# FY 2024 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**State of Indiana**

**Occupational Safety and Health Administration**



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## Executive Summary

The primary purpose of this report is to assess the State Plan’s progress in Fiscal Year (FY) 2024, in resolving outstanding findings from the previous FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. The report also assesses the current performance of the Indiana Department of Labor Occupational Safety and Health Administration (IOSHA) in the context of agreed upon monitoring measures. The State Plan was responsive to the previous findings and recommendations and made progress in addressing the four findings from the FY 2023 Comprehensive FAME report. Four findings remain in this report. There are no new findings but there is one new observation identified for a total of six observations in this report.

IOSHA reported corrective actions to address the three FY 2023 FAME findings that were related to their whistleblower program. These are awaiting verification. An onsite case file review will be done as part of the FY 2025 Comprehensive FAME to determine if the three findings awaiting verification are completed. One other FY 2023 FAME finding related to OSHA’s 2016 penalty increase and subsequent annual increases for inflation remains open. While the Indiana Department of Labor (IDOL) and IOSHA worked with the Indiana state legislature to introduce a bill to increase penalties, the bill did not advance during the legislative session.

The FY 2024 Indiana State OSHA Annual Report (SOAR) provided information that outlines IOSHA’s accomplishments toward meeting their Five-Year Strategic Management Plan. The report has been reviewed to assess their progress in meeting performance plan goals. The State’s Five-Year Strategic Management Plan for 2023-2027 was approved by OSHA’s Regional Office during FY 2024. Progress on strategic plan goals is discussed during quarterly monitoring meetings held during the fiscal year. The State Activity Mandated Measures (SAMM) report, and the State Indicators Report (SIR) are also reviewed during the quarterly meetings with IOSHA’s management staff. The FY 2024 SAMM is Appendix D of this report.

After reorganizing their divisions from the General Industry and Construction to Safety and Health at the start of FY 2023, IOSHA have rebalanced their workload and are now able to conduct programmed inspections using lists generated by OSHA’s Office of Statistical Analysis for OSHA’s National Emphasis Programs (NEPs). IOSHA did not meet their projected number of safety inspections in FY 2024 and has not conducted as many inspections in the past two years as they did prior to the COVID pandemic. In FY 2018 and 2019, they conducted over 1,100 inspections each year. In FY 2023, they conducted 1,020 and in FY 2024 they conducted 928. While the reorganization has helped to make IOSHA more proactive, it has led to a decrease in their inspection numbers due to fewer multi-employer inspections at construction sites and more programmed inspections which can be more complex, in high hazard industries. They created and filled a Training Officer position during FY 2024 to improve the quality and consistency of fieldwork and case files.

## State Plan Background

The Indiana Department of Labor, under an agreement with OSHA, administers the Indiana Occupational Safety and Health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970 (OSHA Act). IOSHA’s plan was initially approved on March 6, 1974, and certified on October 6, 1981. On September 26, 1986, IOSHA received final approval. The State Plan designee was Mr. David Redden during FY 2024. He was Commissioner of the Indiana Department of Labor until January 2025 when Mr. Michael Speedy was appointed by the new Governor as the new Commissioner. The director of IOSHA’s program is Ms. Michelle Ellison, Deputy Commissioner of Labor. Mr. Jameson Berry is Director of Health Compliance, Whistleblower and Customer Service and Mr. Jeremy Galloway is Director of Safety Compliance.

IOSHA adopts all of OSHA’s safety and health standards and federal program changes, with some differences when allowed. Indiana state law, IC 22-8-1.1-17.5 does not allow IOSHA’s safety and health regulations to be more stringent than those of OSHA. The Indiana Department of Labor’s INSafe Division administers the private sector on-site consultation program funded under a 21(d) cooperative agreement grant.

The FY 2024 grant included funding totaling $6,220,550. The federal share was $2,782,800 including a reduction of $104,000 during the last quarter of the fiscal year. Indiana did not deobligate any funds in FY 2024. The State Plan’s benchmark for staffing is 47 safety officers and 23 industrial hygienists. IOSHA’s allocated staffing level in FY 2024 included seven first line supervisors, 30 safety compliance officers, 13 health compliance officers (industrial hygienists) and three whistleblower investigators. Four of the safety compliance officers work as Team Leaders for the Voluntary Protection Program. The full-time equivalent (FTE) for allocated staffing was 66.47 on the FY 2024 grant.

