# FY 2022 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**Industrial Commission of Arizona (ICA)**

**Arizona Division of Occupational Safety and Health (ADOSH)**



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**Prepared by:**

**U. S. Department of Labor**

**Occupational Safety and Health Administration**

**Region IX**

**San Francisco, California**



**Table of Contents**

[I. Executive Summary 3](#_Toc128388231)

[II. State Plan Background 3](#_Toc128388232)

[III. Assessment of State Plan Progress and Performance 5](#_Toc128388233)

[A. Data and Methodology 5](#_Toc128388234)

[B. Findings and Observations 5](#_Toc128388235)

[C. State Activity Mandated Measures (SAMM) Highlights 9](#_Toc128388236)

[Appendix A - New and Continued Findings and Recommendations 12](#_Toc128388237)

[Appendix B - Observations Subject to Continued Monitoring 13](#_Toc128388238)

[Appendix C - Status of FY 2021 Findings and Recommendations 16](#_Toc128388239)

[Appendix D - FY 2022 State Activity Mandated Measures (SAMM) Report 21](#_Toc128388240)

## Executive Summary

The primary purpose of this report is to assess the Arizona State Plan’s progress in Fiscal Year (FY) 2022 in resolving outstanding findings identified in the FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. The Arizona Division of Occupational Safety and Health (ADOSH) is responsible for the enforcement of regulations protecting workers from health and safety hazards in the majority of Arizona’s workplaces.

As with past years, staffing remained an obstacle. The lack of staffing throughout the majority of the year was the primary reason for ADOSH not meeting its goals. Overall, Arizona was responsive to OSHA’s concerns regarding staffing. At the beginning of FY 2022, there were five qualified compliance officers that were able to conduct inspections independently. ADOSH met its safety compliance officer benchmark and made considerable progress meeting its six health compliance officer staffing benchmark by filling nine safety and three health compliance officer positions by the end of the year. Although staffing has increased, the level of performance in conducting inspections and citing employers requires improvement.

In FY 2022, OSHA proposed to revoke Arizona’s final approval for the State Plan and issued a Federal Register Notice (FRN) for ADOSH failing to adopt outstanding standards and federal program changes (FPCs). Arizona successfully addressed all actions required by the FRN and OSHA withdrew the proposal to reconsider Arizona’s final approval status.

The Arizona State Plan made some progress to address the previous 11 findings and seven observations from the FY 2021 Comprehensive FAME Report. In FY 2022, six of the 11 findings were completed, and all seven observations were continued. Five findings and seven observations were continued. There were no new findings or observations identified in FY 2022.

## State Plan Background

The state of Arizona operates an occupational safety and health program administered by ADOSH under the Industrial Commission of Arizona (ICA). James Ashley served as the Director of the ICA and as the State Plan Designee. Jessie Atencio served as the Director for the ADOSH program. Assistant Director Phil Murphy managed the Phoenix enforcement program. Assistant Director Mark Norton was hired in FY 2022 and managed the Tucson enforcement program. Steve Morgan was the Assistant Director for the consultation program.

ADOSH’s organizational units include Administration; Safety Compliance; Health Compliance; Whistleblower; Consultation, Education, and Training (CET); Boiler and Elevator Safety; and Research and Statistics. The Boiler and Elevator Safety, and the Research and Statistics units are not funded under OSHA grants.

ADOSH jurisdiction covers nearly all private employers and state and local government workplaces with the exception of mining, smelters, batch plants, and contract employees and contractor-operated facilities engaged in United States Postal Service mail operations. In addition, ADOSH does not cover areas of exclusive federal jurisdiction such as tribal lands or federal employees. The Commissioners of the ICA, who may modify proposed citations and penalties prior to citation issuance, review all inspections with proposed penalties of $2,500 or more.

