

FY 2015 Comprehensive 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, Trends, and Progress

The Federal Annual Monitoring and Evaluation (FAME) report assesses Arizona's Occupational Safety and Health (ADOSH) program's performance during Fiscal Year (FY) 2015. Performance is measured by criteria mandated by the Occupational Safety and Health Administration (OSHA), by progress toward resolving recommendations from the FY 2014 FAME, and achievement of the annual performance plan and five-year strategic goals. As part of this comprehensive evaluation, workplace retaliation and enforcement case files were also reviewed.

The continued efforts of the Arizona State Plan have brought about some outstanding results in worker protection and some areas of potential improvement. Most metrics reflect that the effectiveness of the program is improving. An open and continuous dialogue with ADOSH officials reveals a commitment to improving services despite political challenges. Bills are sometimes proposed in the House and Senate which would result in weakened worker protections. One example of this was the residential fall protection rule that was amended to require fall protection when employees were exposed to heights of 15 feet or greater. When this state-initiated change was rejected, the residential fall protection requirement under Arizona Revised Statutes (ARS § 23-492) was repealed and the federal rule was enforced. An immediate campaign of outreach, education and training was initiated to inform the public about fall protection. Informal meetings, quarterly conferences, and on-site monitoring were conducted to evaluate whether the federal standards would be effectively enforced.

Multiple modes of outreach are utilized to inform the public about enforcement and OSHA regulatory requirements; and training programs are offered to keep workers safe. A construction specific Voluntary Protection Program is available to employers, in addition to the Voluntary Protection Program (VPP) offered to general industry. Both leading and lagging safety and economic indicators are used to target industries with higher worker incident rates and to determine resource projections. Adequate resources were directed to state and local government enforcement and to the monitoring of fall protection to ensure the newly adopted standard was being followed.

Progress was made this fiscal year at completing 75% of the findings from the FY 2014 Follow-up FAME Report. Two findings remain open for FY 2015, but have shown positive movement: in-compliance inspections continue to trend downward and the average number of serious, willful, and repeat violations per inspection is trending upward. These trends are indicative that ADOSH is on the right track to bringing these two measures into alignment with the national averages.

B) State Plan Introduction

The state of Arizona operates an occupational safety and health plan administered by ADOSH under the Industrial Commission of Arizona (ICA). On September 20, 2015, Ms. Laura McGrory resigned as the ICA Director. Mr. Andrew Wade, ICA Chief Counsel, was named as Acting Director in the interim. As of November 5, 2015, Mr. James Ashley was

named as the ICA Director and is the current State Plan Designee. Mr. Bill Warren has been the Director since May 20, 2013 and he is aided by Assistant Directors Larry Gast and Jessie Atencio.

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

ADOSH adopts most of OSHA's standards, interpretations and enforcement policies. ADOSH covers nearly all private and state and local government employers with the exception of federal workers, mining, and areas of exclusive federal jurisdiction, such as Tribal lands.

The initial award to fund the program was \$4,572,800 (\$2,286,400 federal and \$2,286,400 state funds). A de-obligation of \$300,000 to the federal base was approved on July 27, 2015. The state matching funds were reduced accordingly. The total final award was \$3,972,800. ADOSH lapsed \$121,754.84 in FY 2015.

C) Data and Methodology

OSHA has established a biennial cycle for the FAME process by alternating a comprehensive FAME, which includes a mandatory on-site case file review, with a follow-up FAME, which tracks progress on findings from the previous comprehensive evaluation. FY 2015 was a comprehensive FAME and an on-site review of case files was conducted to determine if the state is following its policies and procedures and to verify outstanding items from the FY 2014 Corrective Action Plan (CAP). Information and data referenced in this report were derived from Computerized State Activity Mandated Measures (SAMMs) attached as Appendix D; the FY 2015 23(g) Grant; Integrated Management Information System (IMIS) reports; OSHA Information System (OIS) reports; discussions with state staff during the quarterly meetings and the on-site audit; and the case file review.

In accordance with the State Plan Policies & Procedures Manual, the case file sample size was derived out of the total number of state inspections and the percentage of programmed and un-programmed inspections opened during FY 2015. Inspections were selected randomly from the list of programmed and un-programmed inspections. All fatality inspection case files closed during FY 2015 were added to the sample for review.

A total of 103 enforcement case files, which included 11 fatality cases, were reviewed. An additional ten randomly selected older case files that have been open longer than one year were reviewed to ensure that cases remaining open for a long period of time did not have outstanding abatement issues. Twelve out of 33 workplace retaliation cases closed in FY 2015 were chosen for review based on the following criteria: 1) cases that involved CAP items to assess verification, 2) cases that contained the three determinations of

dismissed/non-merit, settled, and settled other (there were no merit cases), and 3) at least two cases investigated by each of the three primary investigators.

D) Findings and Recommendations

A total of seven findings and one observation were identified. Five of the findings were new. Three of the seven findings addressed the enforcement program and one addressed the state's late adoption of standards. Two findings addressed the worker retaliation program. One finding addressed the divulgence of personal identifiable information from case files. Only two of eight findings remained opened from the FY 2014 FAME.

Specific details of the findings and recommendations are provided in Appendix A; observations are provided in Appendix B; and the status of the FY 2014 Findings and Recommendations are provided in Appendix C.

II. Major New Issues

State Legislation

Special interest groups continue to promote bills or propose legislation which would result in weakened worker protections. These bills, if passed, may diminish ADOSH's abilities to perform its regulatory functions and could threaten the effective operation of the State Plan. These bills are proposed with little or even no notice, and do not allow adequate time for stakeholders to respond. Fortunately, when OSHA has learned of legislation, and brought concerns about it to the ICA or ADOSH, they have worked with OSHA and the legislative bodies to inform them of concerns. Additionally, the ICA hired Bob Charles as its Legislative Affairs Chief/Public Information Officer to monitor and review legislation and speak with local officials about how proposed legislation may affect workers and/or the State Plan.

