**FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report**

**Industrial Commission of Arizona (ICA)**

**Arizona Division of Occupational Safety and Health (ADOSH)**



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## Executive Summary

The purpose of this report is to assess the Arizona Division of Occupational Safety and Health (ADOSH) program performance for Fiscal Year (FY) 2023 and its progress in resolving outstanding findings from the FY 2022 Follow-up Federal Annual Monitoring Evaluation (FAME) report. The criteria used to measure performance included those mandated by the Occupational Safety and Health Administration (OSHA).

This is ADOSH’s second year in their five-year strategic plan (FY 2022-2026) and annual goals were established for measuring the performance and effectiveness of its programs and services. Details are addressed in ADOSH’s FY 2023 State OSHA Annual Report (SOAR).

Enforcement metrics improved in FY 2023 with 55% (540 of 975) of the inspection goal achieved. In inspections where citations were issued, penalty amounts significantly improved. Cooperative programs complimented the overall approach to the enforcement program, but the repeated shortage of enforcement activities, while improved, did not provide a balanced approach to ensure workers were protected from hazards in the workplace. Continued commitment to performing inspections and eliminating hazards is imperative for ADOSH.

The FY 2022 Follow-up FAME identified five findings and seven observations. Corrective action was implemented to complete two findings and close three observations. In FY 2023, there were eight findings three were new, three were carried over from the FY 2022 Follow-up FAME, and two observations were elevated to a finding. In addition, there was one new and two continued observations during this evaluation. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective action.

## II. State Plan Background

### Background

The State of Arizona operates an occupational safety and health program administered by ADOSH under the Industrial Commission of Arizona (ICA). James Ashley served as the Director of the ICA and State Plan Designee until his resignation on August 1, 2023. In the same month, Gaetano Testini was appointed the new Director of the ICA. Jessie Atencio was the Director for the ADOSH but resigned in September 2023. Mark Norton, Assistant Director, was appointed to replace him later that month. Phil Murphy served as Assistant Director over the enforcement programs and Steven Morgan as Assistant Director for the consultation program.

Organizational units under ADOSH include Administration; Boiler Safety; Consultation, Education and Training; Elevator Safety; Research and Statistics; and Safety and Health Compliance. The Boiler Safety, Elevator Safety, and Research and Statistics units were not funded by the OSHA 23(g) grant. ADOSH maintains two offices, one in Phoenix and the other in Tucson.

The initial federal base award to fund the 23(g) program was $2,283,100, Arizona matched the federal funds, bringing the total award to $4,566,200.  An amendment increased the federal share of the grant by $57,700. However, Arizona was not able to match the increase.  There were $42,850 in charges for the Salesforce-AdvoLogix system meant to provide an interface for the enforcement and whistleblower protection programs with the OSHA Information System (OIS). The program income was $1,242, which came from sales of Voluntary Protection Program (VPP) flag sales and public records request fees. At the end of the grant, the total expenses were $5,212,298. Arizona spent all federal and state funds, in addition to $646,098 in 100% state funds.

A financial review was conducted in FY 2023. There were three findings regarding insufficient payroll supporting documentation, and incorrect travel and contract cost allocations. These findings remain open, and corrective actions are awaiting completion.

The 23(g) grant provided funding for a full-time equivalent (FTE) staff comprised of 3 (2.98 FTE) managers, 6(5.95 FTE) first line supervisors, 18 safety compliance officers, 9health compliance officers, 3 discrimination investigators, 4 Compliance Assistance Specialists, 5 (5.4 FTE) clerical staff, and 2 trainers.

Six consultants provided consultation for state and local government employers; 15% of their time was charged to the 23(g) grant and the remainder of their time was charged to a 21(d) Cooperative Agreement that covers private sector consultation activities. This report only covers services provided to state and local government workplaces. The private sector consultation program was evaluated separately in the FY 2023 Regional Annual Consultation Evaluation Report (RACER).

ADOSH jurisdiction includes state and local government entities as well as all private sector employees and workplaces, except federal workers, batch plants, mining operations, smelters, and most employers on tribal lands. The same penalty structure was used for state, local government, and the private sector. Inspections with proposed penalties in excess of $2,500, fatality investigations, and citations relating to worker injuries were presented before the Commissioners of the ICA for approval prior to issuance.

### New Issues

On April 21, 2022, OSHA published a Notice of Proposed Reconsideration and Revocation of Final Approval of the Arizona State Plan. Following publication of the Federal Register Notice (FRN), Arizona adopted 14 outstanding standards and 19 federal program changes (FPCs) throughout FY 2022 and 2023 which substantially reduced the backlog. As a result of ADOSH’s actions, on February 15, 2023, OSHA withdrew the Notice of Proposed Reconsideration and Revocation of Final Approval of the Arizona State Plan. OSHA continues to monitor Arizona’s timeliness and effectiveness in adopting standards and FPCs.

Additionally, there were two important Complaints About State Plan Administration (CASPA) received during this review period.

CASPA AZ-2023-01 was received on March 2, 2023, and designated as “significant.” The CASPA alleged that ADOSH did not perform a timely inquiry into a complainant’s safety and health concerns, as required by the Arizona Field Operations Manual (AZ FOM). OSHA determined that ADOSH did not document conversations with the complainant, did not advise the complainant of the employer’s response, and did not provide an explanation in the case file why the inquiry was delayed for two weeks. This CASPA remained open without corrective action until December 2023 when it was closed.

CASPA AZ-2023-02 was received on June 20, 2023, alleging that ADOSH required a complainant to file a safety and health and a discrimination complaint electronically, instead of taking the complaint over the phone, which resulted in the discrimination complaint filed untimely. OSHA determined that ADOSH did not document conversations with the complainant and did not take action on the safety and health and discrimination complaints until both were filed electronically. ADOSH overlooked the initial receipt of the discrimination complaint and ultimately accepted the complaint as timely filed. Additionally, an element of the safety and health complaint was never addressed with the employer. A review of ADOSH actions regarding the discrimination complaint revealed concerns with Arizona’s handling of the complainant’s right to dual file with the State Plan and OSHA. As a result, OSHA opened an investigation into the two discrimination complaints pursuant to the federal review process outlined in subsection I. 3 of the Whistleblower Investigation Manual (WIM). This CASPA remained open without corrective action until November 2023.

On May 17, 2023, OSHA Region IX officials met with Governor Hobbs and her staff regarding the Arizona State Plan. The Governor presented her vision for worker safety, job growth, and opportunities for cooperative partnerships with businesses. Topics discussed were ADOSH staffing, the importance of increasing ADOSH inspection activity, adoption of OSHA standards and federal program changes, and opportunities to enhance working relationships.

During this evaluation period, there were a few media stories which were critical of Arizona’s safety enforcement, low penalties, and reduced staffing.

