days.

Current Status: Open.

Enhanced supervisory oversight did not result in a reduction. The response time continued to trend higher.

Finding FY 2013-02: Complaint case files lacked documentation that complainants were notified in writing of inspection results in 46% of the case files reviewed in accordance with the Field Operations Manual (FOM), Chapter 9 Complaint and Referral Processing, I. H. 3. a or b or I.H. 4 and 6.

Recommendation FY 2013-02: Where the identity and address of a complainant is known, ensure a letter of acknowledgement of the complaint and a letter communicating the outcome of the investigation results are sent to the complainant and a copy is placed in the case file.

Current Status: Awaiting verification.

ADOSH indicated they are now sending outcome letters and placing copies in the case file. This finding will require a case file review to close.

Finding FY 2013-03: An information letter to victims' families and an inspection results letter were not located in six of the 12 (50%) case files reviewed.

Recommendation FY 2013-03: Ensure families of victims are kept informed of the investigation and provided both the information and outcome of the inspection letters in accordance with FOM Chapter 11, II. G. 2 and 4.b.

Current Status: Awaiting verification.

ADOSH indicated they are now completing next-of-kin correspondence and placing copies in the case file. This finding will require a case file review to close.

Finding FY 2013-04: The rate of serious, willful, or repeat violations cited in programmed inspections was significantly lower than the national average.

Recommendation FY 2013-04: Determine the cause of the low rate of inspections with serious, willful, or repeat violations, improve site targeting, and implement corrective actions in accordance with FOM Chapter 3. II. *Inspection Planning* and II. A. 1. and Chapter 2. IV. B. 1. *Effective Use of Resources*.

Current Status: Open.

Enhanced supervisory oversight did not result in an increased serious, willful, repeat rate; the percentages are still relatively low. The average number of serious, willful, or repeat violations per inspection was 1.1 compared to the national average of 2.0. This finding was reworded and combined with FY 2013-05 and made into finding for FY 2014-014

Finding FY 2013-05: The average number of serious, willful, or repeat violations per inspection (0.98) was less than half the national average of 2.04.

Recommendation FY 2013-05: Determine the cause of the low rate number of inspections with serious, willful, or repeat violations and implement corrective actions in accordance with FOM Chapter 3. II *Inspection Planning* and II. A. 1 and Chapter 2. IV. B.1 *Effective Use of Resources*.

Current Status: Open.

Enhanced supervisory oversight did not result in an increased serious, willful, repeat rate; the percentages are still relatively low. The average number of serious, willful, or repeat violations per inspection was 1.1 compared to the national average of 2.0. This finding was reworded and combined with FY2013-04 and made into finding for FY 2014-14.

Finding FY 2013-06: The in-compliance rate for safety inspections exceeded the national data by 30%.

Recommendation FY 2013-06: Determine the cause of the high in-compliance rate, as indicated in SAMM #20 and implement corrective actions.

Current Status: Open.

The in-compliance rate for safety increased from 38% to 42%.

Finding FY 2013-07: Case files did not contain notations documenting penalty reductions and re-classifications in 88% of the cases reviewed.

Recommendation FY 2013-07: Ensure each case file contains documentation from the informal settlement conference for all citation deletions or reclassifications, and penalty reductions that result from the informal conference in accordance with FOM Chapter 7. II. F.1.2 and 3.

Current Status: Awaiting Verification.

Policies were developed to require supervisors to briefly justify penalty reductions, pursuant to the Arizona Administrative Code, R20-5-827. Supervisors are reinforcing policies to document all citation deletions, reclassifications, and/or penalty reductions as a result of an informal conference. This finding will require a case file review to close.

Finding FY 2013-08: Timely notification of intent to adopt Federal Program Changes was sent only 40% of the time.

Recommendation FY 2013-08: Implement procedures to ensure timely responses are sent to OSHA regarding ADOSH's intent to adopt Federal Program Changes.

Current Status: Completed.

Timely notification of adoption intent was consistent for all changes this fiscal year.

Finding FY 2013-09: ADOSH enforced A.R.S. §23-492 et seq., which does not protect workers in residential construction between six and 15 feet and does not afford the same level of protection as OSHA.

Recommendation FY 2013-09: ADOSH must require conventional fall protection for all residential construction work performed six feet or more above lower levels and take enforcement action requiring employers to use conventional fall protection.

