

**FY 2021 Comprehensive
Federal Annual Monitoring Evaluation (FAME) Report**

**Iowa Workforce Development Iowa
Division of Labor
Iowa Occupational Safety and Health Administration**



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**Prepared by:
U. S. Department of Labor Occupational
Safety and Health Administration
Region VII
Kansas City, MO**



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I. Executive Summary

The purpose of this report is to assess the Iowa Occupational Safety and Health Administration's (IOSHA's) activities for Fiscal Year (FY) 2021, and its progress in resolving two findings and an outstanding observation from the previous FY 2020 Follow-up Federal Annual Monitoring Evaluation (FAME) Report. IOSHA responded to recommendations made in the FY 2020 Follow-up FAME Report and sustained high-level program performance.

The State Plan continued a long-term trend in the reduction of injuries and illnesses. Specifically, the U.S. Department of Labor (USDOL), Bureau of Labor Statistics (BLS) injury and illness rates for the State of Iowa continues to decline over the past four years. These rates represent the number of injuries and illnesses surveyed per 100 full-time workers. The rates were as follows: 3.6 in CY 2017, 3.5 in CY 2018, 3.4 in CY 2019 3.4 and 3.4 in CY 2020. Therefore, Iowa experienced a 6% overall decrease in worker injury and illness rates since 2017.

IOSHA maintained 42 Voluntary Protection Program (VPP) participants, four alliances, 13 construction partnerships, and 5 Safety and Health Achievement Recognition Program (SHARP) participants in FY 2021. The VPP program continued to certify and re-certify worksites throughout the fiscal year.

In FY 2021, the State Plan saw several personnel changes within the enforcement section of IOSHA. In January of 2021, the Senior Industrial Hygienist Supervisor, retired with over 35 years of service. One of their Senior Industrial Hygienists was promoted into this role. This promotion allowed for a seamless handoff and mentorship to be conducted, prior to the departure of the retiring individual. In turn, an industrial hygienist was hired to fill the vacated position putting the industrial hygienist section back to 100% strength. In July of 2021, A retirement occurred in the cooperative program section. Additionally, in September of 2021, IOSHA lost a valuable asset, when a staff member of over 40 years retired from our VPP coordinator position. With these retirements in FY 2021, the IOSHA program lost over 85 years of experience.

IOSHA made progress in addressing a continued observation from the FY 2020 Follow-up FAME Report, regarding timeliness of initiating complaint inspections and investigations. IOSHA has seen a progressively downward (positive) trend in the average number of days to initiate an inspection, but it still requires additional effort to meet the negotiated timeframe.

The comprehensive review of enforcement case files (inspection and inquiry) did not result in any new findings. Case file documentation relative to citation worksheets, specifically, employer knowledge, and severity and probability justification, has seen a marked improvement over the past two years. Appendix A of this report describes new and continued findings and recommendations. There was one continued finding from FY 2020, regarding the average number of working days to initiate non-formal complaint investigations. Appendix B describes three new observations, one continued observation, and one observation that was previously a finding in FY 2020. Appendix C describes the status of continued findings with associated completed corrective actions. The FY 2020 finding, regarding employer knowledge of the hazardous condition, has been converted to an observation in FY 2021.

II. State Plan Background

A. Background

The Iowa State Plan, referred to as the Iowa Occupational Safety and Health Administration (IOSHA), is part of the Iowa Workforce Development, Labor Services Division, which is administered by the Commissioner of Labor. IOSHA adopted most OSHA standards as promulgated, and its enforcement program functions are very similar to OSHA's program with no significant differences. The State Plan's enforcement personnel benchmark is 13 safety compliance officers and 12 health compliance officers with the only vacancy being a health position at the end of FY 2021.

During FY 2021, IOSHA conducted 609 inspections, which exceeds the total inspections projected. The inspections by discipline were 424 Safety and 185 Health. IOSHA's budget is a 50/50 match between federal and state funds with additional state appropriated funds needed beyond the 50/50 match. IOSHA has historically overmatched the federal contribution in funding. IOSHA's funding levels from FY 2017 through FY 2021 are shown below in Table 1. IOSHA Consultation and Education program conducts public 23(g) and private 21(d) consultation activities, in addition to providing training and education services. The consultation and cooperative programs complement the enforcement effort to reduce exposure to occupational hazards and attempt to reduce fatalities.

Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2021	2,173,000	2,173,000	705,535	5,051,535	57
2020	2,040,000	2,040,000	642,254	4,722,254	56.8
2019	2,040,000	2,040,000	504,373	4,584,373	55.5
2018	2,000,600	2,000,600	1,049,591	5,050,791	60.3
2017	2,000,600	2,000,600	1,402,777	5,403,977	62.9

B. New Issues

The Occupational Safety and Health Administration (OSHA) investigated two complaints, during this reporting period. Complaint about State Program Administration (CASPA), alleging that the Iowa Occupational Safety and Health Administration did not maintain a program that was "at-least-as-effective" (ALAE) as OSHA's, particularly with respect to the handling of COVID-19 complaints. The second complaint expressed concerns of IOSHA's handling of asbestos inspections and not maintaining an ALAE asbestos program as OSHA.

The purpose of these investigations was to address the allegations by determining whether IOSHA followed its established procedures when receiving and investigating complaints and to evaluate whether IOSHA's policies and procedures are at least as effective as OSHA's. Details of each investigation have been summarized in section B.8 below. Both investigations have been completed and found that IOSHA generally followed their established procedures, which are ALAE as OSHA's.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process consisting of a comprehensive year and a follow up year. Comprehensive years consist of full case reviews and onsite evaluations. FY 2021 is a comprehensive year, and OSHA conducted an evaluation and a full case file review. A Seven-person OSHA team, including one whistleblower investigator, two compliance assistance specialists and four Compliance Safety and Health Officers (CSHOs), conducted full case file reviews. The evaluation took place at the IOSHA office between January 10, 2022, and February 21, 2022. The review team conducted interviews with management and employees in conjunction with the evaluation. OSHA reviewed 143 safety, health, whistleblower, voluntary protection program (VPP), partnership, and alliance case files. The randomly selected case files included safety and health enforcement files, as well as whistleblower case files that were developed and closed during the evaluation period of October 1, 2020, through September 30, 2021. The population included:

- 18 fatality case files
- 17 formal complaint case files
- 100 non-formal complaint case files
- 25 employer-reported referral case files
- 5 un-programmed-related case files
- 11 programmed planned case files
- 4 program related case files
- 40 Whistleblower case files
- 23 Voluntary Protection Program files
- 12 Partnership files
- 3 Alliance 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 (SAMM) Report (Appendix D)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (SOAR)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan

- Full case file reviews
- OSHA Information System (OIS) reports
- Field Operations Manual (FOM)
- State Plan Application (SPA)
- Iowa Administrative Bulletin (IAB)
- Iowa Administrative Code (IAC)

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

PROGRAM ADMINISTRATION

a) Training

IOSHA adopted OSHA Instruction TED-01-00-019, Mandatory Training Program for OSHA Compliance Personnel, effective July 21, 2014, and OSHA Instruction TED 01-00-020, Mandatory Training Program for OSHA Whistleblower Investigators, effective October 8, 2015, to administer its training program. The Public Service Managers tracked individual enforcement officer training and the Consultation and Education Bureau Chief tracked compliance assistance and 21(d) programs staff training.

Training was adversely affected by the COVID-19 pandemic. The OSHA Training Institute (OTI) stopped in-person classes at the institute and adopted a virtual format; all resident training courses were conducted using this updated format. All newly hired compliance officers have been enrolled in their appropriate initial training courses and have attended them in this virtual environment. Extensive use of webinars has been encouraged to continue the professional development of the State Plan's compliance staff. In addition, IOSHA conducts its own monthly training for its compliance officers.

b) OSHA Information System

The State Plan uses various reports within OIS, such as Area Office Operational Reports, Audit and Data Reports, DCAT Reports, Enforcement Activity Reports, State Program Performance Measures Reports, and Trending/Statistic Reports. These reports aid in IOSHA's enforcement management to ensure they meet established goals. Since the adoption of OIS in 2014, IOSHA personnel have demonstrated proficiency at entering data and running reports within OIS to evaluate and manage the State Plan. However, during the onsite review, OSHA found an area open to improvement, through the identification of some incorrectly coded inspection files. For example, a fatality case coded as a referral (primary) and fatality (secondary) led to an inaccurate fatality count. In another example, an inspection incorrectly coded as a FEDTARGET National Emphasis Program, referenced an emphasis program not utilized by IOSHA. These examples were anomalous and did not represent a trend rising to the level of observation or finding.

c) State Internal Evaluation Program Report

IOSHA internally evaluated its program on a quarterly basis to measure progress towards goals and incorporated the evaluated results in its State OSHA Annual Report (SOAR).

d) Staffing

The enforcement program is benchmarked for sixteen safety compliance officers and thirteen health compliance officers, with three of the safety and one of the health positions being open at the end of the fiscal year.

