**FY 2023 Comprehensive**

**Federal Annual Monitoring Evaluation (FAME) Report**

**State of Illinois**

**Illinois Department of Labor**

**Division of Occupational Safety and Health (IL OSHA)**



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1. **Executive Summary**

The purpose of this report is to assess the State Plan’s performance for Fiscal Year (FY) 2023, and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) reports. This report assesses the current performance of the Illinois Department of Labor, Division of Occupational Safety and Health (IL OSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

A detailed explanation of the findings and recommendations of the IL OSHA performance evaluation is found in Section III, Assessment of State Plan Progress and Performance. The State Plan made progress to address the previous findings and observations contained in the FY 2022 Follow-up FAME which contained five continued findings, and six observations. In response to the FY 2022 report, the Illinois State Plan conducted extensive training with all enforcement staff, made improvements in their casefile management oversight, and filled several vacancies. As a result of their improvement efforts, the FY 2023 FAME report shows three findings have been closed, two findings have been converted to observations, five observations are closed, and one observation is continued. Appendix A, New and Continued Findings and Recommendations reflects that there are no new or continued findings. Appendix B describes the observations and the related federal monitoring plans. Appendix C describes the status of previous findings with associated completed corrective actions.

The State Plan has been committed to filling vacancies that have existed since the State Plan’s initial approval as a Developmental Plan. Over the years, staff vacancies have created problems and challenges in several areas, including failure to accomplish the State Plan’s inspections goals; and failing to complete the final developmental steps necessary to become an approved plan. At the start of FY 2023, eight positions were vacant and the State Plan experienced changes and/or turnover in 10 different staff positions. Throughout the year the State Plan continued to fill positions and finished the year with five vacancies.

The IL OSHA Strategic Management Plan for FY 2021 to FY 2026 established three strategic goals. In the FY 2023 State OSHA Annual Report (SOAR), IL OSHA provided information that outlines their accomplishments toward meeting their Five-Year Strategic Management Plan. Their progress at meeting performance plan goals has been reviewed and analyzed, and the State Plan met or exceeded all six annual performance goals.

Quarterly monitoring meetings were held during FY 2023, at which time the State Activity Mandated Measures (SAMM) report, the State Indicators Report (SIR), FY 2022 Illinois Corrective Action Plan (CAP), and the State Plan’s own internal tracking reports were reviewed and discussed with IL OSHA management staff. The FY 2023 SAMM is Appendix D of this report.

**II. State Plan Background**

1. **Background**

IL OSHA operates a state and local government only OSHA State Plan. The Illinois State Plan was approved as a Developmental Plan on September 1, 2009. During FY 2023, the period of this report, Mr. Erik Kambarian was IL OSHA’s Division Chief, administering the Illinois State Plan under Mrs. Jane Flanagan, Director of the Illinois Department of Labor. IL OSHA protects state and local government employees by enforcing safety and health standards, providing consultation services, investigating both occupational safety and health as well as whistleblower complaints, adopting OSHA standards, and providing outreach services.

Since approval as a Developmental Plan on September 1, 2009, IL OSHA has requested multiple extensions to complete its developmental steps. In FY 2023 IL OSHA worked diligently to move successfully forward in their developmental steps. Working with OSHA, IDOL worked to fill the remaining vacancies to move the program out of the developmental stage. Unfortunately, due to significant employee turnover the effort was not successful. In FY 2023 IL OSHA filled three positions with promotions from within the state plan and hired seven new staff. IL OSHA is committed to obtaining certification and moving beyond the developmental stage. The commitment to fill all vacant positions will continue in FY 2024.

The IL OSHA FY 2023 grant included full-time equivalent (FTE) staffing of 19.35 positions. The State Plan’s expected staffing level includes a division chief, two regional enforcement managers, one administrative assistant, one office associate, 11 safety inspectors, three industrial hygienists, two consultation supervisors, four consultants an occupational safety and health (OSH) coordinator, and a marketing and outreach coordinator. The division chief, consultation staff, administrative staff, the OSH coordinator and the marketing and outreach coordinator split their time between the 23(g) state and local government enforcement program and the 21(d) private sector consultation program.