Current Status: Converted to an Observation.

While A.R.S. §23-492 through 23-492.09 has been repealed and the federal Fall Protection standard that includes requirements for residential construction fall protection adopted, this finding will be re-worded and converted to an observation to ensure that the federal standard is appropriately enforced.

Finding FY 2013-10: The correct determination was not recorded in IMIS for whistleblower cases as required by the OSHA IMIS User Guide and WIM Chapter 6(IV)(C & D).

Recommendation FY 2013-10: ADOSH has no procedure to ensure that the correct determination is recorded in IMIS for whistleblower cases, and should follow the OSHA IMIS User Guide and WIM Chapter 6(IV)(C & D).

Current Status: Completed.

The correct determination was entered into IMIS, consistent with the provisions of the WIM and OSHA's IMIS User Guide, in all 10 of the case files reviewed.

Finding FY 2013-11: There was no documentation of screening in whistleblower case files as required by WIM Chapters 2(II)(A), 3(III), 3(VI)(D)(3), and 3(VI)(L)(1).

Recommendation FY 2013-11: ADOSH should follow OSHA's procedures to ensure that whistleblower case files include documentation of screening.

Current Status: Open.

The case file review showed that eight of ten cases continued to lack documentation of proper screening, contrary to WIM Chapters 2(II)(A), 3(III), 3(VI) and 3(VI)(L)(1). A proper screening should establish jurisdiction, timeliness, and that the complainant has made a prima facie allegation.

Finding FY 2013-12: A witness interview was not documented in the whistleblower case file as required by WIM Chapters 3(III), 3(VI)(D)(3), 3(VI)(E)(1), 3(VI)(H)(5), and 3(VI)(L)(1).

Recommendation FY 2013-12: ADOSH should follow OSHA's procedures to ensure that witness interviews are documented in the whistleblower case file.

Current Status: Completed.

Witness documentation was included in the case file in nine of ten case files having documentation of witness interviews per WIM Chapters 3(III), 3(VI)(D)(3), 3(VI)(E)(1), 3(VI)(H)(5), and 3(VI)(L)(1). Notably, the one case in which the Region did not find documentation of interviews did include, in its table of contents, a reference to "Employee recordings (envelope)" which suggests that interviews were conducted and recorded but not documented in writing.

Finding FY 2013-13: Whistleblower investigations did not contain evidence of disparate treatment in violation of WIM Chapter 3(VI)(E)(6).

Recommendation FY 2013-13: ADOSH should follow OSHA's procedures to ensure that whistleblower investigations include evidence of disparate treatment.

Current Status: Completed.

Six of the 10 cases reviewed required a disparate treatment analysis. All six included a discussion of disparate treatment, consistent with WIM Chapter 3 (VI)(E)(6).

Finding FY 2013-14: Nexus and dual motive were not properly analyzed in the Final Investigation Report (FIR) and the FIR does not analyze credibility assessments as required by The WIM Chapters 3(VI)(A, I, &J), 3(V)(A), 5(IV)(B)(3).

Recommendation FY 2013-14: ADOSH should follow OSHA's procedure by ensuring that nexus and dual motive are properly analyzed in the final report and the final report analyzes credibility assessments.

Current Status: Completed.

Six of the ten cases reviewed required a nexus, dual motive and/or credibility analysis. Five of these six included a sufficient nexus, dual motive, and credibility analysis where required, consistent with the WIM Chapters 3(VI)(A, I, &J), 3(V)(A), 5(IV)(B)(3).

Finding FY 2013-15: ADOSH did not achieve their goal of identifying hazards in nursing homes and ensuring workers were removed from the hazards inherent to that industry.

Recommendation FY 2013-15: Identify why this goal was not achieved and make the appropriate corrections.

Current Status: Open.

Some inspections were continued in this industry but not many hazards were found.

This goal may be re-evaluated in FY 2016 since OSHA's NEP on Nursing Homes expired on April 5, 2015.

