

FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

**State of Illinois
Illinois Department of Labor
Illinois OSHA**



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I. Executive Summary

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's performance for Fiscal Year (FY) 2021, and its progress in resolving outstanding findings and/or observations from previous FAME reports. This report assesses the current performance of the Illinois Occupational Safety and Health Administration (Illinois OSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

A detailed explanation of the findings and recommendations of the Illinois OSHA performance evaluation is found in Section III, Assessment of State Plan Progress and Performance. The FY 2020 Follow-up FAME identified two continued findings and five continued observations. In this report, one finding has been completed, one finding has been continued, three observations are elevated to findings and two observations are continued. One new finding and three new observations have been identified. A summary of the new and continued findings is found in Appendix A, New and Continued Findings and Recommendations. A summary of all observations is found in Appendix B, Observations and Federal Monitoring Plans. Appendix C describes the status of previous findings with associated completed corrective actions.

In FY 2021, the Illinois OSHA Whistleblower Protection Program was returned to Illinois OSHA from the Illinois Department of Labor Conciliation and Mediation Division (CONMED). The State Plan struggled with integrating the Whistleblower Protection Program back into their operations. Three of the five findings are associated with the Illinois OSHA Whistleblower Protection Program.

Since 2018, the State Plan has been committed to filling vacancies that have existed since the State Plan's initial approval as a Developmental Plan. Over the years, staff vacancies have created problems and challenges in several areas, including repeated funding de-obligations and/or lapsed funds; failure to accomplish the State Plan's inspections goals; and failing to complete the final developmental steps necessary to become an approved plan. At the start of FY 2021, nine positions were vacant with six new staff members actively being on-boarded. Throughout the year the State Plan continued to fill vacancies and as a result saw a marked improvement in accomplishing the State Plan's inspection goals.

The Illinois OSHA Strategic Management Plan for FY 2021 to FY 2026 established three strategic goals. In the FY 2021 State OSHA Annual Report (SOAR), Illinois OSHA provided information that outlines their accomplishments toward meeting their Five-Year Strategic Management Plan. Their progress at meeting performance plan goals has been reviewed and analyzed. Five of six annual performance goals have been met or exceeded. The performance goal not met during the year was associated with not responding within one workday to a work-related fatality.

Quarterly monitoring meetings were held during FY 2021, at which time the State Activity Mandated Measures (SAMM) report, the State Indicators Report (SIR), and the FY 2020 Illinois Corrective Action Plan (CAP) were reviewed and discussed with Illinois OSHA management staff. The FY 2021 SAMM is Appendix D of this report.

II. State Plan Background

A. Background

Illinois Department of Labor (IDOL)—Illinois OSHA operates a state and local government only OSHA State Plan. The Illinois State Plan was approved as a Developmental Plan on September 1, 2009. During FY 2021, the period of this report, Mrs. Brandy Lozosky was Illinois OSHA’s Division Manager, administering the Illinois State Plan under Mr. Michael D. Kleinik, Director of the Illinois Department of Labor. Illinois OSHA protects state and local government employees by enforcing safety and health standards, providing consultation services, investigating both occupational safety and health as well as whistleblower complaints, adopting OSHA standards, and providing outreach services.

Since approval as a Developmental Plan on September 1, 2009, Illinois OSHA has requested multiple extensions to complete its developmental steps. In FY 2021, Illinois OSHA worked diligently to move successfully forward in their developmental steps. Working with OSHA, IDOL worked to fill the remaining vacancies in an effort to move the program out of the developmental stage. In FY 2021 Illinois OSHA hired six Safety Inspectors and one Office Associate. With normal turnover throughout the year, Illinois OSHA ended FY 2021 anticipating the onboarding of the final four Safety Inspectors in the first quarter of FY 2022 and were working to fill the OSH Coordinator position. The commitment to fill all vacant positions will continue in FY 2022.

The Illinois OSHA FY 2021 grant included full-time equivalent (FTE) staffing of 19.75 positions. The State Plan’s expected staffing level includes a division manager, two assistant enforcement managers, two administrative assistants, 10 safety inspectors, four industrial hygienists, a state plan coordinator, and a marketing/OIS coordinator. During FY 2020, the State Plan realigned their inspector FTE staff to 11 safety inspectors and three industrial hygienists. Safety and health consultants who split time between the 23(g) state and local government consultation and the 21(d) private sector consultation programs provide consultation activities and support. A memorandum of understanding (MOU) between Illinois OSHA and the IDOL Conciliation and Mediation Division (Con/Med) Whistleblower provided discrimination program support.

The FY 2021 grant included funding totaling \$2,454,200. In accordance with its “New Policy for Repeated Lapses and Deobligations of 23(g) Grant Funds,” OSHA reduced \$300,000 from the Illinois OSHA FY 2021 base award. The funds were held in reserve to be reclaimed by Illinois OSHA as a one-time only request in FY 2021. The State Plan made the decision not to reclaim the funds and allowed them to be permanently redistributed to other State Plans that can match and obligate the funds. This redistribution does not preclude Illinois OSHA from accepting new funding that it can match and obligate in future years if Illinois OSHA determines that it is in a position to make effective use of the federal funding.

B. New Issues

None.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2021 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A four-person OSHA team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted virtually during the timeframe of January 25 thru March 11, 2022. A total of 138 safety, health, and whistleblower inspection case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct 1, 2020, through September 30, 2021). The selected population included:

- Six (6) fatality inspection case files
- Forty-two (42) non-fatality safety inspection case files
- Twelve (12) non-fatality health inspection case files
- Thirty-six (36) complaint/referral Inquiry case files
- Twenty-four (24) non-fatality-catastrophe Inquiry case files
- Eighteen (18) closed whistleblower complaint files

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

- State Activity Mandated Measures Report (Appendix D)
- State Information 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
- Full case file review

Each State Activity Mandated Measures (SAMM) Report 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 2021 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

Illinois OSHA follows OSHA's policy and guidelines for implementing competency-based

training programs for compliance personnel (TED 01-00-019 Mandatory Training Program for OSHA Compliance Personnel). New compliance personnel attend, at a minimum, two initial courses in their first year and six courses specific to their job classification by the end of their third year. The staff attends the required training normally hosted at the OSHA Training Institute (OTI), located in Arlington Heights, Illinois. However, during the COVID-19 Pandemic OTI courses have been conducted remotely via electronic means. Additionally, other opportunities outside of the organization are made available when it would improve staff knowledge and performance.

b) OSHA Information System

Illinois OSHA strives to operate as paperless a program as possible, with the use of OIS integral to the process. Complaint and fatality intakes, assignments, case file processing, and many other operations are performed in OIS.