The FY 2023 grant included funding totaling $2,513,400. IL OSHA did not deobligate or request any additional funding during FY 2023.

1. **New Issues**

None

**III. Assessment of State Plan Progress and Performance**

1. **Data and Methodology**

OSHA established a two-year cycle for the FAME process. FY 2023 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A five-person OSHA team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted virtually during the timeframe of January 26, 2024, through February 21, 2024. A total of 88 safety, health, and whistleblower inspection case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct 1, 2022, through September 30, 2023). The selected population included:

* Three (3) fatality case files
* Thirty (30) non-fatality safety inspection case files
* Seventeen (17) non-fatality health inspection case files
* Twenty (20) complaint/referral Inquiry case files
* Nine (9) docketed whistleblower complaint files
* Nine (9) administratively closed whistleblower complaint files

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

* State Activity Mandated Measures Report (Appendix D)
* State Information Report
* Mandated Activities Report for Consultation
* State OSHA Annual Report
* State Plan Annual Performance Plan
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* Fullcase file review

Each State Activity Mandated Measures (SAMM) Report has an agreed-upon Further Review Level (FRL) which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan’s FY 2023 State Activity Mandated Measures Report and includes the FRL for each measure.

1. **Review of State Plan Performance**

**1. PROGRAM Administration**

1. Training

IL OSHA follows OSHA’s policy and guidelines for implementing competency-based training programs for compliance personnel (TED 01-00-019 Mandatory Training Program for OSHA Compliance Personnel). New compliance personnel attend, at a minimum, two initial courses in their first year and six courses specific to their job classification by the end of their third year. The staff attends the required training normally hosted at the OSHA Training Institute (OTI), located in Arlington Heights, Illinois. Additionally, other opportunities outside of the organization are made available when it would improve staff knowledge and performance.

1. OSHA Information System

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

In FY 2023, IL OSHA received 498 complaints, fatality/catastrophe reports, and referrals. Of these, 46 resulted in on-site inspections and 159 were processed as non-formal complaints via the inquiry process. (Source: UPA Auditing report dated March 4, 2024)

1. State Internal Evaluation Program Report

In FY 2023 IL OSHA's enforcement program had external audits and oversight from the Chief Internal Auditor of the Illinois Department of Labor in accordance with the Fiscal Control and Internal Auditing Act (30 ILCS 10/2003) to assure proper fiscal and administrative controls. Multiple audits were conducted during the year by external State Auditing entities and are made available upon request to the State Plan Monitor and OSHA Region V.

Internally IL OSHA runs a continuous and ongoing auditing program. Reports, evaluating operations, are run weekly, monthly, and quarterly utilizing the ‘Reports’ functions built into OIS as well as reports run by the financial operations team. The internal audits are utilized to evaluate and monitor the effectiveness of the operations at all operational levels to include financial and annual goals.

1. Staffing

The IL OSHA organizational staffing includes a division chief, two regional enforcement managers, one administrative assistant, one office associate, 11 public safety inspectors, three industrial hygienists, an occupational safety and health (OSH) coordinator, and a marketing and outreach coordinator. Consultation support is provided by two consultation supervisors, two safety and two health consultants who split time between the 23(g) and the 21(d) consultation programs. The IL OSHA program is comprised of 19.35 full-time equivalent (FTE) staffing positions.

In FY 2023 the whistleblower protection operations were supervised by the OSH coordinator with shared resources comprising two safety inspectors who split their time.

In FY 2023 IL OSHA had staffing changes and/or turnover in 10 different positions throughout the year. At the start of the year there were eight vacant positions and, despite the higher-than-expected turnover, finished the year with five vacancies: three safety and two industrial hygiene inspector positions. IL OSHA is committed to filling all vacant positions.