The 23(g) grant provided funding for a full-time staff comprised of one director, two assistant directors, seven first line supervisors, 13 safety compliance officers, eight health compliance officers, three compliance assistant specialists, four whistleblower investigators, five clerical staff, and two trainers. Six consultants provided consultation for state and local government employers; 15% of their time was charged to the 23(g) grant and the remainder of their time was charged to a 21(d) Cooperative Agreement that covers private sector consultation activities. The private sector consultation program is evaluated separately in the FY 2022 Regional Annual Consultation Evaluation Report (RACER).

In FY 2022, the initial federal base award to fund the 23(g) program was $2,225,400. Arizona matched the federal funds and added $120,147 in 100% state funds, bringing the total award to $4,570,947. On May 23, 2022, OSHA offered an amendment to increase the federal share of the grant by $57,700. Arizona declined these additional funds due to the timeframe when funds were available to use but expressed an interest in claiming the funds in FY 2023. Arizona did not de-obligate any funds. The total 23(g) expenses were $4,709,847. Arizona spent an additional $138,900 in 100% state funds. Of these funds, $416,606 was for implementation of the Salesforce-AdvoLogix system that supports enforcement and whistleblower protection programs to interface with the OSHA Information System (OIS). In addition, the program income was $2,439, which came from sales of the ADOSH 1910 and 1926 standards books, Voluntary Protection Program (VPP) flag sales, and public records request fees. The next financial monitoring review is scheduled for FY 2023.

**New Issues**

On April 21, 2022, OSHA published a Notice of Proposed Reconsideration and Revocation of Final Approval of the Arizona State Plan, seeking public comment about Arizona’s final approval status. In the FRN, OSHA proposed to revoke Arizona’s final approval for the State Plan. Following publication of the FRN, Arizona adopted outstanding standards and FPCs, notably including provisions to adopt emergency temporary standards and increase penalty amounts. As a result of ADOSH’s actions, on February 15, 2023, OSHA withdrew the Notice of Proposed Reconsideration and Revocation of Final Approval of the Arizona State Plan. OSHA continues to monitor Arizona’s timeliness and effectiveness in adopting standards and FPCs to be at least as effective as OSHA.

## Assessment of State Plan Progress and Performance

###  A. Data and Methodology

OSHA has established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform an on-site case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

* State Activity Mandated Measures (SAMM) Report (Appendix D dated 11/14/2022)
* State Information Report (SIR, dated 11/14/2022)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan 23(g) Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* Whistleblower Application in the OSHA IT Support System (OITSS)
* State Plan Application (SPA)
* OSHA Information System (OIS)

###  B. Findings and Observations

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

The Arizona State Plan made progress addressing the 11 findings and seven observations from the FY 2021 Comprehensive FAME Report. This follow-up FAME report contains five continued findings and seven continued observations. Six of 11 findings were completed. Appendix A describes continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2021 finding and recommendation in detail.

**Completed Findings**

**Finding FY 2021-01:** In FY 2021, citations proposed in two fatality cases were legally unenforceable because they were not issued within the six-month statute of limitation.

**Status:** According to OIS, in FY 2022, all citations related to fatality investigations were issued within the six-month statute of limitations. This finding is completed.

**Finding 2021-04:** ADOSH’s safety in-compliance rate was 54.59%, which was above the FRL range of 25.32% to 37.98% (SAMM 9a).

**Status:** The Further Review Level (FRL) range for the percent of in-compliance safety inspections in FY 2022 was 25.80% to 38.70% of the three-year national average of 32.25%. ADOSH’s safety in-compliance rate was 36.36% which was within the FRL. This finding is completed.

**Finding FY 2021-06:** The average lapse time of 74.02 days (SAMM 11a) for safety inspections was above the FRL range of 41.94 to 62.90 days.

**Status:** Appendix D, SAMM 11a, shows that lapse time for safety inspections was 64.29 which was within the FY 2022 FRL of 43.66 to 65.50. This finding is completed.

