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

 



**Evaluation Period: October 1, 2023 – September 30, 2024**

**Initial Approval Date: August 5, 2015**

**Program Certification Date: March 21, 2023**

**Prepared by:**

**U. S. Department of Labor**

**Occupational Safety and Health Administration**

**Boston Region**

**Boston, Massachusetts**



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## Executive Summary

The primary purpose of this report is to assess the Maine State Plan’s (MEOSH)’s progress in Fiscal Year (FY) 2024, in resolving outstanding findings from the previous FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

In FY 2024, there were no findings or observations from the previous FAME report that MEOSH needed to address. As a result, the State Plan focused on maintaining stability. Despite a few staffing vacancies and two of the four compliance officers taking extended periods of leave during the year, MEOSH performed well on most performance metrics and achieved goals for inspections and consultation visits.

However, these staffing issues were not without consequence. MEOSH was unable to achieve its annual performance goals for abatement, because it did not identify as many hazards and violations as planned. Thus, the State Plan has some catching up to do to meet long term goals for abatement.

## State Plan Background

On August 5, 2015, MEOSH received initial approval as a developmental State and Local Government Only State Plan under the Occupational Safety and Health (OSH) Act of 1970. In October 2020, the Maine Department of Labor, Bureau of Labor Standards submitted documentation attesting to the completion of all developmental steps. OSHA certified this completion on March 21, 2023.

The Maine Department of Labor implements MEOSH, and the Director of the Department’s Bureau of Labor Standards is the State Plan designee. The State Plan is headquartered in Augusta. MEOSH covers approximately 2,416 employers (245 in state government and 2,171 in local government) and 85,937 workers (22,055 workers in state government and 63,882 workers in local government).**[[1]](#footnote-1)**

Volunteers under the direction of a state or local government employer are also covered, as well as workers in county government and quasi-municipal agencies. MEOSH does not cover federal government workers, including those employed by the United States Postal Service and civilian workers on military bases. These workers are covered by OSHA, which also exercises authority over private sector employers in the state.

The director and the program manager are the State Plan’s first-line supervisors. At full staffing, MEOSH has four compliance officers, three safety and one health. One of the safety compliance officers, the chief safety and health inspector, helps supervise the other three compliance officers and, along with the program manager, assists the Director of the Bureau with handling workplace retaliation complaints. The State Plan’s 23(g) consultation program consists of three consultants, two safety and one health, and a compliance assistance specialist.

MEOSH has adopted OSHA’s occupational safety and health standards. They generally follow but are not necessarily identical to OSHA’s standards. MEOSH has unique standards on respiratory protection and video display terminals. The State Plan has also adopted Maine’s standards for public safety dive team operations and driver training requirements for fire apparatuses.

MEOSH conducts workplace inspections. If violations are identified, citations and proposed assessments of penalties are issued. State and local government employers may contest citations and proposed penalties before the Board of Occupational Safety and Health (the Board) which adopts standards and is an independent review authority for contested cases.

MEOSH’s Field Operations Manual (FOM) is equivalent to OSHA’s FOM, except MEOSH did not adopt OSHA’s penalty adjustment factors in Chapter 6, and the State Plan’s informal conference proceedings in Chapter 7 differ from OSHA’s. In FY 2023, the State Plan amended Chapter 3, requiring compliance officers to provide written abatement recommendations with each citation to assist employers with their abatement method.

The State Plan enforces Title 26, Chapter 6, §570 of the Maine Revised Statutes Annotated (M.R.S.A.), which outlines the provisions that an employer cannot discharge or in any manner discriminate against a worker filing a complaint, testifying, or otherwise acting to exercise rights granted by the M.R.S.A. MEOSH adopted 29 CFR 1977, Discrimination Against Employees Under the OSH Act of 1970 in FY 2019.

Based on FY 2024 financial close-out forms, the State Plan’s initial federal funding award was $613,308. MEOSH contributed $741,737 which consisted of the 50 percent match of $613,308 plus an additional $128,429.Thus, in FY 2024, MEOSH’s total funding amount was $1,355,045. MEOSH typically exceeds the 50 percent match and did so in FY 2024 by contributing 55 percent of the total funding amount.