## Assessment of State Plan Progress and Performance

### Data and Methodology

OSHA established a two-year cycle for the FAME process. The FY 2023 FAME was a comprehensive year report where OSHA conducted an on-site program evaluation and case file review. A two-person OSHA team conducted a full on-site case file review and management interviews on November 15-17, 2023. A total of 39 safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period of October 1, 2022 through September 30, 2023. The selected population included the following:

* Nine (9) fatality case files
* Twelve (12) complaint/referral case files
* Eleven (11) programmed case files
* Seven (7) unprogrammed related case files

A team of five OSHA whistleblower investigators conducted an off-site review of discrimination files. A total of 748 retaliation investigations were closed during the period of (FY 2022-2023), including cases that were administratively closed and cases that were closed after a completed investigation. To randomly select the cases from that population for case file review, OSHA used surveysystems.com with a 95% confidence level and a 10% confidence interval. The result was a sample size of 85 cases, with an additional 10% (9 cases) to account for any unanticipated issues given the systems transition from Web Integrated Management Information System (WebIMIS) to OIS during this review period, but also to ensure a reasonable number of cases were reviewed beyond the minimum required. OSHA used the formula “=random()” in Excel to randomize the case list and took the top 94 cases, regardless of disposition type. The selected population included:

* Eleven (11) dismissed
* Six (6) settled
* Seventy-seven (77) administratively closed

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

* State Activity Mandated Measures Report (SAMM, Appendix D dated 11/14/2023)
* State Information Report (SIR, dated 11/14/2023)
* Mandated Activities Report for Consultation (MARC, dated 11/14/2023)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan
* FY 2023 State Plan 23(g) Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* Full case file review
* Whistleblower Application in the OSHA IT Support System (OITSS) / WebIMIS
* OSHA Information System (OIS)
* Complaint About State Program Administration (CASPA) investigations
* State Plan Application (SPA) Portal
* Salesforce
* Arizona Special Study

Each SAMM has an agreed-upon Further Review Level (FRL), which can be a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan’s FY 2023 SAMM Report and includes the FRL for each measure.

Ongoing state plan monitoring revealed a pattern of activity where OSHA was unable to verify that complaints were processed, citations issued, abatement received, penalties processed, or inspection files closed, which initiated a Special Study on August 16, 2023. Approximately 1,500 safety and health inspection files were reviewed. The Special Study remained open through the end of the review period and into FY 2024. Results of the Special Study, which included seven findings, were presented to ADOSH on May 30, 2024 and described throughout this FAME report. OSHA continues to work with ADOSH to resolve these findings.

### ****Review of State Plan Performance****

This section is an assessment of ADOSH’s performance in meeting mandated activities and program elements. ADOSH’s progress in achieving its five-year strategic and annual performance plan goals is addressed in the FY 2023 SOAR.

#### Program Administration

* 1. Training

ADOSH staff participated in OSHA Training Institute (OTI) training courses, when available, and utilized third party vendors as needed. Training included technology-enabled learning, self-study packages, on-the-job experiences, and formal training during the first three years of a compliance officer’s career. ADOSH conducted an internal Compliance Officer School for new enforcement staff as an alternative to the OTI Initial Compliance #1000 course, which covered equivalent training topics.

* 1. OSHA Information System (OIS)

All enforcement activities and retaliation investigations were captured in the Salesforce database; this system was implemented in August 2021. Once information was entered and finalized in that system, the data was imported to OIS.

However, since it’s implementation, discrepancies in the enforcement data have been noted between OIS and Salesforce. Examples of these discrepancies included differences in the numbers of complaints received, abatements completed, closed cases, penalties collected, and reductions in penalties from informal conferences. There have been several meetings between OSHA and ADOSH to address concerns regarding the data transfer from Salesforce into OIS. As a result of unresolved issues, the Special Study was initiated. The Special Study identified areas where information in Salesforce was not reflected in OIS and areas where the data was not initially entered correctly to allow the integration into OIS. Additionally, there were several areas, such as but not limited to abatement, contest, and payment information, where it was unknown why data integration was not successful. OSHA continues to monitor ADOSH’s data communication between the two systems to ensure discrepancies are resolved.

**Finding FY 2023-01:** Enforcement activities were not captured in OIS.

**Recommendation FY 2023-01:** ADOSH should identify the problem and develop a corrective action plan to ensure all enforcement activities are accurately captured in OIS.

* 1. State Internal Evaluation Program Report

ADOSH leadership held regular meetings to communicate internal policies and procedures, OSHA standards, compliance directives, goal tracking, performance, and other issues of importance for compliance personnel. Quarterly meetings were held with all staff to disseminate updates regarding AZ FOM, internal policies and procedures, OSHA standards, grant funding opportunities, internal projects, SOAR, and FAME findings. The Director and Assistant Director provided FAME findings and the Corrective Action Plan (CAP) for supervisors to improve by working with staff.

The Arizona Management System (AMS) was utilized to oversee internal controls and integrate improvements. The information available through the AMS presented opportunities for tracking complaints, casefiles, and inspections. Additionally, ADOSH’s Salesforce system had the capability to generate numerous reports to track enforcement activities. The oversight capabilities available through the AMS, including Salesforce, was not effectively utilized to guide leadership to intervene where complaints and inspections required additional oversight.

The results of the Special Study identified a finding that referenced several areas of deficiencies where ADOSH did not implement effective management controls on key metrics, including processing complaints, issuing citations, managing abatement, processing penalties, and closing cases. As a result, Observation FY 2022-OB-01 is elevated to a finding this review period.

**Finding FY 2023-02 (FY 2022-OB-01, FY 2021-OB-01):** The internal evaluation system was not effectively utilized to manage the program.

**Recommendation FY 2023-02 (FY 2022-OB-01, FY 2021-OB-01):** ADOSH should fully implement an internal evaluation system in order to manage their program and ensure they are at least as effective as OSHA.

* 1. Staffing

Benchmarks for compliance staff included nine safety and six health. At the end of FY 2023, there were 12 safety and 8 health positions filled, which placed the program over their required staffing benchmarks. Due to the new compliance officers being in training status, majority were nine months or less, ADOSH was not able to meet inspection projections.

There were vacancies in supervisory positions throughout the year. The lack of supervisory staff required higher leadership involvement in all facets of training, coaching, and casefile management. Overall, staffing improved and remained consistent this evaluation period. Observation FY 2022-OB-02 is closed.

#### Enforcement

The AZ FOM provides staff with guidance on how to conduct enforcement-related activities.

1. Complaints

According to OIS, a total of 634 complaint/referrals were processed with 203 resulting in inspections. The actual number of complaints/referrals was much higher. The issue of unprocessed complaints was a primary concern referenced in the Special Study and resulted in findings.

The average number of work days to initiate a complaint inspection was 10.10 days (SAMM 1a), which was an increase from 3.14 from FY 2022 and over the negotiated goal of 7. During this evaluation period the Director processed all complaints.

**Finding FY 2023-03:** ADOSH’s average number of work days to initiate a complaint inspection was 10.10 (SAMM 1a), which was above the negotiated goal of 7.

**Recommendation FY 2023-03:** ADOSH should ensure complaint inspections are processed within the negotiated goal of seven work days.

The negotiated goal for initiating complaint investigations is three working days. Although a decrease from 17.07 in FY 2022, ADOSH’s response time was 13.36 days (SAMM 2a). Therefore, this previous observation (FY 2022-OB-03) is elevated to a finding.

**Finding FY 2023-04 (FY 2022-OB-03, FY 2021-OB-03):** ADOSH’s response time to initiate complaint investigations was 13.36 days (SAMM 2a), which was above the negotiated goal of 3 working days.

