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

**State of Michigan**

**Michigan 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. This report also assesses the current performance of the Michigan Department of Labor and Economic Opportunity – Occupational Safety and Health Administration (MIOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

The FY 2023 Comprehensive FAME report identified one continued finding and four new observations. All are continued in this report. A summary of findings is found in Appendix A, New and Continued Findings and Recommendations. A summary of observations is found in Appendix B, Observations and Federal Monitoring Plans. Appendix C, Status of FY 2023 Findings and Recommendations, includes the State Plan’s corrective action.

The MIOSHA Strategic Management Plan for FY 2024 to FY 2028 established three strategic goals: 1) Help assure improved workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities; 2) Promote employer and worker awareness of, commitment to, and involvement with safety and health to effect positive change in the workplace culture; and, 3) Strengthen public confidence through continued excellence in the development and delivery of MIOSHA’s programs and services.

In the FY 2024 State OSHA Annual Report (SOAR), MIOSHA provided information that outlines their accomplishments toward meeting their five-year strategic management plan. OSHA reviewed and analyzed the information to assess MIOSHA’s progress in meeting performance plan goals. MIOSHA met all its performance goals for FY 2024, except for one, which was partially achieved. For a more comprehensive look at this data, see MIOSHA’s SOAR.

MIOSHA awarded 20 Consultation Education and Training (CET) Division grants to nonprofit groups to enhance safety and health training and to support worker safety and health across the state. The state continued the MIOSHA Workplace Improvement to Safety and Health (MIWISH) matching grant program for 130 small employers to enable them to purchase safety equipment and equipment related training, resulting in $1,229,270.34 being invested in the safety and health of workers. The MIOSHA training institute continued to serve Michigan employers with more than 36,000 participants having received training since the inception of the institute. Outreach continued to be a priority of the MIOSHA program in 2024 through six active partnerships, 21 alliances, including four new and renewed Partnerships and Alliance agreements.

OSHA held quarterly monitoring meetings with MIOSHA during FY 2024, at which time OSHA reviewed and discussed the State Activity Mandated Measures (SAMM) report and the State Indicators Report (SIR) with State Plan management. The FY 2024 SAMM is Appendix D of this report.

## State Plan Background

The Michigan Department of Labor and Economic Opportunity (LEO) is responsible for the state’s regulatory services and programs that protect and promote the labor market including the MIOSHA program. The divisions within MIOSHA include Administration; General Industry Safety and Health (GISHD); Construction Safety and Health (CSHD); Appeals; Consultation, Education and Training (CET); and Technical Services (TSD). Enforcement of safety and health rules, adoption of standards, consultation services, and other OSHA activities are conducted within these five divisions. MIOSHA’s CET division administers the private sector on-site consultation program funded under a 21(d) grant.

The mission of MIOSHA is to help protect the safety and health of Michigan workers with the overall mission to reduce workplace fatalities, injuries, and illnesses. MIOSHA aims to do this through a combination of compliance, education and training, and consultation activities supported by standards promulgation, data management, and administrative functions. MIOSHA has historically focused its efforts on the most hazardous industries and occupations.

Susan Corbin was appointed Director of LEO in August of 2021. Barton Pickelman is MIOSHA’s Director, and Dawn Jack is the Deputy Director. Each of the divisions is led by a division director. The total number of authorized full-time staff at the start of FY 2024 under the 23(g) program was 161.26, with 21.32 vacancies. MIOSHA benchmarks include 56 safety and 45 health compliance officers. At the start of FY 2024, funding was allocated for 55 safety and 31 health full-time equivalent (FTE) compliance officers, in addition to three whistleblower investigators. MIOSHA’s FY 2024 initial grant included funding totaling $24,905,100, which includes a $1,689,700 state funded overmatch. There were no furloughs or hiring freezes affecting MIOSHA during FY 2024.

MIOSHA began its sixth 5-year Strategic Plan in FY 2024. The plan still focuses on eight identified high-hazard industry sectors identified through BLS and state data. This plan has also identified state emphasis programs (SEPs) unique to Michigan’s industry, including an SEP targeting cannabis grow and processing facilities, as well as focusing resources on an initiative related to worker mental well-being across all industry sectors. In FY 2024, MIOSHA successfully completed its 20th annual Take-A-Stand Day, which utilizes enforcement and consultation resources statewide to conduct consultation visits to workplaces in a variety of industries. The program had nearly 200 employers participate in the event this year.

**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
  + 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

### Findings (Status of Previous Items)

The State Plan made progress to address the previous one finding and four observations from the FY 2023 Comprehensive FAME Report. This follow-up FAME report contains no new findings or observations. 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.

**Continued FY 2023 Findings**

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

**Status:** December 2024 marked eight years since the first deadline passed for adoption and the Michigan State Plan has not yet completed the legislative changes to increase maximum penalties. As of January 2025, the Michigan Legislature had not yet promulgated a standard to adopt OSHAs maximum penalties. This finding remains open.