**Finding FY 2021-08:** The Arizona State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Status:** Arizona House Bill 2120, designed to increase penalty levels to match OSHA’s maximum penalty structure, was signed by the Governor on July 6, 2022, and went into effect September 24, 2022. Since Arizona’s penalties will reflect OSHA’s annual adjustments, it is expected that the average current serious penalty will rise substantially in FY 2023. This finding is completed.

**Finding FY 2021-09:** OSHA standards were not adopted by the adoption due date.

**Status:** ADOSH adopted the 13 standards identified in the FY 2021 Comprehensive FAME Report. This finding is completed.

**Finding FY 2021-11:** ADOSH conducted 1.85% (nine of 486) of inspections in state and local government agencies, which was below the FRL range of 4.32% to 4.77% (SAMM 6).

**Status:** Appendix D, SAMM 6, shows that ADOSH conducted 13.14% of their inspections in state and local government agencies. The FRL range for FY 2022 was 4.90% to 5.42%. ADOSH exceeded this goal by performing 46 of the 350 inspections in state and local government agencies. This finding is completed.

**Continued Findings**

**Finding FY 2022-01 (FY 2021-02):** A total of 486 (44%) inspections were conducted and this was below the goal of 1,100 inspections (SAMM 7).

**Status:** ADOSH’s inspection goal in FY 2022 was 505 safety and 270 health for a total of 775. ADOSH conducted 350 inspections (244 safety and 106 health) or 45% of its goal. The acceptable range not requiring further review is 479.75 to 530.25 for safety and 256.50 to 283.50 for health. An increased level of staffing vacancies and a low number of experienced staff was the most significant factor for not achieving its inspection goals. This finding remains open.

**Finding FY 2022-02 (FY 2021-03):** A total of 276 of the projected 525 construction

inspections (53%) were conducted. A total of 185 (23% of the goal of 800) violations were issued for FY 2021.

**Status:** According to the OIS Scan Summary Report, in FY 2022, ADOSH conducted 162 inspections and issued 185 violations in the construction industry falling short of its goal of 300 construction inspections and violations. It was highlighted in the State’s SOAR that ADOSH did not meet projected goals in the construction industry. The report identified that 249 construction inspections were conducted, resulting in 221 violations issued. Differences in the data were attributed to data transfer between Salesforce and OIS. This finding remains open.

**Finding FY 2022-03 (FY 2021-05):** In FY 2021, there were 23 violations where the severity assessed was not supported by the case file documentation.

**Status:** In the FY 2021 Comprehensive FAME Corrective Action Plan (CAP), ADOSH stated that employees will continue to be trained on documenting safety and health violations or interviews within their field notes and will use the Arizona Field Operations Manual (AZ FOM) Probability Factors Worksheet to support the violations. This information was communicated with all compliance staff on August 10, 2022. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME on-site and remains open.

**Finding FY 2022-04 (FY 2021-07):** In FY 2021, the Probability Factors Worksheet was not constructed to assign numerical value to calculate all the factors from the AZ FOM.

**Status:** ADOSH edited the Probability Factors Worksheet to ensure all requirements listed in the AZ FOM and instructed staff about the worksheet’s utility in assessing and calculating probability**.**  A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

**Finding FY 2022-05 (FY 2021-10):** Requirements for adopting Federal Program Changes (FPCs) were not completed within six-months of the effective date of the directive or official issuance date of the Federal Register Notice.

**Status:** Considerable progress has been made by ADOSH over the last year in completing the adoption of FPCs. The AZ FOM is the only outstanding FPC identified in the FY 2021 Comprehensive FAME Report. This finding remains open.

**New Findings**

There were no new findings identified in FY 2022.

#### Observations

**Continued FY 2021 Observations**

**Observation FY 2022-OB-01 (FY 2021-OB-01):** The internal evaluation system was not fully utilized to identify and act on issues such as unaccounted eComplaints, inspections open after six-months with draft citations not issued, inspections with no abatement entered or not accounted for, inspections where penalty payments had not been entered, other open inspections, and complaints in federal jurisdiction that were not referred to OSHA.

