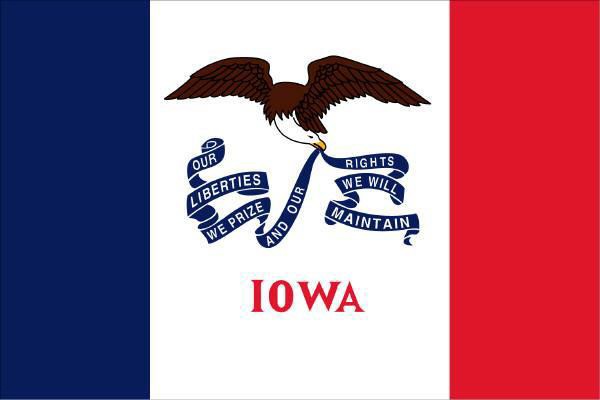
# FY 2022 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**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 7**

**Kansas City, MO**



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## Executive Summary

The primary purpose of this report is to assess the Iowa Occupational Safety and Health Administration’s (IOSHA’s) activities for Fiscal Year (FY) 2022 and its progress in resolving the one outstanding finding and five observations from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

No new findings or observations were identified during this Follow-up FAME. Additionally, significant progress was documented for the one finding from the FY 2021 Comprehensive FAME. Therefore, a determination was made to close out the finding. For the remaining five observations, corrective actions were noted to be in progress. The final status of the five observations will be verified during the onsite case file review scheduled as part of the FY 2023 Comprehensive FAME.

The finding from the FY 2021 Comprehensive FAME Report, identified the average number of working days to initiate non-formal complaint investigations as 2.16 days, exceeding the further review level (FRL) of one day. IOSHA has since reduced the average number of working days to 0.93 (below the FRL), primarily through the action of assigning an additional duty officer. The observations from the FY 2021 Comprehensive FAME Report concerned violation worksheets not containing adequate information to establish employer knowledge, and inadequate severity and probability justifications of cited hazardous conditions. Other observations concerned Voluntary Protection Program (VPP) file documentation, to include absent employer annual self-evaluation reports and absent abatement completion for VPP audit findings. These observations were immediately addressed by IOSHA by providing training, additional supervisor oversight, and mentorship. The observations will be a focus of the FY 2023 Comprehensive FAME.

Throughout FY 2022, IOSHA maintained partnerships with ten construction companies and alliances with four local associations. IOSHA also participates in a regional and national alliance. The state also maintains 38 companies in VPP Star status.

IOSHA completed a process improvement that positively impacted its performance. Historically, it had relied upon a card file system consisting of paper card files of every company in Iowa that had an OSHA inspection or complaint filed against the company. There were thousands of paper card files that had to be pulled and information added to document an inspection or complaint. IOSHA contracted with a company to electronically scan all the card files and store them in a database that compliance safety and health officers (CSHOs) can access from their computers and make entries.

Compliance Assistance and Education worked together to provide outreach materials, such as the OSHA Quick Cards, publications and other forms or handouts during compliance assistance activities. These activities include promotions, interventions, presentations and providing staff at booths during conferences. A new incentive was to reach workers in animal production companies in Iowa and outreach materials and compliance assistance was provided to this group. The compliance assistance staff continues to work with several specific high hazard industries including farm warehouse and storage, highway bridge and street construction, farm product raw wholesalers, and masonry contractors. Compliance Assistance and Education continues to follow enforcement initiatives including asbestos, amputations, grain safety, falls in construction and general industry along with all federal initiatives.

There were no CASPAs filed during FY 2022 and IOSHA continues to maintain a high level of program performance and is responsive to OSHA requests in identifying findings and recommendations. Quarterly, the State Plantate does a self-audit to continue to improve the program.

## State Plan 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. The Labor Services Division is administered by the Commissioner of Labor, and the IOSHA program is administered by the IOSHA Administrator. Currently, the Commissioner of Labor position is vacant. Mr. Rod Roberts left this post in late January 2023. Mr. Russel Perry is the IOSHA Administrator. Under Mr. Perry’s supervision is enforcement, public sector consultation, training and education, whistleblower/discrimination, compliance assistance, statistical, administrative support, legal staff, and respective management. IOSHA’s enforcement personnel benchmark is 16 safety compliance officers and 13 health compliance officers. By the end of the FY 2022, IOSHA had a total of 25 compliance officers, 13 safety and 12 health. Because of staff turnover, seven of the 13 safety compliance officers have less than one year experience. Two public service manager positions are responsible for the daily supervision of the enforcement field staff. A full-time compliance assistance specialist, along with four (4) consultants, comprise the Cooperative Programs section, which includes VPP. IOSHA also has a full time Whistleblower Investigator.

Iowa OSHA Consultation and Education for the state and local government sector are supported by two consultants supervised by Ms. Peggy Peterson, OSHA 21(d) Consultation Program Manager. IOSHA’s Consultation and Education program and cooperative programs complement the enforcement effort to reduce exposure to occupational hazards and attempt to reduce fatalities.