IOSHA has jurisdiction for private sector and state and local government employees. Federal OSHA covers workers employed in maritime activities (shipyard, marine terminals, longshoring) and the United States Postal Service (USPS) in Indiana. IOSHA’s Whistleblower Protection Program covers only Section 11(c) of the OSHA Act. Indiana has a statute of limitations to complete an occupational safety or health-related whistleblower investigation of 120 days.

**New Issues**

IOSHA had a Complaint About State Program Administration in FY 2024 that was about IOSHA’s handling of several inspections and the classification and reclassification and/or deletion of violations, expansion of inspections beyond its original scope, and training of safety and health officers at OSHA’s Training Institute (OTI). The State Plan responded timely to the CASPA, and one recommendation was made.

## Assessment of State Plan Progress and Performance

### Data and Methodology

OSHA has established a two-year cycle for the FAME process. FY 2024 is the follow-up year, and as such, OSHA did not perform an on-site case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

* State Activity Mandated Measures (SAMM) Report
* State Information Report (SIR)
* Mandated Activities Report for Consultation (MARC)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

IOSHA made progress to address three of the four findings and five observations noted in the FY 2023 Comprehensive FAME report. These three findings and five observations were related to IOSHA’s whistleblower program. This follow-up FAME report contains four findings (all continued) and six observations (five continued, one new). Corrective actions were implemented for three of the findings, and they are awaiting onsite verification which will be scheduled as part of the FY 2025 Comprehensive FAME. The fourth finding is related to IOSHA’s adoption of OSHA’s initial 2016 maximum and minimum penalty increase and subsequent annual penalty increases, and Indiana has not made progress on this.

Appendix A describes the continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2023 finding and recommendation in detail.

#### Findings (Status of Previous Items)

**Continued Findings**

**Finding FY 2024-01 (Finding FY 2023-01):** IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Status:** There has been no action and IOSHA does not expect that the Indiana legislature will take up the annual penalty increase matter during the legislative session in 2025. This finding remains open.

**Finding FY 2024-02 (Finding FY 2023-02):** Appropriate analysis of the elements was incorrect in seven of the 30 (23.3%) whistleblower case files reviewed (WIM, Chapter 5, Section IV.A).

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be the focus of next year’s on-site case file review during the FY 2025 comprehensive FAME and remains open.

**Finding FY 2024-03 (Finding FY 2023-03):** Six of 30 (20%) whistleblower investigation case files reviewed, and five of the 40 (12.5%) administratively closed files reviewed were either not complete, technically accurate, and/or were not thoroughly and adequately investigated prior to closing (WIM, Chapter 5, Section IV.A).

**Status****:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be the focus of next year’s on-site case file review during the FY 2025 comprehensive FAME and remains open.

**Finding FY 2024-04 (Finding FY 2023-04):** The Respondent’s defense was not adequately tested in six of the 30 (20%) whistleblower investigation files reviewed (WIM, Chapter 2, Section VII).

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be the focus of next year’s on-site case file review during the FY 2025 comprehensive FAME and remains open.

#### Observations

**Continued FY 2023 Observations**

**Observation FY 2024-01 (FY 2023-OB-01):** In 17 of 30 (56.7%) whistleblower investigation files reviewed, the determination date in OIS did not match the date on the Findings/Closing letter to the Complainant and Respondent (WIM Chapter 5, Section III.A).

**Status:** A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2025 comprehensive FAME.This observation is continued.

**Observation FY 2024-02 (FY 2023-OB-02):** In four of 10 (40%) whistleblower cases reviewed that resulted in settlement, withdrawal, or dismissal for lack of cooperation, the case file did not contain an OIS Whistleblower Case Summary (WIM Chapter 5, Section III.A).

**Status:** A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2025 comprehensive FAME.This observation is continued.

**Observation FY 2024-03 (FY 2023-OB-03):** In three of 10 (30%) whistleblower cases reviewed that resulted in settlement, withdrawal, or dismissal for lack of cooperation, the comment section in OIS did not contain the reasons why the cases were being closed and it did not reference supporting documents (exhibits) (WIM, Chapter 5, Section III.A).

