

**FY 2009**  
**Federal Annual Monitoring and**  
**Evaluation (FAME) Report**



**ARIZONA OCCUPATIONAL**  
**SAFETY AND HEALTH PROGRAM**

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# **I. Executive Summary**

## **Summary of the Report**

This report provides an assessment of the Arizona Division of Occupational Safety and Health's (ADOSH) progress towards achieving performance goals established in their Federal Fiscal Year (FY) 2009 Annual Performance Plan and the effectiveness of program areas related to enforcement activities during the period of October 1, 2008 to September 30, 2009. Relevant observations from the first quarter of FY 2010 have also been included.

While improvements are needed in the enforcement program to meet Federal effectiveness criteria, there are no major findings in the report that would indicate a need for anything other than continued close Federal monitoring and increased technical assistance to improve Arizona's performance. The report identifies a series of case file documentation issues that may point to underlying problems in complaint and fatality inspections, violation classification, and abatement. In addition, Arizona's procedures for communicating with victims' families require improvement. Three CASPAs were filed in 2009 concerning specific discrimination cases; two were found to be valid, and State re-investigation was required in order to effect remediation.

The Arizona program, which has final approval status, has an allocated staff of 15 safety and 11 health inspectors that exceeds its compliance staffing benchmarks of 9 safety and 6 health, with 11 safety and 10 health on-board. However, the State has had trouble hiring and retaining staff and maintaining staffing at authorized levels. (There were 7 safety and 2 health vacancies during the period.) The State experienced a budget deficit in FY 2009, resulting in reduction in positions, a state-wide hiring freeze, and consolidation of services. While there were no furloughs during the evaluation period, furloughs are planned for FY 2011 and 2012. The State lapsed \$102,108 at the end of FY 2009, was unable to match \$593,400 in available new funding in FY 2010, and is deobligating \$10,000.

The State was able to retain violations and penalties in informal conferences at levels above the Federal. In a significant April 8, 2010, decision, the Arizona Court of Appeals upheld a criminal conviction concerning a double fatality in a confined space accident in 2001 with penalties of \$1.8 million and 12 months probation. (The original State investigation resulted in a \$31,500 penalty.)

Other issues include

- Some files had limited documentation, especially in fatality cases, making it difficult for reviewers to determine the quality of investigations.
- There were deficiencies in documenting communication with the family members of fatality victims and union participation in inspections.
- Complaint inspections were timely, but documentation was not always complete. Lack of documentation also raised issues of appropriate violation classification.
- There were instances of hazards not identified or cited, violations not classified properly and inappropriate proposed penalties were found.
- Arizona has a high in-compliance rate (46%) and a low rate of serious violations (22.5%).
- The Industrial Commission of Arizona (the State Designee level) reviews all proposed penalties over \$1000, resulting in a citation issuance lapse time greater than the national

average, yet initial proposed penalties for serious violations (\$1429) remain above the national average (\$1329).

- CSHO training is primarily through University of California –San Diego Ed Center courses and OSHA webinars as a result of the State’s out of State travel ban. These courses are not intended for CSHO training.
- The average time for completion of a discrimination investigation was 190 days, and problems were noted with documentation, as well as with the thoroughness and completeness of several investigations. (7 of 9 cases reviewed had substantive issues that could have affected the outcome.) The State does not accept orally filed discrimination complaints.
- A Governor’s rulemaking moratorium has hindered Arizona’s ability to adopt standards in a timely manner. ADOSH has been unsuccessful in obtaining an exception to this policy based on its Federal responsibilities.

## **Background**

ADOSH operates its occupational safety and health program under the Occupational Safety and Health Administration’s (OSHA) 23(g) and 21(d) federal grant agreements. The 23(g) operational program agreement covers enforcement of private and public sector employers and consultation of public sector employers and the 21(d) consultation program agreement covers consultation of private sector employers.

The State of Arizona implemented its Occupational Safety and Health plan under the provisions of Section 18(b) of the Occupational Safety and Health Act in 1974. The State plan was certified as having completed all its developmental steps on September 18, 1981. Arizona was granted final approval and concurrent Federal enforcement authority was relinquished on June 20, 1985.

The State has jurisdiction over approximately 2.87 million workers in 142,902 private and public administration establishments. The program covers all occupational safety and health issues within the State except for areas precluded from enforcement. These include areas of exclusive Federal jurisdiction, private contractors on Indian National lands, Federal employees, copper smelters, and concrete and batch plants that are physically located within mine property and under jurisdiction of the State Mine Inspector’s Office.

The Industrial Commission of Arizona (ICA) is responsible for the administration of this program. On November 28, 2008, Mr. Larry Etchechury retired and Ms. Laura L. McGrory was appointed the new Director of ICA and the State Plan Designee. Ms. McGrory worked in the Commission’s Legal Division for 20 years and served as the Chief Counsel for six years. Within the ICA, the Arizona Division of Occupational Safety and Health (ADOSH) is responsible for both the enforcement and the voluntary compliance programs of the Arizona occupational safety and health plan. Mr. Darin Perkins is the administrator of the ADOSH program. The Arizona program has a central office in Phoenix and a field office in Tucson.

ADOSH had a total of 56 authorized positions for Fiscal Year 2009 which included 21 compliance officers (11 Safety inspectors and 10 Industrial Hygienists) who conducted enforcement inspections. Their budget was \$3,627,251 (\$1,813,000 Federal /\$1,814,251 State) for its 23(g) program and \$694,611 (\$617,000 Federal/\$77,611 State) for its 21(d) program.

ADOSH generally adopts Federal OSHA's occupational safety and health standards and most of its interpretations and compliance policies.

Consistent with the Federal Government Performance and Results Act, ADOSH developed a Five Year Strategic Plan that commits to the effective and efficient performance of the agency's activities and certain levels of reduction in the injury and illness rate of the employers/industries targeted. The goals of the Five Year Strategic Plan (2008-2012) are to be incrementally achieved through the implementation of Annual Performance Plans. The second Annual Performance Plan was implemented in FY 2009.

## **Methodology**

This evaluation covers activities under the 23(g) operational program agreement and is provided in two parts. The first part addresses ADOSH's performance on State program requirements (Mandated State Plan Activities) contained in 29 CFR 1902.3 Criteria for State plans, and 29 CFR 1902.4 State Plan Indices of Effectives. Part two reviews ADOSH's accomplishment in achieving their FY 2009 Annual Performance Plan goals and their progress in meeting their Five Year Strategic Plan goals.

This enhanced evaluation of the Federal Annual Monitoring Evaluation (FAME) report focuses on enforcement effectiveness through a review of case files, data reports, and interviews. The onsite review was conducted by OSHA team members from January 25-29 and April 13-14, 2010.

A review was conducted of case files opened between October 1, 2008 and September 30, 2009 and included sixteen (16) fatality inspections, 40 safety and health inspections and nine (9) whistleblower investigations. The 40 safety and health cases were randomly selected from the complaint log (20 cases), construction list (10 cases), and general industry list (10 cases). Case files were reviewed for accuracy and completeness of information, and conformance to policies and procedures. Compliance with requirements regarding contact with families of fatality victims, training and personnel retention was also assessed.

Data from Arizona's inspections covered the same time period and included general statistical information, complaint processing and inspection targeting. Arizona's data was obtained from the Integrated Management Information System (IMIS), OSHA's database system used by the State to administer its program, and from the Bureau of Labor Statistics (BLS). The data was evaluated to determine improvements and trends and to verify program effectiveness.

The onsite evaluation also included interviews to assess the State program and its management, and to verify issues or findings that arose during the case file and data reviews. Throughout the entire process, Arizona management and compliance staff were cooperative, shared information and ensured employees were available to discuss cases, policies and procedures.

Interviews were also held with several groups of stakeholders representing workers and employers who were solicited for comments regarding their experiences with the operation of Arizona's Occupational Safety and Health (ADOSH) Program. Groups representing workers included union officials from the UNITE Here Locals 631 and 2732. Groups representing Arizona businesses included safety and health professionals with current or past leadership

positions representing the American Society of Safety Engineers (ASSE) and the National Safety Council (NSC). The majority of the feedback supported that ADOSH was performing in a positive and acceptable manner, and that the program was being managed effectively. Any issues brought up were also evaluated during the course of the review and addressed within the report findings.

## **Findings and Recommendations**

Arizona has initiated onsite complaint inspections within three days of receipt, the shortest response time in the last five years. Case file documentation was not always complete nor were OSHA forms filled out correctly, completely, or updated as appropriately. **See Recommendation #2.**

In fatality cases, Arizona responded either within the same day reported or within 24 hours. Despite this outstanding performance in responses, case file reviews noted areas that could be improved upon. Half of the fatalities investigated resulted in in-compliance cases. There was limited information in these cases to adequately ascertain whether these investigations were comprehensive, in-depth and thorough enough to fully evaluate the conditions of the fatalities. Concerns identified also included failure to fully document the hazards associated with these fatalities. There were also deficiencies in documenting communication with the family members of fatality victims. ADOSH needs to ensure that personnel are required to conduct comprehensive fatality investigations and ensure that family members of fatality victims are appropriately notified of the inspection process and results. Supervisors must also review the files more thoroughly and confirm that a thorough investigation was conducted and information is appropriately documented. **See Recommendations #3 - #10..**

Although Arizona has experienced challenges in staffing and budget, they were able to increase the overall number of inspections conducted. Arizona also has an initial penalty per serious violation that continues to be above the National average. However, the rate of serious, willful, and repeat violations was at its lowest in the last five years. Serious citations were not issued in some cases where documentation in the case file supported the serious violations. ADOSH has a high in-compliance inspection rate of 45.6% and a low serious, willful, and repeat violations rate of 22.9% ADOSH needs to ensure staff are trained on hazard identification and classification; and review their programs for targeting the most hazardous industries. **See Recommendation #14.**

Where union representation was identified the case files did not contain documentation that the representative was provided an opportunity to participate during the inspection process. ADOSH needs to ensure that employee representatives are presented an opportunity to participate during every aspect of the inspection process. **See Recommendation #4.**

Arizona showed improvement in decreasing the average time to issue a citation. The average lapse time for safety citations decreased from the previous year, but was still 15 days higher than the National average. They have a unique issue where penalty proposals higher than \$1,000 require the Industrial Commission's review. Dependent on the volume and complexity of cases, this process can add an additional 7 to 14 days to the lapse time. ADOSH needs to continue to work closely with the Industrial Commission to ensure safety citations are processed in a timelier manner. **See Recommendation #15.**

Due to a Governor's rulemaking moratorium that has been in effect since June 2009, Arizona has not adopted any standards, including those in response to Federal standards changes, since October 2008. The State needs to take action to adopt standards in response to Federal revisions in a timely manner. **See Recommendation #19.**

There were several procedural concerns noted in some discrimination cases regarding final determinations since all relevant witnesses did not appear to be interviewed and appropriate notifications to Complainants and Respondents were not clearly documented. Also, the average time to complete discrimination cases was 190 days. There were 46 (60.5%) of 76 discrimination investigations completed within the 90 day time requirement. This is an improvement as compared to 39.2% in FY 2008; however ADOSH needs to continue to improve its timeliness in conducting discrimination investigations and ensure that all discrimination cases are thoroughly investigated and properly documented. **See Recommendations #21-#30.**

Three Complaints About State Plan Administration (CASPA) concerning the ADOSH program were investigated in FY 2009. All of the CASPA related to specific inspections or discrimination complaint investigations completed by ADOSH. Two of the three cases were found to have merit and required the State to re-investigate. Upon review, ADOSH took appropriate actions to rectify the issues identified.

Training records indicate that many of the inspectors have not completed all of the training requirements during the first three years. ADOSH is in the process of developing a training matrix for enforcement staff and needs it meets the Federal training directive. ADOSH also needs to ensure all inspectors complete the mandatory training requirements within the required time. **See Recommendation #34**

Consistent with the Federal Government Performance and Results Act, ADOSH developed a Five-Year Strategic Plan covering FY 2008-2012 to establish standards for measuring the performance and effectiveness of its programs and services. In the second year of their Strategic Plan, ADOSH met or exceeded five of the eight goals, including reducing injury and illness rates in the framing construction industry, the structural steel and precast concrete industries, and the wood products manufacturing industry. Goals not met included reducing injury and illness rates in the architectural and structural metals manufacturing industry, obtaining timely decisions in discrimination investigations, and reducing the time it takes to issue citations to employers after conducting inspections.

Arizona continued to focus its resources on the reduction of high injury and illness rates in the construction and manufacturing industries (framing, structural steel and precast concrete, wood product, and architectural and structural metals) as reported by the Bureau of Labor Statistics. Based on Calendar Year (CY) 2008 data, the latest available, Arizona has seen an overall decline in Total Recordable Case Rates (TRCR) of approximately 16 to 26% for three of four construction and manufacturing industries targeted. Arizona continued outreach efforts to attract applicants to the Voluntary Protection Program (VPP) and added five new employers this past year to increase their total to 27 participants. To secure public confidence in the delivery of ADOSH services, Arizona set lapse time goals for discrimination investigations and citation issuance. Although they fell short of their goal, Arizona made progress in this area.

The issues identified in this report need to be addressed to ensure that the state continues to effectively meet its 23(g) enforcement operational requirements.

After review, the State is required to develop a plan of action where appropriate for each finding and recommendation and submit a written response to the OSHA Regional Office no later than 30 calendar days following the receipt of this report.

A chart listing the findings and recommendations in this report is included as Appendix A.

## **II. Summary of Recommendations and State Actions from the FY 2008 FAME**

The State did not provide an official response to the following recommendations in the FY 2008 FAME Report:

- Arizona needs to significantly improve its lapse time to complete discrimination investigations within 90 days.
- Arizona needs to reduce lapse time and issue safety citations timely.
- ADOSH should explore all options to address the challenge it faces in hiring and retaining experienced personnel.
- Arizona needs to ensure that all serious, willful and repeat violations are verified abated in a timely manner.

While Arizona has taken steps to act upon OSHA's recommendations, some of the same concerns were noted in this evaluation FY 2009. Details are addressed in the body of this report.

### **III. Major New Issues**

On April 8, 2010, the Arizona Court of Appeals upheld the criminal conviction and sentences of the Far West Water and Sewer Company in the death of two workers in 2001. The charges stemmed from an accident that occurred on October 24, 2001 at a sewage collection and treatment facility owned and operated by Far West. At that time Santec Corporation was a subcontractor of Far West. A Far West employee and a Santec employee died in an underground sewage tank after they were overcome by hydrogen sulfide gas. Another Far West employee was seriously injured when he attempted to rescue one of the workers.

Far West was found guilty of one count of negligent homicide, one count of aggravated assault, two counts of endangerment and one count of violating a safety standard or regulation that caused the death of a worker. The company received a total of 12 years probation and fines and penalties totaling \$1,770,000. ADOSH's inspection of the fatality initially conducted in 2001 resulted in six citations for confined space violations with a final penalty of \$31,500.

## IV. Assessment of State Performance

### Part I - Assessment of Arizona's Performance on Mandated and Other Related Activities

#### 1. Complaints

ADOSH's policy for handling complaints is similar to OSHA's. Complaints are evaluated to determine those that result in onsite inspections and those that result in investigations. The State adopted OSHA's inquiry method of complaint response wherein non-serious and non-formal complaints could be investigated by letter or by using the telephone and fax machine rather than by mail.

Arizona received 725 complaints in FY 2009. The average time to initiate a complaint inspection was just under 3 days, the fastest response time over the past five years and was below their goal of seven days. (SAMM 1) The average time to initiate a complaint investigation was under one day which is within their goal of three days.

ADOSH continues to remain close to the goal of 100% timely notification of complaint inspection results with 98.0% (289/295) this year.

Table 1 shows ADOSH's performance for the evaluation period and as compared to the previous fiscal years on responding to complaints and notification of complainants.