The leadership team at IOSHA Enforcement consists of the IOSHA Administrator, who directly supervises the two Public Service Manager 1 positions. These two Public Service Manager 1 positions are responsible for the daily supervision of enforcement field staff, which is divided between safety and health compliance officers and industrial hygienists. Duties include, daily work and inspection assignments, case file review and correction, training new staff through accompanied visits and assisting with complex inspections, evaluating work performance for annual evaluations, analyzing training needs, providing technical assistance to subordinates, answering questions from private industry and state and local government, conducting informal settlement conferences, reviewing documentation for violation abatement and corrective means, working with legal staff on contested cases and personnel issues, and providing assistance to the IOSHA Administrator and the Labor Commissioner. The State Plan continues to hire compliance safety and health officers (CSHOs) to fill vacant positions, while facing challenges with retention.

During FY 2021, IOSHA saw several personnel changes within the enforcement section. In January of 2021, the Senior Industrial Hygienist Supervisor retired with over 35 years of service. A senior industrial hygienist was promoted into this position. An industrial hygienist was also hired to place Industrial Hygiene strength at 100 percent. In July of 2021, an industrial hygienist, who worked in the cooperative program section retired after 40 years of service. This person served as the VPP coordinator and possessed an extensive amount of knowledge in safety and health. With these retirements in FY 2021, the IOSHA program lost over 85 years of experience.

2. ENFORCEMENT

a) Complaints

The FY 2021 SAMM Report indicated the average number of workdays to initiate complaint investigations was 2.95 (non-formal complaint inquiries), which is outside the FRL of one (1) day (SAMM 2a) and is comparable to the SAMM 2a in FY 2020 of 2.96. In FY2020 the average number of working days to initiate a non-formal complaint investigation was 8.56, which translates to a significant reduction of 5.61 days to initiate the investigation. Due to the FY 2021 number still being over twice the FRL of 1 day, this is remaining as an actionable finding.

Finding FY 2021-01: The SAMM data (SAMM 2a) shows the average number of working days to initiate non-formal complaint investigations was 2.95 days, which was outside the FRL of one day.

Recommendation FY 2021-01: IOSHA should continue to review their complaint process to ensure investigations are initiated within one day. Also, the State Plan may include supervisory oversight of the duty officer process to ensure timely response times.

b) Fatalities

The FY 2021 SAMM Report indicated an 88.96% fatality response time of one workday (SAMM 10), which is outside the FRL of 100% and 11.04% below FY2020 SAMM of 100%. The onsite evaluation included a review of eighteen fatality case files. Seventeen of the eighteen fatality case files reviewed had one-day response times. Of the eighteen cases, four were identified as “no inspections,” as a secondary coding in OIS. Although outside the FRL, this does not yet rise to the level of an observation or finding.

c) Targeting and Programmed Inspections

The FRL for planned actual safety inspections is between 399 and 441. SAMM data shows IOSHA conducted 426 safety inspections, positively indicating that IOSHA exceeded their planned goal for safety inspections. The FRL for health inspections is between 213.75 and 236.25. SAMM data show IOSHA conducted 185 health inspections, which is lower than, and outside of the FRL. Due to the abnormal and restrictive environment placed on IOSHA’s activities, during this evaluation period, this does not yet rise to the level of an observation. Onsite activities, throughout IOSHA, were limited to reduce exposure to the COVID-19 virus during periods of high transmission rates.

The FRL for percent in-compliance (IC) for safety inspections (SAMM 9) is +/- 20% of the three-year national average of 30.30%, which equates to a range of 24.24% to 36.36%. IOSHA’s percent in-compliance inspections (IC) for safety is 33.85% and falls within the FRL. The FRL for percent IC for health inspections is +/- 20% of the three-year national average of 36.12%, which equates to a range of 28.90% to 43.35%. The IC rate for health inspections was outside the FRL by 2% at 55.80% and this does not rise to the level of an observation.

The FY 2021 SAMM data indicated that IOSHA had an average of 1.68 violations per inspection that were classified as serious, willful, repeat, and 0.46 violations per inspection that were classified as other- than-serious (SAMM 5). IOSHA was within the FRL for classifying serious, willful, and repeat violations.