**2. ENFORCEMENT**

IL OSHA enforces safety and health standards only in state and local government workplaces. In FY 2023, IL OSHA conducted 315 inspections: 206 safety and 109 health, with no denials of entry in inspections. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #4, #7a and #7b) Of the 315 inspections, 229 were programmed and 86 were unprogrammed, which consists of complaints, referrals, follow-up, injury, and fatality inspections. (Source: Inspection Summary Report dated January 18, 2024)

a) Complaints

During FY 2023, IL OSHA received 498 complaints, of which 266 (53%) were formal and 68 (14%) were non-formal, 147 fatality/catastrophe reports, which include fatalities and hospitalization of one or more employees, and 17 referrals. (Source: UPA Auditing report dated March 4, 2024) The average number of days to initiate a complaint inspection in FY 2023 was 6.11 days for all (both safety and health) complaints. This is below the negotiated standard of five days for safety and 10 days for health complaints. All items were addressed in the 11 un-programmed inspections reviewed. The average number of days to initiate a complaint investigation was 1.55, below the negotiated standard of three days. The State Plan received no imminent danger complaints nor had any entry refusals in FY 2023. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #1a and #2a)

1. Fatalities

IL OSHA had 26 fatalities reported during FY 2023. The State Plan appropriately screened out 16 as not OSHA covered and/or having no jurisdiction. The 10 remaining fatalities were inspected with three of them being closed, finalized, and available during the on-site review. These files were generally well documented with hazards identified and citations issued appropriately.

The FRL for the percent of work-related fatalities responded to in one workday, SAMM 10, is fixed for all State Plans at 100%. IL OSHA responded to 10 (100%) of the fatality cases within one workday. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #10)

In the FY 2022 FAME IL OSHA’s fatality file Investigation Summary form abstracts, which describes what happened to the victim, lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event in accordance with the IL OSHA Field Operations Manual (FOM), Chapter 10-2, Paragraph D, subparagraph 2. The concern was noted as an observation in the FY 2021 Comprehensive FAME Report and continued in the FY 2022 Follow-up FAME Report (FY 2022-OB-01). During the FY 2023 comprehensive FAME audit the fatality file investigation summary forms were found to be clear and comprehensive in accordance with the Illinois OSHA FOM and consequently Observation FY 2022-OB-01 was closed.

OSHA places a high priority on communicating with the next-of-kin after a workplace fatality and every effort should be made to make contact as soon as possible after opening a fatality inspection. It was noted in the FY 2021 comprehensive FAME Report that IL OSHA did not attempt an initial contact via telephone with the next-of-kin in any of the fatality investigations as required by the compliance directive referenced in the Illinois FOM. In all cases, the initial contact made with the next-of-kin was done through letters sent out upon opening the inspection. It was noted as an observation in the FY 2021 Comprehensive FAME Report and continued in the FY 2022 Follow-up FAME Report (FY 2022-OB-02).

IL OSHA updated their Field Operations Manual on October 1, 2023, to ensure Chapter 10-2 of the Illinois FOM provides clear and correct instruction and guidance for fatality investigations and harmonizes with OSHA’s Field Operations Manual and Compliance Directive Number, CPL 02-00-164. During the FY 2023 comprehensive FAME audit, it was found that in all cases, a management representative made efforts to contact the next of kin in accordance with the IL OSHA FOM and consequently Observation FY 2022-OB-02 was closed.

c) Targeting and Programmed Inspection

During FY 2023, IL OSHA conducted 315 inspections, with approximately 73% opened as programmed inspections. IL OSHA has created a Site-Specific Targeting (SST) plan titled the Program Planned Inspection (PPI) program. IL OSHA uses the PPI program to help target and prioritize inspections for high hazard state and local government employer establishments. IL OSHA’s high hazard inspection targeting system is based on OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections (January 4, 1995), which is based on Bureau of Labor Statistics (BLS) injury/illness rate data. The BLS data and the PPI program helped IL OSHA meet activity measures and achieve its goal of reducing the number of injuries and illnesses that occur at state and local government employer establishments by directing enforcement resources to those establishments where the highest rate of injury and illness has occurred.