IOSHA adopted most OSHA standards as promulgated, and its enforcement program functions are very similar to OSHA’s program with no significant differences. 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 was awarded $2,206,100 for FY 2022 through the federal grant. Coupled with state matching funds and recipient funding, IOSHA’s operating budget for FY 2022 was $4,725,979 primarily utilized for personnel expenses.

**New Issues**

It is noted that at the time of this Follow-up FAME Report, the State of Iowa government has introduced House Study Bill 126 which is aimed to consolidate Iowa’s 37 cabinet agencies into 16. If and/or when this bill passes, it would take the Division of Labor out from underneath the Iowa Workforce Development Agency and placed under the Division of Inspections, Appeals, and Licensing (DIAL). It is anticipated that after the bill passes and is in effect, a new Labor Commissioner will be appointed.

## Assessment of State Plan Progress and Performance

### Data and Methodology

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

* State Activity Mandated Measures (SAMM) Report
* State Information Report (SIR)
* Mandated Activities Report for Consultation (MARC)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

#### Findings (Status of Closed, Continued, and New)

This Follow-up Report contains no new findings. The State Plan made progress in addressing the only previous finding from the FY 2021 Comprehensive FAME Report. This follow-up FAME Report describes the finding in the FY 2021 FAME that was determined to be completed and therefore, closed. Appendix C describes the status of the FY 2021 finding and recommendation in detail.

**Closed FY 2021 Finding(s)**

**Finding FY 2021-01:** In FY 2020, SAMM 2a data showed the average number of working days to initiate a non-formal complaint investigation was 2.95 days, which was outside the FRL of one day.

**Status:** IOSHA assigned two fulltime CSHOs to handle duty officer responsibilities, which reduced the number of working days from 2.95 days to 0.93 days; this is below the FRL of one day. This item is complete.

#### Continued FY 2021 Finding(s)

None

**New FY 2022 Finding(s)**

None

**Observations (Status of Closed, Continued, and New)**

The State Plan made progress in addressing the previous five observations from the FY 2021 Comprehensive FAME Report. The observations were immediately addressed by IOSHA by providing training, additional supervisor oversight, and mentorship. This follow-up FAME Report describes all five observations that are continued from the FY 2021 FAME. Appendix B describes observations subject to continued monitoring per the related federal monitoring plan.

**Closed Observations**

None

**Continued FY 2021 Observations**

**Observation FY 2021-01:** In FY 2021, seven 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.

**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 will be continued.

**Observation FY 2021-02:** In FY 2021, 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.

**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 will be continued.

**Observation FY 2021-03(FY 2020-03):** In FY 2021, five of the 45 (11%) non-in-compliance case files did not include adequate severity and probability justifications in the worksheets.

**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 will be continued.

**Observation FY 2021-04:** In FY 2021, several files reviewed did not contain last year’s self-evaluation reports from VPP participants. CSP 03-01-005 Section VII.L.7 states that self-evaluation reports should be maintained in the participant’s file.

**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 will be continued.

**Observation FY 2021-05:** In FY 2021, final communication documents showing completed audit item findings between IOSHA and the VPP participant were omitted from the file.

**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 will be continued.

**New FY 2022 Observations**

None

### State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon FRL, which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan’s FY 2022 State Activity Mandated Measures (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 in 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 Plan’s whistleblower programs for FY 2022.

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

**SAMM 5b - Average number of violations per inspection with violations by violation type (other)**

Discussion of State Plan data and FRL: The FRL for the average number of violations per inspection with violations by violation type (other) is +/- 20% of 0.90 or a range of 0.72 to 1.08. The IOSHA data for this measure is 0.53 violations.

Explanation: IOSHA was outside the FRL for (other) violations on the low range. The three-year average for SWRU violations was slightly **above** the three-year average for SWRU violations. IOSHA inspectors identified more hazards in the workplace classified as serious that are likely to have a positive impact on the safety and health of Iowa’s workers.

**SAMM 7b – Planned vs. actual inspections (health)**

Discussion of State Plan data and FRL: The FRL for planned versus actual inspections for health ranges from 208.05 to 229.95. IOSHA conducted 194 of the 219 planned health inspections, thus outside the FRL.

Explanation: During FY 2022 the state experienced significant staff turnover. IOSHA hired six new CSHOs: three industrial hygienists and three safety compliance officers. This resulted in 25% and 23%, respectively, of the total number of CSHOs to be in trainee status. Due to these circumstances, this result does not rise to the level of an observation. OSHA will continue to discuss this performance measure during quarterly meetings.

**SAMM 8 – Average current serious penalty on private sector with 1 to greater than 250 workers**

Discussion of State Plan data and FRL: The FRL for average current serious penalty in private sector with 1 to greater than 250 workers is +/-25% of $3,259.35, or a range of $2,444.51 to $4,074.19. IOSHA’s average current serious penalty is $5,343.66 which is above the FRL.

Explanation: IOSHA penalties for serious violations continues to be above FRL showing a strong enforcement that mirrors OSHA’s penalty structure. These penalties continue to be a strong deterrent to ensure safe and healthful workplaces for the employees in Iowa.