The FY 2021 Grant set forth goals of 234 National Emphasis Program (NEP), and 429 State Emphasis Program (SEP) inspections. The inspection categories included:

- Falls - 118
- Amputations – 239
- Grain -7
- Scaffold - 7

- Trench - 22
- Construction /Zip code - 98
- Hexavalent Chromium - 4
- Combustible Dust -2
- Lead – 2
- Primary Metals –3
- Asbestos Removal – 63
- Chemical Plant – 5

An OIS Inspection Summary by Program Report indicates that the Iowa State Plan exceeded their overall goals for NEP and SEP inspections with some deviation in individual goals.

d) Citations and Penalties

The FY2021 SAMM data indicates that IOSHA’s percent of enforcement presence (SAMM 17) is 4.09%. This positively exceeds the acceptable FRL of 0.92% to 1.54%. An OIS Issued Violations report indicated that of the 990 violations issued in FY 2021, 609 (61.51%) were classified as serious, and 374 (37.78%) were classified as other- than-serious. The average serious penalty of \$4,466.61(SAMM 8) exceeds the FRL (\$2,153.97 and \$3,589.95) achieving a greater deterrent. SAMM 8a is within the FRL, indicating the average current serious penalty in the private sector (1-25 workers) is \$1,481.00, which is within the FRL of \$1,436.89 to \$2,394.82. During the case file review, OSHA concluded that IOSHA had provided adequate evidence to support violations in all inspections. The files contained appropriate supporting documentation for all apparent violations, appropriately classified violations, appropriate applied grouping, and appropriate use of willful and repeated violations.

During the onsite review, seven of 80 (8.75%) case files reviewed did not contain OSHA 300 Logs, or an OIS-generated injury and illness print-out in the case file. During the interview process, it was determined that the CSHO did not search OIS to verify the injury and illness data had been entered. IOSH Instruction IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 3.VI.A.2.a states that “CSHOs shall request copies of the OSHA-300 Logs, the total hours worked and the average number of employees for each year, and a roster of current employees.” And in Chapter 5.II.B.13 “Occupational Injury and Illness Data entered into OIS. Calculation of the DART rate (at least five full calendar years and the current year).

Observation FY2021-OB-01: During the onsite review, seven of 80 (8.75%) case files reviewed did not contain OSHA 300 Logs and/or an OIS generated injury and illness print-out in the case file.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.

During the review, seven of 45 (13%) non-in-compliance case files reviewed did not include adequate employer knowledge in the worksheets to support citations. IOSH Instruction IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4.II.C.4 outlines the requirements for establishing “knowledge of the hazardous condition”.

This can be through actual knowledge or constructive knowledge. Paragraph b of this section states: “If it cannot be determined that the employer has actual knowledge of a hazardous condition, the knowledge requirement may be established if there is evidence that the employer could have known of it through the exercise of reasonable diligence. CSHOs shall record any evidence that substantiates that the employer could have known of the hazardous condition. Examples of such evidence include, the violation/hazard was in plain view and obvious, the duration of the hazardous condition was not brief, the employer failed to regularly inspect the workplace for readily identifiable hazards, and the employer failed to train and supervise employees regarding the particular hazard.”

Observation FY2021-OB-02: During the review, six of 45 (13%) non-in-compliance case files reviewed did not include adequate employer knowledge in the worksheets to support citations as required by the IACPL 02-00-160, FOM, February 11, 2018, Chapter 4.II.C.4.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.

During the onsite review, five of 45 (11%) non-in-compliance case files did not include adequate severity and probability justifications in the worksheets. IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 5.II.C.2 states “The following information shall be documented: c. Specific location of the hazard and employee exposure to the hazard.” Paragraph d states, “Injury or illness likely to result from exposure to the hazard.” Paragraph h states, “Approximate duration of time the hazard has existed and frequency of exposure to the hazard.” These items are all integral to establishing viable severity and probability assessments, which are in turn used to justify the gravity-based penalties, as outlined in IOSH Instruction IACPL 02-00-160 (Field Operations Manual), Chapter 6.III.A Gravity of Violation.

Observation FY2021-OB-03 (FY2020-OB-03): During the review, five of 45 (11%) non-in-compliance case files did not include adequate severity and probability justifications in the worksheets.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.

e) Abatement

Of the 45 non-in-compliance inspections reviewed, all (100%) had appropriate abatement periods. Adequate verification of abatement was evident in 100% of the files. This is imperative to removing employees from the hazards identified during the inspection process. The State Plan continues to obtain and document abatement documentation, as required.

f) Worker and Union Involvement

The FY 2021 SAMM Report indicated that 100.00% of the inspections included worker walk around representation, or worker interviews. 80 of 80 (100%) inspected case files contained documentation of interviews in the case file.