There were two recent examples of such legislation. House Bill 2114 was introduced which sought to define "independent contractors" and also to eliminate the consideration of supervision or control in determining employee-employer relationships. Through collaborative efforts, this bill was amended to address OSHA concerns. House Bill 2114 was signed by Governor Ducey on May 12, 2016. Another bill, Omnibus Senate Bill 1500, as it was originally drafted, prevented ADOSH from audio or video recording employees, and from informing employers of their ability to represent themselves without counsel. The original draft also removed an employer's burden to promote a safe workplace by stating that the ICA may consider whether or not to cite an employer if an employee was impaired by substance abuse. OSHA officials met with officials from the ICA, ADOSH, and other stakeholders and interested parties to discuss the impact of these bills on ADOSH. Officials from the ICA and ADOSH were receptive to OSHA concerns and edited the language regarding audio/video recording and the employers' ability to represent themselves without counsel. The verbiage regarding substance abuse was not amended. Omnibus Senate Bill 1500 was signed by Governor Ducey on May 19, 2016.

Industrial Commission Reorganization Proposal

In accordance with state law, the ICA was reviewed under the state sunset review statute to ensure the ICA purpose and functionality were still intact. Following this review by a committee of the state legislature, the committee voted on August 25, 2015 to discontinue the ICA. A discontinuance, disbanding, or otherwise re-organization of the ICA would require action by the entire state legislature but no such legislation has been proposed. Instead, the previously mentioned Omnibus Senate Bill 1500 seeks to extend the ICA rather than disband it as the Committee of Reference recommended. ADOSH is expected to continue functioning regardless of the future of the ICA due to legislative members expressing interest in maintaining ADOSH.

Personally Identifiable Information

During an investigation into a Complaint About State Program Administration (CASPA), it was noted that the names of complainants, witnesses, and personally identifiable information had been disclosed. This concern has not been addressed and is still unresolved. Details are included in Section V of this report.

III. Assessment of State Plan Performances

A. State Plan Administration

1) Training

A majority of the formal training takes place at the OSHA Training Institute (OTI). Local training resources and training provided by OSHA Alliance partners are also utilized. Among the in-house training offered, is a two week CSHO Academy for new compliance staff, and a recordkeeping course. OSHA staff as well as Navajo OSHA's compliance health and safety staff have been allowed to attend this training. The training classes provide are of high-quality and consistent with federal training. Live courses and webinars are hosted on a variety of topics. Training classes for the public and have been well-attended.

2) Funding

The initial award to fund the program was \$4,572,800 (\$2,286,400 federal and \$2,286,400 state funds). A decrease of \$300,000 to the federal base was requested in April and approved on July 27, 2015. State matching funds were reduced accordingly. This resulted in a final award of \$3,972,800. ADOSH then lapsed \$121,754.84. The de-obligation and lapsing of funds are primarily attributed to two factors. First, although staff retention had improved slightly, earlier estimates optimistically projected a greater level of retention than that which was actually achieved. Secondly, the turnover situation was exacerbated when a state-wide hiring freeze resulted in the inability to fill vacancies. Fortunately the hiring freeze has been lifted for ADOSH staff, many of whom are now considered "critical-fill" positions. The grant provided funding for full-time staff comprised of two managers, four first line supervisors, 17 safety compliance officers, seven health compliance officers, four clerical staff, and two trainers. Six consultants split their time between public and private sector

consultation (15%/85%); the latter falls under the 21(d) cooperative agreement. There were no compliance assistance specialists.

3) Staffing

During FY 2015 there was an average of 29 compliance officers on staff - 9 industrial hygienists and 20 safety compliance officers. There has been minor improvement in staff retention since FY 2013 due to a slight decrease in transfers and retirements. Private industry and other government agencies frequently offer higher salaries to lure staff away. Therefore, efforts to retain staff have been implemented and include increased training opportunities and individual performance feedback. The modest increase in retention coupled with additional hiring, training, and upward promotions have helped to stabilize staffing numbers with a better trained and seasoned staff with improved hazard recognition skills over previous years.

4) Information Management

A timely and smooth transition to OIS occurred with staff and managers utilizing the OSHA Information System (OIS) exclusively for all enforcement activity. OIS data entry and coding errors continue to occur, but these occurrences are no more frequent than they were with the earlier NCR system and have not become an insurmountable issue. Proficiency in working with OIS improved along with the ability to effectively use OIS tools and reports to review data.

5) State Internal Evaluation Program (SIEP) Report

A SIEP had not been formally adopted; however, individual elements of the program were implemented. There were administrative procedures and checks to ensure the quality of work within the program and quality improvement continued on a regular, ongoing basis. All new Compliance Officers were required to participate in a six-month on-the-job training program before conducting inspections on their own. The training included three weeks of classroom training and a comprehensive evaluation during an accompanied inspection. Documented supervisor evaluations addressed all aspects of an inspection, including opening conferences, walk-arounds and closing conferences procedures.

Supervisors were required to conduct at least one documented on-the-job evaluation for each compliance officer annually to ensure that the quality and consistency of the work is maintained. Throughout the year, approximately 24 supervisor meetings were conducted among leadership itself and then with compliance staff for the purpose of reviewing metrics and conducting internal program evaluations. The supervisor meetings included discussions addressing the Field Operations Manual (FOM), inspection procedures, internal policies and procedures, compliance directives, inspection/program metrics, inspection goals and results. It is advised that the state formally implement the preceding to document the process and ensure its integrity throughout the year.

B. Enforcement

1) Complaints

A total of 562 complaints were filed that resulted in an inspection. The average time to initiate on-site inspections was 3.4 days. This is well under the negotiated goal of 7 days and represents a significant improvement from the average 8.3 days to respond last fiscal year. In addition, 601 complaints were responded to by investigation with an average response time of 1.8 days. This is also an improvement from 4.3 days last fiscal year and within the negotiated goal of 3 days. The management review process was streamlined and effectively shortened review times without compromising the quality. As a result, the previous finding FY 2014-01 has been completed. In cases where an adequate response to a complaint inquiry was not received or where the complainant alleged hazards still existed, an onsite inspection was conducted.

An on-site case file review looked at 23 complaint case files. Two of the complainants were anonymous and notification of the inspection results could not be made. In all the rest of the cases, the complainants were notified of inspection results in a timely manner.

In general, the health and safety issues in formal and non-formal complaints were well documented. Hazards generated from complaints were appropriately cited holding employers accountable to maintaining safe worksites. Decisions regarding on-site inspections were appropriately based on the severity of hazards alleged and resources available. As noted earlier, throughout FY 2015, compliance staff performed on-site inspections where any complaint of fall protection was alleged in construction. This commitment to perform so many on-site inspections in construction, regardless of the source of the complaint and without assessing its likely validity, was a response to enforcing the newly adopted Federal fall protection regulation. The case file review found that 21 of 23 complaint case files included documentation that complainants were notified in writing of results of the inspection. The improvement in case file documentation, including notification of results to complainants, resulted in the completion of previous Finding FY 2014-02 which addressed sending letters to complainants.