**Recommendation FY 2023-04 (FY 2022-OB-03, FY 2021-OB-03):** ADOSH should ensure complaint investigations are initiated within the negotiated goal of three working days.

There were no imminent danger complaints or referrals (SAMM 3). ADOSH did not have any denials of entry in the evaluation period (SAMM 4).

1. Fatalities

During this evaluation period, 9 of 9 (100%) of the reported fatalities were responded to within 1 workday (SAMM 10), which was in line with the FRL. This was confirmed during the case file review where all nine fatality inspection files were reviewed. Fatality files indicated that regular communications were held with the next-of-kin. The ADOSH Director or Assistant Director reviewed each fatality file and presented the findings of the investigations to the ICA before citation issuance or closure.

1. Targeting and Programmed Inspections

Targeting programs for construction, manufacturing, government agencies, Rate Reduction Awareness Programs (RRAP), and Public Entity Partnership Program (PEPP) were continued during this evaluation period. Of the 540 inspections, 204 (37.78%) inspections conducted during the year were targeted and programmed inspections.

SAMM 17 measures the percent of enforcement presence as described by the number of safety and health inspections conducted in comparison to the number of establishments in the state. During this evaluation period, ADOSH’s enforcement presence was 0.44%, which was below the FRL range of 0.70% to 1.17%. Although this was an increase from 0.31% in FY 2022, ADOSH continued to fall short due to not meeting inspection goals. This also indicates that an appropriate enforcement presence was not provided to ensure all tools were utilized to maximize safety and health compliance by employers.

Inspection numbers have been consistently low since FY 2018 despite modifications to reduce the total projected goals, as shown in Table 1 below. In FY 2023 ADOSH fell short of achieving the inspection goal with 540 of the projected 975 (55.39%). This included 399 (62%) safety and 141 (43%) health inspections, compared to the goal of 645 and 330 respectively (SAMM 7). Both were below the FRL range of 612.75 to 677.25 for safety and 313.50 to 346.50 for health. The main contributing factor was the inexperience of new staff. ADOSH noted a higher number of inspections conducted during the review period at 561.

**Table 1**

**Projected versus Actual Inspections**

|  |  |  |  |
| --- | --- | --- | --- |
| **Fiscal Year**  | **Total Projected Goal**  | **Actual Inspections**  | **Percent Inspections Completed**  |
| **2023** | **975** | **540** | **55.39%** |
| **2022** | **775** | **350** | **45.16%** |
| **2021** | **1,100** | **486** | **44.18%** |
| **2020** | **1,295** | **540**  | **41.70%** |
| **2019** | **1,295** | **545** | **42.09%** |
| **2018** | **1,115** | **613** | **54.98%** |

**Finding FY 2023-05 (FY 2022-01, FY 2021-02, FY 2020-02, FY 2019-02, FY 2018-08):** A total of 540 (55.39%) inspections of the goal of 975 were conducted (SAMM 7).

**Recommendation FY 2023-05 (FY 2022-01, FY 2021-02, FY 2020-02, FY 2019-02, FY 2018-08):** ADOSH should determine the cause and ensure action is taken to meet inspection goals and provide a stronger enforcement presence to ensure worker safety.

The annual performance goal for construction was projected at 500 inspections with 400 violations identified and corrected. Only 337 (67.4%) inspections were conducted, and this shortage was mainly attributed to staffing challenges. However, 469 (117.3%) construction violations were cited, surpassing the goal. Therefore, the violations portion of this goal was achieved, and the ongoing finding will address only the number of construction inspections conducted.

**Finding FY 2023-06 (FY 2022-02, FY 2021-03, FY 2020-03, FY 2019-03, FY 2018-09**): A total of 337 (67.4%) of the projected 500 construction inspections were conducted.

**Recommendation FY 2023-06 (FY 2022-02, FY 2021-03, FY 2020-03, FY 2019-03, FY 2018-09):** ADOSH should determine the cause of the low number of construction inspections and implement corrective action.

1. Citations and Penalties

The in-compliance rate for safety inspections was 35.93% (SAMM 9a), which was a slight decrease from FY 2022 and within the FRL range of +/- 20% of the three-year national average of 31.73%, which equals a range of 25.38% to 38.08%. The in-compliance rate for health was 44.44% (SAMM 9b). Although this was an increase from 31.76% in FY 2022, this was within the FRL range of +/- 20% of the three-year national average of 43.82%, which equals a range of 35.06% to 52.58%. In the 19 in-compliance case files reviewed, there was adequate evidence to support this measure.

ADOSH management implemented closer oversight to ensure adequate probability and severity justification. Of the 39 inspection files reviewed, there were only 2 (5.13%) where the justification did not match the severity. ADOSH should continue to ensure each justification supports the severity determination. Finding FY 2022-03 and FY 2022-04 are completed.

The average lapse time for safety inspections was 64.89 days (SAMM 11a), which was +/- 20% of the three-year average of 55.23 days and within the FRL of 44.18 to 66.28 days. The average lapse time for health inspections was 58.78 days, which was +/- 20% of the three-year average of 69.72 days and within the FRL of 55.78 to 83.66 days.

ADOSH’s average number of serious, willful, repeat, and unclassified (SWRU) violations per inspection continued to decline over the past two years from 1.48 in FY 2021, 1.35 in FY 2022, and 0.87 in FY 2023. This was below the FRL of +/- 20% of the three-year national average of 1.75, which equals a range of 1.40 to 2.10 (SAMM 5a).

**Observation FY 2023-OB-01:** ADOSH’s SWRU violations per inspection rate was 0.87 (SAMM 5a) and below the FRL range of 1.40 to 2.10.

**Federal Monitoring Plan FY 2023-OB-01:** OSHA will monitor the SWRU violations per inspection rate to ensure they are within the FRL.

However, the average number of other-than-serious violations per inspection has been increasing from 1.19 in FY 2021, 1.56 in FY 2022, and 2.41 in FY 2023. This was above the FRL of +/- 20% of the three-year national average of 0.89, which equals a range of 0.71 to 1.07 (SAMM 5b). This was noted as an observation in the FY 2021 and 2022 FAMEs and is on an upward trend this review period.

**Observation FY 2023-OB-02 (Observation FY 2022-OB-04, Observation FY 2021-OB-04):** ADOSH’s other-than-serious violations per inspection was 2.41 (SAMM 5b) and above the FRL range of 0.71 to 1.07.

**Federal Monitoring Plan FY 2023-OB-02 (Observation FY 2022-OB-04, Observation FY 2021-OB-04):** OSHA will work with ADOSH to look into the upward trend of other-than-serious violations per inspection and ensure they are within the FRL.

Citations had sufficient evidence to support violations and all apparent violations were issued. Grouping of violations and issuance of repeat violations was consistent with the requirements of the AZ FOM.

ADOSH’s penalties have improved from FY 2022 after House Bill 2120 was signed by the Governor and became effective September 24, 2022. As a result, Arizona’s penalty structure aligned with OSHA. This review period, the average current penalty per serious violation in private sector (SAMM 8) was $3,441.82 and within the FRL of +/- 25% of the three-year national average of $3,625.21, which equals a range of $2,718.91 to $4,531.51. Table 3 shows the average current penalty per serious violation in the private sector based on the number of workers controlled by an establishment. ADOSH’s average current penalties for all ranges of workers was within the FRL, with the exception of establishments with 101-250 workers, which fell just shy of the lower FRL. OSHA will continue to monitor penalties in the next evaluation period.