**Status:** OIS reports showed inspections were in an open status when they should have been closed as all requirements for closure were met. This may be the result of the Arizona Salesforce system not communicating with OIS. OSHA and ADOSH monitored the transfer of data between Salesforce and OIS during quarterly meetings. ADOSH continued to work with Salesforce developers and the OIS team to resolve any discrepancies. However, this was still an ongoing concern. This observation is continued.

**Observation FY 2022-OB-02 (FY 2021-OB-02):** The number of qualified compliance officers that were able to conduct inspections independently declined from 13 to five by the end of FY 2021.

**Status:** The negotiated benchmarks for staff are nine safety and six health compliance officers. At the end of FY 2022, there were nine safety and three health compliance officer positions filled. This observation is continued.

**Observation FY 2022-OB-03 (FY 2021-OB-03):** ADOSH’s response time to initiate complaint investigations was 4.28 (SAMM 2a), which was above the goal of three working days.

**Status:** According to Appendix D, SAMM 2a, ADOSH’s average response time to initiate complaint investigations increased from 4.28 days in FY 2021 to 17.07 in FY 2022. Staffing vacancies may have contributed to the increase. This observation is continued.

**Observation FY 2022-OB-04 (FY 2021-OB-04):** ADOSH other-than-serious violations per inspection was 1.19 (SAMM 5b) and above the FRL range of 0.73 to 1.09.

**Status:** According to Appendix D, SAMM 5b, ADOSH’s other-than-serious violations per inspection average increased to 1.56 in FY 2022 from 1.19 in FY 2021. This observation is continued.

**Observation FY 2022-OB-05 (FY 2021-OB-05):** The rate of violations reclassified after contest was 25%, which washigher than the national average of 12.17%.

**Status:** According to SIR 5b, the percent of violations vacated after a contest had been filed for private sector inspections decreased from 34.62% in FY 2021 to 10.71% in FY 2022 and is below the national average of 14.78%. This portion of the observation was closed. However, the percent of violations reclassified after a contest has been filed for private sector inspections, SIR 6b, for private sector inspections increased from 25% in FY 2021 to 36% in FY 2022 and was higher than the national average of 13.21%. Observation FY 2022-OB-05 was amended to reflect the change and is continued.

**Observation FY 2022-OB-06 (FY 2021-OB-06):** In FY 2021, retaliation case files lacked the required documentation such as final signatures on settlement agreements, correspondence between ADOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, or other documents required to be in the retaliation case file. In addition, medical information was not protected.

**Status:**  A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-07 (FY 2021-OB-07):** In FY 2021, in two of 16 (13%) state and local government agency case files, there was no documentation of the List of Hazards being sent to the union representatives.

**Status:** In FY 2021, this observation was specific to state and local government agency consultation visit files. An on-site consultation case file review was conducted in December 2022 to evaluate the status of this observation. In the 14 state and local government agency visit files reviewed, none included workplaces where the employees were represented by a union. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and is continued.

**Closed Observations**

There were no closed observations.

**New Observations**

There were no new observations identified in FY 2022.

###  C. State Activity Mandated Measures (SAMM) Highlights

Each SAMM measure has an agreed upon FRL which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside of the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan’s FY 2022 SAMM Report and includes the FRLs for each measure.

It should be noted that OSHA is in the final stages of transitioning from the Whistleblower Application in the OSHA IT Support System (OITSS), a legacy data system, to the Whistleblower module in OIS, a modern data system. For FY 2022, a portion of the State Plan whistleblower data was recorded OITSS, and a portion was captured in OIS. OSHA encountered challenges in combining the report that generates SAMM 14, 15, and 16 from both systems. As such, OSHA will not be relying on SAMMs 14, 15, or 16 in their evaluation of the State Plans whistleblower programs for FY 2022.