2) Fatalities/Catastrophes

There were 19 fatalities reported and opened during the evaluation period. All were entered in the OIS database. Fifteen of these were inspected within one day of notification achieving a 79% response time for inspecting fatalities within one working day of notification.

One inspection was not reported timely and the employer was appropriately cited for his failure to report as required. Another inspection had incomplete information reported through the OSHA after-hours email service so the inspection could not immediately be initiated. In both of these cases an inspection was initiated within one day of the notification or when all information was obtained. Corrections to the database were made to reflect this. These corrections would increase the response time to 90%.

Two inspections should have had an investigation initiated within one day of notification. One inspection was reported by the employer on a Saturday and was received via the OSHA hotline after the federal holiday. This incident was not investigated for two more days as a scheduled monitoring inspection was being conducted at a different site. Another inspection was not immediately initiated due to questions on whether or not it was required, as the fatality occurred 30 days after the incident.

Finding FY 2015-01: Two of 19 fatality investigations were not initiated within one day of notification of the fatal event.

Recommendation FY 2015-01: ADOSH should ensure that each fatality and/or catastrophe inspection is initiated within one day of notification.

Of the 19 fatal incidents investigated, 11 were closed and identified for the on-site case file review. Case file quality was generally good in that all apparent issues were addressed and all hazards were properly cited where a prima facie case could be made. Compliance staff performed thorough, comprehensive inspections and ably determined causal factors. Letters with inspection results to next of kin were sent out, copied and placed in the appropriate case file in accordance with the FOM. Interviews with staff and management revealed that emails and phone calls are routinely made to family members to keep the families apprised of the investigation.

Ten of the 11 case files reviewed contained final next of kin letters sent to victim's family. Overall, this represents an improvement in maintaining communications with next of kin. The one case file is considered an isolated incident, and Finding FY 2014-03 has been completed.

Follow-up inspections are performed routinely throughout the year. The majority of follow-up inspections are performed after the completion of fatality inspections. Many follow-up inspections are performed when employers do not abate hazards which were cited in previous inspections.

3) Targeting and Programmed Inspections

ADOSH participated in all OSHA National Emphasis Programs (NEPs). Additionally, the state initiated and maintained targeted programs for Nursing Homes, Employers with High Experience Modification (E-Mod) Rates, Residential Construction, Falls in Construction, Field Sanitation, Government Agencies, Highway Construction Zones, Rate Reduction Awareness Programs, and Construction Targeting Reports.

A total of 1,140 safety and health inspections were conducted, achieving more than the established inspection goal of 1,105. Of these, 64.4% were programmed inspections (575 safety inspections and 159 health inspections). Serious, willful, or repeat violations were cited in approximately 38% of the programmed safety inspections and in about 55% of the programmed health inspections. The percent of serious, willful, and repeat violations for programmed and targeted industries would be expected to be among the highest of all inspection types because the intent of these programs is to focus resources toward the highest

hazard industries. However, two of these targeted industries, Nursing Homes, and High E-Mod Rate, yielded far fewer serious, willful, and repeat hazards than anticipated and targeting of these industries has been re-evaluated.

4) Citations and Penalties

Arizona’s average current penalty per serious violation in the private sector (SAMM 8 Total: 1-250+ workers) was \$993.84 in FY 2015. The Further Review Level (FRL) is -25% of the National Average (\$2,002.86), which equals \$1,502.14. Penalty levels are at the core of effective enforcement, and all State Plans are therefore required to adopt penalty policies and procedures that are “at least as effective as” (ALAE) those contained in the FOM, which was revised on October 1, 2015 to include changes in the penalty structure in Chapter 6 – Penalty and Debt Collection.

Note that with the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA is now required to raise its maximum penalties in 2016 and to increase penalties according to the Consumer Price Index (CPI) each year thereafter. State Plans are required to follow suit. As a result of this increase in maximum penalties, OSHA will be revising its penalty adjustment factors in Chapter 6 of the FOM. Following completion of the FOM revision, and after State Plans have the opportunity to adopt the required changes in a timely manner; OSHA will be moving forward with conducting ALAE analysis of State Plan penalty structures, to include evaluation of average current penalty per serious violation data.

Citations

The on-site case file review revealed that hazard identification was sufficient and there was no evidence that on-site hazards were missed. The percentage of in-compliance health and safety inspections has varied since FY 2013, but FY 2015 was an improvement (Table 1). Regardless, overall the percent of in-compliance inspections still remain high at near 36%.

Finding FY 2015-02 (previously Finding FY 2014-05): The in-compliance rate for safety inspections was 35.88% which exceeded the national in-compliance rate of 28.47% as per SAMM 9.

Recommendation FY 2015-02 (previously Finding FY 2014-05): ADOSH should determine the cause of the high in-compliance rate, as indicated in SAMM 9, and implement corrective actions.

**Table 1
In Compliance FY 2013 – 2015 (SAMM 9)**

		FY 2013	FY 2014	FY 2015
Percent of In Compliance Inspections	Safety	37.98	42.7	35.88
	Health	33.57	34.4	26.77

Because in-compliance case file reviews did not show evidence of hazards that existed but were not cited, and training is relatively robust, it appears there may be two primary factors which may be contributing to the overall high in-compliance rate. The first factor is related

to the overall hazard recognition skills of new compliance staff. Seasoned compliance officers had greater skill at recognizing and documenting hazards. The other issue is making entry at sites with the greatest likelihood to have hazards present. Efforts should be focused on creating targeting lists and gaining entry to sites with the most hazards in order to best protect employees. The targeting lists generated for nursing homes were admittedly ineffective at finding the most hazardous nursing home facilities; consequently this industry is no longer targeted.

The average number of violations per inspection with violations showed an upward trend to cite more hazards as serious, willful, or repeat and cite fewer citations non-serious (Table 2), but still fell below the National Average, so the Findings of previous years are continued.