**Table 3**

**Average Current Serious Penalty in Private Sector (SAMM 8)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Number of Workers**  | **ADOSH FY 2023**  | **3-Year National Average**  | **FRL**  |
| 1-250+  | $3,441.82  | $3,625.21 | $2,718.91 to $4,531.51 |
| 1-25  | $2,386.00  | $2,348.03 | $1,761.02 to $2,935.04 |
| 26-100  | $3,776.72  | $4,167.28 | $3,125.46 to $5,209.10 |
| 101-250  | $4,216.93  | $6,052.04 | $4,539.03 to $7,565.05 |
| 250+  | $8,169.21  | $7,331.41 | $5,498.56 to $9,164.26 |

1. Abatement

The case file review determined that compliance staff assessed abatement periods correctly relative to the severity and likelihood of each hazard’s occurrence. Out of 39 inspection files reviewed, 19 had violations issued. One (5.26%) did not contain abatement and five (26.32%) others did not have a Certification of Corrective Action Worksheet. This was a focus area in the Special Study which identified where case files lacked abatement documentation.

**Finding FY 2023-07:** Abatement documentation was missing in 6 of 39 (15.38%) case files.

**Recommendation FY 2023-07:** ADOSH should ensure all abatement documentation is maintained in the file.

1. Worker and Union Involvement

The percent of initial inspections with worker walk-around representation or worker interviews was 99.44% (SAMM 13), which was slightly below FRL of 100%. This was close to 99.14% in FY 2022.

In general, compliance staff made efforts to perform employee interviews during inspections. Of the 39 inspections files reviewed, interview statements were maintained in the file. However, 3 (7.69%) had employee interview documentation missing. There were 14 cases identified where management or a non-employee was interviewed. In these cases, it was noted that workers were no longer on-site and unavailable for interviews. At this time, this doesn’t rise to the level of an observation. OSHA will continue to monitor that ADOSH interviews employees during inspections and the documentation is maintained in the case file.

#### Review Procedures

1. Informal Conferences

Informal Conferences were held by supervisors from the corresponding compliance unit. Supervisors may reduce penalties for settlement purposes. Reductions greater than 30% or violation classification changes require the approval of the Assistant Director.

The average penalty retention rate was 100.04% (SAMM 12) of the original penalty, which was above the FRL of +/- 15% of three-year national average of 71.84%, a range of 61.06% to 82.62%. State Plans using OIS interface systems errantly reported retention rates greater than 100%. ADOSH conducts informal conferences that result in informal settlement agreements and processes contested cases that result in penalty reductions. Supervisors used a standard, locally-developed form to justify penalty reductions, reclassifications, and deletions.

Any proposed citations with penalties greater than $2,500 and any fatality investigation were required to be presented before the Commissioners of the ICA. Employers, complainants, and/or labor representatives were provided with notices prior to ICA meetings. Agendas were publicly posted in advance and interested parties had the opportunity to speak about the proposed violations or answer questions from the ICA if they desired. The ICA accepted the proposed penalties or requested modification during the meetings.

1. Formal Review of Citations

The Arizona Office of Administrative Hearings (OAHs) adjudicated ADOSH’s contested cases. Where litigants have continued concerns following a decision by the OAH, a case may be reviewed by the Review Board. The Review Board consisted of five members appointed by the Governor and may affirm, reverse, modify, or supplement any decision. In turn, the Review Board’s decision may be appealed to the Arizona Court of Appeals. The OAH, Review Board, and Arizona Court of Appeals decisions were made available to the public.

Most contested cases were settled informally by the Director or Assistant Director. Where cases did not settle at that level, the ICA Legal Division represented the State Plan. Cases contained limited information about the legal review process to address whether they were supported by the facts required to sustain penalties without undue deletions or reclassifications.

The case file review showed that contests were processed for inspections where employers disagreed with citations. The contest process was performed with the state attorneys; therefore, documentation of these procedures needed to be manually entered into the appropriate Salesforce inspection by ADOSH staff. This was a focus area of the Special Study conducted. Two cases were noted without contest information entered into Salesforce. OSHA will continue to monitor this during the next review period.

According to OIS, 1 of 1 (100%) private sector inspection violations was vacated after a contest was filed (SIR 5b). There were no private sector inspection violations reclassified after a contest was filed (SIR 6b). The percent of post-contest penalty retention for private sector inspections was 100% (SIR 7b). Observation FY 2022-OB-05 is closed.

#### Standards and Federal Program Change (FPC) Adoption

1. Standards Adoption

The ADOSH Director determines if a standard should be adopted, then submits a request for rulemaking to the ICA. Following standards development, the proposed standards are sent to the Governor’s Office for approval then forwarded to the Secretary of State to make them available for public comment. After the Close of Record, standards are sent to the Attorney General’s Office and, when approved, they are published in the Arizona Register and enforced.

During the review period, ADOSH made concerted efforts to adopt 14 outstanding standards dating back to 2014, as shown below in Tables 4 and 5. Two new standards were issued during the review period: The Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act - Annual Adjustment for 2023 and the Final Rule to Improve Tracking of Workplace Injuries and Illnesses. Arizona adopted the annual adjustment for 2023 and provided intent to adopt the Final Rule to Improve Tracking of Workplace Injuries and Illnesses in a timely manner. At the end of the review period, the adoption date for the improved tracking rule was still pending.

**Table 4**

**Status of FY 2022 and 2023 Federal Standards Where Adoption Was Required**

(May include delinquent standards from earlier fiscal years)