Table 1

Complaints (SAMM 1,2,3)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	Goal
Days to Initiate Inspection (SAMM 1)	<b>9.20 days</b> (2806/305)	<b>5.68 days</b> (1528/269)	<b>5.74 days</b> (1327/231)	<b>3.08 days</b> (914/296)	<b>2.92 days</b> (851/291)	7 days
Days to Initiate Investigation (SAMM 2)	<b>4.80 days</b> (1745/363)	<b>3.47 days</b> (1306/376)	<b>6.12 days</b> (2933/479)	<b>2.92 days</b> (1218/417)	<b>0.97 days</b> (387/397)	3 days
Complainants Notified Timely (SAMM 3)	<b>99.01%</b> (300/303)	<b>99.56%</b> (253/262)	<b>98.29%</b> (230/234)	<b>98.25%</b> (281/286)	<b>97.97%</b> (289/295)	100%

The Baseline Special Evaluation review of 27 complaint case files included 26 complaint inspections and one complaint inquiry (investigation). The cases were safety and health inspections/investigations randomly selected from the Arizona's complaint log (22), construction (1) and general industry (4) reports.

Of the 26 complaint inspections reviewed, citations were issued in 17 cases. A majority (72%) of the OSHA-1A narrative and response letters to the complainants were generally very good in addressing each complaint allegation with an appropriate response. It was noted in one case, however, that the finding for a complaint item as non-valid was contradicted in the Compliance Officer's OSHA-1B form for a cited hazard. The hazard cited actually validated the complaint item.

Eleven (11) of the 25 complaint files reviewed did not contain OSHA 300 logs or documentation of why the logs were not required. In the nine (9) complaint files that did contain OSHA 300 logs, there was no evidence that the data was entered into the IMIS system. In three (3) cases, the OSHA-1 narrative was marked that the OSHA 300 log was not required. While there are a few exceptions for this requirement (e.g. size, SIC/NAICs), the specific exceptions applicable to these cases were not provided. Information on the OSHA 300 log should be entered into IMIS. If the logs were not provided or not maintained by the employer, citations should have been issued. A similar finding was noted during the fatality case file reviews and will be addressed in that section.

Employers are entitled to contest a citation and request an informal conference within 15 days of receipt of the citation as addressed in pages 26 and 30 of Chapter IV in the ADOSH FIRM. In 8 of 17 complaint inspection files reviewed where citations were issued, the 15 day due date was not entered into IMIS or field 44a of the OSHA-167I form. This date is significant for penalty collection, abatement, informal conferences, and contests.

Diary sheets or similar daily/chronological logs were not found in 23 of the case files reviewed. This same finding was noted during fatality case file reviews and will be addressed in that section.

In five (5) case files, employer's knowledge, field 23 of the OSHA-1B form, was not entered correctly. Compliance staff consistently focused on what the employer did not know or lack of knowledge of the hazard or violation. Page 7 of Chapter III, C.2.b, in the ADOSH Field Inspection Reference Manual (FIRM) addresses employer knowledge as one of the elements to issue a serious violation.

In seven (7) of the complaint files, the classification of the complaint, field 37 on the OSHA-7 form, was not entered correctly. One case was coded non-formal when the complaint file contained a signed complaint while the other six (6) complaints were coded as formal but were received electronically without a signature from the complainant. This is not consistent with page 3 and 4 of ADOSH's policy #2006-01, CPL 02-00-140 Complaint Policies and Procedures, page 5 of Chapter I in the ADOSH FIRM, and the OSHA FIRM, CPL 2-103, Chapter I, C.2.

In a majority (88%) of the complaint files reviewed, the OSHA-7 form in the case file did not contain the information for letters sent or received. The complaint form in the files appeared to be the initial OSHA-7 entered before any action was taken. Activity updates such as sending or receipt of letters and telephone contacts were entered into IMIS, but were not recorded in the case file either through an updated print out of the OSHA-7 form or on a case file diary sheet.

Optional Code N 11, specifying the electronic complaint log number, was not entered for four (4) electronic complaints processed. One additional file contained part of the information. This is not consistent with page 7 of ADOSH's policy #2006-01, CPL 02-00-140 Complaint Policies and Procedures.

Other issues were identified in limited complaint cases. This includes one instance where the Compliance Officer indicated that the employer was not completing OSHA Form 300s, but a citation for a violation of 29 CFR 1904 was not issued. In another case, the file did not contain documentation of the informal conference discussions involving a penalty adjustment

from \$2,500 to \$75. These issues were also noted during the review of fatality case files and will be addressed in that section. Lastly, there was one case in which violations which were indicated as resulting in potential serious hazards were cited as other-than-serious.

**Finding 1:** The 15-day due date for contesting citations and requesting informal conferences was not always entered into the IMIS system.

**Recommendation 1:** Ensure that the 15 day due date is entered into IMIS for all cases where citations are issued.

**Finding 2:** Information and OSHA forms documenting citations, inspection activity, and contact information were not complete in many cases.

**Recommendation 2:** Ensure Compliance Officers understand the necessary documentation required for violations and completion of OSHA forms. Management should review case files on a regular basis to ensure documentation adequately supports violations and that forms are complete and up to date.

## **2. Fatalities**

During this evaluation period, Arizona experienced 16 fatalities which were investigated by ADOSH. All 16 case files were reviewed as part of the Baseline Special Evaluation.

The process for conducting fatality investigations begins with a Supervisor who takes the reported information and assigns the case to a Compliance Officer. The Compliance Officer is responsible for completing the investigation and assembling the case file with any photos, documentation, etc. The Compliance Officer also collects the next of kin information for the Administrative Assistants to prepare the initial fatality investigation notification letter.

The appropriate Supervisor is responsible for handling informal conferences which includes documenting the discussions and potential course of action, signing the informal settlement agreement, final review of abatement and closing of case files.

All fatality inspections were opened within a timely manner, either the same day the fatality was reported or within 24 hours. Three were opened the next day after initial notification of the fatality with an appropriate explanation for the delay.

OSHA instruction CPL 2.113 states that “Fatalities and catastrophes shall be thoroughly investigated to attempt to determine the cause of the events...” Due to the limited information contained in some case files, OSHA was unable to ascertain the thoroughness of the investigations. In eight (8) in-compliance cases, there did not appear to be sufficient documentation or time spent during the inspections to ensure that this was accomplished. The following issues were identified:

- One case file included a documented violation/hazard that was not addressed as a citation. The violation/hazard identified was a mower roll-over hazard.
- Six (6) case files were documented with less time than was actually spent during inspections.
- Two (2) case files contained only one page of field notes.

- One case file contained a letter from the spouse of the deceased which identified safety hazards at the site. A discussion with the Compliance Officer revealed that the issues raised by the spouse were investigated as a complaint, but this fact was not documented in the case file narrative.
- In one case file interviews consisted of asking employees four questions in Spanish and their responses were provided in Spanish. Although training documents in the case file were in English, there was no indication that the employees understood English and therefore were adequately trained in the language they could understand.
- One case file did not contain documentation to show that management at the facility was interviewed.

Three (3) of 16 case files did not contain notification letters to the family that ADOSH was investigating the death of their loved one. Due to the limited information in the case files, OSHA was unable to determine whether the letters were warranted. Page 19 of Chapter II in the ADOSH FIRM states that “Family members of employees involved in fatal occupational accidents or illness shall be contacted at an early point in the investigations, given the opportunity to discuss the circumstances of the accident or illness and provide timely and accurate information at all stages of the investigation.”

In the cases where ADOSH did send the initial notification letter to the family, it was not clearly recorded to allow a determination of whether the letters were sent beyond the five working days after the start of the investigation. Page 19 of Chapter II in the ADOSH FIRM states, “The standard information letter should be sent to the family member(s) or the person(s) listed as the emergency contact person(s) indicated on the victims’ employment records within 5 working days of the time their identities have been established.”

Four (4) of eight (8) case files did not include additional letters sent to the family with citation(s), informal settlement agreements or case closure information. Page 19 of Chapter II in the ADOSH FIRM states, “The victim’s family members shall be provided a copy of all citations issued as a result of the accident investigation within 5 working days of issuance.”

Of the 16 case files, two (2) were identified as having union representation. However, there was no documentation indicating that the union representative was afforded the opportunity to participate in the opening conference, walk around and closing conference as referenced in page 8 of Chapter II in the ADOSH FIRM, “CSHOs shall determine as soon as possible after arrival whether the employees at the worksite to be inspected are represented and, if so, shall ensure that employee representatives are afforded the opportunity to participate in all phases of the workplace inspection.”

Five (5) case files did not contain interview statements by the employee as referenced in page 14 of Chapter II in the ADOSH FIRM, “Interview statements of employees or other individuals shall be obtained whenever the CSHO determines that such statements would be useful in documenting adequately an apparent violation.” Compliance staff is encouraged to use digital recordings of interviews; however, these recordings are not transcribed in the files and not always listened to at length by reviewing officials.

Five (5) of eight (8) cases where citations were issued had informal conferences conducted. Documentation was not included in the case files to summarize the discussions during the

informal conference and/or reasons for changes to the citations and penalties. Interviews with Compliance staff indicated they generally attend the informal conferences if they are in the office and notes are taken by the Supervisor and provided to the Director. Discussions with the Director confirmed that the information is retained separately from the case file as directed by their Legal Department.

In one case, an informal conference was held 25 working days after the employer received the Citation and Notification of Penalty at which time an Informal Settlement Agreement (ISA) was signed. Page 23 of Chapter IV in the ADOSH FIRM states, "When an informal conference is conducted, it shall be conducted within the 15 working day contest period." In addition, page 27 of Chapter IV in the ADOSH FIRM states, "Precontest settlements generally will occur during, or immediately following, the informal conference and prior to the completion of the 15 working day contest period." "The Informal Settlement Agreement shall be effective upon signature by both the Director and/or his designee holding the informal conference and the employer representative so long as the contest period has not expired."

In 11 of 16 fatality case files, OSHA 300 logs or Log of Work-Related Injuries and Illnesses were either missing or did not contain the required past three years. As of January 2010, ADOSH is ensuring that Compliance staff review and record the establishment's injury and illness records for three prior calendar years as referenced in Chapter 2.II.A-B of CPL 20-00-135, Recordkeeping Policies and Procedures Manual, and issue citations for deficiencies as appropriate. A copy of the three previous years is also included in the case file and entered into the IMIS system.

While fatality documentation was found to be securely fastened in case files, eight (8) were not organized in a uniform manner. In six (6) cases, photos were not attached to the appropriate OSHA-1B form addressing each violation, and in two (2) cases the Compliance Officers' notes were not labeled properly in the case file.

Diary sheets or similar daily/chronological logs were not found in 16 case files reviewed. It is important that a chronological listing of case file activity be provided on the top left hand side of the case file in accordance with page 4 of Chapter III in the OSHA FIRM. This is designed to provide a summary of all actions relating to the case, including important events, especially those not found elsewhere in the case file such as a telephone log and written notes regarding any amendments.

Four (4) of 16 cases did not include IMMLANG (code designed to allow the State to track fatalities among Hispanic and immigrant workers) documentation. The December 16, 2003 Federal OSHA memorandum from Davis Layne, Interim Procedures for Fatality and Catastrophe Investigations (IMMLANG) encourages State Plan States to utilize the new IMMLANG procedures.

There were two (2) case files where the penalty calculations did not reflect the gravity based penalty of the cited hazard that were documented in the case file.

**Finding 3:** Several fatality case file investigations contained limited information and did not appear to be thoroughly documented and investigated. Additionally, it was difficult to determine

whether ADOSH communicated with the victim's family concerning the process and results of the investigations.

**Recommendation 3:** Ensure a comprehensive and in-depth investigation to fully evaluate the conditions of a fatality in accordance with OSHA instruction CPL 2.113 and CPL 2.94 is completed and that contact with the family is sufficiently documented.

**Finding 4:** Employee representative participation in the inspection process was not adequately documented in several case files.

**Recommendation 4:** Ensure union representatives are presented the opportunity to participate in every aspect of the inspection and their involvement is adequately documented.

**Finding 5:** Interview statements were not documented in five fatality investigations.

**Recommendation 5:** Ensure employee interviews are obtained and documented in all fatality investigations.

**Finding 6:** Inspection files did not contain documentation of the informal conference discussions. Similarly, a complaint case file did not contain documentation of the informal conference discussions and rationale involving a penalty adjustment from \$2,500 to \$75.

**Recommendation 6:** Ensure that discussions of the main issues and potential courses of action during the post-citation process are summarized, documented and included in the case file as referenced in Pages 23 and 24 of Chapter IV in the ADOSH FIRM.

**Finding 7:** Case file documentation in the majority of the files were not organized according to established case file set-up procedures and diary sheets or similar daily/chronological logs were not found in all of the case files reviewed.

**Recommendation 7:** Ensure consistent organization of inspection case files as referenced in ADOSH FIRM or Appendix C of OSHA's instruction ADM 03-01-005 (previously ADM 12-05.A), OSHA Compliance Records and that diary sheets or similar daily/chronological logs are maintained.

**Finding 8:** The IMMLANG policy is not consistently followed.

**Recommendation 8:** Review current procedures for IMMLANG and make determination whether Arizona will adopt policy to ensure consistency if followed.

**Finding 9:** Citation penalties were not appropriate based on the hazard in three case files.

**Recommendation 9:** Ensure that citation penalties are assessed in accordance with Chapter IV in ADOSH FIRM.

**Finding 10:** Two (2) cases files did not contain adequate abatement documentation to justify closing the case file.

**Recommendation 10:** Consider auditing closed fatality case files on occasion to ensure that appropriate documentation is included in the file. Ensure Supervisors utilize the IMIS Abatement Tracking report and send appropriate follow-up letters to employers.

### **3. Targeting/Inspections**

A review was conducted of Arizona's targeted/programmed inspection systems for general industry and construction. The review included IMIS inspection, Enforcement Statistics, and Detailed Scan reports for programmed inspections conducted in FY 2009.

During this evaluation period, ADOSH's Local Emphasis Programs (LEPs) included CLAIMS, FALL, TRENCH and SILICA. However, the Integrated Management Information System (IMIS) shows a total of ten (10) LEP codes. The six additional LEP codes include Agriculture (AGRIC), Non-OSHA Health (AZHEALTH), Non-OSHA Safety (AZSAFETY), Field Sanitation (FIELDSAN), High Hazard Inspections Based in High Worker Compensation Claims, Inspections Conducted at Highway Workzones (HIGHWAY), and Lead Exposure in Radiator Shops (RADSHOP).

OSHA noted that while States were not required to adopt CPL 2-0.102A, Procedures for Approval of LEPs, they were asked to keep the Regional Administrators informed of State-developed local emphasis programs, experimental programs, local problem solving projects, including any that relate to State Strategic Plan goals.

ADOSH's four (4) Emphasis Programs accounted for a total of 206 inspections during the evaluation timeframe:

- CLAIMS: 8 inspections (all inspections done on the same day, of subdivisions of the City of Coolidge); all inspections had citations, 0% in-compliance rate
- FALL: 162 inspections; 28.4% in-compliance
- TRENCH: 34 inspections; 55.9% in-compliance
- SILICA: 2 inspections; 0% in-compliance

The CLAIMS program was implemented in 1994, as a method of scheduling programmed general industry inspections. The ICA's Workers Compensation Section provides ADOSH with a list of general industry employers with five or more workers compensation claims in the previous year. This list is then compared to the general industry targeting list, and employers who show up on both lists are scheduled for inspection. Employers scheduled for CLAIMS inspections are offered the opportunity to request assistance from the consultation service.

It appears that this LEP has been written too narrowly, or else has not been successfully applied to private sector employers within the state. In FY 2009, the eight (8) inspections conducted under this LEP were all of subdivisions of the city of Coolidge. In FY 2008, 11 inspections were conducted under CLAIMS and nine (9) of those inspections were in the city of Prescott. In FY 2006, 37 inspections were conducted under CLAIMS, including 12 in the city of Bisbee and 24 in the city of Flagstaff.

While a substantial number of trenching inspections were conducted, the 55.9% in-compliance rate suggests that either the jobsites being targeted are not the most hazardous, or compliance staff needs additional training on recognizing trenching hazards. The Silica LEP resulted in too few inspections for any conclusions to be reached.