IL OSHA’s five-year strategic management plan emphasizes a 3% annual increase in the number of serious safety and health violations abated, over the baseline average, in the four targeted high-hazard industries. The targeted high-hazard industries include the following North American Industry Classification System (NAICS) business establishments: 237310 – Highway, Street, and Bridge Construction, 922160 Fire Protection, 221310 Water Supply and Irrigation Systems, and 221320 Sewage Treatment Facilities. FY 2023 was the third year of the five-year strategic plan and IL OSHA met and exceeded their annual incremental goal of a 3% increase over the baseline average in the four targeted high-hazard industries. (Source: Illinois FY 2023 State OSHA Annual Report)

The FRL for the planned vs. actual inspections is based on the number of inspections negotiated by OSHA and the State Plan through the grant application. For FY 2023 IL OSHA established a projected goal of 500 inspections: 400 safety and 100 health. The range of acceptable number of inspections conducted is +/- 5% of the projected 400 safety inspections (380 to 420) and +/- 5% of the projected 100 health inspections (95 to 105). IL OSHA completed 109 (109%) health inspections for a total of 315 (63%) inspections. The total number of planned vs. actual (health) (SAMM 7b) inspections being four over the FRL is not a concern.

The IL OSHA State Plan establishes inspection goals for each inspector based on their experience and training. These inspection goals are monitored on a weekly basis to ensure annual goals are achieved for each inspector position filled. This is reflected in the State Plan’s success with achieving and exceeding their planned health inspections in FY 2022 and FY 2023.

Starting in FY 2022, the State Plan experienced a higher than anticipated turnover in staffing which impacted their availability of safety inspectors and the FY 2022 FAME Report noted that the State Plan failed to meet their number of planned vs actual inspections (safety) (SAMM 7a) and it was included as a new observation (FY 2022-OB-06). The vacancy struggles carried through FY 2023 where they experienced turnover with six (55%) of their safety inspectors. The IL OSHA Program worked aggressively and in FY 2023 they were able to fill five of the six safety positions. While they were successful in filling the vacancies throughout FY 2023 the State Plan conducted 206 (51.8%) safety inspections which is below the 380 to 420 inspection FRL for the total number of planned vs. actual (safety) (SAM 7a) inspections. Consequently, this concern will continue to be monitored in FY 2024 as Observation FY 2023-OB-01. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #7a, and #7b.)

The State Plan’s percent in compliance rate of 11.7% for safety cases and 17.65% for health cases is below the FRL. The range of acceptable data not requiring further review is from 25.38% to 38.08% for safety and from 35.06% to 52.58% for health. Additionally, the State Plan’s average number of violations per inspections with violation-by-violation type Serious, Willful, Repeat, and Unclassified (SWRU) of 4.04 is above the FRL range of 1.40 to 2.10. The State Plan’s average number of violations (1.13) for Other-Than-Serious (OTS) violations is below the FRL range of 0.71 to 1.07. The further review level for each of these three activity measures is based on a three-year national average and warranted a closer look as a part of the on-site case file review. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #5a, #5b, #9a and #9b)

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

**Observation FY 2023-OB-01 (FY 2022-OB-06):** The Illinois State Plan’s number of planned vs actual inspections (safety) (SAMM 7a) is below the further review level of 380 safety inspections. The Illinois State Plan conducted 206 safety inspections (52%) of the 400 planned safety inspections.

**Federal Monitoring Plan FY 2023-OB-01:** OSHA will discuss and evaluate Illinois OSHA’s inspection strategies and progress during quarterly monitoring meetings.

d) Citations and Penalties

In IL OSHA’s FOM, Chapters 5 and 6 contain the requirements and policies for case file preparation, documentation, and penalties. The citations and penalties proposed for issuance are reviewed at multiple levels in the State Plan’s management system prior to issuance.

