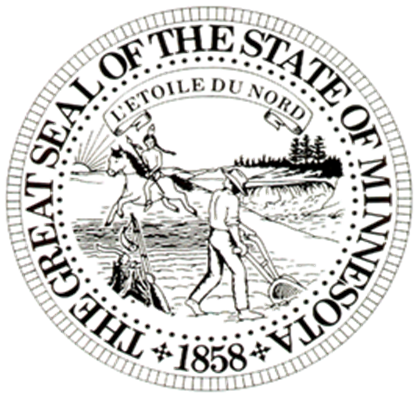
# FY 2024 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**State of Minnesota**

**Minnesota Department of Labor and Industry**

Occupational Safety and Health Division



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

**Initial Approval Date: June 6, 1973**

**Program Certification Date: September 28, 1976**

**Final Approval Date: July 30, 1985**

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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 and/or observations from the previous FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. This report also assesses the current performance of the Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

The State Plan was responsive to the previous evaluation and showed effort in addressing the one observation from the FY 2023 Comprehensive FAME report. The State Plan has been challenged with turnover in whistleblower staff, particularly the unit supervisor, and with a period when case intakes increased substantially. The observation is continued in this report and no new findings or observations were identified. A detailed explanation of the observation, and the status of the State Plan’s response, is found in Section III, B, Findings and Observations.

The MNOSHA Strategic Management Plan for FY 2024 to FY 2028 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs and strong leadership; and 3) Strengthen and improve MNOSHA’s infrastructure. The FY 2024 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2024.

In the FY 2024 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishments toward meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, all 15 annual performance goals have been met or exceeded.

Quarterly monitoring team meetings were held during FY 2024, at which time the State Activity Mandated Measures (SAMM) report and the State Indicators Report (SIR) were reviewed and discussed with MNOSHA compliance staff. The FY 2024 SAMM is Appendix D of this report.

## State Plan Background

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program began operating on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private sector and in state and local government agencies, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA’s mission is “to ensure every worker in the State of Minnesota has a safe and healthful workplace.” This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enables employers to maintain safe and healthful workplaces.

Nicole Blissenbach has served as DLI Commissioner since August 2022. James Krueger is the Director of the OSH Compliance Division and Ryan Nosan is the Director of the WSC Division within DLI. The FY 2024 grant included funding totaling $11,100,000 and full-time equivalent (FTE) staffing of 84.63 positions. The State Plan’s expected staffing level is 31 safety investigators and 12 health investigators. MNOSHA allocated funding for 34.90 safety and 17.90 health positions.

**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

The State Plan made progress to address the previous observation from the FY 2023 Comprehensive FAME Report. This follow-up FAME report contains one continued observation. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan.

**Continued FY 2023 Observation**

**Observation FY 2024-OB-01 (FY 2023-OB-01):** During FY 2023, 3% of docketed whistleblower investigation cases were closed within 90 days. The average number of days to complete the investigations was 689. During FY 2024, 0% of docketed whistleblower investigation cases were closed within 90 days. The average number of days to complete the investigations was 660.

**Status:** The FRL for SAMM 14 – Percent of 11(c) investigations completed within 90 days is 100%. MNOSHA has made progress in identifying ways to shorten the length of investigations including using dedicated intake staff and increasing the number of investigators. MNOSHA transitioned to OSHA Express effective October 1, 2023. However, the interface of whistleblower cases and data has not been finalized. Beginning with FY 2025, SAMMs for 11(c) investigations are modified. Consequently, OSHA will continue to monitor MNOSHA’s progress while keeping the new SAMMs in mind.

### 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 5 – Average number of violations per inspection with violations by violation type**

Discussion of State Plan Data and FRL: The FRL for average number of serious/willful/repeat/ unclassified (SWRU) violations per inspection with violations is +/- 20% of the three-year national average of 1.74, which equals a range of 1.39 to 2.08. The Minnesota State Plan’s average for SWRU violations is 2.44, higher than the FRL.

Explanation: The Minnesota State Plan’s average violations per inspection are evaluated during quarterly monitoring meetings and discussed when warranted. Although higher than the FRL, identifying SWRU hazards during inspections is paramount to the agency’s mission and a favorable outcome. MNOSHA’s average other-than-serious violations per inspection is within the FRL of +/- 20% of 0.94 at 0.77 violations.

**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 +/- 5% of 3%, which is the number negotiated by OSHA and the State Plan through the grant application. Therefore, the FRL range is 2.85% to 3.15%. The Minnesota State Plan’s percent of total inspections in state and local government workplaces is at 4.80%, which is above the FRL.

Explanation: MNOSHA projected conducting 1,164 inspections in the private sector and 36 inspections in state and local government workplaces. MNOSHA conducted 1,090 inspections in the private sector and 55 inspections in state and local government workplaces. Consequently, Minnesota State Plan achieved 94% of their goal for private sector and 153% of their goal for state and local government workplaces. This metric does not yet rise to the level of an observation.