The FALL Local Emphasis Program, targeting primarily falls in construction, is ADOSH's most successful targeting system.

Most of ADOSH's programmed inspections are conducted through the Construction Targeting Plan. This plan relies on Dodge reports for a universe of construction projects starting within a specified timeframe, and is based on random selection from this on-going list of projects. Supervisors can delete jobsites from the list based on project inactivity, a previous comprehensive inspection of the same worksite, or if the worksite is exempt from inspection based on participation in the Voluntary Protection Program.

Inspections conducted under the Construction Targeting Plan should be coded with the optional code N 06, designating the Project ID Number, or Dodge Number. A data review of inspections in Construction Standard Industrial Classifications (SICs) with N 06 codes showed 284 programmed inspections. Of these 284 inspections, only 72 have citations issued, an in-compliance rate of 74.6% for this program.

#### *Actual versus Planned Inspection Numbers*

In FY 2009, ADOSH conducted 1,594 inspections (1,065 safety and 529 health) and fell short of their total goal of 1,702 (1,214 safety and 488 health). Although this was due to a state-wide hiring freeze and the inability to maintain staffing at authorized levels, ADOSH's performance improved from 1,428 in FY 2008 and 1,377 in FY 2007. (Micro to Host Report)

Compliance staff conducted 5.8 safety and 5.7 health inspections per 100 hours and exceeded the Federal average of 5.5 and 1.6 respectively. (SIR C-6)

Overall, a majority of the inspections were in the construction industry (57.4%). This is consistent with Arizona's Performance Plan goals to allocate program resources in the construction industry which has the highest incidence rate of injuries and illnesses in the State.

Chart 1 shows a breakdown of the number of construction, safety and health inspections conducted by ADOSH from FY 2006 through FY 2009. (Micro to Host Report)

Chart 1

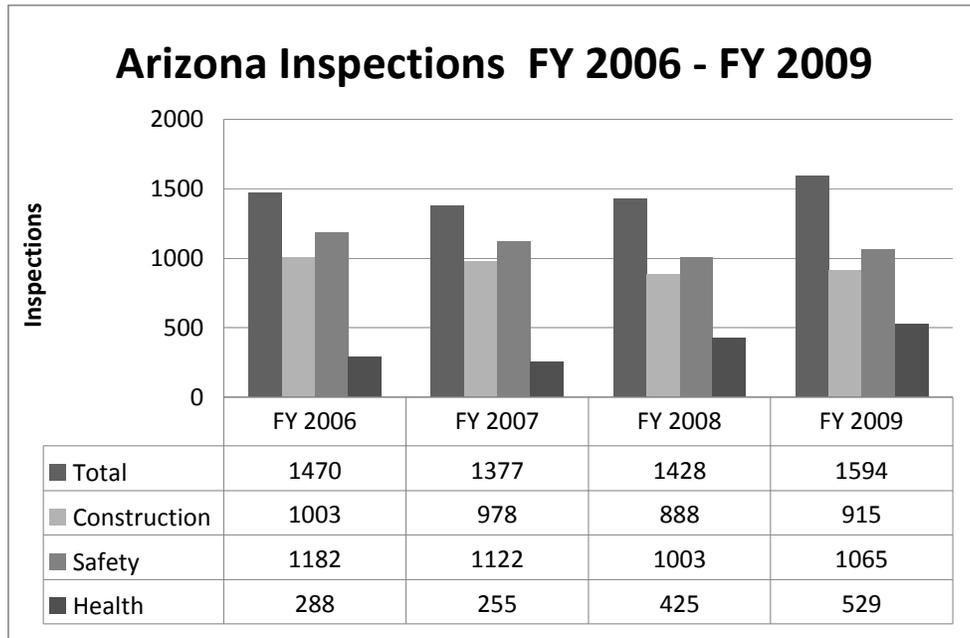
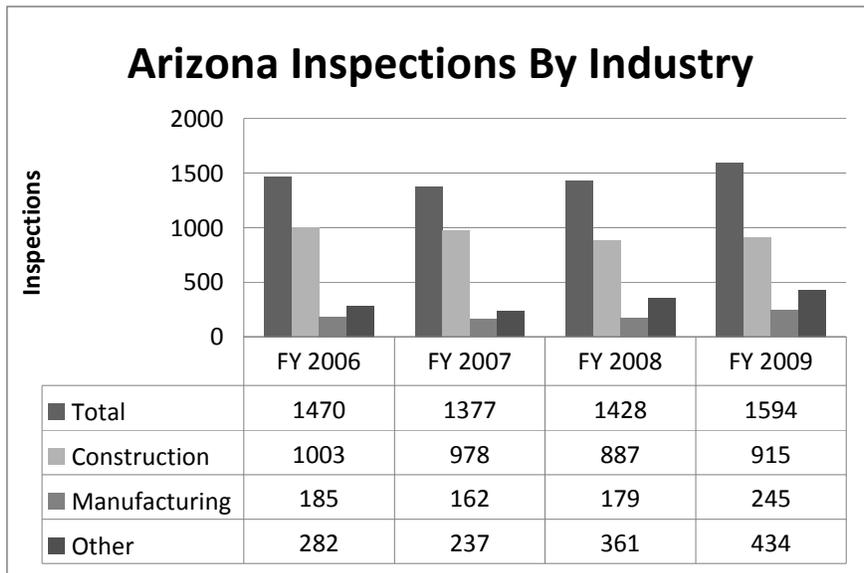


Chart 2 shows the number of ADOSH inspections by industry during the same time period. (Micro to Host Report)

Chart 2



*Identification of Hazards*

The identification of hazards in the workplace is evaluated from 1) the percentage of programmed inspections with serious, willful and repeat violations, 2) the average number of serious, willful, and repeat violations per inspection and 3) the percentage of serious violations.

Arizona’s programmed safety inspections continued to result in fewer serious, willful and repeat violations than the national average. Their current rate is the lowest in the last five years. In FY 2009, only 16.42% (131/798) of programmed inspections were identified with S/W/R violations for safety and 25.81% (64/248) for health. These results are lower than the National average for both safety and health (58.6% and 51.2% respectively) during the same time period. (SAMM 8)

Table 2 shows the percent of ADOSH’s programmed inspections that had violations classified as serious, willful, repeat, or unclassified and compares this year’s performance with that of previous fiscal years.

Table 2

<b>% Programmed Inspections with S/W/R Violations (SAMM 8)</b>						
	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>	<b>FY09 Nat. Data</b>
Safety	<b>27.16%</b> (201/740)	<b>21.80%</b> (182/835)	<b>26.98%</b> (221/819)	<b>27.12%</b> (208/767)	<b>16.42%</b> (131/798)	58.6%
Health	<b>46.23%</b> (49/106)	<b>58.42%</b> (59/101)	<b>50.98%</b> (52/102)	<b>34.33%</b> (69/201)	<b>25.81%</b> (64/248)	51.2%

The following chart shows the percentage of serious and serious, willful and repeat (SWR) violations cited by ADOSH in complaint, fatality/catastrophe (fat/cat), and programmed planned inspections, compared to the Federal percentages for those same categories:

	<b>Complaint Inspections</b>		<b>Fat/Cat Inspections</b>		<b>Programmed Planned Inspections</b>	
	<b>Federal</b>	<b>ADOSH</b>	<b>Federal</b>	<b>ADOSH</b>	<b>Federal</b>	<b>ADOSH</b>
# of Inspections	6678	294	838	30	20,742	1072
% Serious	73.8%	26.5%	79.8%	58.5%	77.2%	17.5%
% SWR	74.0%	26.8%	83.2%	58.5%	80.8%	17.9%

ADOSH’s rate of serious violations for programmed planned inspections is significantly lower than Federal OSHA’s rate, and is also lower than the State’s own rates of serious for complaint or fat/cat inspections.

Chart 3 supports the data in Table 2 and shows a breakdown of Arizona’s number of inspections with violations cited and those that resulted in serious violations. Of Arizona’s 1,594 inspections conducted during this evaluation period, a little more than half (54.4%) resulted in violations and 345 (21.6%) had serious violations issued. (Micro to Host Report)

Chart 3

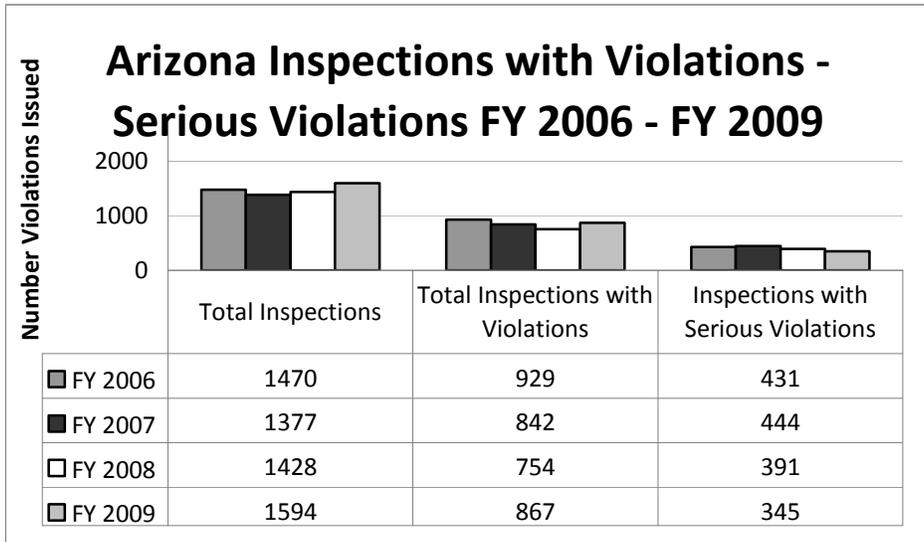


Chart 4 shows the majority of Arizona’s violations are classified as other than serious. Arizona’s willful, repeat, serious and other violations are at its lowest in the last four years. (Micro to Host Report)

Chart 4

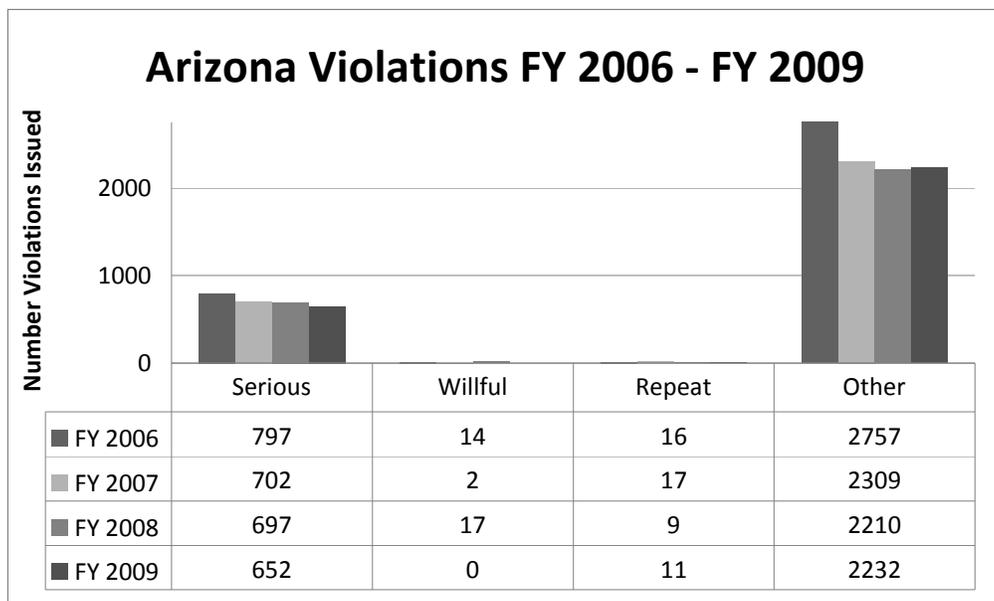


Table 3 shows the average number of violations found by ADOSH among inspections that found a violation and compares this year’s performance with that of previous fiscal years.

Table 3

Violations/Inspection (SAMM 9)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	FY09 Nat. Data
S/W/R	1.23 (1049/846)	1.05 (939/890)	0.93 (822/883)	1.04 (822/783)	0.87 (730/838)	2.1
Other	2.92 (2477/846)	3.13 (2793/890)	2.66 (2355/883)	2.85 (2237/783)	2.7 (2268/838)	1.2

Most files contained evidence of adequate documentation to support violations cited; however in 13 cases the information in the case file raised questions regarding the classification of hazards. In four (4) cases, violations which indicated potential serious hazards were cited as other-than-serious. In at least nine (9) cases, hazards which were indicated by interview statements, photos, or field notes were not cited. Some cases had little documentation contained within them that made it difficult to evaluate if hazards were addressed appropriately.

**Finding 11:** The CLAIMS Local Emphasis Program did not demonstrate successful targeting of high hazard, private sector, general industry employers.

**Recommendation 11:** Modify the scope and targeting mechanism of the CLAIMS Local Emphasis Program to ensure it is successful.

**Finding 12:** The construction targeting plan resulted in only 25.4% of the inspections with citations issued and the programmed inspection system used resulted in high in-compliance rate of inspections.

**Recommendation 12:** Assess all programmed inspection systems and implement measures to improve in-compliance rates to ensure that the most hazardous industries and workplaces are being addressed.

**Finding 13:** Inspection goals for FY 2009 were not met.

**Recommendation 13:** Evaluate resources and schedule inspections to ensure inspection goals are met.

**Finding 14:** The rate of serious violations for programmed planned inspections decreased and is the lowest in the previous five years. There were some cases where documentation in the case file appeared to support a Serious violation, however Serious citations were not issued.

**Recommendation 14:** Ensure the most hazardous industries and workplaces are being inspected in an effective manner to identify serious hazards and consider conducting training on hazard classification to ensure consistency with violation classification.

#### **4. Employee and Union Involvement**

Arizona addresses employee and union involvement in their Arizona Revised Statutes RS 23-408(D) and Arizona Administrative Code R20-5-615. In addition, Chapters II and IV in the ADOSH FIRM provide specific guidance during the inspection process as follows:

Page 8 of Chapter II in the ADOSH FIRM states “CSHOs shall determine as soon as possible after arrival whether the employees at the worksite to be inspected are represented and, if so, shall ensure that employee representatives are afforded the opportunity to participate in all phases of the workplace inspection.” Page 22 also refers to the completion of an inspection where employee representatives participating in the inspection shall also be afforded the right to participate in the closing conference.

During the informal conference process, if requested by the employer, an effected employee or the employee representative, both parties shall be afforded the opportunity to participate fully. If the requesting party objects to the attendance of the other party, separate informal conferences may be held. During the conduct of the joint informal conference, separate or private discussions shall be permitted if either party so requests. Informal conferences may be held by any means practical.

Page 27 of Chapter IV includes a section in that if a settlement is reached during the informal conference, an Informal Settlement Agreement (ISA) shall be prepared and the employer representative shall be invited to sign it.

Citations shall be mailed to employee representatives no later than one day after the citation is sent to the employer.

Arizona has adequate procedures to address employee and union involvement in the inspection process. A checklist has been developed to determine whether employees are represented. The information is placed on the OSHA-1 form.

During the fatality case file reviews, at least eight (8) case files were identified as having union representation. However, there was no documentation indicating that union representatives were notified of these activities or afforded the opportunity to participate. **See Recommendations #4.**

**5. Citations and Penalties**

*Citation Lapse Time*

Overall Arizona’s citation lapse time decreased slightly for safety (from 60.1 to 58.8 days) and health (34.6 to 30.8 days) inspections when compared to the previous year. Lapse time for safety citations is above the National average by 15 days (43.8 days) while health is below by 26 days (57.4 days).

As indicated in Part II of this report (Annual Performance Plan Goal 2.2), Arizona established a goal to reduce safety and health citation lapse times. However, the planned reduction for safety citation lapse time was not achieved.