Table 2
Average Violations per Inspection with Violations (SAMM 5)

	FY 2013	FY 2014	FY 2015	FY 2015 National Data
S/W/R	.98	1.1	1.26	1.92
Non-serious	2.12	1.8	1.75	0.87

Finding 15-03 (previously Finding 14-04): The average number of serious, willful, or repeat violations per inspection was 1.26 which was below the national average of 1.92. Recommendation 15-03 (previously Finding 14-04): ADOSH should determine the cause of the low rate of inspections with serious, willful, or repeat violations and implement corrective actions.

Case files were generally well-organized and complete. All noted hazards were cited and the violation classifications were generally consistent with FOM guidance. The grouping of citations was consistent with the ADOSH FOM. Support for each violation was adequate. Standard penalty reduction allowances were given based on size, history, and good faith as prescribed in the FOM.

All case files are reviewed by supervisors. The director reviews all serious violations and the Commissioners of the Industrial Commission of Arizona review all citations above \$2,500 and all fatality case files. Penalty amounts were appropriate as were the average serious penalties. ADOSH has, over the years, maintained a high percentage of violations at informal conferences without reclassifying them and collects nearly 85% of the initial penalty proposed (SAMM 12).

The lapse time from opening conference to citation issuance for safety inspections was about 42 days, which is slightly better than the national data of about 43 days. Health inspections were issued within about 36 days as compared to the national data of about 53 days (SAMM 11). Compliance and supervisory staff continued to focus on completing case files and issuing them in a timely manner, resulting in removing workers from hazards more quickly than in the past. Additionally, the primary use of EMSL Analytical, Inc. laboratory has resulted in sampling results being returned quickly and has allowed them to expedite their industrial hygiene cases.

A simple Microsoft Outlook tracking system was implemented that ensured all abatement was completed in a timely manner. Supervisors entered abatement due dates and followed-up with employers if the abatement was adequately certified. Abatement periods were appropriate and relevant to the severity and probability of each hazard, and the complexity of abatement measures. The onsite review of case files reflected that extensions were granted when needed and appropriate.

Penalties

A unique aspect of the ADOSH enforcement program is the ability under state law, to provide for additional penalties for willful or repeated violations related to an employee's permanent disability or death. Payment is then made to the injured employee or families of deceased employees. An example of this occurred in the June 2015 formal settlement agreement with the Arizona State Forestry Division following the June 30, 2013 Yarnell Hill wildfire catastrophe.

5) Worker and Union Involvement

Workers participated in inspections through interviews or by having worker representatives accompany inspectors. The on-site case file review determined that inspection activity and results were consistently communicated to representatives of organized labor. Labor representatives were extended the opportunity to participate in the opening conference, closing conference, and walk around. Workers were also afforded the opportunity to privately express their views to the compliance officer about conditions in the workplace away from the employer or their place of business. At sites not represented by a union, the policy is to interview at least 10% of the workforce. Workers participated in nearly all (99.9%) inspections (SAMM #13).

C. Review Procedures

1) Informal Conferences

Informal conferences are conducted by supervisory personnel and are required to be held prior to the expiration of a 15-day contest period. The on-site case file review revealed that in 4 of the 14 (28.6%) cases where informal conferences were held, penalties were reduced, reclassified or eliminated with no documentation justifying the modifications. The fact that so few informal conferences were held is likely because of the relatively low number of serious violations and the relatively small penalty amounts. An informal conference form is completed by the supervisor to ensure documentation in all of their casefiles. ADOSH made changes to their informal conference procedures and developed new documentation methods during FY 2015. OSHA will conduct a case file review in 2016 to ensure the presence of documentation justifying penalty reductions and reclassifications. Finding FY 2014-06 is continued as an Observation.

FY 2015-OB-01 (previously Finding FY 2014-06): Case files did not contain documentation justifying penalty reductions and reclassifications in four of the 14 (28.6%) of the cases reviewed.

Federal Monitoring Plan FY 2015-OB-01: OSHA will conduct a limited number of case files will be reviewed to determine the presence of documentation justifying penalty reductions and reclassifications.

2) Formal Review of Citations

ICA attorneys defend enforcement cases which are adjudicated by state Administrative Law Judges (ALJ). Following decisions by the ALJ, an employer may have a case reviewed by The Review Board. The Review Board consists of five members appointed by the Governor, and may affirm, reverse, modify, or supplement any ALJ decision. In turn, the Board’s decision may be appealed to the Arizona Court of Appeals by either party. The ALJ, Review Board, and Arizona Court of Appeals decisions are timely, made available to the public, and are consistent with federal precedence.

D. Standards and Federal Program Changes (FPCs) Adoption

1) Standards Adoption

Notification of the intent to adopt standards is required within 60 days of the issuance of the direct final rule. The state then has up to six months to adopt a standard. In FY 2015, OSHA issued three standards that required State Plan adoption. ADOSH adopted one of these standards late and the other two still have not been adopted.

Table 3 below lists the FY 2015 standards requiring a response and ADOSH’s response. During FY 2015, Arizona had a Governor’s moratorium on regulations; therefore most rules had to go through the rulemaking process. Rules are delivered to the Arizona Attorney General’s Office and the Attorney General (AG) generally accepts them only after a thorough review. Following the review, it takes 60-90 days for the rule to go into effect. This extra process caused significant delay in ADOSH’s adoption process. However, the AG is now immediately putting safety and health rules into effect without the standing waiting period. It now appears the state has an understanding of the requirement for ADOSH to adopt standards within a specific timeframe, and it is expected that timely adoptions will no longer be an issue. However, this issue is included as a finding in this report because ADOSH still has adoption pending on two standards regarding confined spaces and crane and derricks operator certification.

**Table 3
Standards**

Standard:	State Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Adoption Date:
1926.1200 Final Rule for Confined Spaces in Construction	06/03/2015	Yes	Yes	2/4/2016	Late
1926 Cranes and Derricks in Construction – Operator Certification – Final Rule	10/14/2014	Yes	Yes	3/26/2014	Late

1904 Occupational Injury and Illness Recording and Reporting Requirements -NAICS Update and Reporting Revisions	11/07/2014	Yes	Yes	3/19/2015	Late 3/16/2016
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Finding FY 2015-04: ADOSH did not adopt any of the three new OSHA standards issued in FY 2015, by the adoption due date.

Recommendation FY 2015-04: ADOSH should ensure that each standard to be adopted is adopted by the due date.