**Status:** A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2025 comprehensive FAME.This observation is continued.

**Observation FY 2024-04 (FY 2023-OB-04):** In six of six (100%) settled whistleblower case files reviewed, IOSHA did not include the settlement agreement in the file (WIM, Chapter 7, Section IV.A.1-7) or the agreement contained non-standard language contrary to the WIM (Chapter 7, Section V.C.1-11).

**Status:** A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2025 comprehensive FAME.This observation is continued.

**Observation FY 2024-05 (FY 2023-OB-05):** Delivery receipts for Findings/Closing letters sent electronically were not found in six of 30 (20%) whistleblower investigation files (WIM, Chapter 4, Section III.D).

**Status:** A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2025 comprehensive FAME.This observation is continued.

**New FY 2024 Observations**

**Observation FY 2024-06:** Indiana’s in-compliance rate for health inspections is 60.26% and is outside the FRL of +/- 20% of 44.28%, with the range of acceptable data being 35.34% to 53.01%.

**Federal Monitoring Plan:** OSHA will monitor the Indiana State Plan during FY 2025 to identify possible causes of the high in-compliance rate for health inspections and discuss during quarterly meetings.

**Discussion:** It is noted that the Indiana State Plan’s in-compliance rate for health has been above the FRL in six of the past ten years. From FY 2015 to FY 2021, it was written as a Finding or Observation in six of seven FAMEs. To address the Findings and Observation, IOSHA did Team Box talks that included hazard awareness on health hazards and supervisors reviewed files to ensure all potential health hazards were addressed. IOSHA should revisit these strategies and, supervisors should consider conducting accompanied visits with compliance officers who have high in-compliance rates.

### State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon Further Review Level (FRL) which can be either 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 2024 State Activity Mandated Measures (SAMM) Report and includes the FRLs for each measure.

The State Plan was outside the FRL on the following SAMMs:

**SAMM 5b – Average number of violations per inspection with violations by violation type (other)**

Discussion of State Plan Data and FRL: The FRL for average number of violations per inspection with violation type (other) is based on a three-year national average with the range of 0.75 to 1.12 for other-than-serious hazards. IOSHA refers to these as non-serious violations. The Indiana State Plan’s average number of non-serious violations is 0.32 which is below the FRL.

Explanation: The Indiana State Plan’s low average number of non-serious violations at 0.32 per inspection with violations is slightly below 0.39, the number for all federal reporting IDs. They, however, are well within the FRL for average number of serious violations per inspection.

**SAMM 6 – Percent of total inspections in state and local government workplaces**

Discussion of State Plan Data and FRL: The FRL for percent of total inspections in state and local government workplaces is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data for the Indiana State Plan is 1.64% to 1.81%. They averaged 1.83% of inspections in this sector, which is slightly above the FRL.

Explanation: The Indiana State Plan’s percent of inspections in state and local government workplaces at 1.83% tells us they did 17 inspections in this sector in FY 2024. If they did one less inspection in this sector, the percentage would have been within the FRL and is not a cause for concern.

**SAMM 7a – Planned vs. actual inspections (safety)**

Discussion of State Plan Data and FRL: The FRL for the number of safety inspections conducted 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 +/-5% of 890 which is 846 to 935 safety inspections. The Indiana State Plan conducted 759 (85.3%) safety inspections, below the FRL.

Explanation: OSHA recognizes the potential impact caused by reducing the fiscal year 2024 State Plan 23(g) grant during the last quarter of the fiscal year. In addition, at the start of FY 2025, OSHA implemented a new set of SAMMs using a FRL of -20% of the negotiated number for safety inspections. Even though these SAMMs were not in effect for FY 2024, it is notable that the Indiana State Plan’s 759 safety inspections would have been above the FRL of 712 under this new set of measures. For these reasons, OSHA will not make this issue an observation or finding and OSHA will continue to monitor during quarterly meetings.

**SAMM 7b – Planned vs. actual inspections (health)**

Discussion of State Plan Data and FRL: The FRL for the number of health inspections conducted 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 +/-5% of 155, which is 147 to 163 health inspections. The Indiana State Plan conducted 169 (109%) health inspections, above the FRL and not a cause for concern.