**Continued FY 2023 Observations**

**FY 2024-OB-1 (FY 2023-OB-01):** In FY 2023, eleven (22%) of the 50 administratively closed intakes reviewed were closed without Complainant contact. The Complainant was sent an Administrative Closure letter that claimed there was no protected activity and/or no adverse employment action being the reason no action was taken on their complaint.

**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.

**FY 2024-OB-2 (FY 2023-OB-03):** In FY 2023, twenty-one (52%) of 40 administratively closed files that were reviewed during the evaluation, and which were closed without complainant contact due to lack of protected activity, adverse employment action, jurisdiction, etc., lacked verification of the letter’s delivery.

**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.

**FY 2024-OB-3 (FY 2023-OB-04):** Disparate treatment was not fully evaluated in 11 (46%) of the 24 full field case files that were reviewed in FY 2023.

**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.

### 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 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 5a – Average Number of Violations per Inspection (SWRU)**

Discussion of State Plan Data and FRL: The FRL for average number of violations (SWRU) is +/- 20% of the three-year national average of 1.74, which equals a range of 1.39 to 2.08. MIOSHA’s average number of violations per inspection (SWRU) was 1.27, which is fractionally lower than the FRL.

Explanation: MIOSHA has historically had an average number of violations per inspection (SWRU) slightly lower than the FRL range. This SAMM has been examined on recent comprehensive FAME evaluations. However, there has not been any identified deficiency in classification during file reviews that would support an observation or finding in this area. This SAMM is also a metric that has been evaluated internally by the State Plan to ensure that violations are properly classified in accordance with its Field Operations Manual (FOM).

**SAMM 5b – Average Number of Violations per Inspection (Other)**

Discussion of State Plan Data and FRL: The FRL for average number of violations (other) is +/- 20% of the three-year national average of 0.94, which equals a range of 0.75 to 1.12. MIOSHA’s average number of violations per inspection (other) was 1.28, which is fractionally higher than the FRL.

Explanation: In contrast to SAMM 5a, MIOSHA has historically had an average number of violations per inspection (other) slightly higher than the FRL range. This SAMM has been examined on recent comprehensive FAME evaluations. However, there has not been any identified deficiency in classification during file reviews that would support an observation or finding in this area. This SAMM is also a metric that has been evaluated internally by the State Plan to ensure that violations are properly classified in accordance with its Field Operations Manual (FOM).

**SAMM 7a – Planned v. Actual Inspections (Safety)**

Discussion of State Plan Data and FRL: The FRL for planned v. actual inspections (safety) is +/- 5% of the negotiated grant value of 2,986, which equals a range of 2,837 to 3,135. The actual number of safety inspections conducted by MIOSHA was 2,663, which was below the FRL by 323.

Explanation: MIOSHA experienced numerous vacant safety specialist compliance safety and health officer (CSHO) positions during FY 2024, particularly in their Construction Division, which had a direct impact on achieving the SAMM 7a goal. By the end of the fiscal year, newly hired and trained CSHOs were already making an impact to help the State Plan in achieving this goal going forward, so this metric being below the FRL for FY 2024 should be seen as transitory in nature.

OSHA also recognizes the potential impact caused by the reduction of the federal FY 2024 State Plan 23(g) grant funding 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 MIOSHA’s 2,663 safety inspections would have been above the FRL of 2,389 under this new set of measures. For these reasons, OSHA will not make this issue a finding and OSHA will continue to monitor during quarterly meetings.

**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 Michigan 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. MIOSHA’s average penalty was $1,348.95, well below the FRL.

Explanation: The Michigan 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.

**SAMM 9a – Percent In-Compliance (Safety)**

Discussion of State Plan Data and FRL: The FRL for percent in-compliance (safety) is +/- 20% of the three-year national average of 32.83%, which equals a range of 26.27 to 39.40%. MIOSHA’s percent in-compliance for safety inspections was 24.75%, which was approximately 1.5% lower than the low range of the FRL.

Explanation: MIOSHA’s in-compliance rate for safety inspections is a positive outcome. This is simply an indication that MIOSHA CSHOs are identifying violations slightly more frequently on safety inspections than the three-year national average metric.

**SAMM 11a – Average Lapse Time (Safety)**

Discussion of State Plan Data and FRL: The FRL for average lapse time (safety) is +/- 20% of the three-year national average of 56.02 days, which equals a range of 44.82 to 67.23. MIOSHA’s average lapse time (safety) was 27.53, which is lower than the low end of the FRL by approximately 39%.

Explanation: MIOSHA’s average lapse time for safety inspections is a positive outcome. This metric is an indication that MIOSHA safety CSHOs are completing their inspections timely, which promotes a more rapid abatement of hazards and should be viewed as a positive performance indicator.

**SAMM 13 – Percent of Initial Inspections with Worker Walk-around Representation or Worker Interview**

Discussion of State Plan Data and FRL: The FRL for this SAMM is fixed for all State Plans at 100%. MIOSHA’s percent of initial inspections with worker walk-around representation or worker interview was 99.76%.