The Arizona State Plan was outside the FRL on the following SAMMs:

**SAMM 8 – Average Current Serious Penalty in Private Sector – total (1 to Greater than 250 Workers)**

**Discussion of State Plan Data and FRL:** The FRL for the average current serious penalty for 1-250+ workers was +/- 25% of $3,295.35, which was based on a three-year national average and provides a range of $2,444.51 to $4,074.19. Employers with 1-250+ workers in Arizona were penalized at an average of $1,191.59 per serious violation, which was below the FRL range. ADOSH was below the FRL for all employer sizes. ADOSH’s penalties in relation to the FRL for each category is provided in Appendix D under SAMM #8.

**Explanation:** Arizona House Bill 2120, designed to increase penalty levels to match OSHA’s maximum penalty structure, was signed by the Governor on July 6, 2022, and went into effect September 24, 2022. As a result, it is expected that the average current serious penalty will rise substantially in FY 2023. OSHA will continue to monitor average penalties during quarterly meetings.

**SAMM 10 – Percent of Work-Related Fatalities Responded to in One Workday**

**Discussion of State Plan Data and FRL:** The FRL is fixed at 100% for all State Plans. ADOSH’s percent of work-related fatalities responded to within one day was 88.98%. One fatality was not responded to within one workday.

**Explanation:** According to Appendix D, SAMM 10, one fatality out of nine was not responded to within one workday. ADOSH reported this was a fatality where the employee was initially hospitalized due to COVID-19 and later passed. ADOSH was notified of the fatality and opened an inspection with the employer on the same day via telephone. This was a data entry error in OIS and has been resolved. OSHA will continue to monitor fatality response times during quarterly meetings.

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

**Discussion of State Plan Data and FRL:** The FRL is fixed at 100% for all State Plans.

**Explanation:** According to Appendix D, SAMM 13, three inspections did not contain employee interviews, or an employee representative during the walk around. ADOSH identified this as a data entry error in OIS and has been resolved. OSHA will continue to monitor worker involvement during quarterly meetings.

**SAMM 17 – Percent of Enforcement Presence**

**Discussion of State Plan Data and FRL:** The FRL is based on a three-year national average. The range of acceptable data not requiring further review is from 1.23% to 2.05%. Arizona’s enforcement presence was at 0.31%.

**Explanation:** The percent of enforcement presence describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. In FY 2022 Arizona’s enforcement presence was 0.31% and below the FRL. This is also a decrease from 0.43% in FY 2021, which means that ADOSH reached fewer employers with enforcement activity than the national average.

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

FY 2022 Arizona Division of Occupational Safety and Health Follow-up FAME Report

| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or** **FY 2021-OB-#** |
| --- | --- | --- | --- |
|  FY 2022-01  | A total of 486 (44%) inspections were conducted and this was below the goal of 1,100 inspections (SAMM 7).  | ADOSH should determine the cause and implement corrective action to meet inspection goals and provide a stronger enforcement presence to ensure worker safety. | FY 2021-02 FY 2020-02 FY 2019-02FY 2018-08 |
|  FY 2022-02  | A total of 276 of the projected 525 construction inspections (53%) were conducted. A total of 185 (23% of the goal of 800) violations were issued for FY 2021.  | ADOSH should determine the cause of the low number of construction inspections and violations issued and implement corrective action.  | FY 2021-03 FY 2020-03 FY 2019-03FY 2018-09 |
| FY 2022-03 | There were 23 violations where the severity assessed was not supported by the case file documentation. | ADOSH should implement oversight of the case files to ensure the severity assessment supports the most likely injury to occur. | FY 2021-05 |
| FY 2022-04 | The Probability Factors Worksheet was not constructed to assign numerical value to calculate all the factors from the AZ FOM. | ADOSH should ensure all requirements listed in the AZ FOM are used to calculate probability. | FY 2021-07 FY 2020-06 FY 2019-07 |
| FY 2022-05 | Requirements for adopting Federal Program Changes (FPCs) were not completed within six-months of the effective date of the directive or official issuance date of the Federal Register Notice. | ADOSH should ensure that they meet the requirements for response and adoption of OSHA’s Federal Program Changes.  | FY 2021-10FY 2020-08FY 2019-09 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 Arizona Division of Occupational Safety and Health Follow-up FAME Report