**SAMMs 8 and 8a-8d - Average current serious penalty in private sector – total (1 to greater than 250 workers): average current serious penalty in private sector (1-25 workers); average current serious penalty in private sector (26-100 workers); average current serious penalty in private sector (101-250 workers); average current serious penalty in private sector (greater than 250 workers)**

Discussion of State Plan Data and FRL: SAMM 8 is divided into categories based on the number of workers controlled by the employer, ex. 1-25, 26-100, 101-250, and greater than 250. The FRLs for average current penalties are based on three-year national averages for each category. The Indiana State Plan fell below the FRL range in every category. The FRL for all numbers of workers is +/-25% of the three-year national average of $3,793.81, which equals a range of $2,845.36 to $4,742.27. IOSHA’s average penalty was $1,862.62, well below the FRL.

Explanation: The Indiana State Plan’s low average current penalties when compared to the national average, for all numbers of workers can be attributed to IOSHA not adopting OSHA’s penalty increase in 2016 and subsequent increases for inflation. **Finding FY 2024-01** addresses this (previously Finding FY 2023-01) in Section III.B above.

**SAMMS 9b – Percent in compliance (health)**

Discussion of State Plan Data and FRL: The FRL for percent in compliance is based on a three-year national average of +/-20% of 44.18% with a range of 35.34% to 53.01% for health inspections. At 60.26% the Indiana State Plan is above the FRL.

Explanation: Observation FY 2024-OB-07 is written in Section III.B to address IOSHA’s health in-compliance rate being above the FRL.

**SAMM 10 – Percent of work-related fatalities responded to in one workday**

Discussion of State Plan Data and FRL: The FRL for percent of work-related fatalities responded to within one day is fixed at 100% for all State Plans. The Indiana State Plan responded to 96.43% of work-related fatalities within one day. One inspection was not responded to within one day.

Explanation: The Indiana State Plan responded to 27 of 28 work-related fatalities within one day (96.43%). One fatality was not responded to timely because the fatality was reported to IOSHA in the afternoon of a day before a state holiday. IOSHA initiated the inspection on the day after the holiday. This is not a cause for concern currently.

**SAMM 13 – Percent of initial inspections with worker walk-around representation or worker interview**

Discussion of State Plan Data and FRL: The FRL for percent of initial inspections with worker walk-around representation or worker interview is fixed at 100% for all State Plans. The Indiana State Plan had worker walk-around representation or worker interview for 97.74% of inspections. The Indiana State Plan conducted 21 inspections without worker walk-around representation or worker interviews.

Explanation: The Indiana State Plan’s number of inspections without worker walk-around representation or worker interview in FY 2024 can be attributed to worker refusal to join the walk-around or be interviewed. CSHOs have been trained and instructed to seek worker participation in the walk-around or in interviews and IOSHA’s supervisors and managers continue to address this with them, ensuring that worker 11(c) rights (retaliation) are explained.

**SAMM 17 – Percent of enforcement presence**

Discussion of State Plan Data and FRL: The FRL for percent of enforcement presence is based on a three-year national average of +/- 25% of 1.00% with a range of acceptable data not requiring further review of 0.75% to 1.25%. The Indiana State Plan’s enforcement presence is at 0.72%, slightly below the FRL.

Explanation: The Indiana State Plan’s enforcement presence can be improved by working to increase the number of inspections to meet the annual performance plan goals. This measure is based on the number of safety and health inspections in private sector workplaces and the number of private sector establishments in the State.