**New Issues**

None.

## Assessment of State Plan Progress and Performance

### Data and Methodology

OSHA has established a two-year cycle for the FAME process. This 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
* Mandated Activities Report for Consultation
* State OSHA Annual Report
* State Plan Annual Performance Plan
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

#### Findings (Status of Previous and New Items)

This report does not contain any new or continued findings or observations.

### State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon 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 SAMM Report and includes the FRLs for each measure.

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

**SAMM 2a - Average number of work days to initiate complaint investigations (state formula)**

Discussion of State Plan Data and FRL: The negotiated FRL is one work day. MEOSH’s average in FY 2024 was 2.75 workdays.

Explanation: SAMM 2a calculates the average workdays from the date MEOSH receives the complaint to the date the State Plan initiates the investigation by notifying the employer of the complaint. This SAMM pertains only to complaints that have no related inspection.

On a couple of occasions in FY 2024, the State Plans’ managers were unable to initiate complaint investigations within the one workday. These circumstances were unusual for MEOSH and mainly due to one manager needing to take extended leave. Since MEOSH’s result for SAMM 2a was due to unique circumstances, it does not warrant concern.

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

FY 2024 Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2024-#** | **Finding** | **Recommendation** | **FY 2023-# or** **FY 2023-OB-#** |
|   | None. |   |   |

### Appendix B – Observations Subject to Continued Monitoring

FY 2024 MEOSH Follow-up FAME Report

| **Observation #****FY 2024-OB-#** | **Observation#****FY 2024-OB-# *or* FY 2024-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
|  |  | None. |  |  |

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

FY 2024 MEOSH Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2023-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
|   | None.  |  |  |  |  |

### Appendix D – FY 2024 State Activity Mandated Measures (SAMM) Report

FY 2024 MEOSH 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) | 2 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 1.86 | 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) | 2.75 | 1 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 2.50 | 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) | N/A | 100% | The further review level is fixed for all State Plans.N/A – The State Plan did not receive any imminent danger complaints or referrals in FY 2024. |
| 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) | 2.30 | +/- 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) | 2.23 | +/- 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 | 100% | 100% | Since this is a State and Local Government State Plan, all inspections are in state and local government workplaces. |
| 7a | Planned v. actual inspections (safety) | 77 | +/- 5% of Grant 70 | 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 67 to 74 for safety. |
| 7b | Planned v. actual inspections (health) | 36 | +/- 5% of Grant 25 | 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 24 to 26 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | N/A | +/- 25% of $3,793.81 | N/A – This is a State and Local Government State Plan.The further review level is based on a three-year national average. |
|  | **a**. Average current serious penalty in private sector (1-25 workers) | N/A | +/- 25% of $2,498.51 | N/A – This is a State and Local Government State Plan.The further review level is based on a three-year national average. |
|  | **b**. Average current serious penalty in private sector (26-100 workers**)** | N/A | +/- 25% of $4,322.61 | N/A – This is a State and Local Government State Plan.The further review level is based on a three-year national average. |
|  | **c**. Average current serious penalty in private sector(101-250 workers) | N/A | +/- 25% of $6,114.84 | N/A – This is a State and Local Government State Plan.The further review level is based on a three-year national average. |
|  | **d**. Average current serious penalty in private sector(greater than 250 workers) | N/A | +/- 25% of $7,533.58 | N/A – This is a State and Local Government State Plan.The further review level is based on a three-year national average. |
| 9a | Percent in compliance (safety) | 15.15% | +/- 20% of32.83% | 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) | 8.33% | +/- 20% of44.18% | 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 | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 34.68 | +/- 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) | 24.26 | +/- 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 | N/A | +/- 15% of70.81% | NA – This is a State and Local Government State Plan and is not held to this SAMM.The further review level is based on a three-year national average.  |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 100% | 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 | N/A | N/A | NA – This is a State and Local Government State Plan and is not held to this SAMM. |

1. Source: Preliminary 2024 data from the [Bureau of Labor Statistics' Quarterly Census of Employment and Wages](https://data.bls.gov/PDQWeb/en) [↑](#footnote-ref-1)