During this evaluation period, ADOSH worked with enforcement staff that had higher citation lapse times than the National average and are taking steps to ensure their improvement. A factor that adds to their overall citation lapse time is the Commission’s review of all proposed penalties higher than \$1,000. This process is unique to Arizona, where an independent body separate from the ADOSH program reviews the appropriateness of penalty proposals and either approves, modifies or disapproves the issuance of penalties or violations. The Director and/or his representative present such cases once a week at a public meeting and validates why a penalty should be assessed. Depending on the volume and complexity of the cases, this process can include an additional 7 to 14 days to the lapse time.

Table 4 shows the average number of calendar days from the date the inspection was opened to the date ADOSH issued a citation and compares this year’s performance with that of previous fiscal years.

Table 4

<b>Citation Lapse Time in Calendar Days (SAMM 7)</b>						
	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>	<b>FY09 Nat. Avg.</b>
Safety	<b>52.48 days</b> (34013/648)	<b>45.56 days</b> (30939/679)	<b>56.34 days</b> (39157/695)	<b>60.08 days</b> (33286/554)	<b>58.81 days</b> (30113/512)	43.8 days
Health	<b>42.38 days</b> (8393/198)	<b>43.91 days</b> (9311/212)	<b>43.29 days</b> (8096/187)	<b>34.62 days</b> (7930/229)	<b>30.83 days</b> (10052/326)	57.4 days

*Penalties*

The Industrial Commission of Arizona approves all proposed penalties higher than \$1,000 and modifies penalties based on their judgment of the circumstances, exposure and severity of the hazard being addressed.

During this evaluation period, Arizona’s average initial penalty per serious violation was \$1,429 and is above the National average (\$1,329).

Table 5 shows the average initial penalty ADOSH proposed for a serious violation and compares this year’s performance with that of previous fiscal years.

Table 5

Average Penalty (SAMM 10)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	FY09 Nat. Data
Serious	\$1,607	\$1,554	\$1,706	\$1,430	\$1,429	\$1,329

**Finding 15:** The Commission’s required review of all cases for proposed penalties in excess of \$1,000 has adversely affected the issuance of citations in a timely manner.

**Recommendation 15:** Continue to work closely with the Commission and staff to ensure that citations are issued in a timely manner.

**6. Abatement**

ADOSH’s policy is to conduct follow-up inspections when an employer fails to provide adequate proof of abatement of serious violations.

Overall, Arizona’s verification of violation abatement improved when compared to the previous evaluation period. In FY 2009, ADOSH timely verified abatement of 94% and 100% of the serious, willful and repeat violations in the private and public sectors respectively. (SAMM 6)

Table 6 shows the percent of serious, willful, repeat and unclassified violations that ADOSH found and verified abated within the abatement due date plus 30 calendar days. The table also compares this year’s performance with that of the previous fiscal years.

Table 6

% S/W/R Violations Timely Verified Abated (SAMM 6)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	Goal
Private Sector	72.68% (588/809)	90.64% (668/737)	89.39% (514/575)	88.43% (466/527)	94.03% (425/452)	100%
Public Sector	83.33% (5/6)	100% (6/6)	86.36% (19/22)	89.29% (25/28)	100% (15/15)	100%

Supervisors are generally responsible for the review of abatement. In six (6) cases reviewed, evidence or verification of abatement was inadequate.

OSHA noted that field 19 of the OSHA-1B form was not being utilized to alert an employer when abatement verification is required. During the citation assembly, this procedure automatically creates a message on the appropriate OSHA-1B form, “Abatement Verification Documentation Required.”

Based on the Default Violation Abatement Standard Report, three (3) of the four (4) cases identified in the Phoenix office were showing past due abatement. This report lists all cases with abatement past due for specific violations and is available for use by management to contact the employer and remind them of their past due abatement or schedule a follow-up inspection because of the lack of employer's abatement response.

One case was open with abatement due dates of June 29, 2008 and July 17, 2009. The report did not show any contest data. However, the case file contained notification of a contest from the employer via email on June 26, 2009 and an abatement letter received and date stamped on July 2, 2009. There was no additional documentation acknowledging that the abatement letter was reviewed and any other action taken.

Two (2) of the four (4) cases were construction inspections with settlement order data. Both inspections were open, but there was no abatement verification information in the files. One case file had a Formal Settlement Agreement documenting abatement as completed and there was no record in the file indicating any abatement action was taken. This is inconsistent with ADOSH's policy to verify abatement prior to closing a case.

**Finding 16:** Employers were not always notified of the Abatement Documentation requirements and abatement was not always adequately documented in case files.

**Recommendation 16:** Ensure that adequate documentation is obtained from the employer to appropriately address citations. Provide training to Compliance officers regarding the requirement of abatement verification documentation as it relates to field 19 of the OSHA-1B form. Utilize the Default Violation Abatement Standard Report to identify and track cases with abatement outstanding and follow-up as directed under CPL 2-0.114, Abatement Verification Regulation, which may include the issuance of additional citations for violations of 29 CFR 1903.19. When appropriate, they should also expand the use of abatement codes W (not completed, worksite changed) and E (not completed, employer out of business).

## **7. Review Procedures**

### *Informal Conferences*

Upon request from the employer, ADOSH supervisors hold informal conferences concerning citations issued prior to the expiration of the 15 day statutory contest period. Based on the evidence presented at the informal conference, ADOSH may delete or reclassify the violations and may reduce the penalty.

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

The Review Board consists of five members appointed by the governor. One member is a representative of management, another is a representative of labor, and three members are representatives of the general public. Members of the review board are appointed to five-year terms and all decisions made by the Board are determined by a majority. The Review Board may

affirm, reverse, modify or supplement the decision of the ALJ. The Board’s decision may be appealed to the Superior Court.

Pre-contest (informal conferences) data for Arizona indicates that most citations are upheld. In FY 2009, ADOSH continued to sustain both violations and penalties during informal conferences. Only 2.2% of violations reviewed in informal conferences were vacated and 0.6% of violations were reclassified. Penalty retention remained high at 74.9%. These figures were close to ADOSH’s performance in FY 2008 and exceeded the Federal data of 5.1%, 4.8%, and 63.2% respectively. (SIR C-7,8,9)

Informal conferences are usually conducted by the Supervisor. Thirty five (35) case files were reviewed that had citations issued. Of those, one case file review showed that a violation was amended post-issuance, but there was no documentation in the case file to show that an Informal Conference was held.

Of the three (3) informal conferences conducted in fatality cases, there was no documentation in the file summarizing the discussions and/or reasons for changes to the citations and penalties. However, interviews with Arizona staff confirmed that informal conference notes are retained separately from the case file as directed by their Legal Department.

*Formal Review Procedures*

During the post-contest period, 36.5% of the violations issued were vacated, 10.3% violations reclassified and 63.9% of the penalties retained. While the violations vacated was higher than the Federal data of 23.4%, violations reclassified and penalty retention was comparable at 15.1% and 58.5% respectively. (SIR E-1, 2, 3)

In FY 2009, Arizona’s average time from the date of contest to a first level decision decreased from 153.3 days to 127.6 days. This is below the National average of 246.1 days. (SAMM 12)

Table 7 shows the average number of days it took Arizona to make a “first-level” decision for contested cases and compares this year’s performance with that of previous fiscal years.

Table 7

Contested Case Lapse Time (SAMM 12)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY09 Nat. Avg.
	<b>151.0 days</b> (17673/117)	<b>126.7 days</b> (7981/63)	<b>127.5 days</b> (6121/48)	<b>153.3 days</b> (10421/68)	<b>127.60 days</b> (5487/43)	246.1 days

**8. Public Employee Coverage**

Arizona’s enforcement program for state and local government is identical to that in the private sector. ADOSH schedules inspections and issues citations and penalties for both in the same manner, but state agencies are represented by the Attorney General’s Office if citations are contested.

During FY 2009, 11.5% of Arizona’s inspections were conducted in the public sector, which is almost three times more when compared to the previous fiscal year. (SAMM 11) This was a result of an oversight and measures have been taken to ensure it does not happen again.

Table 8 shows the percent of ADOSH’s total inspections that were conducted in the public sector and compares this year’s performance with that of previous fiscal years.

Table 8

<b>% Inspections in Public Sector (SAMM 11)</b>						
	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>	<b>3 Year State Data</b>
	<b>2.16%</b> (31/1436)	<b>5.03%</b> (74/1472)	<b>5.37%</b> (74/1379)	<b>4.85%</b> (69/1424)	<b>11.54%</b> (184/1594)	7.5%

**9. Information Management**

A review was conducted of the Integrated Management Information System (IMIS) in Phoenix, as well as reports available through IMIS, to determine the effectiveness of ADOSH’s information management programs.

ADOSH’s Informational Technology (IT) Administrator is responsible for the daily transmissions to the host computer. This includes the Start of Day (SOD) and End of Day (EOD) processing, system backups, and running of various IMIS reports (e.g. Standard and Micro-to-Host). To secure data in case of a system or electrical failure, system backups are performed according to the prescribed schedule. In addition, reports providing information on rejected information from the SOD and EOD are addressed immediately by working with Compliance staff and management. This also provides an opportunity to educate staff on the IMIS system through real time information and provide additional training where needed.

ADOSH utilizes seven (7) Standard Reports available in the IMIS system. Table 9 below lists the name of the Standard Reports run and their frequency:

Table 9

<b>Standard Report</b>	<b>Frequency</b>
FAT/CAT Tracking	Upon Request
Complaint Response Due	3 months
Unsatisfied Activity	Biweekly
Open Inspection	Biweekly
Citation Pending	Biweekly
Case Lapse Time	Biweekly
Case Audit	Daily

For FY 2009, ADOSH maintained the data forms in the Phoenix and Tucson offices and records were found to be complete. The only forms present at the time of the onsite evaluation were OSHA-1B forms, all of which were within the six month date for issuance.

ADOSH's IT Administrator does not have a backup. OSHA ADM 1-1.30, Page II-1, paragraph B, states both a System Administrator and a Backup System Administrator should be designated to manage the IMIS.

It was also noted that ADOSH does not use nine (9) of the available Standard Reports such as Case Follow-Ups, Referral Tracking, Planned Assignments, Assignments Activity, Assignments Pending, Select VioAbate, Default Violation Abatement, Debt Collection and Denial.

**Open Inspection Report:** ADOSH utilizes this report for internal audit purposes to track the number of days a case has been opened, abatement, and overdue penalties.

**Cases with Citations Pending Report:** This report lists all open inspections where citations have not been issued and is available for use by management to track the six-month statute of limitations for issuing citations.

**Complaint Standard Report:** ADOSH utilizes the Complaint Micro-to Host report rather than the Standard Report for more detail in tracking complaint case files.

**Debt Collection Report:** This report lists all cases with outstanding penalties that require action and is available for use by management and/or administrative staff to pursue the collection of penalties. ADOSH enters penalty payments into the IMIS system, but does not use this report. ADOSH uses the Arizona Industrial Commission (AIC) system for debt collection and has a separate penalty collection tracking system.

**Default Violation Abatement Standard Report:** This report lists all cases with abatement past due for any violation and is available for use by management to identify which cases may need abatement action. ADOSH has not utilized this standard report.

Of the four (4) cases identified in this report with outstanding abatement, three were deficient. One case was open with abatement due dates of June 29, 2008 and July 17, 2009. The report did not show any contest data. However, the case file contained notification of a contest from the employer via email on June 26, 2009 and an abatement letter received and date stamped on July 2, 2009. There was no additional documentation acknowledging that the abatement letter was reviewed and any other action taken.

Two (2) of the four (4) cases were construction inspections with settlement order data. Both inspections were open, but there was no abatement verification information in the files. One of these two (2) cases had a Formal Settlement Agreement documenting abatement as completed and there was no record in the file indicating any abatement action was taken. This is inconsistent with ADOSH's statement that there is a policy to verify abatement prior to closing a case. In addition, deficiencies in the coding of certain data entry fields are identified in separate sections of this report.

**Finding 17:** A designated IT Backup System Administrator was not designated.

**Recommendation 17:** Retain an IT Backup System Administrator to prevent a breakdown in the system in the event the IT Administrator is unable to perform these functions. (OSHA ADM 1-1.30, Page II-1, paragraph B)

**Finding 18:** Appropriate and accurate information was not consistently entered into the IMIS system.

**Recommendation 18:** Ensure staff is properly trained on entering appropriate information in IMIS while handling complaints, abatement, and discrimination cases. Management should review case files and use IMIS reports on a regular basis to ensure that data is being entered correctly into IMIS.

**10. Standards**

*Standards Adoption*

In FY 2009, OSHA promulgated four Federal Register Notices on standards. At the time of the onsite evaluation, Arizona adopted OSHA’s Final Rule on Electrical Installation Standard 1910 Subpart S; Clarifications and Corrections within 10 months.

Two standards, Updating OSHA Standards Based on National Consensus; Personal Protective Equipment and Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee, were pending approval. The delay is a result of the Governor’s rulemaking moratorium that has been in effect since June 2009. Due to the impact on health and safety regulations of the agency, ADOSH worked with their Legal Department for an exception to this stay, but was not successful and they did not meet the six month time period set by Federal regulations.

Arizona did not adopt OSHA’s Final Rule on Longshoring and Marine Terminals and Vertical Tandem Lifts as the State does not cover maritime jurisdiction.

Federally Initiated Standards Log and Arizona’s Response

Federal Standard Number	Intent to Adopt	Adopt Identical	State Standard Number	Date Promulgated	Effective Date	FR Published Date
<u>29 CFR PART- 1910SubpartS (72FR7136)</u> Electrical Standard; Clarifications; Corrections	YES	YES	N/A	10/29/2008	08/31/2009	N/A
<u>29 CFR PART- 1917,1918 2009 35</u> Longshoring and Marine Terminals; Vertical Tandem Lifts	NO	N/A	N/A	N/A	N/A	N/A
<u>29 CFR PART-1910,1915,1917,1926 2009 36</u> Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee	YES	YES		Pending		N/A
<u>29 CFR PART- 1910,1915,1917,1918 2009 37</u> Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment	YES	YES		Pending		N/A

## *Federal Program Changes*

In August 2008, Federal OSHA's Directive, TED 01-00-018 Initial Training Program for OSHA Compliance Personnel, required States to adopt an identical formal program for their Compliance personnel or submit a State Plan Change documenting its program, identifying policies and procedures which are different from Federal OSHA and explaining how its training program will result in adequately trained personnel to conduct effective inspections. This is an outstanding item from the FY 2008 FAME Report.

Due to the State's economic situation, an out of state travel restriction, and the inability to have several required courses made available through OSHA Training Institute (OTI) off-site courses, ADOSH adopted an alternative approach and is developing a training matrix for Compliance personnel using the University of California San Diego (UCSD) Education Center and other professionals to support their training needs. However, a Plan Change Supplement has not yet been submitted to OSHA for review. (Additional training issues are covered in more detail in the *Training* section on page 40 of this report.)

In FY 2009, Arizona adopted the Injury and Illness Recordkeeping National Emphasis Program, Process Safety Management Covered Chemical Facilities National Emphasis Program, Field Operations Manual (FOM). Of these Federal Program Changes (FPCs), the FOM exceeded the six month time period set by Federal regulations and took one year and two months to adopt.

It was also noted that the notice of final rulemaking indicated minor terminology and technical changes that reflect the difference between ADOSH's program and the Federal program. However, an electronic email to staff referenced OSHA's website, Directive CPL 02-00-148 FOM, for specific information regarding the adopted change.

While Arizona generally adopts OSHA's changes verbatim, any modifications other than their unique structure (*e.g.*, organizational responsibility within a State and corresponding titles or internal State numbering system), must be submitted as a State Plan Change for OSHA's review as referenced in 29 Code of Federal Regulations 1953.2(e).

Arizona did not adopt the Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors and will continue to enforce 29 Code of Federal Regulations 1926.754(b) (3) and (c) (1) as written in the standard.

Arizona did not adopt the Petroleum Refinery Process Safety Management National Emphasis Program; there were no petroleum refineries in Arizona.

Arizona did not adopt OSHA's Site-Specific Targeting 2008 and 2009 and will continue with their general industry inspection targeting system.