Appendix A – New and Continued Findings and Recommendations
FY 2014 ADOSH Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY2014-01	The average response time to initiate a complaint investigation was 4.32 days, exceeding the negotiated response time of three days.	Streamline the process for complaint processing and initiation of complaint investigations to reduce the response time to phone/fax complaints to within the negotiated response time of three days.	FY 2013-01
FY 2014-02	Complaint case files lacked documentation that complainants were notified in writing of results of the inspection in 46% of the case files reviewed in accordance with the FOM, Chapter 9 Complaint and Referral Processing, I. H. 3. A or b or I.H. 4 and 6.	Where the identity and address of a complainant is known, ensure a letter of acknowledgement of the complaint and a letter communicating the outcome of the investigation results are sent to the complainant and a copy is placed in the case file. Corrective action complete, awaiting verification.	FY 2013-02
FY 2014-03	An information letter to victims' families and an inspection results letter were not located in six of the 12 (50%) case files reviewed.	Ensure families of victims are kept informed of the investigation and provided both the information and outcome of the inspection letters in accordance with FOM Chapter 11, II. G. 2 and 4.b. Corrective action complete, awaiting verification.	FY 2013-03
FY 2014-04	The average number of serious, willful, or repeat violations per inspection was 1.1 compared to the national average of 2.0.	Determine the cause of the low rate of inspections with serious, willful, or repeat violations and implement corrective actions in accordance with FOM Chapter 3. II. Inspection Planning and II. A. 1. and Chapter 2. IV. B. 1. Effective Use of Resources.	Combined FY 2013-04 FY 2013-05
FY 2014-05	The in-compliance rate for safety inspections exceeded the national data by 68%.	Determine the cause of the high in-compliance rate, as indicated in SAMM #20a, and implement corrective actions.	FY 2013-06

Appendix A – New and Continued Findings and Recommendations
FY 2014 ADOSH State Plan Abridged FAME Report

FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2014-06	Case files did not contain notations documenting penalty reductions and reclassifications in 88% of the cases reviewed.	Ensure each case file contains documentation from the informal settlement conference for all citation deletions or reclassifications, and penalty reductions that result from the informal conference in accordance with FOM Chapter 7.II.F.1.2 and 3. Corrective action complete, awaiting verification.	FY 2013-07
FY 2014-07	There was no documentation of screening in whistleblower case files, as required by WIM Chapters 2(II)(A), 3(III), 3(VI)(D)(3), and 3(VI)(L)(1).	ADOSH should follow OSHA’s procedures to ensure that whistleblower case files include documentation of screening.	FY 2013-11
FY 2014-08	ADOSH did not achieve their goal of identifying hazards in nursing homes and ensuring workers were removed from the hazards inherent to that industry.	Identify why this goal was not achieved and make the appropriate corrections. Goal will be re-evaluated for continuation in FY 2016 due to expiration of the NEP on nursing homes in FY 2015.	FY 2013-15

Appendix B – Observations Subject to New and Continued Monitoring
 FY 2014 ADOSH Follow-up FAME Report

Observation # FY 2014-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY-2014-OB-01	FY 2013-09	A.R.S. § 23-492 through 23-492.09 has been repealed and the OSHA Fall Protection standard that includes requirements for residential construction fall protection has been adopted.	Ensure that ADOSH effectively enforces the federal Fall Protection standard that includes the requirements for residential fall protection in the upcoming fiscal year.	New

Appendix C - Status of FY 2013 Findings and Recommendations
 FY 2014 ADOSH Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	The average response time to initiate a complaint investigation was 3.82 days, exceeding the negotiated response time of three days.	Streamline the process for complaint processing and initiation of complaint inspections to reduce the response time to phone/fax complaints to within the negotiated response time of three days.	Enhanced supervisory oversight did not result in a reduction. The response time continued to trend higher.	Not Completed	Open (05/05/2015)
FY 2013-02	Complaint case files lacked documentation that complainants were notified in writing of results of the inspection in 46% the case files reviewed in accordance with the FOM, Chapter 9 Complaint and Referral Processing, I. H. 3. a or b or I.H. 4 and 6.	Where the identity and address of a complainant is known, ensure a letter of acknowledgement of the complaint and a letter communicating the outcome of the investigation results are sent to the complainant and a copy is placed in the case file.	ADOSH indicated they are now sending outcome letters and placing copies in the case file. This finding will require a case file review to close.	Not Completed	Awaiting Verification (05/05/2015)
FY 2013-03	An information letter to victims' families and an inspection results letter were not located in six of the 12 (50%) case files reviewed.	Ensure families of victims are kept informed of the investigation and provided both the information and outcome of the inspection letters in accordance with FOM Chapter 11, II. G. 2 and 4.b.	ADOSH indicated they are now completing next-of-kin correspondence and placing copies in the case file. This finding will require a case file review to close.	Not Completed	Awaiting Verification (05/05/2015)