2) Federal Program Change Adoption

During the evaluation period six Federal Program Changes (FPCs) required a response in FY 2015 (Table 4). There were two remaining FPCs issued by OSHA in FY 2015 that will carry over into FY 2016. ADOSH was timely in its response rate for notification of intent regarding adoption. However, only three of the six (50%) FPC's were actually adopted by the required date. As stated above, it now appears the state has an understanding of the requirement for ADOSH to adopt federal program changes within a specific timeframe, and it is expected that timely adoptions will no longer be an issue. Since ADOSH is up to date on adoption of all federal program changes at this time, this issue is not included as a finding in this FY 2015 FAME report.

**Table 4
FPC Directives**

FPC Directive/Subject	State Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Adoption Date:
CPL 02-01-057 Compliance Directive for Cranes and Derricks in Construction Standard (10/17/2014)	12/17/2014	Yes	Yes	04/17/2015	06/01/2015 Late
CPL 03-00-018 Revision – National Emphasis Program – Primary Metal Industries (10/20/2014)	12/10/2014	Yes	Yes	04/20/2015	04/20/2015
CPL 02-03-005 Whistleblower Investigations Manual (04/21/2015)	08/24/2015	Yes	Yes	09/21/2015	09/21/2015
CPL 02-02-078 Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis (06/30/2015)	08/28/2015	Yes	Yes	12/30/2015	12/30/2015
CPL 02-02-079 Inspection Procedures for the Hazard Communication Standard (07/09/2015)	12/16/2015	Yes	Yes	03/01/2016	03/01/2016
CPL 03-00-019 National Emphasis Program on Amputations (08/13/2015)	10/06/2015	Yes	Yes	01/15/2016	01/15/2016
CPL 02-03-006 Alternative	12/03/2015	Yes	No	06/07/2016	3/16/2016

Dispute Resolution Process for Whistleblower Protection Program (08/18/2015)					
CPL 02-00-159 Field Operations Manual Directive (10/01/2015)	12/01/2015	Yes	No	04/01/2016	04/01/2016

3) State Plan-Initiated Changes

There were no State Plan - Initiated Changes submitted in FY 2015.

E. VARIANCES

Arizona Revised Statutes (ARS) § 23-411 and § 23-412 and Arizona’s Administrative Codes R20-5-655 and R20-5-656 provide guidelines on the variance process. No new variances were requested or granted during the review period.

F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

In the 23(g) grant application, 60 state and local government inspections were projected for FY 2015. ADOSH exceeded this target by completing approximately 135 state and local government inspections, which is 12% of the total inspections (SAMM 6) conducted in state and local government. Inspections in the state and local government workplaces are one component of the State Plan that makes them considerably valuable to Arizona as a whole. Cities and counties which have not had an inspection in a ten-year period are targeted with a focus on the high hazard areas such as law enforcement, fire-fighting, incarceration units, sewers, water treatment facilities, and maintenance shops. OSHA 300 forms are reviewed to determine frequent hazards and areas where workplace violence occurs. Although there have been 226 violations issued to the state and local government sector, only 65 or about 29% are classified as serious.

G. WORKPLACE RETALIATION PROGRAM

Claims of workplace retaliation for reporting occupational safety and health issues are investigated under ARS §23-425. There was one supervisor and five investigators investigating workplace retaliation cases. Prior to September 21, 2015, workplace retaliation claims were investigated based on its own ADOSH Discrimination Manual. Beginning on September 21, 2015, and continuing through the rest of FY 2015, investigations were conducted in accordance with OSHA’s Whistleblower Investigations Manual (WIM) CPL 02-03-005. For all cases reviewed during the FAME, the ADOSH Discrimination manual was followed. A total of 12 of the 33 closed workplace retaliation cases were reviewed.

Based on the case file reviews the statute was correctly applied to workplace retaliation investigations. Finding FY 2014-07 addressed a deficiency for documentation of screening. This finding was completed due to the implementation of a screening intake form.

In a settled case, a settled other case, and a withdrawn case there was no Final Investigation Report, as required by Chapter 5 of the ADOSH Discrimination Manual. Although this did

not affect their decisions to close out these cases, the Final Investigation Report is necessary to document the reasons for the specific determination of each case.

Finding FY 2015-05: A Final Investigative Report as required in Chapter 5 of the ADOSH Discrimination Manual and now renamed the Report of Investigation in the OSHA Whistleblower Investigation Manual, was not completed for three of the twelve workplace retaliation case files reviewed.

Recommendation FY 2015-05: ADOSH should ensure that a Final Investigative Report as required in Chapter 5 of the ADOSH Discrimination manual and now renamed the Report of Investigation in the OSHA Whistleblower Investigation Manual, be completed for all retaliation cases.

Information entered into IMIS was neither timely nor accurately entered. Two cases, coded as withdrawals, were actually dismissed by ADOSH. Another case coded as “settled other” was actually closed due to complainant’s withdrawal. Moreover, four cases were docketed several months after they were initially filed (one of the four cases was the same one wrongly coded as “settled other”) and two cases were docketed after the cases were closed (one of the two cases was also the same one wrongly coded as “settled other.” The ADOSH Discrimination Manual requires cases to be docketed in the ADOSH discrimination database, as well as the OSHA web based database (Web IMIS) upon receipt of a complaint. Inaccurate data or untimely data entry creates an opportunity for information to be lost and could negatively impact the management of the program.

Finding FY 2015-06: Case disposition information entered into Web IMIS for seven out of twelve cases reviewed was not accurate or timely entered.

Recommendation FY 2015-06: ADOSH should enter information into Web IMIS in a timely and accurate manner.

Although not a finding, it is difficult for workers to find out how to file a new workplace retaliation complaint on the ADOSH website. ADOSH should consider changing their website so workers can easily file a workplace retaliation complaint.

H. COMPLAINTS ABOUT STATE PLAN ADMINISTRATION (CASPA)s

There were two new Complaints About State Plan Administration (CASPA)s this fiscal year and one in FY 2014. The FY 2014 CASPA was a significant CASPA regarding the decision to not conduct an inspection and cite an employer for a heat-related issue. The CASPA investigation found that ADOSH followed their policies and procedures in addressing the complaint and the employer maintained an adequate heat prevention program that addressed employees’ exposure to heat.

Of the two CASPA)s filed in FY 2015, one was a workplace retaliation complaint and the other was a safety and health complaint alleging that ADOSH did not follow the Field Operations Manual. No merit was found for the workplace retaliation CASPA, which claimed the case was not litigated. Findings were noted and addressed for the safety and health related complaint.