Federal Program Change FY 2009							
Directive Number	Adoption Required	Intent Required	Intent to Adopt	Adopt Identical	State Adoption Date	State Submission Date	FR Published
Initial Training Program for OSHA Compliance Personnel, TED 01-00-018	YES	YES	YES	NO	----	----	---
CPL-02-00-148 2009 332 Field Operations Manual	YES	YES	YES	NO	05/01/2010	-----	----
CPL-2(09-05) 2009 333 Site-Specific Targeting 2009 (SST-09)	NO	YES	NO	N/A	N/A	N/A	N/A
CPL-02(09-06) 2009 334 NEP -- PSM Covered Chemical Facilities	NO	YES	YES	YES	N/A	N/A	N/A
CPL-03-00-010 2009 353 NEP Petroleum Refineries - Extension of Time	NO	YES	NO	N/A	N/A	N/A	N/A
CPL-02-01-046 2010 354 Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors	NO	YES	NO	N/A	N/A	N/A	N/A
CPL-02-09-08 2010 355 Injury and Illness Recordkeeping National Emphasis Program	NO	YES	YES	YES	N/A	N/A	N/A

**Finding 19:** New Federal OSHA standards were not adopted in a timely manner.

**Recommendation 19:** Ensure standard adoption is within 6 months of the Federal promulgation date.

**Finding 20:** An appropriate Plan Change Supplement has not been submitted for review for the formal training program for Compliance personnel and for their targeting system which differs from the Federal system.

**Recommendation 20:** Adopt a formal training program for Compliance personnel and submit a Plan Change Supplement for OSHA's review. Arizona must also submit a State Plan Change Supplement with a description of their targeting systems.

## 11. Variances

Arizona's Revised Statutes 23-411 and 23-412 and Arizona's Administrative Codes R20-5-655 and R20-5-656 provide guidelines on the variance process. Employers may be eligible for a temporary or permanent variance from a standard or regulation if they can demonstrate that affected employees are as safe and healthful as those who would have complied with the

standard or regulation. Affected employees are also provided notification of the notice of the application and an opportunity to participate in a hearing.

In FY 2009, ADOSH did not issue any variances. ADOSH has only issued one variance, in February 27, 2003, to Desert Masonry Company and all similarly situated employers in Arizona. This permanent variance allows all Arizona employers who properly erect scaffolding on top of a level, concrete slab or foundation to utilize a 6" x 6" piece of 1/2" plywood directly underneath each scaffold leg in lieu of a base plate.

## **12. Consultation Activities**

ADOSH provides consultation services to both public and private sector employers through its Consultation, Education and Training Section. The private sector consultation program receives 90% Federal funding under Section 21(d) of the Occupational Safety and Health (OSH) Act and is evaluated separately. The following section covers consultation services provided solely to public sector employers that are funded under Section 23(g) of the OSH Act.

In FY 2009, Arizona conducted 37 initial consultation visits in the public sector. Of these, 12 were full service and 25 limited service visits. Only 75.68% (28/37) were in high hazard industries, which is less than the goal of 90%. (MARC 1).

Arizona exceeded the goal for visits in smaller businesses with less than 250 employees at 97.30% (36/37) (MARC 2), and in all 37 consultation visits, the consultant conferred with employees 100% of the time. (MARC 3)

During this evaluation period, eight visits (22%) had no serious hazards identified. Of the remaining visits, 54 serious hazards were identified and all (100%) were verified corrected in a timely manner. (MARC 4) Forty six (46) serious hazards were verified within the original time frame or on time, seven within the extension time frame, one on site, and one within 14 days of the latest correction due date.

## **13. Discrimination**

Arizona's performance in the timely investigation of discrimination complaints improved slightly. Based on the FY 2009 State Mandated Activity Measures (SAMM) data, Arizona completed 76 discrimination investigations during this evaluation period and completed 50% (38) within 90 days. (SAMM 13) In comparison, ADOSH completed 74 discrimination investigations and completed 29 cases (39.19%) within the required 90 days in FY 2008.

Of the 76 cases, 13 (17.11%) of the discrimination cases investigated by Arizona were found to have merit. Twelve (12) were settled without going to litigation. (SAMM 14, 15)

The SAMM is slightly different from the State's data of 76 discrimination cases investigated and 46 (60.5%) completed within the 90 days. Of the 76 cases, 10 were settled. OSHA is aware of this issue and continues to work with ADOSH to ensure that the appropriate data is entered into the system.

Table 10 shows the percent of 11(c) discrimination investigations that ADOSH completed within 90 calendar days, merit cases, merit cases settled and compares this year's performance with that of previous fiscal years.

Table 10

<b>Discrimination (SAMM 13, 14, 15)</b>						
	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>	<b>FY 09 Nat. Data</b>
% Completed Within 90 Days ( <b>SAMM 13</b> )	<b>65.33%</b> (49/75)	<b>44.68%</b> (21/47)	<b>77.78%</b> (49/63)	<b>39.19%</b> (29/74)	<b>50%</b> (38/76)	100% (National Goal)
% Merit Cases ( <b>SAMM 14</b> )	<b>16.00%</b> (12/75)	<b>10.64%</b> (5/47)	<b>4.76%</b> (3/63)	<b>28.38%</b> (21/74)	<b>17.11%</b> (13/76)	20.8%
% Merit Cases Settled ( <b>SAMM 15</b> )	<b>41.67%</b> (5/12)	<b>20.00%</b> (1/5)	<b>33.33%</b> (1/3)	<b>47.62%</b> (10/21)	<b>92.31%</b> (12/13)	86.2%

SAMM 13 shows a steady increase of complaints (61.8%) from 47 cases in FY 2006 to 76 in FY 2009. ADOSH has taken measures to improve in this area by allocating one full time and one part time discrimination investigator to solely investigating 11(c) cases. However, the impact on staffing resources has resulted in Compliance staff tasked to provide assistance.

In February 2009, OSHA's Region IX Supervisory Investigator provided a three day training course to ADOSH staff on anti-discrimination laws covering the Elements of a Whistleblower Violation, Investigating Whistleblower Complaints, Back Pay, Settlements, Docketing Complaints and Using IMIS, and Professional Conduct.

Compliance officers and administrative staff sometimes answer telephone calls pertaining to discrimination complaints, but will typically refer these calls to a discrimination investigator for complaint intake and screening to ensure that the complaint is timely, that ADOSH has jurisdiction over the complaint, and that the complaint meets the elements of prima facie allegation.

Verbally reported discrimination complaints are recorded on a complaint intake form and mailed to the Complainant for confirmation. Written complaints are provided a local case number and ADOSH investigators are responsible for tracking in IMIS and an internal database. Where ADOSH does not have jurisdiction, the complainant is referred to an appropriate agency. The referral is documented and filed in the case file (written) or annotated in a binder (verbal) that is maintained by ADOSH's administrative office.

Previously, unless received in writing, all complaints were not docketed or tracked in IMIS. In July 2009, ADOSH adopted a new policy to docket and track all complaints in an internal database. This includes complaints that were untimely, lacked jurisdiction, or lacked evidence of the four elements required for a prima facie case (i.e. protected activity, employer knowledge, adverse action, and nexus).

OSHA randomly selected nine closed discrimination case files for the onsite Baseline Special Evaluation. The cases included at least one case from each investigator, different types of cases (three dismissals, two settled, two settled with other cases, and one merit/litigation), and cases that were open for different amounts of time. One case included a substantive review of a

discrimination complaint that was involved with a Complaint About State Program Administration (CASPA) review.

OSHA noted ADOSH's positive practices in that investigators digitally recorded the witness interviews in two case files. Also, when possible, ADOSH hand delivers the complaint notification letter to the Respondent, particularly in cases involving smaller companies. This is an effective practice because it allows the investigator to start the investigation right away at the work site, and it facilitates receiving honest answers from Respondents.

There were no opening letters sent to the Complainant after the investigation was opened. An interview with the Lead Investigator confirmed that ADOSH does not provide complainants with this type of notice in writing. Investigators typically call complainants to inform them that ADOSH is opening an investigation in response to their complaints, but the files reviewed did not contain any documentation noting that ADOSH verbally provided this type of notice to complainants.

ADOSH sends notice letters to the Respondent or employer informing them about the discrimination complaint. However, in two instances, the investigator provided a short summary of the complaint instead of forwarding the actual complaint to the Respondent.

While the majority (88.9%) of the files reviewed contained closing letters that were sent to the parties notifying them that the investigation was being closed, one case file did not contain documentation that any closing letters were sent to the parties.

ADOSH does not accept or docket oral complaints unless they are later memorialized in writing. The Lead Investigator confirmed that complaints received verbally are recorded on a complaint intake form and sent to the Complainant via certified mail, along with a complaint packet, to be acknowledged and signed. If the Complainant fails to submit their complaint in writing, then ADOSH does not investigate or docket the complaint.

Two cases were improperly coded or categorized in IMIS. A withdrawal case was improperly coded as "settled other" in IMIS. A merit case that was not litigated by the Industrial Commission of Arizona was improperly coded as a "settled" case in IMIS.

The case files that were reviewed did not contain documentation of the investigator's handling of the investigation and gathering of evidence making it difficult to assess the adequacy of the investigations. For example, the Lead Investigator stated that the investigators always screen complaints via telephone and conduct closing conferences to inform the Complainants of the results of the investigation. However, the files reviewed did not appear to contain any documentation noting that screening calls or closing conferences were conducted.

In addition, four (4) case files reviewed contained handwritten field notes of interviews which were difficult to decipher and did not always specify all of the relevant information obtained during the interview such as the name of the witness, name of interviewer, interview date, and the manner of how the interview was conducted.

Seven (7) case files reviewed were not organized in the manner prescribed in ADOSH's discrimination manual, Chapter 5, Section B, and OSHA's whistleblower manual, DIS 0-0.9,

Chapter 5, Section III. Documentation in case files reviewed were not filed accordingly and while some references were tabbed they were not identified which resulted in difficulty locating information.

The Final Investigative Reports that were included in the case files did not follow the identical format prescribed in ADOSH's discrimination manual, Chapter 5, Section C, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section IV. The Final Investigative Reports in all of the case files reviewed were not dated or signed by the investigator or the supervisor. The Final Investigative Reports also did not contain a list of witnesses interviewed, a timeliness section, or a closing conference section.

Seven (7) of nine (9) discrimination cases had substantive issues that could have affected the final determination as to whether or not OSHA would have likely reached the same conclusion as ADOSH. Based on the documentation provided in the case files, the substantive issues can be summarized as follows:

In four (4) cases, it appeared that all appropriate witnesses were not interviewed. In one case, a relevant third party co-worker witness was not interviewed to test employer knowledge. Another case revealed that a relevant management witness should have been interviewed to establish whether he made a potential animus comment.

Of the three (3) cases, it appeared that the investigator did not interview the Complainant in person or via telephone but instead relied upon the written complaint or a follow-up e-mail. The inadequate documentation in these case files made it difficult to assess for certain whether the Complainants were actually interviewed.

In one case, the parties reached a private settlement and ADOSH dismissed the case without obtaining or reviewing a copy of the settlement agreement for public policy concerns. Public policy concerns that should be assessed include whether the settlement agreement contains a waiver of future employment and/or "gag order" provisions that prohibit the Complainant from engaging in protected activity in the future.

In one case, a work refusal wasn't properly analyzed to determine if it was protected. The investigator assumed that the work refusal was undisputed because the Complainant and Respondent both agreed that the Complainant refused to perform the job assignment. However, there was a dispute between the Complainant and his supervisor regarding whether the Complainant actually raised workplace health or safety concerns or refused the job task because of these concerns. The investigator should have further investigated this issue and assessed who was more credible or if there was evidence to support that the Complainant raised any health or safety concerns in connection with his work refusal.

In general, from review of the Final Investigative Reports in the case files, it appears that nexus, or the causation element, wasn't always analyzed properly. The investigators summarized all of the relevant evidence and then assessed whether they believed that the evidence supported nexus. However, the majority of the Final Investigative Reports did not discuss temporal proximity, disparate treatment, animus, or pretext when analyzing nexus. ADOSH's discrimination manual, Chapter 3, Section C and OSHA's whistleblower manual, DIS 0-0.9, Chapter 3, Section IV, both require investigators to consider these indicators when assessing and analyzing nexus.

**Finding 21:** Discrimination investigations took an average of 190 days to complete. Only 56.6% percent of discrimination investigations were completed within the targeted 90 days.

**Recommendation 21:** Continue efforts to complete discrimination investigations within 90 days.

**Finding 22:** Letters to Complainants and Respondents informing them that the investigation has been opened or closed as appropriate were not always sent.

**Recommendation 22:** Ensure policies and procedures are updated and Discrimination Investigators are appropriately trained and that files are reviewed on a regular basis to ensure that appropriate letters to Complainants and Respondents are sent informing them that the investigation has been opened, rather than providing this information by telephone as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 2, Section III (D, E) and to ensure that both parties receive a closing letter after the investigation is closed as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 4, Section IV (B.2).

**Finding 23:** Orally filed discrimination complaints were not appropriately accepted and docketed in all instances.

**Recommendation 23:** Ensure policies and procedures are updated and Discrimination Investigators are trained to accept and docket orally filed complaints and not require a Complainant to submit a complaint in writing as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 2 and Ch. 7, Section V(A).

**Finding 24:** All discrimination cases were not properly coded in IMIS.

**Recommendation 24:** Review discrimination cases on a regular basis to ensure that discrimination complaints are properly coded in IMIS.

**Finding 25:** Closing conferences were not documented in the case files.

**Recommendation 25:** Review case files on a regular basis to ensure that closing conferences are documented in the case files as referenced in ADOSH's discrimination manual, Chapter 3, Section E.5, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 3, Section IV. J6.

**Finding 26:** Interview statements or interview memos detailing the relevant information were not obtained during witness interviews.

**Recommendation 26:** Ensure required statements and information are obtained in interview statements as required by in ADOSH's discrimination manual, Chapter 3, Section C.5, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 3, Section IV.G.

**Finding 27:** The majority of the case files reviewed were not organized in the manner prescribed in ADOSH's discrimination manual, Chapter 5, Section B, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section III.

**Recommendation 27:** Ensure that the case files contain adequate documentation and the case files are properly organized, in line with the requirements outlined in ADOSH's discrimination manual, Chapters 3 and 5, and OSHA's whistleblower manual, DIS 0-0.9, Chapters 2 and 3.

**Finding 28:** The Final Investigative Reports that were included in the case files did not follow the identical format prescribed in ADOSH's discrimination manual, Chapter 5, Section C, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section IV.

**Recommendation 28:** Final Investigative Report template must be amended to follow the identical format prescribed in ADOSH's discrimination manual, Chapter 5, Section C, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section IV. The reports must be dated and signed by the investigator and the approving supervisor for accountability.

**Finding 29:** The Complainants and all relevant witnesses were not interviewed and statements were not documented in the investigation files.

**Recommendation 29:** Instruct investigators and review case files on a regular basis to ensure that the Complainants in all cases are interviewed, as well as all relevant witnesses, including management and third parties, as referenced in OSHA's whistleblower manual, DIS 0.09, Chapter 3, Sections D, E and G.

**Finding 30:** In two (2) cases discrimination investigators did not sufficiently analyze and document factors relating to the final disposition of the case, such as work refusals and nexus.

**Recommendation 30:** Provide additional guidance to discrimination investigators on analyzing and documenting pertinent factors relating to discrimination cases, including work refusals and nexus.

#### **14. Complaint About State Program Administration (CASPA)**

There were five Complaints About State Plan Administration (CASPA)s filed in FY 2009. Of the five CASPA's received three warranted an investigation and related to specific inspections or discrimination complaint investigations completed by ADOSH. Two of the three cases were found to have merit and required the State to re-investigate.

CASPA 09/A-02: The Complainant alleged that ADOSH failed to properly investigate an 11(c) discrimination case. ADOSH had issued a determination that the case be dismissed for lack of merit.