### Appendix A – New and Continued Findings and Recommendations

FY 2024 Indiana OSHA Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2024-#** | **Finding** | **Recommendation** | **FY 2023-#** |
| FY 2024-01 | IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | IOSHA should work with their state authorities to complete the legislative changes necessary to adopt the maximum and minimum penalty increase and subsequent annual increases to be at least as effective as federal OSHA penalty levels. | FY 2023-01 |
| FY 2024-02 | Appropriate analysis of the elements was incorrect in seven of the 30 (23.3%) whistleblower case files reviewed (WIM, Chapter 4, Section XVI). | IOSHA should provide additional training for investigators and supervisory staff to include analysis of elements. Corrective action complete, awaiting verification. | FY 2023-02 |
| FY 2024-03 | Six of 30 (20%) whistleblower investigation case files reviewed, and five of the 40 (12.5%) administratively closed files reviewed, were either not complete, technically accurate, and/or were not thoroughly and adequately investigated prior to closing (WIM, Chapter 5, Section IV.A). | IOSHA should ensure whistleblower supervisors follow the WIM, Chapter 5, Section IV.A to ensure when reviewing, they are technically accurate; investigations are thorough; investigators are applying the law correctly to the facts; the Secretary’s Findings are complete, and the case has merits. Corrective action complete, awaiting verification. | FY 2023-03 |
| FY 2024-04 | The Respondent’s defense was not adequately tested in six of the 30 (20%) whistleblower investigation files reviewed (WIM, Chapter 2, Section VII). | IOSHA’s whistleblower staff should review the WIM, Chapter 2, Section VII and Chapter 5, Section III.B.4 (Employer Defense/Affirmative Defense and Pretext Testing) to ensure they understand testing Respondent’s defense (pretext testing) and enroll staff in relevant courses and webinars as they become available. Corrective action complete, awaiting verification. | FY 2023-04 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2024 Indiana OSHA Follow-up FAME Report

| **Observation #**  **FY 2024-OB-#** | **Observation#**  **FY 2023-OB-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2024-OB-01 | FY 2023-OB-01 | In seventeen of 30 (56.7%) whistleblower investigation files reviewed, the determination date in OIS did not match the date on the Findings/Closing letter to the Complainant and Respondent (WIM Chapter 5, Section III.A). | During next year’s FAME, a review of case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2024-OB-02 | FY 2024-OB-02 | In four of 10 (40%) whistleblower cases reviewed that resulted in settlement, withdrawal, or dismissal for lack of cooperation, the case file did not contain an OIS Whistleblower Case Summary (WIM Chapter 5, Section 5.III.A). | During next year’s FAME, a review of case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2024-OB-03 | FY 2023-OB-03 | In three of 10 (30%) whistleblower cases reviewed that resulted in settlement, withdrawal, or dismissal for lack of cooperation, the comment section in OIS did not contain the reasons why the case was being closed, and it did not reference supporting documents (exhibits) (WIM, Chapter 5, Section III.A). | During next year’s FAME, a review of case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2024-OB-04 | FY 2023-OB-04 | In six of six (100%) settled whistleblower case files reviewed, IOSHA did not include the settlement agreement in the file (WIM, Chapter 7, Section IV.A.1-7) or the agreement contained non-standard language contrary to the WIM (Chapter 7, Section V.C.1-11). | During next year’s FAME, a review of case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2024-OB-05 | FY 2023-OB-05 | Delivery receipts for Findings/Closing letters sent electronically were not found in six of 30 (20%) whistleblower investigation files (WIM, Chapter 4, Section III.D). | During next year’s FAME, a review of case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2024-OB-06 |  | Indiana’s in-compliance rate for health inspections is 60.26% and is outside the FRL of +/- 20% of 44.28% with the range of acceptable data being 35.34% to 53.01%. | OSHA will discuss and evaluate IOSHA’s internal audits conducted in this area during quarterly monitoring meetings. | New |