I. VOLUNTARY COMPLIANCE PROGRAM

Two new VPP Star sites were approved and added to the program, for a total of 37 VPP sites in Arizona. The Voluntary Protection Program (VPP) continued to be a strong and effective program covering both general industry and construction. Employers are able to experience the opportunity to become leaders in safety and health in their respective industries.

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

The state and local government 23(g) consultation program addresses safety and health concerns for state and local entities. The projection of 16 visits was exceeded with 20 initial visits conducted in FY 2015. The MARC report indicated a 100% hazard correction rate which indicates no employers were sent to enforcement. Serious hazards were corrected 100% of the time. There are no state and local government SHARP sites.

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

The Five-year Strategic Plan covered the years 2013-2017. The FY 2015 Annual Performance Goals also supported the strategic plan of the ICA, which was to ensure that ADOSH was efficient and effective with the ultimate outcome of reducing workplace injuries, illness and fatalities. The ADOSH Director chose to discontinue the Five-year Strategic Plan at the conclusion of FY 2015 to make changes that better address means of reducing workplace hazards in Arizona. This section will address both the Annual Performance Goals and Five Year Strategic Goals to close them.

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 industry (NAICS 623): Cite and ensure correction of 100 serious hazards; Remove 200 workers from exposure to serious hazards.

Intermediate Outcome Measures:

- Develop an inspection targeting plan for the industry
- Conduct 15 compliance inspections with 100 serious hazards identified and corrected
- Remove 200 employees from exposure to hazards

Results:

- Developed Nursing Home Targeting Plan
- Conducted 18 inspections within NAICS code 623.
- An average of 3.8 violations per inspection was identified.
- Programed inspections with violations were 55%
- 69 hazards were identified and corrected
- 348 workers were removed from exposure to serious hazards

Assessment:

This Annual Performance Goal was partially met. Although the average number of violations identified in each inspection was high, the numbers of serious hazards in the facilities visited were low. The targeting list generated to perform inspections in nursing homes unexpectedly targeted smaller nursing homes where far fewer serious hazards related to blood borne pathogens and ergonomics were prevalent than that which was originally estimated. Because the majority of violations encountered were non-serious they allocated resources to other high hazard areas. Due to the lack of impact in this industry, the goal was eliminated following FY 2015. The previous finding FY 2014-08 has been closed because this goal has been discontinued.

Annual Performance Goal 1.2: In the Residential Construction industry: Cite and ensure correction of 200 serious hazards; remove 300 employees from exposure to serious hazards.

Intermediate Outcome Measures:

- Establish an LEP Rescon for tracking Purposes
- Conduct 50 Compliance Inspections, with 200 hazards identified and corrected.
- Conduct 10 training sessions with 50 employers and 500 employees in attendance

Results:

- Developed Residential Construction Targeting Plan
- Conducted 108 residential construction inspections
- Averaged 1.75 violations per inspection for a total of 189 violations
- Percent of in-compliance was 8.3%
- Programed inspections with S/W/R violations were greater than 87%.
- A total of 489 workers were removed from exposure to hazards.

Assessment:

This Annual Performance Goal was partially met and good progress was made toward meeting this goal. Overall the number of inspections and workers removed from hazards was exceeded, but the number of hazards identified was slightly below projections. Because of the repeal of the state fall protection law and enforcement of the Federal standard for residential construction, there was an increase of the overall enforcement presence in the industry through response to all fall complaints with an on-site inspection. This resulted in a low number of average violations noted but ensured effective enforcement of the new requirements. Therefore this goal was eliminated following FY 2015. Inspections in the residential construction industry will continue to be conducted.

Annual Performance Goal 1.3: Through ADOSH's Rate Reduction Awareness Program (RRAP), ADOSH will work with two (2) new employers each year to assist those employers in reducing their Total Recordable Case Rate by at least 50%.

Intermediate Outcome Measures:

- Add two new employers to assist those employers in reducing their Total Recordable Case Rate by at least 50%.

Results:

- Three RRAP participants signed two year agreements with the first year mandatory and the second year voluntary.

Assessment:

This Annual Performance Goal was partially met. Three employers were entered into the RRAP program but their TCIR and DART rates were reduced by 20% instead of the projected 50%. The impact of this reduction in rates was fewer workplace incidents and more workers staying safe on the job. Because of the effectiveness of RRAP this goal will be continued but with some modification following FY 2015.

Final Result of Five-Year Strategic Goal 1:

Strategic Goal 1 ended two years early with the intent to develop more meaningful and impactful strategies moving forward.

Performance goal 1.1 required ADOSH to cite and ensure correction of 1000 serious hazards and remove 2000 workers from exposure to serious hazards over five years. In three years ADOSH cited/corrected 95 hazards and removed 645 employees.

Performance goal 1.2 required ADOSH to cite and ensure corrections of 1600 serious hazards and remove 1,000 employees from exposure to serious hazards over five years. In three years they cited/corrected 487 hazards and removed 1,619 employees.

Performance Goal 1.3 required ADOSH to assist 10 employers reduce their Total Recordable Case Rate by at least 50% in two years of the program. In three years they assisted seven employers and reduced the Total Recordable Case Rate by 20%.

Final Assessment of Five-Year Strategic Goal 1: This Strategic Goal was partially met.

Performance Goal 1.1: In three years, 600 hazards should have been cited and corrected in Nursing & Residential Care Facilities. Only 95 hazards were cited and corrected, which is 16% of their prorated goal. In three years, 1,200 employees were projected to be removed from exposure to hazards; however, only 645 employees were removed achieving only 54% of their prorated goal. Fewer employees were removed from hazards than anticipated.

Performance Goal 1.2 projected identifying and correcting 1,600 serious hazards in the Residential Construction Industry and removing 1,000 employees from exposure to serious hazards over five years. That means 960 hazards should have been cited and corrected in three years to meet the five year goal; however, only 487 hazards was identified and

corrected which is 51% of the goal. In three years, 600 employees were projected to be removed from hazards. This goal was surpassed with 1,619 employees actually removed. Fewer hazards were reduced but more employees who were exposed to these hazards were removed than the number of employees anticipated exposed.