OSHA investigated the CASPA and determined that three of the seven allegations had merit; witnesses were not interviewed privately, signed witness statements were not obtained, and three key witnesses were not interviewed before dismissing the case. This resulted in the case being reopened and investigated further by ADOSH. While additional information obtained from the interviews did not warrant ADOSH to change their original recommendation, all witnesses were interviewed and discussions were documented in the case file.

ADOSH needs to ensure that contact is made with all relevant witnesses and every attempt made to gather all pertinent data and materials from all available sources. Non-management witnesses shall also be interviewed privately. When a signed witness statement cannot be obtained, a memorandum to the file must be prepared with pertinent information obtained verbally from the witness and included in the case file.

CASPA 09/A-04: The Complainants alleged ADOSH failed to adequately address their safety and health and discrimination complaints. Eleven (11) allegations were raised regarding the timeliness of investigations/inspections, lack of citations for training and hazards associated to side-loading washers (e.g. interlocks or other devices), inadequate employee interviews and documentation of discussions, the State's bias that led to a finding against the discriminated employees, and an employer's policies that discourage employees from reporting injuries.

OSHA investigated the CASPA and found merit in all of the allegations. ADOSH responded by conducting another comprehensive inspection to ensure all hazards have been identified and corrected. Training was also provided to compliance staff on established policies and procedures for the review of injury and illness records, handling of complaints, identification of hazards, development of legally sufficient cases and interview skills especially for non-English speaking employees.

For the discrimination case, OSHA conducted a concurrent review and recommended ADOSH to re-examine their conclusion by addressing the nexus or causal connection as to whether the employer made the final decision to outsource before the Complainants engaged in protected activity or whether the employer would have made the same decision in the absence of the Complainants' protected activity.

ADOSH must ensure that staff is trained and they adhere to approved policies and procedures in the handling of complaint and discrimination investigations.

CASPA 09/A-05: The Complainant alleged that ADOSH incorrectly concluded that the Complainant did not engage in a protected activity, the employer had falsely stated that the Complainant had been previously reprimanded and the company refused to issue another pair of prescription safety glasses.

OSHA investigated the CASPA and concluded that ADOSH conducted a satisfactory discrimination investigation.

## **15. Voluntary Protection Program (VPP)**

OSHA's Voluntary Protection Program promotes effective safety and health management by recognizing that a comprehensive program, which goes beyond OSHA standards, can protect workers more effectively than simple compliance.

In 1993 ADOSH developed a VPP similar to OSHA's STAR exemption program. The program was designed to recognize general industry employers who have implemented model safety and health programs and who have injury and illness rates at or below those for their industry.

ADOSH amended their policies and procedures manual in July 2008 to include their Construction Voluntary Protection Program (C-VPP). This program was modeled after Federal OSHA's Construction Pilot Program and is under review.

Arizona approved three STAR (two new, one recertification) and two new Construction companies in VPP and ended Federal fiscal year 2009 with a total of 27 worksites.

In comparison to FY2008, the total number of VPP sites remained the same. Arizona lost five worksites due to sites closing or voluntary withdrawal from the program.

OSHA conducted a review of the five case files to determine if they were handled in manner that was consistent with their policy and procedures manual. Overall, the applications and onsite visits were reviewed and scheduled in a timely manner. One worksite had materials sufficient to fall under the requirements of the Process Safety Management (PSM) standard and the Team Leader was properly trained to conduct the evaluation. The reports were all thorough and well written, 90 day items were appropriate and abatement was documented in the files.

OSHA's policy is to provide union representatives a congratulatory letter upon approval to the Voluntary Protection Program. In three of the five worksites identified to have union representation, none were provided an approval and congratulatory letter.

**Finding 31:** Of the five worksites reviewed, Medical Access Orders (MAOs) were not provided prior to the onsite visit as required under OSHA's CPL 02-02-072 and ADOSH's policy 2007-1, Access to Employee Medical Records.

**Recommendation 31:** Implement a system to ensure that Medical Access Orders are obtained prior to the VPP onsite visit.

## **16. Program Administration**

### *Budget*

The State of Arizona was faced with a budget deficit in FY 2009, and most of the decisions the Commission made have been influenced by this continuing crisis. This includes the mandatory reduction of employee positions, a state-wide hiring freeze, and services being streamlined, consolidated or reduced. It is expected that the State's situation will not change in FY 2010.

Despite the State's fiscal challenges, ADOSH has been able to maintain operations without office closures or having to layoff or furlough employees during this evaluation period.

In FY 2009, the Arizona occupational safety and health plan had a budget of \$3,627,251, of which 50% (\$1,813,000) was federally funded through a Section 23(g) grant and was matched by State funds (\$1,814,251).

Based on the breakout chart below, Arizona exceeded budget expenses for personnel, fringe benefits, and indirect charges and was below for travel, supplies, contractual, and other. Despite OSHA's follow-up discussions during this evaluation period, ADOSH under spent its 23(g) grant by \$194,917 (\$102,108 Federal, \$92,809 State).

<b>FY 2009 23(g) Grant</b>			
<b>Budget Categories</b>	<b>Budget</b>	<b>Actual Expenditures</b>	<b>Difference</b>
Personnel	\$1,830,000	\$1,862,615	+ \$32,615
Fringe Benefits	\$610,700	\$661,451	+ \$50,751
Travel	\$85,000	\$68,179	- \$16,821
Equipment	\$0	\$0	\$0
Supplies	\$173,000	\$33,706	- \$139,294
Contractual	\$372,500	\$322,914	- \$49,586
Construction	\$0	\$0	\$0
Other	\$154,800	\$71,319	- \$83,481
Total Direct Charge	\$3,226,000	\$3,020,184	- \$205,816
Indirect Charge	\$401,251	\$412,150	+ \$10,899
Total	\$3,627,251	\$3,432,334	- \$194,917

OSHA conducted an onsite visit of the financial aspects of the 23(g) grant on February 1-4, 2010. An initial review indicated no other significant deficiencies identified. A detailed report will be provided to the State.

### *Staffing*

Arizona's compliance program staffing benchmarks, pursuant to the U.S. Court of Appeals decision in AFL-CIO v. Marshall (C.A. No. 74-406), were approved by OSHA in 1984 at 9 safety and 6 health inspector positions.

ADOSH had an authorized staffing level of 56 positions, of which 15 were safety and 11 were health positions; the balance was comprised of supervisory and administrative positions.

As of September 30, 2009, ADOSH's enforcement staff was at 11 safety and 10 health. While the number of authorized staffing levels remained the same from FY 2008, ADOSH experienced up to 7 safety and 2 health position vacancies during this evaluation period.

In FY 2009, ADOSH's staffing levels varied but they were able to meet benchmark numbers but not authorized staffing levels. Several factors have affected the State's ability to maintain staffing at the authorized levels. At the time the State was fiscally sound and the construction industry was active, ADOSH was challenged with a high turnover rate in staff, the inability to retain new hires, and the State's low salary structure. With the down turn in the State's economy and the ICA's fiscal crisis, ADOSH's staffing levels remained the same and they continue to work with the Commission to hire compliance staff despite the state-wide hiring freeze.

In addition, the Government Performance Project, a non-partisan, independent research program that evaluates state government management functions has identified that the average time it takes Arizona to hire state workers is longer than most other states and the turnover rate is one of the highest in the nation. This trend was due to a salary structure that is not substantially competitive with the private sector and relatively few promotional opportunities.

This was confirmed through interviews with ADOSH management. It was found that employees have previously left ADOSH to take jobs with other companies that provided higher pay.

Arizona's entry level salary for a safety specialist and industrial hygienist is at \$46,693. The maximum salary is at \$62,693 for safety and \$68,156 for health. The Arizona State Service Salary Schedule does provide intermediate increases in salary which has resulted in a new employee being hired at the same pay level as a journey level employee. The only other incentive is the ICA's Performance Pay Plan where an employee may be eligible to receive 2.5% of their base salary once a quarter should they meet performance expectations and ADOSH meets at least 75% of the their performance measures targeted.

### *Training Program*

Training records for ADOSH personnel were evaluated to determine the extent of safety and health training received. ADOSH's Assistant Director tracks individual training through the use of an Excel spreadsheet.

In August 2008, Federal OSHA's Directive, TED 01-00-018 Initial Training Program for OSHA Compliance Personnel, required States to adopt an identical formal program for their Compliance personnel or submit a State Plan Change documenting its program, identifying policies and procedures which are different from Federal OSHA and explaining how its training program will result in an adequately trained personnel to conduct effective inspections. Arizona does not send staff to training at the OSHA Training Institute in Arlington Heights, Illinois due to cost and the impact on their State budget. The State's economic situation mandated an out of state travel restriction; however, ADOSH has an agreement with Nevada OSHA for reserved seating when OTI presents their off-site courses to either of these states. This allows both states to offer more training to their employees, although several of the required courses are not made available through OSHA Training Institute (OTI) off-site courses.

ADOSH adopted an alternative approach and is developing a training matrix for Compliance personnel using the University of California San Diego (UCSD) Education Center and other professionals to support their training needs.

An initial review of the courses provided to ADOSH Compliance staff revealed that training is primarily from the UCSD Education Center in the Phoenix or Tucson areas. ADOSH also supplements formal training through OSHA webinars. Some of the training courses being provided are much shorter in duration when compared to OTI and the courses seem to be geared to the general public. While the information provided in the courses include similar topics to the OTI equivalent, the shorter length and the class demographics limits the effectiveness of the course due to the time needed to obtain a thorough understanding of the course materials and limited interaction with other Compliance staff.

During this evaluation period, ADOSH did not receive any OTI off-site courses, although they did request OTI off-site courses for Electrical Standards, Machinery and Machine Guarding Standards, Investigative Interview Techniques, and Inspection Techniques and Legal Aspects. Three of the four courses were also requested in FY 2008. While ADOSH participated in Nevada's OTI off-site courses, none were the basic core classes required of Federal OSHA's Directive TED 01-00-018.

The training documentation identified 23 ADOSH enforcement employees: 17 Phoenix and six (6) Tucson office employees. Of the 23 employees, four are supervisors. Three supervisors (two safety and one health) are located in the Phoenix office and one supervisor (safety/health) in Tucson.

Below is a table outlining required initial training and the number of employees in each office who have not received the required training.

<b>Course Number and Title</b>	<b>Phoenix Office</b>	<b>Tucson Office</b>
#1000 Initial Compliance	1	0
#1050 Introduction to Safety Standards for Safety or #1250 Introduction to Health Standards for IH or #2000 Construction Standards	7	5
#1310 Investigative Interviewing Techniques	17	6
#1410 Inspection Techniques and Legal Aspects	12	4
#2450 Evaluation of Safety and Health Management Systems	17	6
#1230 Accident Investigation	9	1
Multi-Disciplinary Courses	2	3
#8200 Incident Command System I-200	17	6

#1000 *Initial Compliance*: ADOSH developed a Compliance Officer Training School that includes one week of formal training on the basic elements of conducting inspections in accordance with ADOSH policy and the assignment of a new hire to a senior compliance officer for six months to provide guidance using a checklist of Practical Factors based on the requirements of the FIRM. One individual in the Phoenix office, hired in 2009, has not received this course.

#1050 *Introduction to Safety Standards for Safety* or #1250 *Introduction to Health Standards for IH* or #2000 *Construction Standards*: ADOSH utilizes UCSD's OSHA courses #511 Standards for General Industry, #521 Guide to Industrial Hygiene, and #510 Standards for the Construction Industry respectively. In the Phoenix office, two safety supervisors have not received #511 and five health compliance officers have not received #521. In the Tucson office, three health compliance officers have not received #521 and one safety/health supervisor and one health compliance officer have not received #510.

These courses must be completed within the first year of a compliance officer's career. Of the enforcement staff that has not received training, one was hired in 1985, two in 1988, one in 1999, one in 2001, two in 2005, two in 2007 and one in 2008.

*#1310 Investigative Interviewing Techniques:* ADOSH did not have an equivalent course and requested this OTI off-site course in FY 2009. In the Phoenix office, 12 compliance officers have not received this training. In the Tucson office, four compliance officers have not taken this course.

ADOSH has since worked with their Legal Department and a contractor that offers an interviewing techniques class locally. In February 2010, all ADOSH staff were trained during an all hands mandatory meeting in the Tucson office.

*#1410 Inspection Techniques and Legal Aspects:* ADOSH utilizes UCSD's OSHA course #4000 Inspection Techniques. In the Phoenix office, 12 compliance officers have not received this training. In the Tucson office, four compliance officers have not taken this course.

This course must be completed within the first three years of a compliance officer's career. Of the enforcement staff that have not received training, two were hired in 2005 and five in 2006.

*#2450 Evaluation of Safety and Health Management Systems:* ADOSH does not have an equivalent course and requested this OTI off-site course in FY 2008. No compliance officers in the ADOSH offices have received this training.

ADOSH's Consultation, Education and Training Branch provides a four hour training class to state employees and is in the process of developing a similar course for enforcement staff.

*#1230 Accident Investigation or #1020 Basic Accident Investigation:* ADOSH utilizes UCSD's OSHA course #7050 Accident Investigation. In the Phoenix office, two safety supervisors, one health supervisor, and six compliance officers have not received this training. One safety/health supervisor in the Tucson office has not received this training.

This course must be completed within the first three years of a compliance officer's career. Employees may have been assigned fatality investigations prior to completing this course. Of the enforcement staff that have not received training, one was hired in 1985, two in 1988, one in 1999, and one in 2005.

*Multi-Disciplinary Courses:* Safety enforcement staff is required to take UCSD's OSHA courses #521 Guide to Industrial Hygiene and #510 Standards for the Construction Industry. In the Tucson office, one safety/health supervisor and one health compliance officer have not had the #510.

Health enforcement staff members are required to take UCSD's OSHA courses #511 Standards for General Industry and #510 Standards for the Construction Industry. In the Phoenix office, one health supervisor and one health compliance officer have not received #511. In the Tucson office, two health compliance officers have not received the #511.

These courses must be completed within the first years of a compliance officer's career. Of the enforcement staff that have not received training, one was hired in 1985, one in 1988, one in 1999, one in 2001 and one in 2005.

#8200 *Incident Command System I-200*: ADOSH does not have an equivalent course. No employees in the ADOSH offices have received this training. This course must be taken during the initial three year's of training.

An overall review of ADOSH's training records indicate that they are not currently in compliance with Federal OSHA's Directive TED 01-00-018. It also appears that further review is needed to evaluate UCSD's training curriculum for Compliance staff.

**Finding 32:** When 23(g) grant funds were lapsed timely notification to Federal OSHA was not made.

**Recommendation 32:** Ensure funds that will not be spent by September 30 are appropriately returned to Federal OSHA with adequate time to allocate.

**Finding 33:** A fully staffed program was not maintained in that up to 7 safety and 2 health vacancies were not filled.

**Recommendation 33:** Ensure the inspector positions are fully staffed to the extent possible and develop a plan to address the challenges in hiring and retaining experienced personnel.

**Finding 34:** Several members of the compliance staff have not received all the required classes.

**Recommendation 34:** Ensure that Compliance staff receive at least the basic required courses as required by Federal OSHA's Directive TED 01-00-018, Initial training Program for OSHA Compliance Personnel.

**Part II - Assessment of Arizona’s Progress in Achieving Annual Performance Goals** (See Appendix C – FY 2009 Arizona State OSHA Annual Report)

Consistent with the Federal Government Performance and Results Act, ADOSH developed a Five Year Strategic Plan (2008-2012) that commits to the effective and efficient performance of the agency’s activities and certain levels of injury and illness rate reductions in Arizona’s industries (e.g. North American Industry Classification System) as reported by the Bureau of Labor and Statistics (BLS).

The goals of Arizona’s Five Year Strategic Plan are to be incrementally achieved through the implementation of Annual Performance Plans. This is Arizona’s second year in working toward their Strategic Goals.

Based on its annual report, Arizona continued to focus its resources and strive to fulfill obligations despite budgetary and personnel constraints. In summary, the State met or exceeded in five of the eight goals (62%).

**Five Year Strategic Goal 1 (2008-2012): Improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities.**

**FY09 Annual Performance Goal 1.1: Reduce the injury and illness rate by 2% in the framing construction industry (NAICS 23813).**

In FY 2009, ADOSH only conducted 50 of their 150 planned inspections. This resulted in the identification of 88 hazards and is below their goal of 300.