3. REVIEW PROCEDURES

a) Informal Conferences

The FY 2021 SAMM Report indicated an 81.43% penalty retention, which falls within the FRL (SAMM 12). Changes made during informal conferences were appropriate and documentation was sufficient. IOSHA's procedures have been implemented and adequate. SIR data for FY 2021 shows that 0.43% of issued violations were vacated as compared to 2.23% nationally. In uncontested cases, IOSHA retained 59.80% of the issued penalty. The penalty retentions for contested vs. non-contested cases were within 24.63% of each other, showing a high level of consistency. The review did not find any data that contradicted the statistics outlined in the SAMM.

b) Formal Review of Citations

The contest rate for IOSHA's 611 inspections in FY 2021 was 5.44%. Similar to the Occupational Safety and Health Review Commission, Iowa's Department of Inspections and Appeals oversees litigation of IOSHA's contested inspections. SIR data showed that 11.16% of issued violations were vacated once contested, which is below the national average of 14.48%. In cases where the company contested the citation, reclassification took place on 10.53% of the issued violations with a 59.80% penalty retention rate. All filing of contested cases was proper and timely. The public can obtain information about the process from the Department's website: <https://dia.iowa.gov/employment-appeal-board-resources>.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

Standards adoption reflects appropriate action, in accordance with Iowa statutes. The Labor Services Division publishes a notice of intended action for public information and possible public hearing. At the end of the comment or hearing period, scheduling of standard adoptions are effective on a specified date in the near future. There were no State Plan-initiated standards during FY 2021.

b) Federal Program Change (FPC) Adoption

The State Plan made timely adoption of four federal program changes (FPC) in FY 2021. Presently, there are no outstanding FPCs requiring adoption. See Table 4 below. IOSHA did not adopt the Field Operations Manual CPL 02-00-164 (4/14/2020), since it uses its own version of the FOM, which was under revision at the time of this writing. IOSHA intends to ensure that the updated version of its FOM is ALAE as OSHA's FOM. The timeline for completion is pending (anticipated by the end of FY2022). It is important to note that the State Plan updates its FOM annually to include an annual penalty adjustment for the inflation index; Iowa updates penalties each year through the legislative process and they have been updated accordingly each year.

Status of 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 Beryllium Standard for General Industry 29 CFR 1910 (7/14/2020)	9/14/2020	3/2/2022	YES	Yes	1/14/2021	3/2/2022
Occupational Exposure to COVID-19; Emergency Temporary Standard 29 CFR 1910 (6/21/2021)	7/6/2021	7/6/21	YES	Yes	7/21/2021	7/21/2021
Adjustment to Civil Penalties for Inflation 29 CFR 1903 (1/15/2020)	1/15/2020	3/15/2020	Yes	Yes	7/15/2020	5/29/2020

Table B
Status of 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	12/20/2019	YES	YES	6/10/2020	4/1/2020
Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)	4/4/2020	4/4/2020	YES	YES	8/4/2020	
<i>Equivalency Required</i>						
Field Operations Manual CPL 02-00-164 (4/14/2020)	6/14/2020	6/13/2020	NO	N/A	10/14/2020	N/A
Consultation Policies and Procedures Manual CSP 02-00-004 (3/19/2021)	5/19/2021	3/25/2021	YES	YES	9/19/2021	5/1/2021
<i>Adoption Encouraged</i>						

Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005 (1/30/2020)	3/30/2020	2/3/2020	YES	YES	N/A adoption not required	2/3/2020
National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-01 (CPL-03) (3/12/2021)	5/12/2021	3/22/2021	YES	YES	N/A adoption not required	5/12/2021

5. VARIANCES

No variances were initiated during this reporting period.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

IOSHA has policies and procedures for conducting inspections involving state and local government workers. The FY 2021 SAMM data (SAMM 6) indicates that IOSHA conducted 4.12% of its inspections in state and local government workplaces, achieving an average greater than the FRL (3.09% to 3.42%). In this case, exceeding the FRL helps to ensure that employees in state and local government workplaces are provided with employment free of hazards.

7. WHISTLEBLOWER PROGRAM

The State Plan received ninety-nine whistleblower complaints during FY 2021. Of these, the State Plan docketed thirty-three complaints for anti-retaliation investigation, administratively closing 63. Forty-seven percent of docketed 11(c) cases were meritorious (SAMM 15). IOSHA, on average, took 134 days to complete an 11(c) investigation (SAMM 16), an increase in lapsed time versus the 87 days to complete an investigation in FY 2020. All reviewed files contained proper documentation of prima facie allegations, thorough interviews of all parties and witnesses, proper pretext testing, and accurate reports of investigation.