FY 2013-04	The rate of serious, willful, or repeat violations cited in programmed inspections was significantly lower than the national average.	Determine the cause of the low rate of inspections with serious, willful, or repeat violations and implement corrective actions in accordance with FOM Chapter 3. II. Inspection Planning and II. A. 1. and Chapter 2. IV. B. 1. Effective Use of Resources.	The average number of serious, willful, or repeat violations per inspection was 1.1 compared to the national average of 2.0.	Not Completed	Combined with FY 2013-05 Open (05/05/2015)
FY 2013-05	The average number of serious, willful, or repeat violations per inspection (0.98) was less than half the national average of 2.04.	Determine the cause of the low rate of inspections with serious, willful, or repeat violations and implement corrective actions in accordance with FOM Chapter 3.II Inspection Planning and II.A.1 and Chapter 2. IV.B.1 Effective Use of Resources.	The average number of serious, willful, or repeat violations per inspection was 1.1 compared to the national average of 2.0.	Not Completed	Combined with FY 2013-04 Open (05/05/2015)
FY 2013-06	The in-compliance rate for safety inspections exceeded the national data by 30%.	Determine the cause of the high in-compliance rate, as indicated in SAMM #20, and implement corrective actions.	The in-compliance rate for safety increased from 38% to 42 %.	Not Completed	Open (05/05/2015)
FY 2013-07	Case files did not contain notations documenting penalty reductions and reclassifications in 88% of the cases reviewed.	Ensure each case file contains documentation from the informal settlement conference for all citation deletions or reclassifications, and penalty reductions that result from the informal conference in accordance with FOM Chapter 7.II.F.1.2 and 3.	Policies were developed to require supervisors to briefly justify penalty reductions, pursuant to the Arizona Administrative Code, R20-5-827. Supervisors are reinforcing policies to document all citation deletions, reclassifications, and/or penalty reductions as a result of an informal conference. This	Not Completed	Awaiting Verification (05/05/2015)

			finding will require a case file review to close.		
FY 2013-08	Timely notification of intent to adopt Federal Program Changes was sent only 40% of the time.	Implement procedures to ensure timely responses are sent to OSHA regarding ADOSH's intent to adopt Federal Program Changes.	Timely notification of adoption intent was consistent for all changes this fiscal year.	10/1/2014	Completed
FY 2013-09	ADOSH enforced SB 1441, which does not protect workers in residential construction between six and 15 feet and does not afford the same level of protection as OSHA.	ADOSH must require conventional fall protection for all residential construction work performed six feet or more above lower levels and take enforcement action requiring employers to use conventional fall protection.	While A.R.S. §23-492 through 23-492.09 has been repealed and the federal Fall Protection standard that includes requirements for residential construction fall protection adopted, this finding will be re-worded and converted to an observation to ensure that the federal standard is appropriately enforced.	N/A	Converted to an Observation (05/05/2015)
FY 2013-10	The correct determination was not recorded in IMIS for whistleblower cases as required by the OSHA IMIS User Guide and WIM Chapter 6(IV)(C & D).	ADOSH has no procedure to ensure that the correct determination is recorded in IMIS for whistleblower cases, and should follow the OSHA IMIS User Guide and WIM Chapter 6(IV)(C & D).	The correct determination was entered into IMIS, consistent with the provisions of the WIM and OSHA's IMIS User Guide, in all 10 of the case files reviewed.	03/06/2015	Completed
FY 2013-11	There was no documentation of screening in whistleblower case files, as required by WIM Chapters 2(II)(A), 3(III),	ADOSH should follow OSHA's procedures to ensure that whistleblower case files include documentation of screening.	The case file review showed that eight of ten cases continued to lack documentation of proper screening, contrary to WIM Chapters 2(II)(A), 3(III), 3(VI) and 3(VI)(L)(1).	Not Completed	Open (03/06/2015)