ADOSH conducted outreach in the construction industry through 86 training courses at which 342 construction employers were in attendance.

ADOSH selected this industry as one of the focused areas due to the high injury and illness rate of 22 in Calendar Year (CY) 2005. The baseline and measurement of this goal is the reduction of injuries and illnesses in the framing construction industry using CY 2006 BLS injury and illness rate data for the State of Arizona. However, there was no data available for this industry in CY 2006.

Framing Industry Total Recordable Cases CY 2006 (Baseline)	Framing Industry Total Recordable Cases CY 2007	Framing Industry Total Recordable Cases CY 2008	Framing Industry Percent Change (CY 2007-CY 2008)
Not Available	13.3	11.1	- 16.5 %

Source: BLS Data

This goal was met. The latest BLS data shows that Arizona’s Total Recordable Case Rate (TRCR) for framing contractors in construction decreased during this evaluation period from 13.3 to 11.1 (16.5%). The TRCR trails by one year of State’s activities and can be difficult to compare. However, this may also be attributed to the down turn in the State’s economy that resulted in a decrease in construction activity.

**Finding 35:** Only 50 inspections of framing contractors were conducted, which was below the goal of 150. The inspections resulted in the identification of 88 hazards, which was also below the goal of 300.

**Recommendation 35:** Evaluate this goal and implement a plan to ensure that resources are available to meet the targeted number of inspections.

**FY09 Annual Performance Goal 1.2:** Reduce the injury and illness rate by 2% in the structural steel and precast concrete industry (NAICS 23812).

In the construction industry, the structural steel and precast concrete industry is a specialty trade that has also been identified as having a high total recordable case rate in Arizona.

To achieve a reduction in the injury and illness rate, ADOSH’s FY 2009 goal was to conduct 50 inspections. ADOSH almost achieved their projected activity goal and ended the year with 49 inspections.

Although the latest BLS data trails this evaluation period, available data (CY 2008) shows that Arizona’s TRCR for structural steel and precast concrete industry in construction decreased from 15 to 11 when compared to the baseline year.

This goal was met. Arizona achieved a 26.7% reduction from their CY 2006 baseline which exceeds their Five Year Strategic Plan goal of a 10% reduction in injury and illness in the structural steel and precast concrete construction industry.

Structural Steel and Precast Concrete Industry Total Recordable Cases CY 2006 (Baseline)	Structural Steel and Precast Concrete Industry Total Recordable Cases CY 2007	Structural Steel and Precast Concrete Industry Total Recordable Cases CY 2008	Structural Steel and Precast Concrete Industry Percent Baseline Change
15	9.3	11	-26.7%

Source: BLS Data

Similar to Goal 1.1, the TRCR trails State’s activities and can be difficult to compare, but this may also be attributed to the State’s economy that resulted in a decrease in construction activity.

**FY09 Annual Performance Goal 1.3:** Reduce the injury and illness rate by 2% in the wood products manufacturing industry (NAICS 321).

Arizona identified two manufacturing industries with the highest incidence rate of injuries and illnesses in the State. One of these is the wood product manufacturing industry.

In FY 2009, ADOSH exceeded their activity goal and conducted 29 of the 25 projected inspections. Of the 29 inspections, 211 hazards were identified (goal was 200).

ADOSH also conducted outreach in the manufacturing industry through training courses with 194 manufacturing companies in attendance.

Although the latest BLS data trails this evaluation period, available data (CY 2008) shows that Arizona’s TRCR for wood product manufacturing industry decreased from 9.2 to 7.2 when compared to the baseline year.

Wood Product Manufacturing Industry Total Recordable Cases CY 2006 (Baseline)	Wood Product Manufacturing Industry Total Recordable Cases CY 2007	Wood Product Manufacturing Industry Total Recordable Cases CY 2008	Wood Product Manufacturing Industry Percent Baseline Change
9.2	9.4	7.2	-21.7%

Source: BLS Data

This goal was met. Arizona achieved a 21.7% reduction from their CY 2006 baseline which exceeds their Five Year Strategic Plan goal of a 10% reduction in injury and illness in the wood product manufacturing industry.

**FY09 Annual Performance Goal 1.4: Reduce the injury and illness rate by 2% in the architectural and structural metals manufacturing industry (NAICS 3323).**

The architectural and structural metals manufacturing industry is the second manufacturing industry that ADOSH identified with the highest incidence rate of injuries and illnesses in the State.

ADOSH only conducted 20 of their 25 planned inspections for this industry. However, 155 hazards were identified as a result of these inspections exceeding their goal of 100.

Based on CY 2008 BLS data, the latest available, Arizona’s TRCR for the architectural and structural metals manufacturing industry increased slightly from 8 to 9 when compared to the baseline year. This goal was not met.

Architectural and Structural Metals Manufacturing Industry Total Recordable Cases CY 2006 (Baseline)	Architectural and Structural Metals Manufacturing Industry Total Recordable Cases CY 2007	Architectural and Structural Metals Manufacturing Industry Total Recordable Cases CY 2008	Architectural and Structural Metals Manufacturing Industry Percent Baseline Change
8	8.7	9	+11.1%

Source: BLS Data

**Finding 36:** The injury and illness rates in the architectural and structural metals manufacturing industry increased during this evaluation period and from the CY 2006 baseline (11.1%) for the Five Year Strategic Plan goal.

**Recommendation 36:** Re-evaluate efforts in reducing injury and illness in the architectural and structural metals manufacturing industry.

**FY09 Annual Performance Goal 1.5:** Identify at least two workplaces and initiate an intervention at those workplaces. Begin a working relationship with the goal of ultimately reducing injury and illness rates in those workplaces by 25%. Continue working with the three employers identified through the 2008 performance plan.

This goal is specific to Arizona's private sector consultation activities and is evaluated in a separate report (RACER).

**FY09 Annual Performance Goal 1.6:** Increase SHARP membership by at least eight new employers.

This goal is specific to Arizona's private sector consultation activities and is evaluated in a separate report (RACER).

**FY09 Annual Performance Goal 1.7:** Increase membership in the VPP by at least four new employers.

In FY 2009, ADOSH utilized resources to evaluate four new employers for STAR VPP. Of the four companies, three were approved and one did not pass.

Arizona also added two new companies in Construction VPP which was modeled after Federal OSHA's Construction Pilot and is currently under review.

Two conferences were held, and 45 applications and brochures were distributed to potential applicants. As a result of ADOSH's efforts, seven applications were received and four worksite evaluations conducted.

**FY09 Annual Performance Goal 1.8:** Develop and produce at least one "Hazard Highlight" card for a selected industry/hazard.

This goal was met. In FY 2009, ADOSH developed a Hazard Highlight card which provides information on how workers can protect themselves from the basic hazards associated with the use of Portland cement. The card was published and distributed to affected employers and industries before their estimated completion date.

**Five Year Strategic Goal 2 (2008-2012): Secure public confidence through excellence in the development and delivery of ADOSH services.**

**FY09 Annual Performance Goal 2.1:** Obtain first-level decision in 80% of discrimination investigations within 90 calendar days of receipt.

This goal was not met. ADOSH completed 76 discrimination investigation complaints in FY 2009. Of these, 46 (60.5%) were completed within 90 days. However, this is an improvement from last year's performance of 42.7% (32/74) and the baseline of 55.5% in FY 2007. (State Data)

Based on FY 2009 State Mandated Activity Measures (SAMM) data, Arizona completed 76 discrimination investigations during this evaluation period and completed 50% (38) within 90 days. (SAMM 13) The SAMM is slightly different from the State's data and OSHA is aware of this issue and continues to work with ADOSH to ensure that the appropriate data is entered into the system. This goal is also a mandated activity and is discussed in the first part of this report.

**FY09 Annual Performance Goal 2.2: Reduce citation lapse times by 5%.**

This goal was not met. In FY 2009, ADOSH's citation lapse time decreased slightly by 2.1% for safety and 4.2% for health when compared to FY 2008 data. (SAMM 7)

Based on the FY 2007 baseline (safety 56.34 days, health 43.29 days), ADOSH made an improvement to reduce health citation lapse time by 28.8% (30.83 days). However, safety citation lapse time remains above the baseline by 4.2% (58.81 days). This goal is also a mandated activity and is discussed in the first part of this report.

**Finding 37:** Citation lapse time for safety citations remains above the FY 2007 baseline.

**Recommendation 37:** Develop a plan to reduce safety citation lapse time.

FY 2009 Arizona State Plan (ADOSH) Enhanced FAME Report  
prepared by Region IX

## APPENDIX A

### Findings and Recommendations

Complaints Findings		Complaints Recommendations	
1	The 15-day due date for contesting citations and requesting informal conferences was not always entered into the IMIS system.	Ensure that the 15 day due date is entered into IMIS for all cases where citations are issued.	
2	Information and OSHA forms documenting citations, inspection activity, and contact information were not complete in many cases.	Ensure Compliance Officers understand the necessary documentation required for violations and completion of OSHA forms. Management should review case files on a regular basis to ensure documentation adequately supports violations and that forms are complete and up to date.	
Fatalities Findings		Fatalities Recommendations	
3	Several fatality case file investigations contained limited information and did not appear to be thoroughly documented and investigated. Additionally, it was difficult to determine whether ADOSH communicated with the victim's family concerning the process and results of the investigations.	Ensure a comprehensive and in-depth investigation to fully evaluate the conditions of a fatality in accordance with OSHA instruction CPL 2.113 and CPL 2.94 is completed and that contact with the family is sufficiently documented.	
4	Employee representative participation in the inspection process was not adequately documented in several case files.	Ensure union representatives are presented the opportunity to participate in every aspect of the inspection and their involvement is adequately documented.	
5	Interview statements were not documented in five fatality investigations	Ensure employee interviews are obtained and documented in all fatality investigations.	
6	Inspection files did not contain documentation of the informal conference discussions. Similarly, a complaint case file did not contain documentation of the informal conference discussions and rationale involving a penalty adjustment from \$2,500 to \$75.	Ensure that discussions of the main issues and potential courses of action during the post-citation process are summarized, documented and included in the case file as referenced in Pages 23 and 24 of Chapter IV in the ADOSH FIRM.	
7	Case file documentation in the majority of the files were not organized according to established case file set-up procedures and diary sheets or similar daily/chronological logs were not found in all of the case files reviewed.	Ensure consistent organization of inspection case files as referenced in ADOSH FIRM or Appendix C of OSHA's instruction ADM 03-01-005 (previously ADM 12-05.A), OSHA Compliance Records and that diary sheets or similar daily/chronological logs are maintained.	
8	The IMMLANG policy is not consistently followed.	Review current procedures for IMMLANG and make determination whether Arizona will adopt policy to ensure consistency if followed.	
9	Citation penalties were not appropriate based on the hazard in three case files.	Ensure that citation penalties are assessed in accordance with Chapter IV in ADOSH FIRM.	
10	Two (2) cases files did not contain adequate abatement documentation to justify closing the case file.	Consider auditing closed fatality case files on occasion to ensure that appropriate documentation is included in the file. Ensure Supervisors utilize the IMIS Abatement Tracking report and send appropriate follow-up letters to employers.	
Targeting/Inspections Findings		Targeting/Inspections Recommendations	
11	The CLAIMS Local Emphasis Program did not demonstrate successful targeting of high hazard, private sector, general industry employers.	Modify the scope and targeting mechanism of the CLAIMS Local Emphasis Program to ensure it is successful.	

12	The construction targeting plan resulted in only 25.4% of the inspections with citations issued and the programmed inspection system used resulted in high in-compliance rate of inspections.	Assess all programmed inspection systems and implement measures to improve in-compliance rates to ensure that the most hazardous industries and workplaces are being addressed.
13	Inspection goals for FY 2009 were not met.	Evaluate resources and schedule inspections to ensure inspection goals are met.
14	The rate of serious violations for programmed planned inspections decreased and is the lowest in the previous five years. There were some cases where documentation in the case file appeared to support a Serious violation, however Serious citations were not issued.	Ensure the most hazardous industries and workplaces are being inspected in an effective manner to identify serious hazards and consider conducting training on hazard classification to ensure consistency with violation classification.
	<b>Citations and Penalties Findings</b>	<b>Citations and Penalties Recommendations</b>
15	The Commission's required review of all cases for proposed penalties in excess of \$1,000 has adversely affected the issuance of citations in a timely manner.	Continue to work closely with the Commission and staff to ensure that citations are issued in a timely manner.
	<b>Abatement Findings</b>	<b>Abatement Recommendations</b>
16	Employers were not always notified of the Abatement Documentation requirements and abatement was not always adequately documented in case files.	Ensure that adequate documentation is obtained from the employer to appropriately address citations. Provide training to Compliance officers regarding the requirement of abatement verification documentation as it relates to field 19 of the OSHA-1B form. Utilize the Default Violation Abatement Standard Report to identify and track cases with abatement outstanding and follow-up as directed under CPL 2-0.114, Abatement Verification Regulation, which may include the issuance of additional citations for violations of 29 CFR 1903.19. When appropriate, they should also expand the use of abatement codes W (not completed, worksite changed) and E (not completed, employer out of business).
	<b>Information Management Findings</b>	<b>Information Management Recommendations</b>
17	A designated IT Backup System Administrator was not designated.	Retain an IT Backup System Administrator to prevent a breakdown in the system in the event the IT Administrator is unable to perform these functions. (OSHA ADM 1-1.30, Page II-1, paragraph B)
18	Appropriate and accurate information was not consistently entered into the IMIS system.	Ensure staff is properly trained on entering appropriate information in IMIS while handling complaints, abatement, and discrimination cases. Management should review case files and use IMIS reports on a regular basis to ensure that data is being entered correctly into IMIS.
	<b>Standards Findings</b>	<b>Standards Recommendations</b>
19	New Federal OSHA standards were not adopted in a timely manner.	Ensure standard adoption is within 6 months of the Federal promulgation date.
20	An appropriate Plan Change Supplement has not been submitted for review for the formal training program for Compliance personnel and for their targeting system which differs from the Federal system.	Adopt a formal training program for Compliance personnel and submit a Plan Change Supplement for OSHA's review. Arizona must also submit a State Plan Change Supplement with a description of their targeting systems.
	<b>Discrimination Findings</b>	<b>Discrimination Recommendations</b>
21	Discrimination investigations took an average of 190 days to complete. Only 56.6% percent of discrimination investigations were completed within the targeted 90 days.	Continue efforts to complete discrimination investigations within 90 days.