Performance Goal 1.3 required ADOSH to assist 10 employers reduce their Total Recordable Case Rate by at least 50% in two years of the program. In three years assisted seven (7) employers and are well on their way to achieving the five year goal. In three years ADOSH should have reduced these employers Total Recordable Case Rate by 50% but they were only able to reduce the rate by 20%. Nonetheless many workers who would have suffered on-the-job injuries were protected because of this goal.

The Five –Year Strategic Goal 1 achieved some of its desired outcome by eliminating hazards and removing employees from these hazards. The number of hazards identified was lower than projected but of those hazards identified, a greater number of employees were protected from them than originally anticipated with this goal. This goal will continue with both modified and new Annual Performance Goals for FY 2016-2020.

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 two webinars or other online or broadcast training events.

Intermediate Outcome Measures:

- Deliver two webinars or other online or broadcast training event
- Deliver other training classes and outreach services

Results

- Conducted 34 webinars and 1 broadcasting event.

Assessment: This annual performance goal was exceeded. The webinars had at least 20 participants in each class and addressed Recordkeeping, Fall Protection, Residential/Long-Term Care Facilities, Hazard Communications/GHS, ADOSH update, Partnership Programs, SHARP/VPP Programs, Accident Investigation, and Small Hand Tools.

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

Intermediate Outcome Measures:

Number of seminars or other engagements where VPP are promoted; number of new VPP and SHARP sites approved.

Results:

- SHARP
 - Number of conferences conducted 11
 - Number of applications/brochures dist. 182

- Number of applications received: 5
- Number of site evaluations conducted 5
- Number of workplaces approved: 5
- Number of re-certification visits 3
- of re-certifications approved 3
- VPP
 - Number of conferences conducted 9
 - Number of applications/brochures dist. 20
 - Number of applications received: 3
 - Number of site evaluations conducted 16
 - Number of workplaces approved: 3
 - Number of re-certification visits 16
 - Number of re-certifications approved 16

Assessment: This annual performance goal was met and resulted in an increase in the cooperative abilities of workers and employers to work collectively to keep workplaces safer. This has resulted in 37 participants. The SHARP program had four new participants and 28 existing participating companies.

Final Result of Strategic Goal 2:

Strategic Goal 2 ended two years early with the intent to develop more meaningful and impactful strategies moving forward. The Strategic Goal was intended to last for five years but was modified after three years to meet the anticipated needs of the public.

Performance Goal 2.1 projected delivery of 10 webinars or other online training events specific to heat illness and fall protection. In three years 48 webinars were broadcast.

Performance Goal 2.2 projected recognition of 10 new employers in the SHARP and VPP programs. In three years nine new SHARP sites and eight new VPP sites were recognized.

Final Assessment of Strategic Goal 2: This Strategic Goal was met.

Performance goal 2.1: In three years at least six webinars should have been conducted to meet the five-year strategic goal. A total of 48 webinars were broadcast surpassing the five-year goal. Far more workers and employers were educated about workplace safety as a result these webinars.

Performance goal 2.2: In three years recognition for six new SHARP companies and six new VPP companies would be on pace to meet the five-year goal of 10 in each program. The number of companies recognized after three years were nine new SHARPs and eight new VPPs. As a result of this goal, a greater number of workers at more jobsites have engaged with their employers about workplace safety.

ADOSH achieved exemplary service to the public through continued dedication in the development and delivery of services by preparing and presenting classes and trainings on various safety and health topics. Strategic Goal 2 will continue with both modified and new Annual Performance Goals for FY 2016-2020.

V. Other Special Measures of Effectiveness and Areas of Note

Fall Protection in Residential Construction

On February 7, 2015, the State Plan-Initiated change for residential fall protection was rejected by OSHA. As a result, Arizona Revised Statutes on residential fall protection (ARS § 23-492) was repealed and the federal regulation, 29 CFR 1926.501(b)(13) was enforced. Additional monitoring was conducted to ensure effective enforcement of the regulation. A plan of action to perform outreach, training and education was initiated to ensure the public was given ample notice of the change. Through the combination of on-site monitoring, review of enforcement data and discussions at the quarterly meetings, ADOSH was able to immediately implement effective enforcement utilizing OSHA standards. ADOSH's activity was also examined by OIS data reports. These reports illustrated that in residential construction, following the reimplementation of OSHA standards in Arizona, ADOSH cited 52 serious, willful, or repeat violations of the residential fall protection standard (29 CFR 1926.501 (b)(13)), 140 serious, willful, or repeat violations of "Unprotected Sides and Edges" (29 CFR 1926.501(b)(1)), and 65 serious, willful, or repeat violations of "Low Slope" or "Steep Roofs" (29 CFR 1926.501 (b) (10) or (11)). OSHA has concluded that by the end of FY 2015, ADOSH commenced fall protection enforcement that was at least as effective as federal OSHA's.

Personally Identifiable Information (PII)

During the investigation of a CASPA, it was noted that names of complainants, witnesses, and other personally identifiable information (PII) were routinely released when public inquiries were made. The release of PII information can have a chilling effect on workers and could discourage them from reporting unsafe and unhealthy working conditions or from otherwise filing a complaint. Arizona Public Records law allows for the protection of such information as an exception to disclosure. A letter from OSHA was sent requesting corrective action be taken but no response has yet been received.

Finding FY 2015-07: Personally identifiable information from case files, such as names of witnesses from case files, was routinely divulged to the public.

Recommendation FY 2015-07: ADOSH should protect from disclosure any and all personally identifiable information and witness names collected in case files.

Appendix A – New and Continued Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

FY 2015-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB- #
FY 2015-01	Two of 19 fatality inspections were not initiated within one day of notification of the fatal event.	ADOSH should ensure that each fatality and/or catastrophe inspection is initiated within one day of notification.	N/A
FY 2015-02	The in-compliance rate for safety inspections was 35.88% which exceeded the national in-compliance rate of 28.4% as per SAMM 9.	ADOSH should determine the cause of the high in-compliance rate, as indicated in SAMM 9, and implement corrective actions.	FY 2014-05
FY 2015-03	The average number of serious, willful, or repeat violations per inspection was 1.26 which was below the national average of 1.92 as per SAMM 5.	ADOSH should determine the cause of the low rate of inspections with serious, willful, or repeat violations and implement corrective actions.	FY 2014-04
FY 2015-04	ADOSH did not adopt the three new OSHA standards issued in FY 2015, by the adoption due date.	ADOSH should ensure that each standard be adopted by the due date.	N/A
FY 2015-05	A Final Investigative Report as required in Chapter 5 of the ADOSH Discrimination Manual and now renamed the Report of Investigation in the OSHA Whistleblower Investigation Manual, was not completed for three of the twelve workplace retaliation case files reviewed.	ADOSH should ensure that a Final Investigative Report as required in Chapter 5 of the ADOSH Discrimination manual and now renamed the Report of Investigation in the OSHA Whistleblower Investigation Manual, be completed for all retaliation cases.	N/A
FY 2015-06	Case disposition information entered into Web IMIS for seven out of the twelve cases reviewed was not accurate or timely entered.	ADOSH should enter information into Web IMIS in a timely and accurate manner.	N/A
FY 2015-07	Personally identifiable information from case files, such as names of witnesses, was routinely divulged to the public.	ADOSH should protect from disclosure any and all personally identifiable information as well as witness names collected in case files.	N/A