	3(VI)(D)(3), and 3(VI)(L)(1).				
FY 2013-12	A witness interview was not documented in the whistleblower case file, as required by WIM Chapters 3(III), 3(VI)(D)(3), 3(VI)(E)(1), 3(VI)(H)(5), and 3(VI)(L)(1).	ADOSH should follow OSHA's procedures to ensure that witness interviews are documented in the whistleblower case file.	Witness documentation was included in the case file in nine of ten case files having documentation of witness interviews per WIM Chapters 3(III), 3(VI)(D)(3), 3(VI)(E)(1), 3(VI)(H)(5), and 3(VI)(L)(1). Notably, the one case in which the Region did not find documentation of interviews did include, in its table of contents, a reference to "Employee recordings (envelope)" which suggests that interviews were conducted and recorded but not documented in writing.	03/06/2015	Completed
FY 2013-13	Whistleblower investigations did not contain evidence of disparate treatment in violation of WIM Chapter 3(VI)(E)(6).	ADOSH should follow OSHA's procedures to ensure that whistleblower investigations include evidence of disparate treatment.	Six of the 10 cases reviewed required a disparate treatment analysis. All six included a discussion of disparate treatment, consistent with WIM Chapter 3 (VI)(E)(6).	03/06/2015	Completed
FY 2013-14	Nexus and dual motive were not properly analyzed in the Final Investigation Report (FIR), and the FIR does not analyze credibility assessments, as required	ADOSH should follow OSHA's procedure by ensuring that nexus and dual motive are properly analyzed in the final report and the final report analyzes credibility assessments.	Six of the ten cases reviewed required a nexus, dual motive and/or credibility analysis. Five of these six included a sufficient nexus, dual motive, and credibility analysis where required, consistent with the	03/06/2015	Completed

	by The WIM Chapters 3(VI)(A, I, &J), 3(V)(A), 5(IV)(B)(3).		WIM Chapters 3(VI)(A, I, &J), 3(V)(A), 5(IV)(B)(3).		
FY 2013-15	ADOSH did not achieve their goal of identifying hazards in nursing homes and ensuring workers were removed from the hazards inherent to that industry.	Identify why this goal was not achieved and make the appropriate corrections.	Some inspections were continued in this industry but not many hazards were found. This goal may be re-evaluated in FY 2016 since OSHA's NEP on Nursing Homes expired on April 5, 2015.	Not Completed	Open (05/05/2015)

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 ADOSH Follow-up FAME Report

OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Arizona opened 1,077 enforcement inspections in FY 2014. Of those, 1,076 inspections were captured in NCR, while 1 was captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data.

For FY14 we will use a format very similar to the one used for FY 2013. Below is an explanation of which data OSHA was able to use when calculating each metric.

a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.

b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.

c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.

d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.

e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.

f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).

g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

U.S. Department of Labor

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

State: Arizona

FY 2014

SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	8.3 days	7 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
2	Average number of work days to initiate complaint investigations	4.3 days	3 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100.0%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
9a	Average number of violations per inspection with violations by violation type	1.1	SWR: 2.0	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.
9b	Average number of violations per inspection with violations by violation type	1.8	Other: 1.2	
11	Percent of total inspections in the public sector	6.4%	5.1%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.

13	Percent of 11c Investigations completed within 90 calendar days	42%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from WebIMIS for FY 2012-2014.
14	Percent of 11c complaints that are meritorious	25.6%	24.8%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from WebIMIS for FY 2012-2014.
16	Average number of calendar days to complete an 11c investigation	148.0 days	90 days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from WebIMIS for FY 2012-2014.
17	Planned vs. actual inspections - safety/health	881/195	922/453	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
18a	Average current serious penalty - 1 -25 Employees	709.06		State Plan data taken directly from SAMM report generated through IMIS.
18b	Average current serious penalty - 26-100 Employees	944.45		
18c	Average current serious penalty - 101-250 Employees	1453.75		
18d	Average current serious penalty - 251+ Employees	1508.97		
18e	Average current serious penalty - Total 1 - 250+ Employees	889.62		
19	Percent of enforcement presence	1.1%	1.5%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.

20a	20a) Percent In Compliance – Safety	42.7	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	34.4	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	82%*	100%	State Plan data is manually pulled directly from IMIS for FY 2013.
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
23a	Average Lapse Time - Safety	43.5 days	43.4 days	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	31.8 days	57.1 days	
24	Percent penalty retained	78.2%	66%	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.

*ADOSH conducted three inspections that were not recorded into the system as being responded to in one day which gave them a 86% response instead of 82%. All three instances suffered from data being entered into the NCR incorrectly. Once proper determinations were done, the data was updated accordingly within the body of this report [see page 7].