In FY 2021, Illinois OSHA received 536 complaints, fatality/catastrophe reports, and referrals. Of these, 57 resulted in on-site inspections and 186 were processed as non-formal complaints via the inquiry process. During the ongoing COVID-19 pandemic Illinois OSHA received 167 COVID-19 related complaints, referrals, and hospitalization notifications. All were screened utilizing the State Plan's established COVID-19 screening process resulting in 14 COVID inspections, and 60 COVID-19 inquiry evaluations utilizing an employer COVID-19 screening questionnaire. (Source: UPA Auditing report dated January 18, 2022)

c) State Internal Evaluation Program Report

During the developmental period, the State Plan did not develop a SIEP in FY 2021.

d) Staffing

The Illinois OSHA organizational staffing includes a division manager, two assistant enforcement managers, two administrative assistants, 11 safety inspectors, three industrial hygienists, a state plan coordinator, and a marketing/OIS coordinator. Consultation support is provided by two consultation supervisors, two safety and two health consultants who split time between the 23(g) enforcement and the 21(d) consultation programs. The Illinois OSHA program is comprised of 19.75 full-time equivalent (FTE) staffing positions.

In FY 2021 the whistleblower protection operations transitioned back to Illinois OSHA from IDOL Conciliation and Mediation Division (ConMed). The Illinois OSHA Director acted as the supervisor overseeing the program with one Investigator who was unexpectedly unavailable for a large part of the year. Moving forward into FY 2022, the Whistleblower Program support will be provided by shared resources comprising two safety inspectors who will split their time. The state plan coordinator will be providing oversight and supervision of the whistleblower program.

Illinois OSHA has historically struggled to fill staff vacancies since 2018. This has resulted in the State Plan struggling to achieve their targeting and programmed inspection goals and to repeatedly “de-obligate” and return unused grant funds. The State Plan started FY 2021 with nine vacant positions and six new staff members actively being on-boarded. The State Plan hired seven new staff members in FY 2021. With normal transition and turnover throughout the year, the State Plan ended FY 2021 anticipating the onboarding of the final four Safety Inspectors in the first quarter of FY 2022 and were working to fill the OSH Coordinator position.

2. ENFORCEMENT

Illinois OSHA enforces safety and health standards only in state and local government workplaces. In FY 2021, Illinois OSHA conducted 435 inspections: 347 safety and 88 health, with no denials of entry in inspections. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #4, #7a and #7b) Of the 435 inspections, 365 were programmed and 70 were unprogrammed, which consists of complaints, referrals, follow-up, injury, and fatality inspections. (Source: Inspection Summary Report dated January 12, 2022)

a) Complaints

During FY 2021, Illinois OSHA received 298 complaints, of which 239 (80%) were formal and 59 (20%) were non-formal, 226 fatality/catastrophe reports, which include fatalities and hospitalization of one or more employees, and 12 referrals. (Source: UPA Auditing report dated January 18, 2022) The average number of days to initiate a complaint inspection in FY 2021 was 5.78 days for all (both safety and health) complaints. This is below the negotiated standard of five days for safety and 10 days for health complaints. All complaint items were addressed in the four complaint inspections reviewed. The average number of days to initiate a complaint investigation was 1.65, below the negotiated standard of three days. The State Plan received no imminent danger complaints or had any entry refusals in FY 2021. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #1a and #2a)

b) Fatalities

Illinois OSHA had 33 fatalities reported during FY 2021. The State Plan appropriately screened out 27 as not OSHA covered and/or having no jurisdiction. The six remaining fatalities were inspected with all of them being closed, finalized, and available during the on-site review. These files were generally well documented with hazards identified and citations issued appropriately.

The FRL for the percent of work-related fatalities responded to in one workday, SAMM 10, is fixed for all State Plans at 100%. Illinois OSHA responded to five of the six (83%) fatality cases within one workday. The single case was called into the after-hours hotline and forwarded to the Illinois OSHA division manager who was out on scheduled sick leave. The

fatality information was recorded but not communicated to the regional enforcement manager until late the following business day. This resulted in the fatality being opened two workdays following the notification. Procedures were implemented to ensure after-hours hotline calls would be re-routed when the division manager was going to be unavailable during scheduled absences. Due to the singular nature of this event, this metric does not yet rise to the level of an observation. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #10)

During FY 2019 all eight of the fatality file Investigation Summary form abstracts, which describes what happened to the victim, lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event. The Illinois OSHA FOM, Chapter 10-2, Paragraph D, subparagraph 2, states, “The narrative must comprehensively describe the characteristics of the worksite; the employer and its relationship with other employers, if relevant; the employee task/activity being performed; the related equipment used; and other pertinent information in enough detail to provide a third-party reader of the narrative with a mental picture of the fatal incident and the factual circumstances surrounding the event.”

Illinois OSHA has seen some improvement concerning the detail and information being included in the Investigation Summary form abstract. However, in six (100%) of the Investigation Summary forms reviewed for FY 2021, the investigation summary form narrative still lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event. The observation is continued.

Illinois OSHA updated the Illinois State Plan Field Operations Manual on December 1, 2020. Chapter 10-2 of the Illinois FOM provides instruction and guidance for fatality investigations and harmonizes and closely mirrors OSHA’s Field Operations Manual, Compliance Directive Number, CPL 02-00-164. One change was made in Sub-chapter I concerning the early contact and involvement of families of victims. Illinois’ FOM uses the word “may” instead of “shall” as noted in OSHA’s FOM concerning communications with the next-of-kin. Paragraph one states, “*Contacting Family Members: Family members of employees involved in fatal or catastrophic occupational accidents or illnesses **may** be contacted early in the investigation and given the opportunity to discuss the circumstances of the accident or illness.*” As a result of this change, Illinois OSHA did not attempt an initial contact via telephone with the next-of-kin in any of the six fatality investigations as required by the compliance directive referenced in the Illinois FOM. In all six of the cases, the initial contact made with the next-of-kin was done through letters sent out upon opening the inspection. In all cases the next-of-kin contact letters, including notification of enforcement action, was well documented with copies of the next-of-kin letters found in all of the files.

OSHA places a high priority on communicating with the next-of-kin after a workplace fatality. Correcting the Illinois OSHA FOM and implementing an initial telephone contact will ensure that Illinois OSHA receives the necessary information about the victim, job history, coworkers,

and keeps the next-of-kin informed at each phase of the fatality investigation until the case is either closed or becomes a final order.