During FY 2023, IL OSHA investigators conducted 315 inspections with 1,013 violations cited. Two hundred forty-two (77%) of the inspections resulted in violations and the State Plan issued serious, willful, and repeat violations in 226 (93%) of their inspections with citations, with another 16 inspections having only other-than-serious citations issued. The State Plan issued 1,013 serious violations, two willful violations, 12 repeat violations, 286 other-than-serious (OTS) violations, five failure-to-abate (FTA) violations, and 83 hazard alert letters used to inform the employer of potential hazards that do not meet criteria for citation issuance. (Source: Inspection Summary Report dated January 18, 2024)

As a state and local government workplace enforcement program, IL OSHA only assesses penalties on repeat, willful, and FTA violations. In FY 2023 the State Plan initially issued a total of $139,590.00. Following settlement, the State Plan maintained $97,374.00 (70%) of the originally issued penalties. Settlement penalty amounts included $6,000.00 in Serious penalties; $28,750.00 in Repeat penalties; $20,000.00 in Willful penalties, and $42,624.00 in FTA penalties. (Source: Inspection Summary Report dated January 18, 2024)

With an average lapse time of 27.05 days for safety and health inspections and 27.01 days for health inspections, IL OSHA is below the FRL for both safety and health inspections. The FRL for the average lapse time is +/- 20% of the three-year national average. The range of acceptable data not requiring further review is from 44.18 to 66.28 for safety, and from 55.78 to 83.66 for health inspections. The State Plan focuses on efficient case file management and post onsite case file write-ups. Additionally, as a public employer enforcement only program, the hazards addressed are focused on a smaller variety of workplaces allowing for the same or similar violative conditions to be addressed on a regular basis. These factors allow for a quick write-up and issuance of the inspections and subsequently abatement activity to be completed as soon as possible. The State Plan being below the FRL for average lapse time is not a concern. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #11a and #11b)

The 50 FY 2023 case files reviewed were evaluated to determine the success of the State Plan to address one previous finding and three previous observations associated with inspection documentation and violation support. These include Finding FY 2022-01: files with violations did not contain adequate documentation of the information required to support the violations, Observation FY 2022-OB-03: files lacked specificity and clarity in the severity and probability information as to how it was directly associated with the condition addressed in the violation, Observation FY 2022-OB-04: the Alleged Violation Description (AVD), for files with violations, was not clear or did not describe the nature of the violation with particularity, and Observation FY 2022-OB-05: the AVD language associated with general duty violations was not consistent with the instructions and provisions required in IL OSHA’s FOM Chapter 4-3. As a result of the on-site case file review, the State Plan made significant progress in addressing these concerns and Finding FY 2022-01 is completed, Observation FY 2022-OB-03, Observation FY 2022-OB-04 and Observation FY 2020-OB-05 are closed.

1. Abatement

IL OSHA investigators work to get on-site abatement at the time of the inspection and the employer’s efforts are documented and noted in the file as corrected during the inspection. A violation can be considered corrected during the inspection (CDI) when the investigator observes the correction to the specific violation. IL OSHA documented the information on how the violation was abated in the violation worksheet. This policy is outlined in the FOM. During the FY 2023 review, no concerns were noted with the use of CDI to close abatement.

The state plan has continued to focus on proper abatement periods, adequate verification and evidence, and proper utilization of the Petition for Modification of Abatement date (PMA) process. IL OSHA has a PMA processing form to ensure all PMA requests document the interim worker protection during the abatement period. Follow-up inspections are conducted when appropriate.

The 50 case files reviewed contained 225 violations issued in FY 2023 by the State Plan. In all cases appropriate abatement periods were determined and justified. Abatement extensions were granted where appropriate and in one case the employer was past due on their abatement. The State Plan sent the appropriate notification letter and following that issued another abatement verification citation for failure to provide abatement.

The IL OSHA FOM outlines the criteria for conducting a Follow-up inspection which very closely mirrors OSHA’s policies and procedures and in FY 2023 11.82% of their inspections were Follow-up inspections. Of the 50 case files reviewed seven were Follow-up inspections and where hazards were identified, additional citations were issued when appropriate.

1. Worker and Union Involvement

IL OSHA’s regulations and written procedures for worker and union involvement are equivalent to federal regulations and procedures. During the opening conference, inspectors are required to verify if workers at the facility are represented by a union. Local union contact information, including names, addresses, and phone numbers, was included in the files. If an “authorized union representative” was not available, any worker at the site, who was a member of the union, was asked to participate in the inspection. The State Plan achieved 100% in SAMM #13 – Percent of initial inspections with worker walk around representation or worker interview. (Source: Appendix D – FY 2023 State Mandated Measures (SAMM) Report, SAMM #13)

Employee interviews are an important part of any inspection and proper documentation of any interview is essential. The Illinois FOM, Chapter 3-7 Walk-around Inspection, paragraph C (3) requires that employee interview statements are to be documented in a thorough and accurate manner.