22	Letters to Complainants and Respondents informing them that the investigation has been opened or closed as appropriate were not always sent.	Ensure policies and procedures are updated and Discrimination Investigators are appropriately trained and that files are reviewed on a regular basis to ensure that appropriate letters to Complainants and Respondents are sent informing them that the investigation has been opened, rather than providing this information by telephone as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 2, Section III (D, E) and to ensure that both parties receive a closing letter after the investigation is closed as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 4, Section IV (B.2).
23	Orally filed discrimination complaints were not appropriately accepted and docketed in all instances.	Ensure policies and procedures are updated and Discrimination Investigators are trained to accept and docket orally filed complaints and not require a Complainant to submit a complaint in writing as referenced in OSHA's whistleblower manual, DIS 0-0.9, Chapter 2 and Ch. 7, Section V(A).
24	All discrimination cases were not properly coded in IMIS.	Review discrimination cases on a regular basis to ensure that discrimination complaints are properly coded in IMIS.
25	Closing conferences were not documented in the case files.	Review case files on a regular basis to ensure that closing conferences are documented in the case files as referenced in ADOSH's discrimination manual, Chapter 3, Section E.5, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 3, Section IV. J6.
26	Interview statements or interview memos detailing the relevant information were not obtained during witness interviews.	Ensure required statements and information are obtained in interview statements as required by in ADOSH's discrimination manual, Chapter 3, Section C.5, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 3, Section IV.G.
27	The majority of the case files reviewed were not organized in the manner prescribed in ADOSH's discrimination manual, Chapter 5, Section B, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section III.	Ensure that the case files contain adequate documentation and the case files are properly organized, in line with the requirements outlined in ADOSH's discrimination manual, Chapters 3 and 5, and OSHA's whistleblower manual, DIS 0-0.9, Chapters 2 and 3.
28	The Final Investigative Reports that were included in the case files did not follow the identical format prescribed in ADOSH's discrimination manual, Chapter 5, Section C, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section IV.	ADOSH's Final Investigative Report template must be amended to follow the identical format prescribed in ADOSH's discrimination manual, Chapter 5, Section C, and OSHA's whistleblower manual, DIS 0-0.9, Chapter 5, Section IV. The reports must be dated and signed by the investigator and the approving supervisor for accountability.
29	The Complainants and all relevant witnesses were not interviewed and statements were not documented in the investigation files.	Instruct investigators and review case files on a regular basis to ensure that the Complainants in all cases are interviewed, as well as all relevant witnesses, including management and third parties, as referenced in OSHA's whistleblower manual, DIS 0.09, Chapter 3, Sections D, E and G.
30	In two (2) cases discrimination investigators did not sufficiently analyze and document factors relating to the final disposition of the case, such as work refusals and nexus.	Provide additional guidance to discrimination investigators on analyzing and documenting pertinent factors relating to discrimination cases, including work refusals and nexus.
	<b>Voluntary Protection Program (VPP) Findings</b>	<b>Voluntary Protection Program (VPP) Recommendations</b>
31	Of the five worksites reviewed, Medical Access Orders (MAOs) were not provided prior to the onsite visit as required under OSHA's CPL 02-02-072 and ADOSH's policy 2007-1, Access to Employee Medical Records.	Implement a system to ensure that Medical Access Orders are obtained prior to the VPP onsite visit.

	Program Administration Findings	Program Administration Recommendations
32	When 23(g) grant funds were lapsed timely notification to Federal OSHA was not made.	Ensure funds that will not be spent by September 30 are appropriately returned to Federal OSHA with adequate time to allocate.
33	A fully staffed program was not maintained in that up to 7 safety and 2 health vacancies were not filled.	Ensure the inspector positions are fully staffed to the extent possible and develop a plan to address the challenges in hiring and retaining experienced personnel.
34	Several members of the compliance staff have not received all the required classes.	Ensure that Compliance staff receive at least the basic required courses as required by Federal OSHA's Directive TED 01-00-018, Initial training Program for OSHA Compliance Personnel.
	Annual Performance Plan Goals Findings	Annual Performance Plan Goals Recommendations
35	Only 50 inspections of framing contractors were conducted, which was below the goal of 150. The inspections resulted in the identification of 88 hazards, which was also below the goal of 300.	Evaluate this goal and implement a plan to ensure that resources are available to meet the targeted number of inspections.
36	The injury and illness rates in the architectural and structural metals manufacturing industry increased during this evaluation period and from the CY 2006 baseline (11.1%) for the Five Year Strategic Plan goal.	Re-evaluate efforts in reducing injury and illness in the architectural and structural metals manufacturing industry.
37	Citation lapse time for safety citations remains above the FY 2007 baseline.	Develop a plan to reduce safety citation lapse time.

## APPENDIX B

### FY 2009 Enforcement Activity

	Arizona	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>1,596</b>	<b>61,016</b>	<b>39,004</b>
Safety	1,066	48,002	33,221
<i>% Safety</i>	<i>67%</i>	<i>79%</i>	<i>85%</i>
Health	530	13,014	5,783
<i>% Health</i>	<i>33%</i>	<i>21%</i>	<i>15%</i>
Construction	915	26,103	23,935
<i>% Construction</i>	<i>57%</i>	<i>43%</i>	<i>61%</i>
Public Sector	182	7,749	N/A
<i>% Public Sector</i>	<i>11%</i>	<i>13%</i>	<i>N/A</i>
Programmed	1,092	39,538	24,316
<i>% Programmed</i>	<i>68%</i>	<i>65%</i>	<i>62%</i>
Complaint	296	8,573	6,661
<i>% Complaint</i>	<i>19%</i>	<i>14%</i>	<i>17%</i>
Accident	30	3,098	836
Insp w/ Viols Cited	853	37,978	27,165
<i>% Insp w/ Viols Cited (NIC)</i>	<i>53%</i>	<i>62%</i>	<i>70%</i>
<i>% NIC w/ Serious Violations</i>	<i>39%</i>	<i>62%</i>	<i>87%</i>
<b>Total Violations</b>	<b>2,905</b>	<b>129,363</b>	<b>87,663</b>
Serious	657	55,309	67,668
<i>% Serious</i>	<i>23%</i>	<i>43%</i>	<i>77%</i>
Willful	-	171	401
Repeat	11	2,040	2,762
Serious/Willful/Repeat	668	57,520	70,831
<i>% S/W/R</i>	<i>23%</i>	<i>44%</i>	<i>81%</i>
Failure to Abate	-	494	207
Other than Serious	2,232	71,336	16,615
<i>% Other</i>	<i>77%</i>	<i>55%</i>	<i>19%</i>
Avg # Violations/ Initial Inspection	3.7	3.3	3.1
<b>Total Penalties</b>	<b>\$ 890,206</b>	<b>\$ 60,556,670</b>	<b>\$ 96,254,766</b>
Avg Current Penalty / Serious Violation	\$ 1,130.60	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 1,148.90	\$ 934.70	\$ 977.50
% Penalty Reduced	36.3%	51.9%	43.7%
<b>% Insp w/ Contested Viols</b>	<b>5.8%</b>	<b>13.0%</b>	<b>7.0%</b>
Avg Case Hrs/Insp- Safety	13.1	15.7	17.7
Avg Case Hrs/Insp- Health	19.9	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	45.7	31.6	34.3
Lapse Days Insp to Citation Issued- Health	22.7	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	11	2,010	2,234

Source: DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009. Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09

## **APPENDIX C**

### **List of Acronyms**

ADM	OSHA Instruction—Administrative
ADOSH	Arizona Division of Occupational Safety and Health
AIHA	American Industrial Hygiene Association
ALAEA	At Least As Effective As
ALJ	Administrative Law Judge
ARRA	American Recovery and Reinvestment Act
ASHIP	Agriculture Safety and Health Inspection Project
ATS	Automated Tracking System
BLS	Bureau of Labor Statistics
CAPR	Consultation Annual Project Report
CASPA	Complaint About State Program Administration
CEA	Construction Employers Association
CPL	OSHA Instruction—Compliance
CSHIP	Construction Safety and Health Inspection Project
CSHO	Compliance Safety and Health Officer
CSP	OSHA Instruction—Cooperative and State Programs
CY	Calendar Year
DART	Days Away, Restricted, or Job Transferred
DIR	Department of Industrial Relations
EEEC	Economic and Employment Enforcement Coalition
E-FAME	Enhanced Federal Annual Monitoring Evaluation
EOD	End of Day Report
FAME	Federal Annual Monitoring Evaluation
FAT/CAT	Fatality and/or Catastrophe (three or more employees hospitalized)
FOM	Field Operations Manual
FPC	Federal Program Change
FY	Federal Fiscal Year (October 1-September 30)
GISO	General Industry Safety Order
GPRA	Federal Government Performance and Results Act
HHEP	High Hazard Employer Program
HHU	High Hazard Unit
ICA	Industrial Commission of Arizona
IDLH	Immediately Dangerous to Life and Health
IDP	Individual Development Plan
IH	Industrial Hygienist
IIPP	Injury and Illness Prevention Program
IMIS	Integrated Management Information System
IT	Information Technology
LOTO	Lock Out/Tag Out Program
MAO	Medical Access Order
MARC	Mandated Activities Report for Consultation
NAICS	North American Industrial Classification System
NCR	OSHA’s Data Collection Computer System
NEP	National Emphasis Program

NIOSH	National Institute for Occupational Safety and Health
NOV	Notice of Violation
OMDS	Office of Management Data Systems
OSHA	Occupational Safety and Health Administration
OTI	OSHA Training Institute
PALJ	Presiding Administrative Law Judge
PCS	Plan Change Supplement
PEL	Permissible Exposure Limit
PPE	Personal Protective Equipment
PSM	Process Safety Management
RACER	Regional Annual Consultation Evaluation Report
SAMM	State Activity Mandated Measures
SEP	Special Emphasis Program
SGE	Special Government Employee
SHARP	Safety and Health Achievement Recognition Program
SHMS	Safety and Health Management Systems
SIC	Standard Industrial Classification Code
SIR	State Indicator Report
SOAR	State OSHA Annual Report
SOD	Start of Day Report
S/W/R	Serious/Willful/Repeat
TED	OSHA Training Directive
TRCR	Total Recordable Case Rate
VPP	Voluntary Protection Program

### **List of OSHA Forms**

OSHA 1	Inspection Form
OSHA 1A	Narrative
OSHA 1B	Violation Worksheet
OSHA 7	Complaint Form
OSHA 31	Weekly Program Activity Report
OSHA 36	Accident Form
OSHA 167C	Complaint Update Form
OSHA 170	Accident Investigation Summary

## **APPENDIX D**

### **FY 2009 State OSHA Annual Report (SOAR)**

**(available separately/upon request)**

## **APPENDIX E**

### **State Activity Mandated Measures (SAMM)**

U. S. D E P A R T M E N T O F L A B O R  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

STATE ACTIVITY MANDATED MEASURES (SAMMs)

State: ARIZONA

RID: 0950400

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	851 2.92 291	27 2.70 10	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	2217 5.54 400	25 1.78 14	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	289 97.97 295	11 100.00 11	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 0	0 1	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	425 94.03 452	2 12.50 16	100%
Public	15 100.00 15	0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	30113 58.81 512	1828 53.76 34	2489573 43.8 56880
Health	10052 30.83 326	951 43.22 22	692926 57.4 12071
			National Data (1 year)
			National Data (1 year)

\*FY09AZ

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

STATE ACTIVITY MANDATED MEASURES (SAMMs)

State: ARIZONA

RID: 0950400

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD	
8. Percent of Programmed Inspections with S/W/R Violations				
	131	10	92328	
Safety	16.42 798	21.74 46	58.6 157566	National Data (3 years)
	64	6	11007	
Health	25.81 248	28.57 21	51.2 21510	National Data (3 years)
9. Average Violations per Inspection with Vioations				
	730	54	420601	
S/W/R	.87 838	.96 56	2.1 201241	National Data (3 years)
	2268	170	243346	
Other	2.70 838	3.03 56	1.2 201241	National Data (3 years)
10. Average Initial Penalty per Serious Violation (Private Sector Only)	967475 1429.06 677	50450 989.21 51	492362261 1335.2 368756	National Data (3 years)
11. Percent of Total Inspections in Public Sector	184 11.54	0 .00	329 7.5	Data for this State (3 years)
	1594	47	4401	
12. Average lapse time from receipt of Contest to first level decision	5487 127.60 43	0 0	4382038 246.1 17807	National Data (3 years)
13. Percent of 11c Investigations Completed within 90 days	38 50.00 76	1 50.00 2	100%	
14. Percent of 11c Complaints that are Meritorious	13 17.11 76	1 50.00 2	1466 20.8 7052	National Data (3 years)
15. Percent of Meritorious 11c Complaints that are Settled	12 92.31 13	1 100.00 1	1263 86.2 1466	National Data (3 years)

## **APPENDIX F**

### **4th Quarter State Indicator Report (SIR)**

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = ARIZONA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	6212	193	11892	395	21855	727	42572	1439
	67.3	73.7	67.5	74.5	66.8	74.9	65.2	74.1
	9230	262	17617	530	32713	970	65304	1943
B. HEALTH	508	55	1004	114	1963	213	3678	389
	34.5	47.0	34.1	49.4	35.3	48.4	34.0	47.2
	1471	117	2946	231	5559	440	10829	825
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4645	82	8997	162	16745	303	32019	695
	67.7	39.8	65.9	38.9	65.8	40.5	65.9	46.0
	6860	206	13654	416	25453	749	48603	1511
B. HEALTH	368	34	746	79	1486	133	2884	240
	52.2	66.7	50.8	73.1	51.7	67.2	55.6	62.3
	705	51	1468	108	2873	198	5187	385
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	15510	136	29490	258	56535	438	111717	900
	81.8	28.4	81.1	32.9	80.0	29.9	79.4	29.0
	18952	479	36371	784	70692	1466	140747	3100
B. HEALTH	2802	55	5343	127	10035	197	19393	397
	70.1	18.5	69.9	18.4	69.7	16.8	67.7	17.8
	4000	297	7645	692	14395	1172	28659	2226
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2938	0	5782	5	12109	8	25516	50
	15.9	.0	16.2	1.6	17.6	1.6	18.7	4.8
	18492	172	35597	316	68607	501	136812	1041
B. HEALTH PERCENT >60 DAYS	256	0	577	2	1452	3	3111	10
	6.3	.0	7.5	1.3	10.0	1.3	10.9	2.0
	4078	64	7720	157	14561	240	28488	511

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = ARIZONA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	280876	0	628826	0	1303857	1000	2663433	2500
OTHER--THAN--SERIOUS	923.9	.0	998.1	.0	1030.7	1000.0	1049.4	1250.0
	304	0	630	0	1265	1	2538	2
B. HEALTH								
	83100	0	142950	0	294225	800	654830	800
OTHER--THAN--SERIOUS	799.0	.0	803.1	.0	855.3	400.0	867.3	400.0
	104	0	178	0	344	2	755	2
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10459	295	19991	619	37160	1066	73338	2073
	6.1	6.1	5.7	6.4	5.5	5.8	5.3	5.8
	1722	48	3533	97	6727	185	13759	358
B. HEALTH								
	1764	148	3581	307	6701	534	12705	963
	1.8	4.8	1.7	5.4	1.6	5.7	1.5	5.6
	994	31	2112	57	4125	94	8503	172
7. VIOLATIONS VACATED %								
	1278	12	2561	42	5139	58	10097	134
	4.9	1.5	5.0	2.7	5.1	2.2	5.0	2.5
	26336	807	51387	1548	100187	2676	201495	5468
8. VIOLATIONS RECLASSIFIED %								
	1130	1	2440	5	4798	17	9539	30
	4.3	.1	4.7	.3	4.8	.6	4.7	.5
	26336	807	51387	1548	100187	2676	201495	5468
9. PENALTY RETENTION %								
	13523966	71713	27149245	156186	54889469	343016	111585445	952033
	63.4	73.8	62.9	74.6	63.2	74.9	62.9	75.2
	21315664	97225	43130384	209250	86796382	458225	177346966	1265211

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U. S. D E P A R T M E N T O F L A B O R  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 3

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT

STATE = ARIZONA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	193 73.7 262	33 100.0 33	395 74.5 530	87 97.8 89	727 74.9 970	87 93.5 93	1439 74.1 1943	114 92.7 123
B. HEALTH	55 47.0 117	28 90.3 31	114 49.4 231	68 89.5 76	213 48.4 440	68 74.7 91	389 47.2 825	86 66.2 130
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	136 28.4 479	23 21.9 105	258 32.9 784	24 16.8 143	438 29.9 1466	25 17.4 144	900 29.0 3100	41 14.5 283
B. HEALTH	55 18.5 297	0 .0 92	127 18.4 692	0 .0 126	197 16.8 1172	1 .8 131	397 17.8 2226	19 8.1 234

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = ARIZONA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	446 22.8 1956	5 45.5 11	875 24.2 3609	18 40.0 45	1756 23.4 7506	46 36.5 126	3749 24.1 15528	115 30.6 376
2. VIOLATIONS RECLASSIFIED %	282 14.4 1956	2 18.2 11	563 15.6 3609	4 8.9 45	1133 15.1 7506	13 10.3 126	2274 14.6 15528	34 9.0 376
3. PENALTY RETENTION %	2319074 54.1 4286744	39625 51.5 77000	4080249 51.5 7922126	111875 59.5 188000	10792902 58.5 18457526	171749 63.9 268625	20045599 55.9 35865959	458366 61.8 741900