Observation FY 2021-OB-01 (FY 2020-OB-01): In six (100%) of the fatality inspections reviewed in FY 2021, the investigation summary form narrative lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event consistent with Illinois OSHA FOM, Chapter 10-2, Paragraph D, subparagraph 2.

Federal Monitoring Plan FY 2021-OB-01: OSHA will review and discuss fatality investigation summary forms on all new fatality investigations with the State Plan during quarterly monitoring meetings.

Observation FY 2021-OB-02 In all six (100%) of the fatality cases reviewed, there was no initial telephone contact with the next-of-kin of employees involved in fatal occupational injuries or illnesses consistent with OSHA Instruction CPL 02-00-166 (CPL 02-00-153) Communicating OSHA Fatality Inspection Procedures to a Victim's Family.

Federal Monitoring Plan FY 2021-OB-02: OSHA will discuss and evaluate Illinois OSHA's internal audits conducted in this area during quarterly monitoring meetings.

c) Targeting and Programmed Inspection

During FY 2021, Illinois OSHA conducted 435 inspections, with approximately 84% opened as programmed inspections. Illinois OSHA has created a Site-Specific Targeting (SST) plan titled the Program Planned Inspection (PPI) program. Illinois OSHA uses the PPI program to help target and prioritize inspections for high hazard state and local government employer establishments. Illinois OSHA's high hazard inspection targeting system is based on OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections (January 4, 1995), which is based on Bureau of Labor Statistics (BLS) injury/illness rate data. The BLS data and the PPI program helped Illinois OSHA meet activity measures and achieve its goal of reducing the number of injuries and illnesses that occur at state and local government employer establishments by directing enforcement resources to those establishments where the highest rate of injury and illness has occurred.

Illinois OSHA's five-year strategic management plan emphasizes a 3% annual increase in the number of serious safety and health violations abated, over the baseline average, in the four targeted high-hazard industries. The targeted high-hazard industries include the following North American Industry Classification System (NAICS) business establishments: 237310 – Highway, Street, and Bridge Construction, 922160 Fire Protection, 221310 Water Supply and Irrigation Systems, and 221320 Sewage Treatment Facilities. FY 2021 was the first year of the five-year strategic plan and Illinois OSHA met and exceeded their annual incremental goal of a 3% increase over the baseline average in the four targeted high-hazard industries. (Source:

Illinois FY 2021 State OSHA Annual Report)

The State Plan has struggled to meet their overall projected inspection goals (SAMM 7a & 7b Planned v. Actual Inspections) for a number of years. This was directly related to their difficulty to fill staff vacancies. As a consequence of the vacancies, Illinois OSHA repeatedly adjusted their inspection goals throughout the years and de-obligated and returned federal funds previously awarded to the State Plan. During the previous FAME review, the issue was addressed by Finding FY 2020-01 which highlighted that Illinois OSHA had conducted only 35.6% of their planned inspection goal.

The FRL for the planned vs. actual inspections is based on the number negotiated by OSHA and the State Plan through the grant application. Illinois OSHA established a projected goal of 500 inspections: 400 safety and 100 health. The range of acceptable number of inspections conducted is +/- 5% of the projected 400 safety inspections (380 to 420) and +/- 5% of the projected 100 health inspections (95 to 105). Illinois OSHA completed 347 (87%) safety and 88 (87%) health inspections for a total of 348 (87%) inspections. The total number of planned vs. actual inspections was a 41% increase from FY 2020. While the total number of inspections was 13% fewer than planned and below the FRL, the Illinois State Plan exceeded the national average for planned vs. actual inspections during the same time frame and under the continued COVID-19 pandemic operations. Consequently, Finding FY 2020-01 is completed. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #7a and #7b)

The State Plan's percent in compliance rate of 10.03% for safety cases and 10.98% for health cases is below the FRL. The range of acceptable data not requiring further review is from 25.32% to 37.98% for safety and from 32.51% to 48.77% for health. Additionally, the State Plan's average number of violations per inspections with violation by violation type Serious, Willful, Repeat, and Unclassified (SWRU) of 5.48 is above the FRL range of 1.42 to 2.14. The State Plan's average number of violations (0.62) for Other-Than-Serious (OTS) violations is below the FRL range of 0.73 to 1.09. The further review level for each of these three activity measures is based on a three-year national average and warranted a closer look as a part of the on-site case file review. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #5a, #5b, #9a and #9b)

When each of the three activity measures are viewed together, in context with each other, they provide a clear picture of the State Plan's positive performance. The low in compliance rates, the high average number of SWRU violations, and low number of OTS violations is a positive indicator of the successful inspection targeting of high hazard industries and the State Plan's focus and diligence with identifying and addressing the serious safety and health conditions in those establishments.

d) Citations and Penalties

In Illinois OSHA's FOM, Chapters 5 and 6 contain the requirements and policies for citations

and penalties, respectively. The citations and penalties proposed for issuance are reviewed at multiple levels in the State Plan's management system prior to issuance.

During FY 2021, Illinois OSHA investigators conducted 435 inspections with 2,355 violations cited. Eighty-nine percent (89%) of the inspections resulted in violations and the State Plan issued serious, willful, and repeat violations in 372 (96%) of their inspections with citations, with another 15 inspections having only other-than-serious citations issued. The State Plan issued 2,082 serious violations, four willful violations, 18 repeat violations, 238 other-than-serious (OTS) violations, 13 failure-to-abate (FTA) violations, and 67 hazard alert letters used to inform the employer of potential hazards that do not meet criteria for citation issuance. (Source: Inspection Summary Report dated January 12, 2022)

As a state and local government workplace enforcement program, Illinois OSHA only assesses penalties on repeat, willful, and FTA violations. In FY 2021, the State Plan issued \$11,860.00 in Repeat penalties; \$6,600.00 in Willful penalties, and \$130,000.00 in FTA penalties for a total of \$148,460.00 in penalties. (Source: Inspection Summary Report dated January 12, 2022)

With an average lapse time of 26.01 days for safety inspections and 23.62 days for health inspections, Illinois OSHA is below the FRL for both safety and health inspections. The FRL for the average lapse time is +/- 20% of the three-year national average. The range of acceptable data not requiring further review is from 41.94 to 62.90 for safety, and from 52.88 to 79.32 for health inspections. Prior to the start of COVID-19 pandemic operations and with the State Plan's consistent vacancies, Illinois OSHA was historically within the FRL for SAMM 11 for both safety and health inspections. Operating under the COVID-19 pandemic operations, which limited their operational activities to essential operations only and with the State Plan hiring more staff over the past two years, the State Plan has been able to turn their inspections around quickly. The positive trend in reducing their case file lapse time began in FY 2020 and continued in FY 2021. The State Plan being below the FRL for average lapse time is not a concern. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #11a and #11b)

The 60 FY 2021 case files reviewed were evaluated to determine the success of the State Plan to address a previous finding and three observations associated with inspection documentation and violation support. These include Finding FY 2020-02: Adequate documentation of the information required to support the violations; Observation FY 2020-OB-01: Fatality investigation summary form narratives lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event; Observation FY 2020-OB-02: The severity and probability information lacked clarity for the condition addressed in the citation; and Observation FY 2020-OB-03: Employee interviews were not properly documented. As a result of the on-site case file review, Finding FY 2020-02 is being continued, Observation FY 2020-OB-03 is being elevated to a finding and Observation FY 2020-OB-01 and Observation FY 2020-OB-02 will continue as observations.