The 50 FY 2023 case files reviewed were evaluated to determine the success of the State Plan to address Finding FY 2022-02: employee interviews were not conducted or properly documented. The State Plan made significant progress in addressing these concerns. In all the files reviewed, employee interviews were conducted, however, in fifteen (30%) of the 50 files, the documentation of the employee interviews was limited. In several instances it was noted who was interviewed only and others had one or two sentences documenting the interview. Finding FY 2022-02 is being refined to focus on effective documentation of the interviews and converted to an observation.

**Observation FY 2023-OB-02 (FY 2022-02):** Fifteen of the 50 (30%) files reviewed, employee interviews were not thoroughly documented as required by Chapter 3-7. C.3 of the Illinois FOM.

**Federal Monitoring Plan FY 2023-OB-02:** In FY 2024, a limited number of case files will be selected randomly and reviewed to determine if this item was addressed.

**3. REVIEW PROCEDURES**

1. Informal Conferences

IL OSHA’s procedures for conducting informal conferences closely align with OSHA’s and are outlined in Chapter 8, Settlements of the Illinois FOM. As a state and local government state plan, IL OSHA does a limited number of informal conferences a year. Employers are given 15 working days to request and participate in an informal conference. The Illinois FOM requires extensive meeting notes and documentation associated with the Informal Conference meeting to record all actions taken. The employer’s arguments and presented evidence shall be recorded along with the actions taken by the management team. Modifications to the citations, including changes to penalties and classifications, are required to be well documented and appropriate for the circumstances.

In FY 2023 the State Plan had one employer participate in an informal conference and two other requests pending at the time of the FAME audit. This inspection was not included in the audit. Historically, the State Plan has been effective at the informal conference in reaching an informal settlement agreement.

As a state and local government state plan, civil penalties and criminal penalties provided in the Illinois OSH Act are used on a limited basis to serve as an effective deterrent for public sector employers. Section 85 of the Illinois OSH Act provides the Director of IDOL with the statutory authority to propose civil penalties for violations of the Act. While the State Plan can assess penalties for all types of violation classifications, they are normally assessed for repeat, willful, failure-to-abate, instance-by-instance, and, in special circumstances, serious violations. In FY 2023 IL OSHA issued penalties in 12 cases, with a total of $116,670.00 issued. Of the 12 cases, two were currently contested and one was in the Informal Conference settlement process. Of the nine remaining cases with penalties, IL OSHA maintained the full initially assessed penalty amount.

1. Formal Review of Citations

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

Of the 315 inspections conducted in FY 2023, only four cases were contested and all four were still in contest at the end of FY 2023. (Source: Scan Summary Report dated January 23, 2024)

**4. Standards and Federal Program Change (FPC) Adoption**

1. Standards Adoption

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

During FY 2022 and FY 2023, six applicable standards were initially required to be adopted, including the annual adjustments to civil penalties, COVID-19 Emergency Temporary Standard, and the Final Rule to Improve Tracking of Workplace Injuries and Illnesses. The Emergency Temporary Standard for COVID-19 Vaccination and Testing was withdrawn and IL OSHA did not adopt the standard.

In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum and minimum penalties. See [81 FR 43429](https://www.federalregister.gov/d/2016-15378). As required by law, OSHA then increased penalties annually, most recently on January 15, 2024, according to the Consumer Price Index (CPI). See 2024 Annual Adjustments to OSHA Civil Penalties, available at [2024 Annual Adjustments to OSHA Civil Penalties | Occupational Safety and Health Administration](https://www.osha.gov/memos/2024-01-08/2024-annual-adjustments-osha-civil-penalties); [89 FR 1810](https://www.federalregister.gov/documents/2024/01/11/2024-00253/federal-civil-penalties-inflation-adjustment-act-annual-adjustments-for-2024) (Jan. 11, 2024).