Appendix B – Observations Subject to New and Continued Monitoring
FY 2015 ADOSH Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY2015-OB-01	FY 2014-06	Case files did not contain documentation justifying penalty reductions and reclassifications in four of the 14 (28.57%) cases reviewed.	In FY 2016, a limited number of case files will be selected randomly and reviewed to determine the presence of documentation justifying penalty reductions and reclassification.	New
N/A	FY2014-OB-01	Arizona Fall Protection regulations A.R.S. 23-492 through 23-492.09 have been repealed and the OSHA Fall Protection Standard that includes requirements for residential construction fall protection has been adopted.		Closed

Appendix C - Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

FY 20XX	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2014-01	The average response time to initiate a complaint investigation was 4.32 days, exceeding the negotiated response time.	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.	Re-emphasized the established goals (three days for initiating an investigation and seven days for initiating an inspection) and the importance of timely complaint response with supervisors during the bi-monthly meetings	7/27/2015	Completed 7/27/2015
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 completed, awaiting verification.	Administrative staff and supervisors were re-trained to ensure capture of information from e-complaints. ADOSH is not sending outcome letters and placing copies in the files.	4/4/2016	Completed 4/4/2016
FY 2014-03	An information letter to victims' families and an inspections 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.	ADOSH provided training to all enforcement staff on Arizona's required policies in the FOM for contacting families of victims and the documentation required to be in case files. ADOSH is now completing next-of-kin correspondence and placing copies in the case files.	4/4/2016	Completed 4/4/2016

Appendix C - Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

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.	ADOSH re-evaluated the planned inspection, scheduling and targeting programs in order to concentrate efforts on Construction, Residential Construction, and High Hazard industries for programmed planned inspections. ADOSH has continued instructional meetings with all compliance and support staff in order to review the FOM Chapter 3.II Inspection Planning and II.A.1. and Chapter 2.IV.B.1. Effective use of Resources.	4/4/2016	Open 4/4/2016
FY 2014-05	The in-compliance rate for safety inspections exceeds the national data by 68%.	Determine the cause of high in-compliance rate, as indicated in SAMM #20a and implement corrective actions.	ADOSH re-evaluated the planned inspection, scheduling, and targeting programs in order to concentrate efforts on Construction, Residential Construction, and High Hazard industries for programmed planned inspections.	4/4/2016	Open 4/4/2016
FY 2014-06	Case files did not contain notations documenting penalty reductions and reclassifications in 88% of cases reviewed.	Ensure each case file contains documentation from the informal settlement, conference for all citations, 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.	Provided training to supervisors on the required documentation to support informal conference settlement agreements. Develop a form for informal conference notes to be used for all informal conferences. Policies were also developed to require supervisors to briefly justify penalty reductions pursuant to Arizona Administrative Code, R20-5-827.	4/4/2016	Changed to Observation 4/4/2016

Appendix C - Status of FY 2015 Findings and Recommendations

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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 the Whistleblower case files include documentation of screening.	Developed and implemented a prima fascia analysis worksheet to be used in the screening of Whistleblower cases.	4/4/2016	Completed 4/4/2016
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.	Re-evaluate continuation of goal for FY 2016 due to expiration of NEP on nursing homes as of April 2015. Grant for 2016 was modified and the goal was deleted.	7/28/2015	Closed

Appendix D – Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. 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. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the Notes column below for further explanation on the calculation of each SAMM. All of the Arizona State Plan’s enforcement data was captured in OIS during FY 2015. The Arizona State Plan opened 1,132 enforcement inspections, and they were all captured in OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Arizona - ADOSH			FY 2015	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	3.40	7	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	1.82	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.87	3	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.

Appendix D – Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

2b	Average number of work days to initiate complaint investigations (federal formula)	.84	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans. N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2015.
4	Number of denials where entry not obtained	0	0	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.26	+/-20% of SWRU: 1.92	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		Other: 1.75	+/-20% of Other: .87	
6	Percent of total inspections in state and local government workplaces	12.01%	+/-5% of 4.91%	State Plan data is pulled from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 837	+/-5% of S: 923	State Plan data is pulled from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 295	+/-5% of H: 300	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$984.13	+/-25% of \$2,002.86	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.

Appendix D – Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

	a. Average current serious penalty in private sector (1-25 workers)	\$680.27	+/-25% of \$1,402.49	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,164.44	+/-25% of \$2,263.31	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,729.55	+/-25% of \$3,108.46	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$1,735.54	+/-25% of \$3,796.75	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
9	Percent in compliance	S: 35.88%	+/-20% of S: 28.47%	State Plan data is pulled from OIS.
		H: 26.77%	+/-20% of H: 33.58%	Further review level is based on a one-year national rate, pulled only from OIS.
10	Percent of work-related fatalities responded to in one workday	73.33%	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
11	Average lapse time	S: 41.52	+/-20% of S: 42.78	State Plan data is pulled from OIS.
		H: 35.53	+/-20% of H: 53.48	Further review level is based on a one-year national rate, pulled only from OIS.
12	Percent penalty retained	84.01%	+/-15% of 67.96%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
13	Percent of initial	99.91%	100%	State Plan data is pulled from OIS.

Appendix D – Status of FY 2015 Findings and Recommendations

FY 2015 ADOSH Comprehensive FAME Report

	inspections with worker walk around representation or worker interview			Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	30%	100%	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	27%	+/-20% of 24%	State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average, pulled from WebIMIS.
16	Average number of calendar days to complete an 11(c) investigation	173	90	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.11%	+/-25% of 1.35%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.