In FY 2019, Finding FY 2019-02 identified a lack of adequate documentation of the information required to support the violations in 77% of the files with violations reviewed as required by the Illinois OSHA FOM, Chapter 3-6, paragraph C, titled, “Record All Facts Pertinent to a Violation.” The FY 2021 case file review evaluated 49 inspections with citations and found 25 out of 49 (51%) did not have adequate evidence to support all of the violations. While the State Plan showed improvement in areas associated with the evidence gathered and documented in the field, the violations still lacked clear information associated with the hazard being addressed, the descriptions, employee exposure and employer knowledge. The lack of adequate documented evidence to support the violations resulted in questions concerning the proper classification of at least one violation in 16 of the 49 (33%) files. This finding is continued as Finding FY 2021-01.

In 12 of the 49 (25%) files that contained violations, there were concerns with the severity and probability justification in the violations. There was severity and probability information in each of the violations, but the information lacked specificity and clarity as to how it was directly associated with the condition addressed in the violation as required by the Illinois OSHA FOM, Chapter 6-3, A, “Severity Assessment” and B, “Probability Assessment.” The State Plan has addressed these concerns in Observation FY 2020-OB-02 and reduced the impact from 66% of the files to 25%. While there has been improvement in this area, the severity and probability justification will remain an observation to allow for continued monitoring of this issue.

The Illinois OSHA FOM, Chapter 5-11, titled, “Citations” references the requirements for citations in the Illinois OSH Act. In Chapter 820 Illinois Compiled Statutes (ILCS) 219 Sec. 80. Violation of Act or standard; citation, paragraph (a)(ii) states, “describe with particularity the nature of the violation and include a reference to the provision of the Act, standard, rule, or regulation alleged to have been violated.” In FY 2021, In 30 of the 49 (61%) files with violations, the Alleged Violation Description (AVD) in one or more of the violations was not clear or did not describe the nature of the violation with particularity. Without clarity in the AVD, an employer will not understand the nature of the violation and hazardous condition or the necessary actions they must take to correct it. In almost all cases Illinois OSHA has been able to obtain effective abatement, with some additional follow-up.

Section 20(a) of the Illinois OSH Act contains the general duty clause that may be referenced by Illinois OSHA where there is no standard that applies to the particular hazard and in situations where a recognized hazard is created in whole or in part by conditions not covered by a standard. The Illinois FOM, Chapter 4-3 addresses the criteria for the use of the general duty clause and due to the general nature of this type of a violation, there is specific criteria and elements that are required for each one. In paragraph B of this chapter it states, “The hazard (workplace condition or practice) must be clearly stated in a citation so as to apprise employers of their obligations. . .” Paragraph C describes elements that the general duty clause cannot be used, such as, a failure to implement certain precautions, corrective actions or abatement methods. Paragraph I, (1) requires that the AVD shall include specific language that states, “Among other methods, one feasible and acceptable means of abatement would be to ____.”

Of the 30 files with AVD concerns, 12 included General Duty Clause violations. In all 12 (100%) of the files with general duty violations, the AVD language was not clear, often included corrective action or abatement language and none included the required language spelled out in paragraph I. The State Plan was able to obtain effective abatement associated with all of the general duty violations as they were issued.

Finding FY 2021-01 (FY 2020-02): Twenty-five of the 49 (71%) files with violations did not contain adequate documentation of the information required to support the violations in accordance with Illinois OSHA FOM, Chapter 3-6, C, titled, “Record All Facts Pertinent to a Violation.”

Recommendation FY 2021-01: Ensure case files contain all of the necessary information required to support the violations issued in accordance with the Illinois FOM.

Observation FY 2021-OB-03 (2020-OB-02): Twelve (12) of the 49 (25%) files reviewed lacked specificity and clarity in the severity and probability information as to how it was directly associated with the condition addressed in the violation and consistent with the instructions and provisions of the Illinois OSHA FOM, Chapter 6-3, Paragraph A, Severity Assessment and Paragraph B, Probability Assessment.

Federal Monitoring Plan FY 2021-OB-03: OSHA will discuss and evaluate Illinois OSHA’s internal audits conducted in this area during quarterly monitoring meetings.

Observation FY 2021-OB-04: In 30 of the 49 (61%) files with violations, the Alleged Violation Description (AVD) in one or more of the violations was not clear or did not describe the nature of the violation with particularity consistent with the instructions and provisions required in Chapter 820 Illinois Compiled Statutes (ILCS) 219 Sec. 80. Violation of Act or standard; citation or the Illinois OSHA FOM, Chapter 5-11, Citations.

Federal Monitoring Plan FY 2021-OB-04: OSHA will discuss and evaluate Illinois OSHA’s internal audits conducted in this area during quarterly monitoring meetings.

Observation FY 2021-OB-05: In 12 (100%) of the files with general duty violations, the AVD language was not consistent with the instructions and provisions required in Illinois OSHA’s FOM Chapter 4-3 Use of the General Duty Clause. These included: the AVD was not clear, included corrective action or abatement language, nor included the required language spelled out in paragraph I.

Federal Monitoring Plan FY 2021-OB-05: OSHA will discuss and evaluate Illinois OSHA’s internal audits conducted in this area during quarterly monitoring meetings.

e) Abatement

Illinois OSHA investigators make every effort to get on-site abatement at the time of the inspection and the employer's efforts are documented and noted in the file as corrected during the inspection. The state plan has continued to focus on proper abatement periods, adequate verification and evidence, and proper utilization of the Petition for Modification of Abatement date (PMA) process. Illinois OSHA has a PMA processing form to ensure all PMA requests document the interim worker protection during the abatement period. Follow-up inspections are conducted when appropriate.