IOSHA's percent of cases completed in 90 days changed from 51% in 2020 to 20% in 2021. Additionally, IOSHA's average number of days to complete a case in FY 2021 was 134 days, far lower than the average number of days for all State Plans (333), which is historically the case. The average number of days for state and federal combined was 365. IOSHA vastly outperformed most State Plans, federal, and national, in the average number of days it takes to complete a case. To ensure continuous improvement, IOSHA should further review its internal policies and procedures to identify efficiencies and resources that would aid in increasing the percent of whistleblower investigations completed within 90 days.

Lastly, IOSHA maintains the appointment of a backup Whistleblower Protection Program (WPP) investigator in the event of an emergency, or departure, of its lone investigator.

Table 5 Whistleblower SAMM (14, 15, 16)						
Fiscal Year	Percent Completed within 90 Days (SAMM 14)	% Change of 90 Day Completion to Baseline (SAMM 14)	Percent Meritorious for Iowa (SAMM 15)	Percent Meritorious for All State Plans (SAMM 15)	Average # of Days to Complete for Iowa (SAMM 16)	Average # Days to Complete for All State Plans (SAMM 16)
2021	20	+30	47	23	134	333
2020	51	+1	28	16	87	333
2019	34	+16	32	16	106	309
2018	50	+27	21	18	97	287

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA investigated two CASPAs during the FY 2021. CASPA # IA-2021-01 and #IA-2021-02 alleged that IOSHA did not follow their policies and procedures.

OSHA completed its investigation of CASPA IA-2021-01 on January 25, 2022. The complainant expressed concerns of IOSHA’s failure to follow its own procedures. OSHA conducted interviews and a review of formal and non-formal inspections. It is important to note that this investigation primarily covered the time-period of February to October of 2020, when knowledge regarding the COVID-19 virus and how to protect agency and public employees changed almost weekly, and OSHA’s enforcement guidance at the time prioritized remote inspections.

OSHA investigated CASPA IA-2021-01 and found that IOSHA was generally following their protocols. OSHA provided recommendations which were addressed, completed, and the CASPA was closed. The complaint addressed concerns regarding COVID-19 activities related to meat processing in Iowa. In February of 2021, OSHA updated its onsite inspection and PPE guidance to ensure that the Agency was following the most recent published guidance from the Centers for Disease Control and Prevention. IOSHA adopted and has assured OSHA that it will continue to adopt, these policy changes as they continue to be updated, as it did during the time-period covered by this investigation.

OSHA investigated CASPA IA-2021-02 and found that IOSHA was generally following their protocols. OSHA provided recommendations, which were addressed, completed, and the CASPA was closed. The complainant expressed concerns of IOSHA’s handling of asbestos inspections, and not maintaining an asbestos program as effective as that of OSHA. We conducted interviews with representatives from the IOSHA staff and reviewed representative case files, which resulted in minor recommendations.

9. VOLUNTARY COMPLIANCE PROGRAM

IOSHA's written policies and procedures for voluntary and cooperative programs are substantially similar to CSP 03-01-005, Voluntary Protection Policies and Procedures Manual, effective date January 30, 2020, and are adequate to accomplish the program’s goals. The State Plan adopted federal directives for the Voluntary Protection Program (VPP) and the Safety and

Health Achievement Recognition Program (SHARP). IOSHA published its own instruction for its partnership program, which is substantially similar to the federal partnership directive and appropriately provides non-enforcement incentives. There were no changes made to the IOSHA's voluntary and cooperative programs during FY 2021. IOSHA had 42 Voluntary Protection Program (VPP) participants at the end of FY 2021. The VPP program continued to certify and re-certify worksites throughout the fiscal year. There were not any deficiencies found during a review of 23 VPP files. All letters, annual summaries, and ninety-day items were compliant with the established policies.

During the onsite review, it was noted that several of the reviewed VPP files did not contain last year's self-evaluation reports from the VPP participants. CSP 03-01-005 Section VII. L.7 states that self-evaluation reports should be maintained in the participant's file. It is unknown if the reports were received, incorrectly filed, or if some participants failed to submit a self-evaluation report to IOSHA.

Observation FY2021-OB-04: Several files did not contain last year's self-evaluation reports from the VPP participants.

Federal Monitoring Plan: During next year's FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.