There are currently 22 State Plans covering both private sector and state and local government workers, and there are seven State Plans covering only state and local government workers. The Illinois State plan is included in the Code of Federal Regulations (CFR) at [29 CFR 1952.27](https://www.osha.gov/laws-regs/regulations/standardnumber/1952/1952.27) and is one of the seven State Plans that only covers state/local government workers only. As a public employer only program the State Plan is not required to adopt the Annual Adjustment to Civil Penalties for Inflation. The Illinois Occupational Safety & Health Act provides the statutory authority to propose civil penalties for violations of the act for state and local government agencies.

The Illinois State Plan submitted all applicable standard rule responses timely and adopted all applicable standards timely.

**Table A**

**Status of FY 2022 and FY 2023 Federal Standards Where Adoption Was Required**

(May include any delinquent standards from earlier fiscal years)

| **Standard** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| COVID-19 Vaccination and Testing; Emergency Temporary Standard  29 CFR 1910, 15, 17, 18, 26, 28  (11/5/2021) | 11/20/2021 | N/A | N/A | N/A | 12/5/2021 | N/A |
| Updated COVID-19 Vaccination and Testing; Emergency Temporary Standard  29 CFR 1910  (11/5/2021) | 1/7/2022 | 12/22/2021 | No | N/A | 1/24/2022 | N/A |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act – Annual Adjustment for 2022  29 CFR 1903  (1/15/2022) | 3/15/2022 | N/A | N/A | N/A | 7/15/2022 | N/A |
| Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions  29 CFR 1910.502(q)(2)(ii), (q)(3)(ii)-(iv) and (r)  (2/14/2022) | 4/14/2022 | 2/15/2022 | Yes | Yes | 8/14/2022 | 8/14/2022 |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act – Annual Adjustment for 2023  29 CFR 1903  (1/15/2023) | 3/15/2023 | N/A | N/A | N/A | 7/15/2023 | N/A |
| Final Rule to Improve Tracking of Workplace Injuries and Illnesses  29 CFR 1904  (7/21/2023) | 9/21/2023 | 9/8/2023 | Yes | Yes | 1/21/2024 | 1/21/2024 |

1. Federal Program Change (FPC) Adoption

The State Plan continues to provide FPC adoption responses timely. All responses were submitted timely, and the State Plan adopted all the FPC’s where the OSHA directives were required, and equivalent directives were allowed. The State Plan adopted three (50%) of the six FPC’s where equivalency was required. All applicable FPC’s were adopted by their respective due dates. The State Plan did not adopt the identical compliance directives for the OSHA Whistleblower Investigations Manual, CPL 02-03-011; Severe Violator Enforcement Program (SVEP), CPL 02-00-169; and Site-Specific Targeting (SST), CPL 02-01-064. As a public employer only program the State Plan established their own compliance directives to reflect their jurisdictional coverage and internal policies and procedures. All three equivalent directives were submitted timely to OSHA for review and approval. IL OSHA did not adopt the National Emphasis Program for – Outdoor and Indoor Heat-Related Hazards CPL 03-00-024 (4/8/2022).

The Illinois State Plan established a new Illinois Whistleblower Investigations Manual and generally utilized the specific language from the OSHA Whistleblower Investigations Manual, CPL 02-03-011 2022 1875, while appropriately modifying areas not applicable to state and local government employees. IL OSHA established an equivalent Site-Specific Targeting (SST) plan developed for covered state and local government agencies. Focus is on high hazard industries, Local Fire Protection (NAICS 922160), County/Local Road (e.g. highway, street, alley) Maintenance and Construction (NAICS 237310), Water Supply and Distribution (NAICS 221310), and Sewage Treatment (NAICS 221320).