The 60 case files reviewed contained 292 violations issued in FY 2021 by the State Plan. In 10 case files, there was at least one instance of a violation that had abatement periods exceeding 30 days without any justification noted. There may be conditions that warrant granting an employer abatement time in excess of 30 days; however, the Illinois FOM Chapter 5-2 notes that abatements over 30 days requires justification be noted in the file. While this does not rise to a concern that would warrant a finding or observation at this time, OSHA recommends the State Plan continues to audit and evaluate their abatement times to ensure they are appropriate and consistent for each violation.

f) Worker and Union Involvement

Illinois OSHA's regulations and written procedures for worker and union involvement are equivalent to federal regulations and procedures. During the opening conference, inspectors are required to verify if workers at the facility are represented by a union. Local union contact information, including names, addresses, and phone numbers, was included in the files. If an "authorized union representative" was not available, any worker at the site, who was a member of the union, was asked to participate in the inspection. The State Plan achieved 100% in SAMM #13 – Percent of initial inspections with worker walk around representation or worker interview. (Source: Appendix D – FY 2021 State Mandated Measures (SAMM) Report, SAMM #13)

During the review, 60 case files were reviewed, and 28 files represented work sites that had a union present at the site. In almost all cases, the State Plan ensured that the union or other labor representatives participated in the inspection process.

Employee interviews are an important part of any inspection and proper documentation of any interview is essential. The Illinois FOM, Chapter 3-7 Walk-around Inspection, paragraph C (3) requires that employee interview statements are to be documented in a thorough and accurate manner. During the previous FAME report, Observation FY 2020-OB-03, related to employee interviews not being properly documented. At that time, 20 of the 53 files (38%) did not have employee interviews properly documented.

During the FY 2021 review, 60 case files were evaluated to determine the success of the State Plan in addressing proper interview documentation. With the significant number of new inspectors over the last two years, documenting employee interviews has continued to be an

area of struggle. In thirty-four of the 60 (57%) files reviewed, employee interviews were not conducted or properly documented as required by Chapter 3 of the Illinois OSHA FOM. In seven (12%) files it could not be determined if any employees were interviewed. In 27 of 60 (45%) files, employee interviews were indicated but there were no clear field interview notes, or a separate documented employee statement reflecting the interview in the file. As a result of the on-site case file review, Observation FY 2020-OB-03 is being elevated to a finding.

Finding FY 2021-02 (FY 2020-OB-03): Thirty-four of the 60 (57%) files reviewed, employee interviews were not conducted or properly documented as required by Chapter 3 of the Illinois FOM.

Recommendation FY 2021-02: Ensure employee interviews are conducted and case files contain appropriately documented employee interviews as outlined in Chapter 3 of the Illinois FOM.

3. REVIEW PROCEDURES

a) Informal Conferences

Illinois OSHA's procedures for conducting informal conferences closely align with OSHA's and are outlined in Chapter 8, Settlements of the Illinois FOM. As a state and local government state plan, Illinois OSHA does a limited number of informal conferences a year. Employers are given 15 working days to request and participate in an informal conference.

The informal conferences reviewed showed the State Plan is effective in reaching an informal settlement agreement in most cases. All of the files contained extensive meeting notes and documentation associated with the meeting and all actions taken. The employer's arguments and presented evidence was recorded along with the actions taken by the management team. Modifications to the citations, including changes to penalties and classifications, were well documented and were appropriate for the circumstances. Follow-up activities associated with the informal conferences were also well documented.

b) Formal Review of Citations

Section 100 of the Illinois OSH Act describes the policies and procedures to be followed in the request for a formal review or hearing of the citations. When an employer files a Notice of Intent to Contest, the Division Manager forwards the case to the Chief Administrative Law Judge (ALJ), at which time the case is considered to be in litigation. The Illinois Legal Division becomes involved and any action relating to the contested case must first have the concurrence of the Legal Division. Attempts are then made to reach a settlement prior to hearing.

Of the 435 inspections conducted in FY 2021, only three cases were contested and all three reached a formal settlement agreement prior to litigation.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

The Illinois Occupational Safety & Health Act (IOSHA) (820 ILCS 219/25) adopted all OSHA standards which the United States Secretary of Labor promulgated or modified in accordance with the federal Occupational Safety and Health Act of 1970, and which were in effect on January 1, 2015. The Illinois OSH Act also established a policy that all OSHA standards, which the United States Secretary of Labor promulgates or modifies, would automatically become adopted within 6 months after their federal promulgation date.

During FY 2020 and FY 2021, five applicable standards were required to be adopted, including the annual adjustments to civil penalties, Beryllium, and COVID-19 Emergency Temporary Standard. Two final rules were not required to be adopted covering OSHA access to employee medical records and cranes and derricks in construction.

In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum and minimum penalties. See [81 FR 43429](#). As required by law, OSHA then increased penalties annually, most recently on January 14, 2022, according to the Consumer Price Index (CPI). See 2022 Annual Adjustments to OSHA Civil Penalties, available at <https://www.osha.gov/memos/2022-01-13/2022-annual-adjustments-osh-civil-penalties>; [87 FR 2328](#) (Jan. 14, 2022).

There are currently 22 State Plans covering both private sector and state and local government workers, and there are six State Plans covering only state and local government workers. The Illinois State plan is included in the Code of Federal Regulations (CFR) at [29 CFR 1952.27](#) and is one of the six State Plans that only covers state/local government workers only. As a public employer only program, the State Plan is not required to adopt the Annual Adjustment to Civil Penalties for Inflation. The Illinois Occupational Safety & Health Act provides the statutory authority to propose civil penalties for violations of the act for state and local government agencies.

Table A
Status of FY 2020 and FY 2021 Federal Standards Adoption

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Final Rule on the Implementation of the 2020 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1903 (1/15/2020)	3/15/2020	2/5/2020	No	No	N/A	N/A

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Final Rule on the Beryllium Standard for General Industry 29 CFR 1910 (7/14/2020)	9/14/2020	9/14/2020	Yes	Yes	1/14/2021	9/14/2020
Final Rule on the Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records (7/30/2020)	9/28/2020	11/16/2020	No	N/A	N/A	N/A
Final Rule on the Beryllium Standard for Construction and Shipyards 29 CFR 1915, 1926 (8/31/2020)	10/30/2020	5/25/2021	Yes	Yes	2/27/2021	2/27/2021
Final Rule on Cranes and Derricks in Construction: Railroad Roadway Work (9/15/2020)	11/14/2020	11/16/2020	Yes	Yes	3/14/2021	3/14/2021
Final Rule on the Implementation of the 2021 Annual Adjustment to Civil Penalties for Inflation (1/15/2021)	3/16/2021	5/25/2021	No	No	N/A	N/A
Occupational Exposure to COVID-19; Emergency Temporary Standard 29 CFR 1910 (6/21/2021)	7/6/2021	7/2/2021	Yes	Yes	7/21/2021	7/21/2021

b) Federal Program Change (FPC) Adoption

All but one FPC responses were submitted timely, and the State Plan did not adopt one by the due date. The State Plan did not respond to the Compliance Directive for Site-Specific Targeting (SST) that had a due date of 2/12/2021. Illinois OSHA established an equivalent site-specific targeting program on 12/1/2020 and as it was already in place and approved, the response notice was overlooked. The State Plan was late in their adoption of their equivalent FOM as it was going through a comprehensive update, and it had been submitted for review and approval before the 10/14/2020 adoption due date. The review and approval process took longer than expected due to changes in personnel and the Illinois FOM was adopted on 12/1/2020.