| **Observation #****FY 2022-OB-#** | **Observation#****FY 2021-OB-# *or* FY 2021-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2022-OB-01 | FY 2021-OB-01 | The internal evaluation system was not fully utilized to identify and act on issues such as unaccounted e-Complaints, inspections open after six- months with draft citations not issued, inspections with no abatement entered or not accounted for, inspections where penalty payments had not been entered, other open inspections, and complaints in federal jurisdiction that were not referred to OSHA.  | OSHA will monitor during quarterly meetings to ensure that the internal evaluation program tracks key metrics, so case files and complaints are handled appropriately. | Continued |
| FY 2022-OB-02  | FY 2021-OB-02 | The number of qualified compliance officers that were able to conduct inspections independently declined from 13 to five by the end of FY 2021. | OSHA will monitor and discuss the number of qualified compliance officers during quarterly meetings. | Continued |
| FY 2022-OB-03 | FY 2021-OB-03 | ADOSH’s response time to initiate complaintinvestigations was 4.28 (SAMM 2a), which was above the goal of three working days. | OSHA will monitor and discuss ADOSH’s progress to ensure complaints are processed timely during quarterly meetings. | Continued |
| FY 2022-OB-04 | FY 2021-OB-04 | ADOSH other-than-serious violations per inspectionwas 1.19 (SAMM 5b) and above the FRL range of 0.73 to 1.09. | OSHA will monitor the other-than-serious violations per inspections to ensure they are within the FRL. | Continued |
| FY 2022-OB-05 | FY 2021-OB-05 | The rate of violations reclassified after contest was 25%, which was higher than the national average of 12.17%. | OSHA will monitor the rate of violations reclassified after contest during the quarterly meetings.  | Continued |
| FY 2022-OB-06 | FY 2021-OB-06 | Retaliation case files lacked the required documentation such as final signatures on settlement agreements, correspondence between ADOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, or other documents required to be in the retaliation case file. In addition, medical information was not protected. | OSHA will monitor the lack of required documentation during quarterly meetings. | Continued |
| FY 2022-OB-07 | FY 2021-OB-07 | In two of 16 (13%) state and local government agency case files, there was no documentation of the List of Hazards being sent to the union representatives. | OSHA will monitor and discuss ADOSH’s progress to ensure the list of hazards is transmitted to union representatives and documented in the case file. | Continued |