### Appendix C - Status of FY 2023 Findings and Recommendations

FY 2024 Indiana OSHA Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2023-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| FY 2023-01 | IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | IOSHA should work with their state authorities to complete the legislative changes necessary to adopt the maximum and minimum penalty increase and subsequent annual increases to be at least as effective as federal OSHA penalty levels. | IOSHA will continue to work on these matters through its legislative liaison and process. | Not Applicable | Open |
| FY 2023-02 | Appropriate analysis of the elements was incorrect in seven of the 30 (23.3%) whistleblower case files reviewed (WIM, Chapter 4, Section XVI). | IOSHA should provide additional training for investigators and supervisory staff to include analysis of elements. | WB staff received WIM training on: Chapter 5, Section IV.A (Case Review and Approval); Chapter 2, Section VII (Testing Respondent’s Defense/Pretext Testing); Chapter 5, Section III.B.4 (Employer Defense/Affirmative Defense and Pretext Testing); Chapter 2, Section V (Elements of a Violation). One investigator took 1631: Written Communication for WB Investigators. | 7/18/2024 | Awaiting Verification |
| FY 2023-03 | Six of 30 (20%) whistleblower investigation case files reviewed, and five of the 40 (12.5%) administratively closed files reviewed were either not complete, technically accurate, and/or were not thoroughly and adequately investigated prior to closing (WIM, Chapter 5, Section IV.A). | IOSHA should ensure whistleblower supervisors follow the WIM, Chapter 5, Section IV.A to ensure when reviewing, they are technically accurate; investigations are thorough; investigators are applying the law correctly to the facts; the Secretary’s Findings are complete, and the case has merits. | IOSHA has a new WB supervisor with recent WB training, including the WIM, Chapter 5, Section IV.A (Case File Review and Approval). | 6/17/2024 | Awaiting Verification |
| FY 2023-04 | The Respondent’s defense was not adequately tested in six of the 30 (20%) whistleblower investigation files reviewed (WIM, Chapter 2, Section VII). | IOSHA’s whistleblower staff should review the WIM, Chapter 2, Section VII and Chapter 5, Section III.B.4 (Employer Defense/Affirmative Defense and Pretext Testing) to ensure they understand testing Respondent’s defense (pretext testing) and enroll staff in relevant courses and webinars as they become available. | WB staff received WIM training on: Chapter 5, Section IV.A (Case Review and Approval); Chapter 2, Section VII (Testing Respondent’s Defense/Pretext Testing); Chapter 5, Section III.B.4 (Employer Defense/Affirmative Defense and Pretext Testing); Chapter 2, Section V (Elements of a Violation). The docketing process now includes a documented investigative action plan that address pre-text testing. | 7/10/2024 | Awaiting Verification |

### Appendix D – FY 20XX State Activity Mandated Measures (SAMM) Report

FY 2024 Indiana OSHA Follow-up 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) | 8.09 | 10 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 4.12 | 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) | 1.64 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.07 | 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) | 1.70 | +/- 20% of  1.74 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.39 to 2.08 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 0.32 | +/- 20% of  0.94 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75 to 1.12 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 1.83% | +/- 5% of  Grant 1.72% | 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 1.64% to 1.81%. |
| 7a | Planned v. actual inspections (safety) | 759 | +/- 5% of  890 | 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 846 to 935 for safety. |
| 7b | Planned v. actual inspections (health) | 169 | +/- 5% of  155 | 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 147 to 163 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $1,862.62 | +/- 25% of  $3,793.81 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,845.36 to $4,742.27. |
|  | **a**. Average current serious penalty in private sector  (1-25 workers) | $778.00 | +/- 25% of  $2,498.51 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,873.88 to $3,123.14. |
|  | **b**. Average current serious penalty in private sector  (26-100 workers**)** | $2,047.10 | +/- 25% of  $4,322.61 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $3,241.96 to $5,403.26. |
|  | **c**. Average current serious penalty in private sector  (101-250 workers) | $2,609.10 | +/- 25% of  $6,114.84 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,586.13 to $7,643.55. |
|  | **d**. Average current serious penalty in private sector  (greater than 250 workers) | $4,452.32 | +/- 25% of  $7,533.58 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,650.19 to $9,416.98. |
| 9a | Percent in compliance (safety) | 33.61% | +/- 20% of  32.83% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 26.27% to 39.40% for safety. |
| 9b | Percent in compliance (health) | 60.26% | +/- 20% of  44.18% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.34% to 53.01% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 96.43% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 59.13 | +/- 20% of  56.02 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.82 to 67.23 for safety. |
| 11b | Average lapse time (health) | 60.86 | +/- 20% of  67.21 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 53.77 to 80.65 for health. |
| 12 | Percent penalty retained | 74.24% | +/- 15% of  70.81% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 60.19% to 81.44%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 97.74% | 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 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A | N/A | This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A | N/A | This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 17 | Percent of enforcement presence | 0.72% | +/- 25% of  1.00% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75% to 1.25%. |

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 1, 2024, as part of OSHA’s official end-of-year data run.