Illinois OSHA did not adopt the National Emphasis Program for Coronavirus Disease 2019 (COVID-19) because substantially similar policies have been in place since June 2020. It also did not adopt the Voluntary Protection Programs Policies and Procedures Manual as the State Plan utilizes the SHARP program administered through the Illinois On-Site Consultation

Program.

Table B
Status of FY 2020 and FY 2021 Federal Program Change (FPC) Adoption

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Adoption Required</i>						
Amputations in Manufacturing Industries NEP CPL 03-00-022 (12/10/2019)	2/10/2020	2/10/2020	Yes	Yes	6/10/2020	2/10/2020
Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)	4/4/2020	3/17/2020	Yes	Yes	8/4/2020	3/17/2020
<i>Equivalency Required</i>						
Field Operations Manual CPL 02-00-164 (4/14/2020)	6/13/2020	6/13/2020	Yes	No	10/14/2020	12/1/2020
Inspection Procedures for the Respirable Crystalline Silica Standards CPL 02-02-080 (6/25/2020)	8/24/2020	8/24/2020	Yes	Yes	12/25/2020	8/24/2020
Site-Specific Targeting (SST) CPL 02-01-062 (12/14/2020)	2/12/2021	5/25/2021	Yes	No	6/14/2021	12/1/2020
Consultation Policies and Procedures Manual CSP 02-00-004 (3/19/2021)	5/19/2021	4/19/2021	Yes	Yes	9/19/2021	5/1/2021
Inspection Procedures for the COVID-19 Emergency Temporary Standard CPL DIR 2021-02 (CPL 02) (6/28/2021)	7/13/2021	7/2/2021	Yes	Yes	12/28/2021	7/2/2021
Compliance Directive for the Excavation Standard, 29 CFR 1926, Subpart P CPL 02-00-165 (7/1/2021)	8/30/2021	7/2/2021	Yes	Yes	1/1/2022	7/2/2021
Revised National Emphasis Program – Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-03 (CPL 03) (7/7/2021)	7/22/2021	7/22/2021	Yes	Yes	1/7/2022	7/22/2021
<i>Adoption Encouraged</i>						

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005 (1/30/2020)	3/30/2020	3/17/2020	No	No	n/a adoption not required	N/A
Electronic Case File System Procedures for the Whistleblower Protection Program CPL 02-03-009 (6/18/2020)	8/18/2020	8/18/2020	Yes	Yes	n/a adoption not required	12/1/2020
National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-01 (CPL-03) (3/12/2021)	5/12/2021	4/19/2021	No	No	n/a adoption not required	N/A
Communicating OSHA Fatality Inspection Procedures to a Victim's Family CPL 02-00-166 (7/7/2021)	9/7/2021	7/23/2021	Yes	Yes	n/a adoption not required	8/7/2021

5. VARIANCES

With the creation of the Illinois Occupational Safety and Health Act [820 ILCS 219] in January 2015, the State Plan implemented administrative rules providing for the granting of temporary or permanent variances. During FY 2021, there were no variance requests received or variances granted.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

Illinois OSHA is a state and local government only plan; 100% of the 435 inspections were in state and local government. While penalties are not issued for first sanction serious citations, penalties are issued for repeat, willful, and FTA violations. In FY 2021 the State Plan issued \$11,860.00 in repeat penalties; \$6,600.00 in willful penalties, and \$130,000.00 in FTA penalties for a total of \$148,460.00 in penalties. (Source: Inspection Summary Report dated January 12, 2022)

7. WHISTLEBLOWER PROGRAM

In the second quarter of FY 2021, the Illinois OSHA Whistleblower Protection Program was returned to Illinois OSHA from the Illinois Department of Labor Conciliation and Mediation Division (CONMED). In FY 2021, Illinois OSHA had one full time Investigator who was out on approved

leave for the majority of the year. The supervisor overseeing the whistleblower program in FY 2021 had no whistleblower training.

Procedurally, the Illinois OSHA Whistleblower Program adheres to the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017, and OSHA's Whistleblower Investigations Manual, CPL 02-03-007, which provides guidelines for the investigation and disposition of discrimination complaints. Intakes are received by Illinois OSHA via phone, mail, or email. Additionally, there is a website for individuals to file online complaints. In FY 2021 all complaints were forwarded to a supervisor, who assigned the complaint to an investigator for screening when available or screened it themselves.

REVIEW PROCESS

Illinois OSHA utilizes the policies and procedures contained in the Federal OSHA Whistleblower Investigations Manual. Accordingly, this review followed the guidelines, procedures, and instructions of the OSHA Whistleblower Investigations Manual, CPL 02-03-007, effective January 28, 2016.

This review was for the period of 10/01/2020 through 09/30/2021. During FY 2021, Illinois OSHA received 31 complaints. Of those complaints, 30 were administratively closed (97%) and one case was docketed. For the review period, all 30 intakes were provided, and 18 of those were reviewed as part of the audit. Illinois OSHA currently has four pending docketed cases and closed or completed zero investigations in FY 2021. Illinois OSHA was below the FRL for SAMM #14, Percent of 11(c) investigations completed within 90 days, SAMM #15, Percent of 11(c) complaints that are meritorious, and SAMM #16, Average number of calendar days to complete an 11(c) investigation. For SAMM #14 and #16, the FRL is fixed for all State Plans at 100% of the investigations are to be completed within 90 days. The FRL for SAMM #15 is based on a three-year national average. The range of acceptable data not requiring further review is from 16% to 24%. With no completed investigations the State Plan had zero for all three activity mandated measures. (Source: Whistleblower State Plan Investigation Data Report, dated November 8, 2021, and Appendix D – FY 2021 State Activity Mandated Measures (SAMM) Report)

OITSS REPORTS

All of the reviewed intakes were properly documented in OSHA Information Technology Support System (OITSS).