### Appendix C - Status of FY 2021 Findings and Recommendations

FY 2022 Arizona Division of Occupational Safety and Health Follow-up FAME Report

| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
| --- | --- | --- | --- | --- | --- |
| FY 2021-01  | Citations proposed in two fatality cases were legally unenforceable because they were not issued within the six-month statute of limitation. | ADOSH should track all fatality cases to ensure proposed citations are issued within the time limits required by A.R.S. §23-415. | The Assistant Directors for Compliance will work with Supervisors to review Salesforce Reports for all inspections, with citations, are issued within the time limits required by A.R.S. §23-415. This will be communicated during huddle meetings, supervisor meetings, and all-hands meetings quarterly. Multiple supervisor meetings were held to highlight the specific cases found by OSHA. | 11/15/2022 | Completed11/15/2022 |
|  FY 2021-02 | A total of 486 (44%) inspections were conducted and this was below the goal of 1,100 inspections (SAMM 7). | ADOSH should determine the cause and implement corrective action to meet inspection goals and provide a stronger enforcement presence to ensure worker safety. |  ADOSH will continue to recruit and hire qualified safety and health professionals and those with the knowledge, skills, and abilities related to safety and health. By December 31, 2022, ADOSH will have all positions filled. | Not Applicable | Open02/24/2023 |
| FY 2021-03 | A total of 276 of 525 projected construction inspections (53%) were conducted. A total of 185 of a projected 800(23%) violations were issued for FY 2021. | ADOSH should determine the cause of the low number of construction inspections and violations issued and implement corrective action. | ADOSH will continue to recruit and hire qualified safety and health professionals and those with the knowledge, skills, and abilities related to the construction industry. By December 31, 2022, ADOSH will have all positions filled. | Not Applicable | Open02/24/2023 |
| FY 2021-04 | ADOSH’s safety in-compliance rate was 54.59%, which was above the FRL range of 25.32% to 37.98% (SAMM 9a). | ADOSH should determine the cause of the high safety in-compliance rate and implement corrective action. | The reason for high safety in-compliance rate is due to new and inexperienced staff hired within ADOSH. ADOSH will continue to train staff to recognize hazards in the field. ADOSH will use a variety of training, including OSHA OTI, OSHA OTI Education Centers, third party subject matter experts, and in-house training. The Arizona TED Manual will help guide training for staff. Multiple staff and supervisor training has been provided since December 2021 when the audit took place. | 11/15/2022 | Completed11/15/2022 |
| FY 2021-05 | There were 23 violations where the severity assessed was not supported by the case file documentation. | ADOSH should implement oversight of the case files to ensure the severity assessment supports the most likely injury to occur. | ADOSH will continue to train employees on documenting safety and health violations within their Field Notes or Interview Field Notes and use the FOM Probability Factors to support serious and non-serious violations. This will be communicated during huddle meetings, supervisor meetings, and all-hands meetings quarterly. On August 10, 2022, the Assistant Director held a meeting with all compliance staff using a power point presentation for Probability Factors according to the Arizona FOM. | 08/10/2022 | Awaiting Verification02/24/2023 |
| FY 2021-06 | The average lapse time of 74.02 days (SAMM 11a) for safety inspections was above the FRL range of 41.94 to 62.90 days. | ADOSH management should identify the factors contributing to the high lapse time and implement a corrective action to reduce it. | ADOSH developed an A3 Project related to the Arizona Management System. The project involves CSHOs, Supervisors, and Assistant Directors to determine a root cause for high lapse time. Items were identified that contribute to high lapse time and ADOSH created milestones and day to day activities following an inspection to ensure that they are produced without delay. Individual team members, Supervisors, or Assistant Directors are assigned action items to promote a faster turnaround time for any file. | 11/15/2022 | Completed02/24/2023 |
| FY 2021-07 | The Probability Factors Worksheet was not constructed to assign numerical value to calculate all the factors from the AZ FOM. | ADOSH should ensure all requirements listed in the AZ FOM are used to calculate probability. | ADOSH follows the AZ FOM and the same probability factors used by OSHA. Routine training aimed at understanding Probability Factors have been developed and provided to staff in a mass meeting training. On August 10, 2022, the Assistant Director held a meeting with all compliance staff using a power point presentation for Probability Factors according to the Arizona FOM. | 08/10/2022 | Awaiting Verification02/24/2023 |
| FY 2021-08 | The Arizona State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | The Arizona State Plan should work to update policies and procedures to implement maximum and minimum penalty amounts. | House Bill 2120 was signed by the Governor on July 6, 2022. The bill will go into effect on September 24, 2022. | 09/24/2022 | Completed10/18/2022 |
| FY 2021-09 | OSHA standards were not adopted by the adoption due date. | ADOSH should ensure each standard is adopted by the due date. | ADOSH will continue to work with the ICA Legal Division to adopt standards in a timely manner. This will include an initial meeting to discuss the standard, assignment to an available attorney, a follow-up meeting to discuss any specifics related to the standard, request for rule making, documentation sent to the Attorney General’s Office for review, and then posting in the Arizona Administrative Register.  | 08/1/2022 | Completed10/18/2022 |
| FY 2021-10 | Requirements for adopting Federal Program Changes (FPCs) were not completed within six-months of the effective date of the directive or official issuance date of the Federal Register Notice. | ADOSH should ensure that they meet the requirements for response and adoption of OSHA’s Federal Program Changes. | ADOSH will continue to work with the local and regional offices when adopting FPC that are required and update the SPA when specified in OSHA’s document. | Not applicable | Open02/24/2023 |
| FY 2021-11 | ADOSH conducted 1.85% (nine of 486) of inspections in state and local government agencies, which was below the FRL range of 4.32% to 4.77% (SAMM 6). | ADOSH should ensure action is taken to meet inspection goals for state and local government agencies. | ADOSH developed annual goals for public and local entity inspections as part of our 5-year goals. Monthly, the Phoenix Assistant Director of Compliance will run a Salesforce report and an OIS SAMM report to determine ADOSH’s FRL range for state and local governments and determine if additional inspections are needed. | 11/15/2022 | Completed11/15/2022 |