**SAMM 7 – Planned v. actual inspections – Safety/Health**

Discussion of State Plan Data and FRL: The FRL for planned inspections compared to actual inspections is +/- 5% of the number of inspections negotiated by OSHA and the State Plan through the grant application; 1,000 safety inspections and 200 health inspections. The Minnesota State Plan conducted 956 safety inspections, which is within the acceptable range of 950 to 1,050 inspections. The Minnesota State Plan conducted 189 health inspections, which is just below the acceptable range of 190 to 210 inspections.

Explanation: MNOSHA conducts inspections in accordance with national and local emphasis programs as well as in response to complaints and referrals. MNOSHA conducted 956 safety and 189 health inspections in FY 2024 for a total of 1,145. This is 95% of their projected total inspection goal of 1,200. The primary factors affecting the Minnesota State Plan’s ability to conduct inspections during FY 2024 were the newer staff resulting from retirements, promotions, and the increase in allocated positions.

OSHA recognizes the potential impact caused by reducing the fiscal year 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 health inspections. Even though these SAMMs were not in effect for FY 2024, it is notable that MNOSHA’s 189 health inspections would have been above the FRL of 160 under this new set of measures. For these reasons, OSHA will not make this issue a finding or observation and will continue to monitor during quarterly meetings.

**SAMM 8 – Average current serious penalty in private sector**

Discussion of State Plan Data and FRL: SAMM 8 is divided into categories based on the number of workers controlled by the employer, ex. any number, 1-25, 26-100, 101-250, and greater than 250. The FRL for average current serious penalty is +/- 25% of a three-year national average for each category. The Minnesota State Plan fell below the FRL range in all but the last category. The FRL for any number 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. MNOSHA achieved an average penalty of $2,226.37.

Explanation: The Minnesota State Plan completed legislative changes to increase maximum penalties, which went into effect October 1, 2023. However, average serious penalties to smaller employers remain lower than expected. This metric does not yet rise to the level of an observation.

**SAMM 9 – Percent in-compliance**

Discussion of State Plan Data and FRL: The FRL for percent in-compliance for safety inspections is +/- 20% of the three-year national average of 32.83%, which equals a range of 26.27% to 39.40%. The Minnesota State Plan’s in-compliance rate for safety is 30.69%. The FRL for percent in-compliance for health inspections is +/- 20% of the three-year national average of 44.18%, which equals a range of 35.34% to 53.01%. The Minnesota State Plan’s in-compliance rate for health is 33.92%, which is lower than the FRL.

Explanation: The Minnesota State Plan’s in-compliance rates are evaluated during every quarterly monitoring meeting and discussed when warranted. The health in-compliance rate is lower than anticipated and a positive outcome.

**SAMM 11 – Average lapse time**

Discussion of State Plan Data and FRL: The FRL for average lapse time for safety inspections is +/- 20% of the three-year national average of 56.02 days which equals a range of 44.82 to 67.23 days. The Minnesota State Plan’s lapse time for safety is 42.86 days, which is below the FRL. The FRL for average lapse time for health inspections is +/- 20% of the three-year national average of 67.21, which equals a range of 53.77 to 80.65 days. The Minnesota State Plan’s lapse time for health is 53.50 days which is also below the FRL.

Explanation: MNOSHA staff is committed to completing case files and issuing citations in a timely manner and their resulting lapse time is favorable.

**SAMM 12 – Percent penalty retained**

Discussion of State Plan Data and FRL: The FRL for percent penalty retained is +/- 15% of the three-year national average of 70.81% which equals a range of 60.19% to 81.44%.

Explanation: The Minnesota State Plan retained 91.77% of penalties, which is well above the FRL and a positive outcome.

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

FY 2024 MNOSHA Follow-up FAME Report

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

### Appendix B – Observations Subject to Continued Monitoring

FY 2024 MNOSHA Follow-up FAME Report

| **Observation #**  **FY 2024-OB-#** | **Observation#**  **FY 2023-OB-# *or* FY 2023-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2024-OB-01 | FY 2023-OB-01 | During FY 2023, 3% of docketed whistleblower investigation cases were closed within 90 days. The average number of days to complete the investigations was 689.  During FY 2024, 0% of docketed whistleblower investigation cases were closed within 90 days. The average number of days to complete the investigations was 660. | OSHA will continue to monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2025. | Continued |

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

FY 2024 MNOSHA Follow-up FAME Report

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

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

FY 2024 MNOSHA 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) | 3.21 | 9 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 2.36 | 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) | 1.89 | 2 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 1.86 | 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) | 2.44 | +/- 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) | 0.77 | +/- 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 | 4.80% | +/- 5% of  Grant 3.00% | 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 2.85% to 3.15%. |
| 7a | Planned v. actual inspections (safety) | 956 | +/- 5% of  Grant 1,000 | 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 950 to 1,050 for safety. |
| 7b | Planned v. actual inspections (health) | 189 | +/- 5% of  Grant 200 | 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 190 to 210 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $2,226.37 | +/- 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) | $1,265.00 | +/- 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**)** | $1,361.33 | +/- 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) | $2,874.94 | +/- 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) | $6,873.67 | +/- 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) | 30.69% | +/- 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) | 33.92% | +/- 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) | 42.86 | +/- 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 67.23for safety. |
| 11b | Average lapse time (health) | 53.50 | +/- 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 | 91.77% | +/- 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 | 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 | 0.89% | +/- 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.