|  **Standard**  | **Response Due Date**  | **State Plan Response Date**  | **Intent** **to** **Adopt**  | **Adopt Identical**  | **Adoption Due Date**  | **State Plan Adoption Date**  |
| --- | --- | --- | --- | --- | --- | --- |
| 1910, 1926 Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment (4/11/2014)  | 6/11/2014  | 6/2/2014  | Yes  | Yes  | 1/11/2015  | 3/16/2016  |
| 1926 Cranes and Derricks in Construction – Operator Certification Final Rule (9/26/2014)  | 11/26/2014  | 10/14/2014  | Yes  | Yes  | 3/26/2015  | 5/10/2016 |
| 1926.1200 Final Rule for Confined Spaces in Construction (5/4/2015)  | 7/4/2015  | 6/3/2015  | Yes  | Yes  | 2/4/2016  | 5/10/2016  |
| 1910, 1915, 1926 Final Rule on Occupational Exposure to Beryllium (1/9/2017)  | 3/9/2017  | 3/13/2017  | Yes  | Yes  | 7/9/2017  | 2/11/2020 |
| Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)  | 1/9/2019  | 2/1/2019  | Yes  | Yes  | 5/9/2019  | 2/11/2020 |
| Final Rule on the Standards Improvement Project – Phase IV 1904, 1910, 1915, 1926 (5/14/2019)  | 7/13/2019  | 6/12/2019  | Yes  | Yes  | 11/14/2019  | 7/22/2022 |
| 29 CFR Part 1903 Final Rule on the Implementation of the 2020 Annual Adjustment to Civil Penalties for Inflation (1/10/2020)  | 3/15/2020  | 3/16/2020 | Yes  | Yes | 7/15/2020  | 9/24/2022 |
| 29 CFR 1910 Final Rule on the Beryllium Standard for General Industry (7/14/2020)  | 9/14/2020  | 5/2/2022 | Yes  | Yes | 1/14/2021  | 7/8/2022 |
| 29 CFR 1915, 1926 Final Rule on the Beryllium Standard for Construction and Shipyards (8/31/2020)  | 10/30/2020  | 10/30/2020  | Yes  | Yes  | 2/27/2021  | 7/8/2022  |
| 29 CFR Part 1926 Final Rule on Cranes and Derricks in Construction:  Railroad Roadway Work (9/15/2020)  | 11/14/2020  | 11/13/2020  | Yes  | Yes  | 3/14/2021  | 7/8/2022  |
| 29 CFR 1903 Final Rule on the Implementation of the 2021 Annual Adjustment to Civil Penalties for Inflation (1/15/2021)  | 3/16/2021  | 3/16/2021 | Yes | Yes | 7/14/2021  | 9/24/2022 |
| 29 CFR 1910 Occupational Exposure to COVID-19; Emergency Temporary Standard (6/21/2021)  | 7/6/2021  | 7/6/2021  | Yes  | No  | 7/21/2021  | 2/16/2022  |
| COVID-19 Vaccination and Testing; Emergency Temporary Standard 29 CFR 1910, 15, 17, 18, 26, 28(11/5/2021) | 11/20/2021 | N/A | N/A | N/A | 12/5/2021 | N/AWithdrawn |
| Updated COVID-19 Vaccination and Testing; Emergency Temporary Standard29 CFR 1910(11/5/2021) | 1/7/2022 | 1/7/2022 | Yes | No | 1/24/2022 | N/AWithdrawn |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act - Annual Adjustment for 2022 29 CFR Part 1903(1/15/2022) | 3/15/2022 | 2/1/2022 | Yes | Yes | 7/15/2022 | 9/24/2022 |
| Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions29 CFR 1910.502(q)(2)(ii), (q)(3)(ii)-(iv) and (r)(2/14/2022) | 4/14/2022 | 2/16/2022 | Yes | Yes | 8/14/2022 | 2/16/2022 |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act - Annual Adjustment for 2023 29 CFR Part 1903(1/15/2023) | 3/15/2023 | 2/8/2023 | Yes | Yes | 7/15/2023 | 2/1/2023 |
| Final Rule to Improve Tracking of Workplace Injuries and Illnesses29 CFR Part 1904(7/21/2023) | 9/21/2023 | 9/23/2023 | Yes | Yes | 1/24/2024 | Pending |

**Table 5**

**Status of FY 2022 and 2023 Federal Standards Where Adoption Was Encouraged**

(May include delinquent standards from earlier fiscal years)

| **Standard**  | **Response Due Date**  | **State Plan Response Date**  | **Intent** **to** **Adopt**  | **Adopt Identical**  | **Adoption Due Date**  | **State Plan Adoption Date**  |
| --- | --- | --- | --- | --- | --- | --- |
| 29 CFR Part 1913 Final Rule on the Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records (7/30/2020)  | 9/28/2020  | 3/21/2022  | No  |  N/A | 1/26/2021  | N/A |

1. Federal Program Changes (FPCs) Adoption

During the review period, Arizona made efforts to address a backlog of pending FPCs: 4 where adoption was required (Table 6), 11 where equivalency was required (Table 7), and 7 where adoption was encouraged (Table 8). As a result, all four where adoption was required were adopted; 11 where equivalency was required were adopted, one related to the Inspection Procedures for the COVID-19 Emergency Temporary Standard was withdrawn, and one was pending. Lastly, three where adoption was encouraged were adopted and an additional four closed with the intent of not to adopt.

Five directives were issued in FY 2023. Two of the directives required adoption: Warehousing and Distribution Center Operations and Combustible Dust National Emphasis Programs (NEP). Arizona adopted the Warehousing NEP in a timely manner; however, the Combustible Dust NEP was not adopted timely, and OSHA is currently awaiting ADOSH’s Plan Change Supplement documentation for review.

**Finding FY 2023-08 (FY 2022-05, FY 2021-10, FY 2020-08):** Requirements for adopting federal program changes were not completed within six months of the effective date of the directive.

**Recommendation FY 2023-08 (FY 2022-05, FY 2021-10, FY 2020-08):** ADOSH should ensure that they meet the requirements for response and adoption of OSHA’s federal program changes.

The remaining three directives were issued as equivalency required. Site-Specific Targeting (SST) NEP was adopted timely. Intent to adopt was provided in a timely manner for the Falls NEP and Consultation Policies and Procedures Manual. However, both were pending adoption at the end of the review period.

**Table 6**

**Status of FY 2022 and FY 2023 Federal Program Change (FPCs) Where Adoption Was Required**

(May include delinquent standards from earlier fiscal years)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **FPC** **Directive/Subject**  | **Response Due Date**  | **State Plan Response Date**  | **Intent** **to Adopt**  | **Adopt Identical**  | **Adoption Due Date**  | **State Plan Adoption Date**  |
| Revision-National Emphasis Program-Primary Metal Industries CPL 03-00-018 (10/20/2014)  | 12/20/2014  | 12/10/2014  | Yes  | Yes  | 4/20/2015  | 4/20/2015  |
| National Emphasis Program on Trenching and ExcavationCPL 02-00-161(10/1/2018)  | 11/30/2018  | 12/3/2018  | Yes  | Yes  | 3/30/2019 | 3/22/2019 |
| Amputations in Manufacturing Industries NEP CPL 03-00-022 (12/10/2019)   | 2/10/2020  | 4/20/2022 | Yes  | No | 6/10/2020  | 4/20/2022    |
| Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)  | 4/4/2020  | 6/25/2020  | Yes  | Yes  | 8/4/2020  | 6/25/2020  |
| Combustible Dust NEPCPL 03-00-008(1/30/2023) | 3/31/2023 | 4/3/2023 | Yes | No | 7/30/2023 | Pending 5/31/2023\* |
| Warehousing and Distribution Center Operations NEPCPL 03-00-026 (7/13/2023) | 9/11/2023 | 8/9/2023 | Yes | Yes | 1/9/2024 | 12/27/2023 |