During the onsite review, it was noted that files were missing information. The final communication between the auditor and the company, which should indicate that all the items observed during the VPP audit, were corrected and approved. CSP 03-01-005 Section VII. L.9 states that related formal correspondence should be maintained in the file.

Observation FY2021-OB-05: Final communication documents showing completed Audit Item Findings between IOSHA and the VPP participant were omitted from the file.

Federal Monitoring Plan: During next year's FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.

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

IOSHA accomplished 22 state and local government consultation visits during FY 2021. Most visits were conducted between the first and third quarter with 13 visits in the first quarter and nine visits in the second quarter. IOSHA identified 52 serious hazards that were identified during the FY 2021 visits resulting in 3,450 workers being removed from risk.

11. PRIVATE SECTOR 23(g) CONSULTATION PROGRAM

IOSHA's employers benefited from the consultation program's education staff through training on the use of safety and health management programs to help reduce injury and illness rates. In fact, the program affected 18,135 outreach participants through consultation-provided training during FY 2021. This was a 9% increase over the 16,670 participants impacted through training in FY2020. Additionally, youth engagement in safety and health continued through general industry and construction training venues for youth workers. Venues included the Job Corps Center, where OSHA 10-hour training sessions were

conducted.

Consultation program staff coordinated events during the National Stand Down for Falls During the 3rd quarter of FY2021. Event activities included fall protection training and fall protection equipment demonstrations.

IOSHA regularly scheduled quarterly visits with each partnership site during FY 2021. The State Plan accomplished walk-around audits, hazard identification and correction during regularly scheduled visits. There were eight to nine partnerships, on average, each quarter during the year. There were five new partnerships during the year and six closed out with final evaluations accomplished. During the FY 2021, none of the partnership participants had an incident (injury or fatality) that required reporting as outlined in 29 CFR 1904.39. Construction partnerships during FY 2021 had approximately 15,379 workers participate in OSHA outreach programs.

IOSHA coordinated 42 Voluntary Protection Program (VPP) participants, four alliances, five construction partnerships per quarter, and four Safety and Health Achievement Recognition Program (SHARP) establishments in FY 2021. (This was accomplished by either adding or maintaining current participants). IOSHA visited 282 jobsites, which resulted in uncovering and correcting 1,260 serious and 87 other-than-serious hazards that exposed approximately 30,893 workers.

The compliance assistance staff continued working with the Employer's Councils of Iowa to provide employers and workers training throughout the State. The Employer's Council members, include representatives from Iowa Workforce Development, community colleges, local business development groups, and other government organizations.

Appendix A – New and Continued Findings and Recommendations

FY 2021 IOSHA Comprehensive FAME Report

FY 2021#	Finding	Recommendation	FY 2021-01 or FY 2021-OB-01
FY 2021-01	In FY 2020, the SAMM data (SAMM 2a) showed the average number of working days to initiate non-formal complaint investigations was 2.95 days, which was outside the FRL of one day.	IOSHA should continue to review their complaint process to ensure investigations are initiated within one day. IOSHA should also include supervisory oversight of the duty officer process to ensure timely response times.	FY 2020-01

Appendix B – Observations Subject to New and Continued Monitoring

FY 2021 IOSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation# FY 2021-OB- 01 or FY 2021-01	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-01		Seven (7) of 80 (8.75%) case files reviewed, did not contain, both the OSHA 300 Logs and the OIS generated injury and illness printouts in the case file.	During next year's FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.	New
FY 2021-OB-02		Six of 45 (13%) non-in-compliance case files reviewed did not include adequate employer knowledge in the worksheets to support citations as required by the IACPL 02-00-160, FOM, February 11, 2018, Chapter 4.II.C.4.	During next year's FAME, a limited scope review of selected case files will be conducted to determine if this reflects a data trend.	New
FY 2021-OB-03	FY 2020-03	Five of the 45 (11%) non-in-compliance case files did not include adequate severity and probability justifications in the worksheets.	During next year's FAME, a limited scope review of selected case files will be reviewed to determine if this reflects the data trend.	Continued
FY 2021-OB-04		Several files reviewed did not contain the last year's self-evaluation reports from the VPP participants. CSP 03-01-005 Section VII. L.7 states that self-evaluation reports should be maintained in the participant's file.	During next year's FAME, a limited scope review of selected VPP files will be conducted to determine if this reflects the data trend.	New
FY 2021-OB-05		Final communication documents showing completed Audit Item Findings between IOSHA and the VPP participant were omitted from the file.	During next year's FAME, a limited scope review of selected case files will be conducted to determine if this reflects the data trend.	New