**SAMM 9b – Percent in-compliance (health)**

Discussion of State Plan data and FRL: The FRL for percent in-compliance for health inspections is +/-20% of 44.42%, which equals a range from 35.54% to 53.30%. IOSHA’s percent in-compliance for health was 60.23%, which was higher than the FRL.

Explanation: Iowa State Code, Chapter 88B, Asbestos Removal and Encapsulation, mandates that at least once a year, during an actual asbestos project, an on-site inspection of each asbestos contractor will be performed. IOSHA’s Local Emphasis Program (LEP) for Asbestos in Construction establishes the procedures for targeting asbestos project worksites. During FY 2022, over 50% of the health inspections were completed under this program, many of which resulted in no violations found. During FY 2022, the CSHO that performs many of the asbestos inspections completed the OSHA Training Institute (OTI) Construction Standards training, with the goal to enhance hazard recognition at these sites. Due to the circumstances, this result does not rise to the level of an observation. OSHA will continue to discuss this performance measure during quarterly meetings.

**SAMM 10 – Percent of work-related fatalities responded to in one day.**

Discussion of State Plan data and FRL: The FRL for response to work-related fatalities, is one day. IOSHA responded to fatalities in one day 92% of the time, which is outside the FRL.

Explanation: Two Unprogrammed Activities (UPAs) were reported as COVID-19 illnesses and were initially handled as Rapid Response Investigations (RRIs). Subsequently, in both cases, they became fatalities. The Compliance Officers were not aware of the urgency of responding (within one day) to this type of fatality since engagement was already underway with the employers, through the RRI process. This state measure was addressed with all staff through additional training.

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

FY 2022 Iowa State Plan Follow-up FAME Report

There were no new findings in FY 2022 and no continued findings from the FY 2021 Report.

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 Iowa Follow-up FAME Report

| **Observation #**  **FY 2022-OB-#** | **Observation#**  **FY 2021-OB-01 *or* FY 2021-01** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2022-OB-01 | 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. | As part of the FY 2024 FAME, a random selection of case files will be reviewed to determine if this continues to reflect a data trend. | Continued |
| FY 2022-OB-02 | 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. | As part of the FY 2024 FAME, a random selection of case files will be reviewed to determine if this continues to reflect a data trend. | Continued |
| FY 2022-OB-03 | FY 2021-OB-03 | Five of the 45 (11%) non-in-compliance case files did not include adequate severity and probability justifications in the worksheets | Since the State Plan continues to conduct training on this issue, as part of the FY 2024 FAME, a random selection of case files will be reviewed to determine if this continues to reflect a data trend. | Continued |
| FY 2022-OB-04 | 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. | Since there is a new VPP manager and only 8 VPPs have been completed, as part of the FY 2024 FAME, a random selection of case files will be reviewed to determine if this continues to reflect a data trend. | Continued |
| FY 2022-OB-05 | FY 2021-OB-05 | Final communication documents showing completed Audit Item Findings between IOSHA and the VPP participant were omitted from the file. | As part of the FY 2024 FAME, a random selection of case files will be reviewed to determine if this continues to reflect a data trend, since there is a new VPP manager. | Continued |

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

FY 2022 Iowa Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2021- #** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| **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 will continue to review their complaint process to ensure that the investigation complaint process continues to be within one day, on average. | IOSHA has assigned two full time Compliance Officers to handle Duty Officer responsibilities.  Quarterly SAMM data was reviewed during quarterly meetings.  SAMM 2a statistics  FY 2020: 2.95  FY 2021: 2.16  In FY 2022, the SAMM data (SAMM 2a) showed the average number of working days to initiate a non-formal complaint investigation was 0.93 days which is within the FRL of one day. | 9/30/2022 | Completed |

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

FY 2022 IOWA OSHA Follow-up FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of workdays to initiate complaint inspections (state formula) | 3.39 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of workdays to initiate complaint inspections (federal formula) | 2.99 | 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) | 0.93 | 1 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of workdays to initiate complaint investigations (federal formula) | 0.83 | 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) | 1.78 | +/- 20% of  1.77 | 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) | 0.53 | +/- 20% of  0.90 | 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 | 4.17% | +/- 5% of  4.80% | 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 4.56 to 5.04%. |
| 7a | Planned v. actual inspections (safety) | 453 | +/- 5% of  469 | 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 445.55 to 492.45 for safety. |
| 7b | Planned v. actual inspections (health) | 194 | +/- 5% of  219 | 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 208.05 to 229.95 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $5,343.66 | +/- 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) | $1,991.00 | +/- 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**)** | $4,620.91 | +/- 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) | $6,610.90 | +/- 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) | $7,810.39 | +/- 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) | 34.26% | +/- 20% of  32.25% | 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) | 60.23% | +/- 20% of  44.42% | 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 | 92% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 52.92 | +/- 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) | 64.25 | +/- 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 | 71.35% | +/- 15% of  69.97% | 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 | 100% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 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 | 0.97% | +/- 25% of  1.64% | 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.