\*Note: Awaiting State Plan Change Supplement

**Table 7**

**Status of FY 2022 and FY 2023 Federal Program Change (FPCs) Where Equivalency Was Required**

(May include delinquent standards from earlier fiscal years)

| **FPC Directive/Subject**  | **Response Due Date**  | **State Plan Response Date**  | **Intent** **to Adopt**  | **Adopt Identical**  | **Adoption Due Date**  | **State Plan Adoption Date**  |
| --- | --- | --- | --- | --- | --- | --- |
| Compliance Directive for Cranes and Derricks in Construction Standard CPL 02-01-057(10/17/2014)  | 12/17/2014  | 11/5/2014  | Yes  | Yes  | 4/17/2015  | 6/01/2015  |
| Whistleblower Investigations Manual CPL 02-03-007(1/28/2016)  | 4/27/2016  | 4/18/2016  | Yes  | Yes  | 7/28/2016  | 6/28/2016   |
| Field Operations Manual CPL 02-00-164(4/14/2020)  | 6/13/2020  | 1/19/2022  | Yes | No | 10/11/2020  | 8/3/2021 |
| Inspection Procedures for the Respirable Crystalline Silica Standards CPL 02-02-080(6/25/2020)  | 8/24/2020  | 8/24/2020  | Yes   | Yes | 12/22/2020 | 8/31/2020 |
| Site-Specific Targeting (SST) CPL 02-01-062(12/14/2020)  | 2/12/2021  | 1/19/2022  | Yes  | Yes  | 6/14/2021  | 2/12/2021  |
| Consultation Policies and Procedures Manual CSP 02-00-004(3/19/2021)  | 5/19/2021  | 9/19/2021 | Yes  | Yes | 9/19/2021  | 2/12/2021  |
| Inspection Procedures for the COVID-19 Emergency Temporary Standard DIR 2021-02 (CPL 02)(6/28/2021)  | 7/13/2021  | N/A  | N/A | N/A | 7/28/2021  | N/AWithdrawn |
| Compliance Directive for the Excavation Standard, 29 CFR 1926, Subpart P CPL 02-00-165(7/1/2021)  | 8/30/2021  | 1/19/2022 | Yes | Yes | 12/28/2021  | 8/30/2021 |
| Revised National Emphasis Program – Coronavirus Disease 2019 (COVID-19) DIR 2021-03 (CPL 03)(7/7/2021)  | 7/22/2021   | 1/19/2022  | Yes   | No   | 8/7/2021  | 4/22/2022   |
| Compliance Directive for Cranes and Derricks in Construction StandardCPL 02-01-063 (2/11/2022) | 7/3/2022 | 7/1/2022 | Yes | Yes | 11/3/2022 | 8/1/2022 |
| OSHA Whistleblower Investigations ManualCPL 02-03-011 (4/29/2022) | 10/11/2022 | 10/4/2022 | Yes | No | 2/11/2023 | Pending 2/28/2023\* |
| Severe Violator Enforcement Program (SVEP)CPL 02-00-169 (9/15/2022) | 11/15/2022 | 11/15/2022 | Yes | No | 3/15/2023 | 3/1/2023 |
| Site-Specific Targeting (SST)CPL 02-01-064 (2/7/2023) | 4/8/2023 | 4/3/2023 | Yes | No | 8/6/2023 | 8/9/2023 |
| National Emphasis Program – Falls CPL 03-00-025(5/1/2023) | 6/30/2023 | 5/31/2023 | Yes | No | 10/28/2023 | Pending 5/31/2023\* |
| Consultation Policies and Procedures Manual CSP 02-00-005(9/29/2023)  | 11/28/2023 | 11/28/2023 | Yes | Yes | 3/27/2024 | Pending\* |

\*Note: Awaiting State Plan alternative policy

**Table 8**

**Status of FY 2021 Federal Program Change (FPCs) Where Adoption Encouraged**

(May include delinquent standards from earlier fiscal years)

| **FPC Directive/Subject**  | **Response Due Date**  | **State Plan Response Date**  | **Intent to Adopt**  | **Adopt Identical**  | **State Plan Adoption Date**  |
| --- | --- | --- | --- | --- | --- |
| Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence CPL 02-01-058(1/10/2017)  | 3/10/2017  | 3/13/2017  | No  | No  | N/A |
| Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005(1/30/2020)  | 3/30/2020  | 1/19/2022  | Yes  | Yes | 4/2/2021 |
| National Emphasis Program – Coronavirus Disease 2019 (COVID-19) DIR 2021-01 (CPL-03)(3/12/2021)  | 5/12/2021  | 5/12/2021  | Yes  | Yes  | 5/12/2021  |
| Communicating OSHA Fatality Inspection Procedures to a Victim’s Family CPL 02-00-166(7/7/2021)  | 9/7/2021  | 8/18/2021 | Yes  | No  | 8/18/2021 |
| Use of Small Unmanned Aircraft SystemsCPL 02-01-169(12/22/2021) | 2/22/2022 | 1/6/2022 | No | No | N/A  |
| National Emphasis Program - Outdoor and Indoor Heat-Related Hazards CPL 03-00-024(4/8/2022) | 6/8/2022 | 6/8/2022 | No | No | N/A |

#### Variances

There were no new variances requested or granted during the review period.

#### State and Local Government Worker Program

Proposed penalties for state and local government agencies are the same for private industry. In FY 2023, 22 of 540 (4.07%) inspections were conducted in state and local government agency workplaces (SAMM 6). This was within the FRL of +/- 5% of the three-year average of 4.10%, which was 3.90 to 4.31%.

#### Whistleblower Protection Program

During FY 2023, there were three retaliation investigators, one full-time supervisor, and one compliance officer who spent 100% of the time conducting workplace retaliation investigations.  All attended the required OSHA whistleblower protection program training.

ADOSH’s goal was to reduce the average number of days it took to complete an intake and an investigation by 25%, which was a projected 30 and 270 days, respectively. According to the SOAR, ADOSH achieved these projections with 30 average days to complete an intake and 150 average days pending investigation. Due to data migration from IMIS to OIS, the percent of 11(c) investigations completed within 90 days (SAMM 14), percent of 11(c) complaints that were meritorious (SAMM 15), and average number of calendar days to complete an 11(c) investigation (SAMM 16) were not evaluated during this review period. However, OSHA held discussions with ADOSH during quarterly monitoring meetings regarding workplace retaliation investigations.

The only potentially significant trend OSHA discovered in its case file review was the lack of case referral between the retaliation team and enforcement. Of the 94 case files reviewed, in 59 (62.8%) cases, there was no evidence in the case file that a copy of the complaint was shared with the safety and health enforcement program. OSHA’s policy is to ensure a referral to enforcement is appropriate in cases involving underlying safety and health issues that may require an inspection or investigation. This was not a documentation issue and does not currently warrant recording as a separate observation or finding. The FAME review did not find that a lack of required documentation remained an issue for the retaliation program. Observation FY2022-OB-06 is closed.

There were three federal reviews conducted this cycle with two resulting in a deferral to the state for determination and one (originally tracked as CASPA AZ-2023-02) pending final review of ADOSH’s actions to address the issues identified. Although this remained open at the end of the review period, ADOSH has since worked collaboratively and diligently with OSHA to re-examine its telephone complaint system, by modifying the voice prompts to ensure retaliation complaints were separately identified and routed to a retaliation Investigator. OSHA is awaiting submission of ADOSH’s final WIM to confirm that the state’s changes to its procedures are at least as effective as OSHA’s.

#### Complaint About State Program Administration (CASPA)

Two CASPAs were filed during this review period. Both were addressed under New Issues and, although they remained open at the end of the evaluation period, they have since been closed.

#### Voluntary Compliance Program

Employers with outstanding occupational safety and health management systems were recognized through the ADOSH Voluntary Protection Program (VPP). Written policies and procedures were implemented in 1993, updated in 2020 and adopted in April of 2021. At the end of the review period, there were 62 VPP Star Sites.