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 IOSHA 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	In FY 2019, The SAMM data (SAMM 2a) showed the average number of working days to initiate non-formal complaint investigations was 10.40 days, which was outside the FRL of oneday.	IOSHA should continue to review their complaint process to ensure investigations are initiated within one day, on average.	IOSHA will select and train two CSHOs, who will perform duty officer responsibilities on a full-time basis. The duty officer and support staff will meet with management to review all incoming correspondence to include complaints, referrals, etc.		Open
FY 2020-02	In FY 2019, 28 of 40 (70%) non-in-compliance case files reviewed had violation worksheets that did not contain information adequate to establish knowledge of the hazardous condition.	IOSHA should continue to ensure that all CSHOs are familiar with the requirements established in FOM, IACPL 02-00-160, February 11, 2018, Chapter 4.	CSHO training will be conducted bi-monthly (once every two months) once teleworking ends. In the interim, Zoom meetings have been scheduled to address issues, keep CSHOs informed, and establish routine communication with IOSHA staff. Supervisors are reviewing case files with more attention to detail and providing mentorship to the less experienced CSHOs.		Converted to observation
FY 2020-03	In FY 2019, 15 of 40 (37.5%) non in-compliance case files reviewed did not include adequate severity and probability justification in the worksheets as outlined in IACPL 02-00-160, FOM, February 11, 2018, Chapter 5.II.C.2.	IOSHA should continue to ensure that all CSHOs are familiar with the requirements established in the FOM, Chapters 5 and 6.	CSHO training will be conducted bi-monthly (once every two months) once teleworking ends. This CSHO training will include a review, chapter by chapter, of the FOM. In the interim, Zoom meetings have been scheduled to address requirements in Chapters 5 and 6 of IOSHA's FOM. Supervisors are reviewing case files with more attention to detail and providing mentorship to the less experienced CSHOs.		Completed

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

FY 2021 IOSHA Comprehensive FAME Report

U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: SAMM Number	State Plan: SAMM Name	State Plan: Data	FY 2021 Further Review Level	FY 2021 Notes
1a	Average number of workdays to initiate complaint inspections (state formula)	4.18	5	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of workdays to initiate complaint inspections (federal formula)	2.95	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of workdays to initiate complaint investigations (state formula)	2.16	1	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of workdays to initiate complaint investigations (federal formula)	0.94	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)	100.00%	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.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.68 Other 0.46	+/- 20% of SWRU: 1.79 +/- 20% of Other: 0.97	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
6	Percent of total inspections in state and local government workplaces	4.12%	+/-5% of 3.23%	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 3.09% to 3.42%.
7	Planned v. actual inspections – safety/health	S: 423 H: 184	+/- 20% of +/- 5% of H: 225	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 399 to 441 for safety and from 213.75 to 236.25 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$4,254.37	+/- 25% of \$2,964.86	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 399 to 441 for safety and from 213.75 to 236.25 for health.
	a. Average current serious penalty in private sector	\$1,493.00	+/- 25% of	The further review level is based on a three-year national average. The range

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

FY 2021 IOSHA Comprehensive FAME Report

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	(1-25 workers)		\$1,967.64	of acceptable data not requiring further review is from \$1,475.73 to \$2,459.55.
	b. Average current serious penalty in private sector (26-100 workers)	\$4,533.90	+/- 25% of \$3,513.45	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,635.09 to \$4,391.81.
	c. Average current serious penalty in private sector (101-250 workers)	\$5,441.91	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,770.27 to \$6,283.78.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$7,195.59	+/- 25% of \$6,190.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,643.18 to \$7,738.64.
9	Percent in-compliance	S 36.67% H 57.05%	+/- 20% of S: 31.03%	The further review level is based on a three-year national average. The range of acceptable data not requiring further
10	Percent of work-related fatalities responded to in one workday	88.89%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	50.06%	+/- 20% of S: 50.58	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 40.46 to 60.70 for safety and from 48.31 to 72.47 for health.
12	Percent penalty retained	81.48%	+/- 15% of 67.51%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 57.38% to 77.64%.
13	Percent of initial inspections with worker walk around representation or worker interview	100.00%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	20.00%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	47.00%	+/- 20% of 18%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 14.40% to 21.60%.
16	Average number of calendar days to complete an 11(c) investigation	134	90	The further review level is fixed for all State Plans.

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17	Percent of enforcement presence	0.91%	+/- 25% of 1.09%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.82% to 1.36%.
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