COMPLAINT INTAKE AND SCREENING

As part of the case file review, 18 of the 30 administratively closed cases were reviewed. Of those 18 cases, four of the screenings were conducted by CONMED, while the remaining 14 screenings were done by Illinois OSHA. On average it took Illinois OSHA 40 days to screen a complaint from the date of filing.

Intake File: The intake files reviewed were in an Electronic Case File (ECF) format and were arranged in an order that was easily recognizable and nearly all information was accurate when compared to OITSS entries.

Prima facie elements: Analysis was incorrect or nonexistent for some or all of the elements, including protected activity, knowledge and adverse action in seven of the 18 files. In one instance, a complaint was administratively closed after it was determined by the Investigator that Complainant did not suffer an adverse action. The evidence in the file supports that Complainant did suffer an adverse action. The complaint was closed without an interview of Complainant and without Complainant's concurrence. In another instance, Complainant presented a prima facie allegation, and the Investigator still closed the complaint stating no jurisdiction due to "employ at will" and timing being too far part to support that protected activity was related to adverse action (none of which is supported in the file). Additionally, the complaint was closed without an interview of the Complainant being conducted and without Complainant's concurrence.

Screening Documentation: Documentation deficiencies were found in 15 of the 18 administratively closed files. This included missing emails, closing letters, and memos to file. In nine instances, there was inaccurate or missing activity logs. Nearly all of the closed files were missing copies of signed closing letters sent to Complainants, including any documentation to support how the closing letter were sent to Complainants. A majority of the closed files were missing internal emails documenting assignment of the intake and Supervisor concurrence for closure of the complaint.

In three instances, the case file was closed for lack of cooperation from the Complainants. All three of these files were missing critical information to support attempts were made to seek cooperation from the Complainants.

In six instances, the case file was closed without interviewing the Complainant. In four of these files, Complainants had presented a prima facie allegation, but the Investigator failed to contact the Complainant to conduct an interview.

ANALYSIS OF DOCKETED CASE FILES

An analysis of docketed case files could not be completed as no cases were closed in FY 2021.

CASE FILE MANAGEMENT

The intake files reviewed were in an Electronic Case File (ECF) format and were arranged in an order that was easily recognizable and nearly all information was accurate when compared to OITSS entries.

TIMELINESS

On average, it took Illinois OSHA 40 days to screen a complaint from the date of filing. The National Office via Directorate of Whistleblower Protection Programs (DWPP) has recommended an operational goal of 13 days to screen a complaint.

RESOURCES

Moving forward into FY 2022, the Whistleblower Program support will be provided by shared resources comprising of one full time Investigator and one back-up Investigator who split their time. The state plan coordinator will be providing oversight and supervision of the whistleblower program.

CONCLUSION

The 18 administratively closed intake case files reviewed were evaluated to determine the success of the State Plan to address two previous observations associated with the Illinois OSHA Whistleblower Protection Program. These include Observation FY 2020-OB-04 that dealt with complaints that were not properly processed in accordance with the established policies and Observation FY 2020-OB-05 addressed the maintenance of activity or telephone logs in files and administratively closed intakes.

With the return of the program to Illinois OSHA from CONMED, there were many deficiencies that were identified during the review and as a result, Observation FY 2020-OB-04 and Observation FY 2020-OB-05, are being elevated to findings. The program review identified a new concern resulting in Finding FY 2021-05, addressing the lack of a whistleblower investigation completion rate.

Finding FY 2021-03: (FY 2020-OB-04): Whistleblower complaints were not properly processed in accordance with established policies. In 16 of the 18 (89%) administratively closed intakes, a memo to file was not created to document the interview of the complainant and why the complaint was closed. In six of the 18 (33%) administratively closed intakes, four of which presented prima facie allegations, the complaint was closed without contacting the complainant to conduct an interview and to obtain the complainant's concurrence for closing the complaint.

Recommendation FY 2021-03: Properly process complaints per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017, Chapter II (B)(1) and (B)(2).

Finding FY 2021-04 (FY 2020-OB-05): Nine of the 18 (50%) administratively closed whistleblower intakes had an inaccurate or missing activity or telephone log.

Recommendation FY 2021-04: Properly and accurately document all telephone calls made, messages received, and exchange of written or electronic correspondence during the course of an investigation in the activity/telephone log per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017, Chapter II (G)(2)(f).

Finding FY 2021-05: During FY 2021, the State Plan closed or completed zero whistleblower investigations. The State Plan currently has four pending docketed cases with 770 average days pending.

Recommendation FY 2021-05: Properly investigate, process and complete open complaints per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

No CASPAs were received regarding Illinois OSHA during FY 2019.

9. VOLUNTARY COMPLIANCE PROGRAM

Illinois OSHA created a Safety and Health Achievement Recognition Program (SHARP) for small state and local government employers in FY 2015, which continued through FY 2021. Illinois OSHA projected five public sector employers would be awarded Safety and Health Achievement Recognition Program (SHARP) status by FY 2020, falling short by one. In FY 2021, Illinois OSHA projected to add one SHARP employer to meet the FY 2020 goal. Due to consultation vacancies and the continued challenges with COVID-19 pandemic operations, available resources were allocated to meeting the private sector SHARP goals, therefore the projected goal was not met. However, the State Plan did maintain the four existing SHARP employers and to promote state and local government employer and employee awareness of and commitment to safety and health, Illinois OSHA conducted 23 compliance assistance activities in FY 2021.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

Illinois OSHA provides consultation services to state and local government employers through the sharing of 21(d) Consultation Program employees. In the annual performance plan for FY 2021, the State Plan 23(g) On-Site Consultation Program projected 20 state and local government consultation visits. In FY 2021, the State Plan conducted 30 total visits, exceeding their goal for the year. The visits consisted of 27 first time initial visits and all 27 (100%) initial visits were in high hazard establishments. The consultants conferred with employees on all 27 visits. The visits resulted in 67 serious hazards being identified, with 100% of the hazards being corrected in a timely manner. (Source: IL FY 2021 EOY State and Local Government MARC Report dated October 19, 2021)