#### State and Local Government 23(g) On-site Consultation Program

This section covers consultation services provided solely to state or local government agencies that are funded under Section 23(g) of the OSH Act.  Consultation services are provided to state and local government employers through the Consultation, Education, and Training Section.  Consultation for the private sector was funded under Section 21(d) of the Occupational Safety and Health (OSH) Act and is evaluated separately in the FY 2023 RACER.

**In FY 2023, 56 initial consultation visits were conducted in the state and local government workplaces. Of these, 56 (100%) were in high hazard industries, exceeding the goal of 90% (MARC 1).**

**Smaller businesses with fewer than 250 employees received 51 (91.07%) visits (MARC 2A) and businesses with fewer than 500 employees received 52 (92.86%) visits (MARC 2B). The consultant conferred with employees 100% of the time (MARC 3).**

**During this evaluation period, 204 serious hazards were identified and 196 (96.08%) were corrected timely. There were 18 hazards corrected on-site and 178 within the original time frame, exceeding the goal of 65%. No employers were referred to enforcement (MARC 4A-4D). No serious hazards were uncorrected beyond 90 days past their due date (MARC 5).**

An on-site review was conducted of the state and local government consultation program on December 5 through 19, 2022. The purpose of the visit was to assess the quality of the program’s services and its internal quality assurance program in accordance with Consultation Policies and Procedures Manual (CSP 02-00-004) and 29 Code of Federal Regulations (CFR) Part 1908 – Consultation Agreements.

Overall, there was improvement in meeting the program requirements. Of the 14 state and local government agency files reviewed, there were four findings related to errors in OIS emphasis coding, improper classification of hazards, insufficient corrective action for serious hazards, and incorrect information in the written report to the employers. ADOSH submitted an action plan to resolve these items and is pending verification at the next consultation case file review.

In the FY 2021 and FY 2022 FAMEs, Observations FY 2021-OB-07 and FY 2022-OB-07, related to state and local government agency consultation files missing documentation of the List of Hazards provided to employee representatives. The FY 2023 on-site review did not demonstrate evidence of completion. Therefore, this observation is continued.

**Observation FY 2023-OB-03 (Observation FY 2022-0B-07, Observation FY 2021-OB-07)**: In two of 16 (13%) state and local government agency consultation files, there was no documentation of the List of Hazards being sent to the union representatives.

**Federal Monitoring Plan FY 2023-OB-03 (Observation FY 2022-0B-07, Observation FY 2021-OB-07):** OSHA will monitor and discuss ADOSH’s progress to ensure the list of hazards is transmitted to union representatives and documented in the case file.

## Appendix A – New and Continued Findings and Recommendations

FY 2023 Arizona Division of Occupational Safety and Health Comprehensive FAME Report

| **FY 2023-#** | **Finding** | **Recommendation** | **FY 2022-# or** **FY 2022-OB-#** |
| --- | --- | --- | --- |
| FY 2023-01 | Enforcement activities were not captured in OIS.  | ADOSH should identify the problem and develop a corrective action plan to ensure all enforcement activities are accurately captured in OIS. |  |
| FY 2023-02 | The internal evaluation system was not effectively utilized to manage the program. | ADOSH should fully implement an internal evaluation system in order to manage their program and ensure they are at least as effective as OSHA. | FY 2022-OB-01, FY 2021-OB-01 |
| FY 2023-03 | ADOSH’s average number of work days to initiate a complaint inspection was 10.10 (SAMM 1a), which was above the negotiated goal of 7. | ADOSH should ensure complaint inspections are processed within the negotiated goal of seven work days. |  |
| FY 2023-04 | ADOSH’s response time to initiate complaint investigations was 13.36 days (SAMM 2a), which was above the negotiated goal of 3 working days. | ADOSH should ensure complaint investigations are initiated within the negotiated goal of three working days.  | FY 2022-OB-03, FY 2021-OB-03 |
| FY 2023-05 | A total of 540 (55.39%) inspections of the goal of 975 were conducted (SAMM 7). | ADOSH should determine the cause and ensure action is taken to meet inspection goals and provide a stronger enforcement presence to ensure worker safety.  | FY 2022-01, FY 2021-02, FY 2020-02, FY 2019-02, FY 2018-08 |
| FY 2023-06 | A total of 337 (67.4%) of the projected 500 construction inspections were conducted.  | ADOSH should determine the cause of the low number of construction inspections and implement corrective action. | FY 2022-02, FY 2021-03, FY 2020-03, FY 2019-03,FY 2018-09 |
| FY 2023-07 | Abatement documentation was missing in 6 of 39 (15.38%) case files.  | ADOSH should ensure all abatement documentation is maintained in the file. |  |
| FY 2023-08 | Requirements for adopting federal program changes were not completed within six months of the effective date of the directive. | ADOSH should ensure that they meet the requirements for response and adoption of OSHA’s federal program changes. | FY 2022-05, FY 2021-10, FY 2020-08 |

## Appendix B – Observations Subject to Continued Monitoring

FY 2023 Arizona Division of Occupational Safety and Health Comprehensive FAME Report

| **Observation #****FY 2023-OB-#** | **Observation#****FY 20XX-OB-22 *or* FY 2022-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2023-OB-01 |  | ADOSH’s SWRU violations per inspection rate was 0.87 (SAMM 5a) and below the FRL range of 1.40 to 2.10. | OSHA will monitor the SWRU violations per inspection rate to ensure they are within the FRL. | New |
| FY 2023-OB-02 | FY 2022-OB-04, FY 2021-OB-04 | ADOSH’s other-than-serious violations per inspectionwas 2.41 (SAMM 5b) and above the FRL range of 0.71 to 1.07. | OSHA will work with ADOSH to look into the upward trend of other-than-serious violations per inspection and ensure they are within the FRL. | Open  |
| FY 2023-OB-03 | FY 2022-0B-07, FY 2021-OB-07 | In two of 16 (13%) state and local government agency consultation files, there was no documentation of the List of Hazards being sent to the union representatives. | OSHA will monitor and discuss ADOSH’s progress to ensure the list of hazards is transmitted to union representatives and documented in the case file. | Open |
| N/A | FY 2022-OB-01, FY 2021-OB-01 | The internal evaluation system was not fully utilized to identify and act on issues such as unaccounted e-Complaints, inspections open after six- months with draft citations not issued, inspections with no abatement entered or not accounted for, inspections where penalty payments had not been entered, other open inspections, and complaints in federal jurisdiction that were not referred to OSHA.  | OSHA will monitor during quarterly meetings to ensure that the internal evaluation program tracks key metrics, so case files and complaints are handled appropriately. | Elevated to Finding FY 2023-02 |
| N/A | FY 2022-OB-02, FY 2021-OB-02 | The number of qualified compliance officers that were able to conduct inspections independently declined from 13 to five by the end of FY 2021. | OSHA will monitor and discuss the number of qualified compliance officers during quarterly meetings. | Closed |
| N/A | FY 2022-OB-03, FY 2021-OB-03 | ADOSH’s response time to initiate complaintinvestigations was 4.28 (SAMM 2a), which was above the goal of three working days. | OSHA will monitor and discuss ADOSH’s progress to ensure complaints are processed timely during quarterly meetings. | Elevated to Finding FY 2023-04 |
| N/A | FY 2022-OB-05, FY 2021-OB-05 | The rate of violations reclassified after contest was 25%, which was higher than the national average of 12.17%. | OSHA will monitor the rate of violations reclassified after contest during the quarterly meetings.  | Closed |
| N/A | FY 2022-OB-06, FY 2021-OB-06 | Retaliation case files lacked the required documentation such as final signatures on settlement agreements, correspondence between ADOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, or other documents required to be in the retaliation case file. In addition, medical information was not protected. | OSHA will monitor the lack of required documentation during quarterly meetings. | Closed |