### Appendix D – FY 2022 State Activity Mandated Measures (SAMM) Report

FY 2022 Arizona Division of Occupational Safety and Health Follow-up FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 3.14 | 7 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 1.38 | 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) | 17.07 | 3 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 9.66 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | 100% | 100% | The further review level is fixed for all State Plans. |
| 4 | Number of denials where entry not obtained | 0 | 0 | The further review level is fixed for all State Plans. |
| 5a | Average number of violations per inspection with violations by violation type (SWRU) | 1.35 | +/- 20% of1.77 | 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 2.12 for SWRU.  |
| 5b | Average number of violations per inspection with violations by violation type (other) | 1.56 | +/- 20% of0.90 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.72 to 1.08 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 13.14% | +/- 5% of5.16% | 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 4.90% to 5.42%. |
| 7a | Planned v. actual inspections (safety) | 244 | +/- 5% of 505 | 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 479.75 to 530.25 for safety. |
| 7b | Planned v. actual inspections (health) | 106 | +/- 5% of 270 | 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 256.50 to 283.50 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $1,191.59 | +/- 25% of $3,259.35 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,444.51 to $4,074.19. |
|  | **a**. Average current serious penalty in private sector (1-25 workers) | $953.00 | +/- 25% of $2,145.46 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,609.10 to $2,681.83. |
|  | **b**. Average current serious penalty in private sector (26-100 workers**)** | $1,250.55 | +/- 25% of $3,818.56 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,863.92 to $4,773.20. |
|  | **c**. Average current serious penalty in private sector(101-250 workers) | $1,760.50 | +/- 25% of $5,469.60 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,102.20 to $6,837.00. |
|  | **d**. Average current serious penalty in private sector(greater than 250 workers) | $2,302.78 | +/- 25% of $6,725.78 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,044.34 to $8,407.23. |
| 9a | Percent in compliance (safety) | 36.36% | +/- 20% of32.25% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.80% to 38.70% for safety. |
| 9b | Percent in compliance (health) | 31.76% | +/- 20% of44.42% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.54% to 53.30% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 88.89% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 64.29 | +/- 20% of 54.58 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 43.66 to 65.50 for safety. |
| 11b | Average lapse time (health) | 46.03 | +/- 20% of 69.03 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 55.22 to 82.84 for health. |
| 12 | Percent penalty retained | 98.64% | +/- 15% of69.97% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 59.47% to 80.47%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 99.14% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below.  |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 17 | Percent of enforcement presence | 0.31% | +/- 25% of1.64% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.23% to 2.05%. |

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D are pulled from the State Activity Mandated Measures (SAMM) Report in OIS run on November 14, 2022, as part of OSHA’s official end-of-year data run.

\*Due to the transition of 11(c) data from IMIS to OIS, SAMMs 14, 15, and 16 are not being reported for FY 2022.