Appendix A – New and Continued Findings and Recommendations

FY 2021 Illinois OSHA Comprehensive FAME Report

FY 2021-#	Finding	Recommendation	FY 2020-# or FY 2020-OB-#
FY 2021-01	Twenty-five of the 49 (51%) files with violations did not contain adequate documentation of the information required to support the violations in accordance with Illinois OSHA FOM, Chapter 3-6, C, titled, “Record All Facts Pertinent to a Violation.”	Ensure case files contain all of the necessary information required to support the violations issued in accordance with the Illinois FOM.	FY 2020-02
FY 2021-02	Thirty-four of the 60 (57%) files reviewed, employee interviews were not conducted or properly documented as required by Chapter 3 of the Illinois FOM.	Ensure employee interviews are conducted and case files contain appropriately documented employee interviews as outlined in Chapter 3 of the Illinois FOM	FY 2020-OB-03
FY 2021-03	Whistleblower complaints were not properly processed in accordance with established policies. In 16 of the 18 (89%) administratively closed intakes, a memo to file was not created to document the interview of the complainant and why the complaint was closed. In six of the 18 (33%) administratively closed intakes, four of which presented prima facie allegations, the complaint was closed without contacting the complainant to conduct an interview and to obtain the complainant’s concurrence for closing the complaint.	Properly process complaints per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017, Chapter II (B)(1) and (B)(2).	FY 2020-OB-04
FY 2021-04	Nine of the 18 (50%) administratively closed whistleblower intakes had an inaccurate or missing activity or telephone log.	Properly and accurately document all telephone calls made, messages received, and exchange of written or electronic correspondence during the course of an investigation in the activity/telephone log per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017, Chapter II (G)(2)(f).	FY 2020-OB-05
FY 2021-05	During FY 2021, the State Plan closed or completed zero whistleblower investigations. The State Plan currently has four pending docketed cases with 770 average days pending.	Properly investigate, process and complete open complaints per the Illinois Department of Labor Whistleblower Investigation Manual, Effective July 1, 2017.	

Appendix B – Observations Subject to New and Continued Monitoring

FY 2021 Illinois OSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation# FY 2020-OB- # or FY 2020-#	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-01	FY 2020-OB-01	In six (100%) of the fatality inspections reviewed in FY 2021, the investigation summary form narrative lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event consistent with Illinois OSHA FOM, Chapter 10-2, Paragraph D, subparagraph 2.	OSHA will review and discuss fatality investigation summary forms on all new fatality investigations with the State Plan during quarterly monitoring meetings.	Continued
FY 2021-OB-02		In all six (100%) of the fatality cases reviewed, there was no initial telephone contact with the next-of-kin of employees involved in fatal occupational injuries or illnesses consistent with OSHA Instruction CPL 02-00-166 (CPL 02-00-153) Communicating OSHA Fatality Inspection Procedures to a Victim's Family.	OSHA will discuss and evaluate Illinois OSHA's internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2021-OB-03	2020-OB-02	Twelve (12) of the 49 (25%) files reviewed lacked specificity and clarity in the severity and probability information as to how it was directly associated with the condition addressed in the violation consistent with the instructions and provisions of the Illinois OSHA FOM, Chapter 6-3, Paragraph A, Severity Assessment and Paragraph B, Probability Assessment.	OSHA will discuss and evaluate Illinois OSHA's internal audits conducted in this area during quarterly monitoring meetings.	Continued
FY 2021-OB-04		In 30 of the 49 (61%) files with violations, the Alleged Violation Description (AVD) in one or more of the violations was not clear or describe the nature of the violation with particularity consistent with the instructions and provisions required in Chapter 820 Illinois Compiled Statutes (ILCS) 219 Sec. 80. Violation of Act or standard; citation or the Illinois OSHA FOM, Chapter 5-11, Citations.	OSHA will discuss and evaluate Illinois OSHA's internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2021-OB-05		In 12 (100%) of the files with general duty violations, the AVD language was not consistent with the instructions and provisions required in Illinois OSHA's FOM Chapter 4-3 Use of the General Duty Clause. These included: the AVD was not clear, included corrective action or abatement language, nor included the required language spelled out in paragraph I.	OSHA will discuss and evaluate Illinois OSHA's internal audits conducted in this area during quarterly monitoring meetings.	New

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 Illinois OSHA Comprehensive FAME Report

FY 2020-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2020-01	Illinois OSHA conducted only 46% of their planned safety inspections (229 of 500) and 10% of health inspections (20 of 200).	Illinois OSHA should establish a method and strategy for developing the planned inspection goals based on staffing and resources, establishing the projected number of inspections to be conducted and a tracking system to ensure the planned inspection goals are achieved.	Regional Enforcement Managers will track inspector assignments weekly to ensure their individual performance goals are met. Additionally, Illinois OSHA's goal is to fill the remaining enforcement vacancies, two Public Safety Inspectors and one Industrial Hygienist, by September 30, 2021.	9/30/2021	Completed
FY 2020-02	Twenty-seven of the 35 (77%) files with violations reviewed in FY 2019, did not contain adequate documentation of the information required to support the violations in accordance with Illinois OSHA FOM, Chapter 3, Paragraph VII, C.	Ensure case files contain all of the necessary information required to support the violations issued in accordance with the Illinois FOM. Corrective action complete, awaiting verification.	Regional Enforcement Managers will continue to ensure all of the necessary information required to support violations issued are in the case files.	N/A	Open February 1, 2022

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 ILLINOIS OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	5.78	5 days for safety; 10 days for health	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	4.44	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)	1.65	3 days	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.18	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%	N/A – The State Plan did not receive any imminent danger complaints or referrals in FY 2021. 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)	5.48	+/- 20% of 1.78	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.14 for SWRU.
5b	Average number of violations per inspection with violations by violation type (other)	0.62	+/- 20% of 0.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.73 to 1.09 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)	347	+/- 5% of 400	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 380 to 420 for safety.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 ILLINOIS OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
7b	Planned v. actual inspections (health)	88	+/- 5% of 100	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 95 to 105 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	N/A	+/- 25% of \$3,100.37	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 \$2,030.66	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 \$3,632.26	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 \$5,320.16	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 \$6,575.70	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)	10.03%	+/- 20% of 31.65%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.32% to 37.98% for safety.
9b	Percent in compliance (health)	10.98%	+/- 20% of 40.64%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 32.51% to 48.77% for health.
10	Percent of work-related fatalities responded to in one workday	83.33%	100%	The further review level is fixed for all State Plans.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 ILLINOIS OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
11a	Average lapse time (safety)	26.01	+/- 20% of 52.42	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 41.94 to 62.90 for safety.
11b	Average lapse time (health)	23.62	+/- 20% of 66.10	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 52.88 to 79.32 for health.
12	Percent penalty retained	N/A	+/- 15% of 69.08%	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	0%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	0%	+/- 20% of 20%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 16% to 24%.
16	Average number of calendar days to complete an 11(c) investigation	0	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	N/A	+/- 25% of 0.99%	N/A – 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.