Explanation: Workers were represented during the walkaround and/or at least one worker was interviewed in 3,736 of 3,745 inspections (99.76%) conducted by the Michigan State Plan. This percentage exceeded the value for all State Plan RIDs (98.52%), all federal OSHA RIDs (95.48%), and the national average (97.04%). For the nine inspections without worker walkaround representation or worker interviews, legitimate reasons can exist for no worker walkaround representation or worker interviews, such as there was only one employee and the employee died, no one was present at the worksite, or the employees refused to participate either in the walkaround or interviews. Staff were trained on the proper procedures.

**SAMM 17 – Percent of Enforcement Presence**

Discussion of State Plan Data and FRL: The FRL for percent of enforcement presence is +/- 25% of the three-year national average of 1.00%, which equals a range of 0.75% to 1.25%. MIOSHA’s percent of enforcement presence was 1.98%, which was nearly double the three-year national average.

Explanation: MIOSHA’s percent of enforcement presence is a positive outcome. This metric is an indication that MIOSHA has a higher relative enforcement presence with employers in Michigan than most other states have and is a positive indicator.

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

FY 2024 MIOSHA Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2024-#** | **Finding** | **Recommendation** | **FY 2023-#** |
| FY 2024-01 | The MIOSHA State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty increases. | The MIOSHA State Plan should work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA’s maximum and minimum penalty levels. | FY 2023-01 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2024 MIOSHA 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 FY 2023, eleven (22%) of the 50 administratively closed intakes reviewed were closed without Complainant contact. The Complainant was sent an Administrative Closure letter that claimed there was no protected activity and/or no adverse employment action being the reason no action was being taken on their complaint. | OSHA will discuss and evaluate MIOSHA’s internal audits conducted in this area during quarterly monitoring meetings. | Continued |
| FY 2024-OB-02 | FY 2023-OB-03 | In FY 2023, twenty-one (52%) of 40 administratively closed files that were reviewed during the evaluation, and which were closed without Complainant contact, due to the lack of a protected activity, adverse employment action, jurisdiction, etc., lacked verification of the letter’s delivery. | OSHA will discuss and evaluate MIOSHA’s internal audits conducted in this area during quarterly monitoring meetings. | Continued |
| FY 2024-OB-03 | FY 2023-OB-04 | Disparate treatment was not fully evaluated in 11 (46%) of the 24 full field case files that were reviewed from FY 2023. | OSHA will discuss and evaluate MIOSHA’s internal audits conducted in this area during quarterly monitoring meetings. | Continued |

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

FY 2024 MIOSHA Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2023-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| FY 2023-01 | The MIOSHA State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | The MIOSHA State Plan should work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA’s maximum and minimum penalty levels. | MIOSHA has been working with the Michigan state legislature since 2016 to increase the maximum penalties in the Michigan Occupational Safety and Health Act. In 2017, MIOSHA found a bill sponsor in the state Senate, but the bill never made it to a vote prior to the end of the legislative session. Since that time the agency has attempted to acquire a sponsor for the necessary legislation, but legislators had been reluctant to sponsor another bill partly because OSHA had not made increasing the maximum penalties an “at least as effective as OSHA” issue, nor did OSHA mention the issue as a finding or observation in its FAME. In FY 2023 and FY 2024, MIOSHA used the letter dated September 2, 2021, from Acting Assistant US Secretary of Labor, James Frederick, to the LEO Director on the subject and the FY 2021 FAME finding as impetus and urgency for the legislation. MIOSHA was successful in obtaining a sponsor and senate bill SB 830 was introduced to the Senate Committee on Labor on April 16, 2024, and voted out of the Senate on June 26, 2024. | Not completed | Open |

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

FY 2024 MIOSHA 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) | 6.63 | 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) | 4.46 | 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) | 3.8 | 8 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 3.66 | 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. MIOSHA did not receive any imminent danger complaints 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) | 1.27 | +/- 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) | 1.28 | +/- 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 | 3.12% | +/- 5% of  Grant 2.41 % | 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 2.29% to 2.53%. |
| 7a | Planned v. actual inspections (safety) | 2,663 | +/- 5% of  Grant 2,986 | 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 2,837 to 3,135 for safety. |
| 7b | Planned v. actual inspections (health) | 1,114 | +/- 5% of  Grant 994 | 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 944 to 1,044 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $1,348.95 | +/- 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. |
| 8a | Average current serious penalty in private sector  (1-25 workers) | $583.00 | +/- 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. |
| 8b | Average current serious penalty in private sector  (26-100 workers) | $1,370.00 | +/- 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. |
| 8c | Average current serious penalty in private sector  (101-250 workers) | $2,131.65 | +/- 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. |
| 8d | Average current serious penalty in private sector  (greater than 250 workers) | $3,475.93 | +/- 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) | 24.75% | +/- 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) | 43.58% | +/- 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 | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 27.53 | +/- 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) | 74.26 | +/- 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 | 65.78% | +/- 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 | 99.76% | 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 | 1.98% | +/- 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 12, 2024, as part of OSHA’s official end-of-year data run.