## Appendix C - Status of FY 2022 Findings and Recommendations

FY 2023 Arizona Division of Occupational Safety and Health Comprehensive FAME Report

| **FY 2022-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
| --- | --- | --- | --- | --- | --- |
| FY 2022-01  | A total of 486 (44%) inspections were conducted and this was below the goal of 1,100 inspections (SAMM 7).  | ADOSH should determine the cause and implement corrective action to meet inspection goals and provide a stronger enforcement presence to ensure worker safety. | Since August 2022, ADOSH hired 15 new CSHOs with only one vacating shortly after starting. The 93.3% retention is attributed to flexible work schedules, the ability to train employees for a longer period of time, and matching employees with leadership mentors for full understanding of the job functions. Because of our retention, ADOSH added several new positions to help others learn, grow, and conduct inspections on their own. ADOSH is projected to accomplish approximately 620 inspections in FY 2023. This is an increase of 270 inspections more than FY 2022. The number of violations identified is also expected to increase. ADOSH will continue to hire, retain, and have available CSHOs conduct inspections in the public and private industries. If all positions are filled and staff maintains their current positions, ADOSH will be on target to accomplish more than 1,000 inspections in FY 2024. This will help with inspection goals and outcomes established in ADOSH’s 5-Year Goals. ADOSH will continue to look for new ways to attract safety and health professionals.  | Not Completed | Open11/14/2023 |
| FY 2022-02  | A total of 276 of the projected 525 construction inspections (53%) were conducted. A total of 185 (23% of the goal of 800) violations were issued for FY 2021.  | ADOSH should determine the cause of the low number of construction inspections and violations issued and implement corrective action.  | Since August 2022, ADOSH hired 15 new CSHOs with only one vacating shortly after starting. The 93.3% retention is attributed to flexible work schedules, the ability to train employees for a longer period of time, and matching employees with leadership mentors for full understanding of the job functions. Because of our retention, ADOSH added several new positions to help others learn, grow, and conduct inspections on their own. This will all help in conducting more inspections in the Construction industry. ADOSH is projected to accomplish approximately 350 construction inspections as more CSHOs are allowed to conduct their own inspections without help. We are also expected to have 345 hazards identified which is an increase from the prior year. ADOSH will continue to look for new ways to attract safety and health professionals.  | Not Completed | Open12/27/2023  |
| FY 2022-03 | There were 23 violations where the severity assessed was not supported by the case file documentation. | ADOSH should implement oversight of the case files to ensure the severity assessment supports the most likely injury to occur. | An all-hands meeting was held with CSHOs, Supervisor, and Assistant Directors on how to appropriately document a case file to support the severity of the violation per the Arizona FOM. Every file is reviewed for probability and severity based on the Arizona FOM by a first line supervisor. After review, the file is submitted to an Assistant Director for final review at which point it may be sent back for additional corrections such as severity justification based on the type of citation. ADOSH implemented helpful hints within our Salesforce system to provide additional guidance when assessing probability and severity.  | 06/01/2023 | Completed11/17/2023 |
| FY 2022-04 | The Probability Factors Worksheet was not constructed to assign numerical value to calculate all the factors from the AZ FOM. | ADOSH should ensure all requirements listed in the AZ FOM are used to calculate probability. | An all-hands meeting was held with 16 CSHOs, Supervisor, and Assistant Directors to review the Arizona FOM and how to appropriately assign a value for each type of hazard. Every file is reviewed for probability and severity based on the Arizona FOM by a first line supervisor. After review, the file is submitted to an Assistant Director for final review at which point it may be sent back for additional corrections such as probability justification based on the type of citation. | 06/30/2023 | Completed11/17/2023 |
| FY 2022-05 | Requirements for adopting Federal Program Changes (FPCs) were not completed within six-months of the effective date of the directive or official issuance date of the Federal Register Notice. | ADOSH should ensure that they meet the requirements for response and adoption of OSHA’s Federal Program Changes.  | ADOSH maintains a process in place to review, update, and share FPCs with all pertinent staff. Examples of recent FPCs adopted include the National Emphasis Program for Falls, Site-Specific Targeting, Severe Violator Enforcement Program, and the National Emphasis Program Revised Combustible Dust. | 07/31/2023 | Completed 07/31/2023 |

## Appendix D – FY 2023 State Activity Mandated Measures (SAMM) Report

FY 2023 Arizona Division of Occupational Safety and Health Comprehensive FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 10.10 | 7 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 7.52 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 2a | Average number of work days to initiate complaint investigations (state formula) | 13.36 | 3 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.37 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | 100% | 100% | The further review level is fixed for all State Plans. |
| 4 | Number of denials where entry not obtained | 0 | 0 | The further review level is fixed for all State Plans. |
| 5a | Average number of violations per inspection with violations by violation type (SWRU) | 0.87 | +/- 20% of 1.75 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.40 to 2.10 for SWRU.  |
| 5b | Average number of violations per inspection with violations by violation type (other) | 2.41 | +/- 20% of 0.89 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.71 to 1.07 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 4.07% | +/- 5% of4.10% | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 3.90% to 4.31%. |
| 7a | Planned v. actual inspections (safety) | 399 | +/- 5% of 645 | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 612.75 to 677.25 for safety. |
| 7b | Planned v. actual inspections (health) | 141 | +/- 5% of 330 | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 313.50 to 346.50 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $3,441.82 | +/- 25% of $3,625.21 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,718.91 to $4,531.51. |
| 8a | Average current serious penalty in private sector (1-25 workers) | $2,386.00 | +/- 25% of $2,348.03 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,761.02 to $2,935.04. |
| 8b | Average current serious penalty in private sector (26-100 workers**)** | $3,776.72 | +/- 25% of $4,167.28 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $3,125.46 to $5,209.10. |
| 8c | Average current serious penalty in private sector(101-250 workers) | $4,216.93 | +/- 25% of $6,052.04 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,539.03 to $7,565.05. |
| 8d | Average current serious penalty in private sector(greater than 250 workers) | $8,169.21 | +/- 25% of $7,331.41 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,498.56 to $9,164.26. |
| 9a | Percent in compliance (safety) | 35.93% | +/- 20% of31.73% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.38% to 38.08% for safety. |
| 9b | Percent in compliance (health) | 44.44% | +/- 20% of43.82% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.06% to 52.58% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 64.89 | +/- 20% of 55.23 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.18 to 66.28 for safety. |
| 11b | Average lapse time (health) | 58.78 | +/- 20% of 69.72 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 55.78 to 83.66 for health. |
| 12 | Percent penalty retained | 100.04% | +/- 15% of71.84% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 61.06% to 82.62%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 99.44% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS.  |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 17 | Percent of enforcement presence | 0.44% | +/- 25% of0.93% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.70 to 1.17%. |

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 14, 2023, as part of OSHA’s official end-of-year data run.