**Table B**

**Status of FY 2022 and FY 2023 Federal Program Changes (FPCs) Where Adoption Was Required**

(May include any delinquent FPCs from earlier fiscal years)

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Revised Combustible Dust National Emphasis Program  CPL 03-00-008  (1/30/2023) | 3/31/2023 | 3/16/2023 | Yes | Yes | 7/30/2023 | 3/16/2023 |
| National Emphasis Program on Warehousing and Distribution Center Operations  CPL 03-00-026  (7/13/2023) | 9/11/2023 | 9/8/2023 | Yes | Yes | 1/9/2024 | 9/11/2023 |

**Table C**

**Status of FY 2022 and FY 2023 Federal Program Changes (FPCs) Where Equivalency Was Required**

(May include any delinquent FPCs from earlier fiscal years)

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Compliance Directive for Cranes and Derricks in Construction Standard  CPL 02-01-063  (2/11/2022) | 7/3/2022 | 6/13/2022 | Yes | Yes | 11/3/2022 | 8/1/2022 |
| OSHA Whistleblower Investigations Manual  CPL 02-03-011  (4/29/2022) | 10/11/2022 | 9/29/2022 | Yes | No | 2/11/2023 | 10/28/2022 |
| Severe Violator Enforcement Program (SVEP)  CPL 02-00-169  (9/15/2022) | 11/15/2022 | 11/9/2022 | Yes | No | 3/15/2023 | 3/15/2023 |
| Site-Specific Targeting (SST)  CPL 02-01-064  (2/7/2023) | 4/8/2023 | 2/16/2023 | Yes | No | 8/6/2023 | 3/15/2023 |
| National Emphasis Program – Falls  CPL 03-00-025  (5/1/2023) | 6/30/2023 | 6/22/2023 | Yes | Yes | 10/28/2023 | 6/30/2023 |
| Consultation Policies and Procedures Manual  CSP 02-00-005  (9/29/2023) | 11/28/2023 | 10/30/2023 | Yes | Yes | 3/27/2024 | 11/28/2023 |

**Table D**

**Status of FY 2022 and FY 2023 Federal Program Changes (FPCs) Where Adoption Was Encouraged**

(May include any delinquent FPCs from earlier fiscal years)

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- |
| OSHA’s Use of Small Unmanned Aircraft Systems  CPL 02-01-169  (12/22/2021) | 2/22/2022 | 1/27/2022 | Yes | Yes | 1/27/2022 |
| National Emphasis Program – Outdoor and Indoor Heat-Related Hazards  CPL 03-00-024  (4/8/2022) | 6/8/2022 | 6/8/2022 | No | N/A | N/A |

**Table E**

**FY 2022 and FY 2023 State-Initiated Changes**

| **State-Initiated Change** | **Adoption Date** | **Effective Date** |
| --- | --- | --- |
| None |  |  |

**5. Variances**

With the creation of the Illinois Occupational Safety and Health Act [820 ILCS 219] in January 2015, the State Plan implemented administrative rules providing for the granting of temporary or permanent variances. During FY 2022 and FY 2023, there were no variance requests received or variances granted.

**6. STATE AND LOCAL government WORKER Program**

IL OSHA is a state and local government only plan; 100% of the 315 inspections were in state and local government. While penalties are normally not issued for first sanction serious citations, penalties are issued for repeat, willful, and FTA violations. In FY 2023 the State Plan issued $16,000.00 in serious penalties; $80,670.00 in repeat penalties; and $20,000.00 in willful penalties, for a total of $116,670.00 in penalties. (Source: Scan Detail Report dated January 18, 2024)

**7. WHISTLEBLOWER Program**

The IL OSHA Whistleblower Protection Program is staffed by the State Plan’s Occupational Safety and Health (OSH) Coordinator, who manages the program, and two whistleblower investigators who split time between safety inspections and whistleblower investigations. In FY 2023 the OSH Coordinator focused on the organization and administration of the whistleblower program including a comprehensive update to the Whistleblower Information Manual.

Procedurally, the IL OSHA Whistleblower Program adheres to the Illinois Department of Labor Whistleblower Investigation Manual, Effective February 16, 2023, which primarily mirrors OSHA’s Whistleblower Investigations Manual, CPL 02-03-011, and which provides guidelines for the investigation and disposition of discrimination complaints. Intakes are received by IL OSHA via phone, mail, or email. Additionally, there is a website for individuals to file online complaints. In FY 2023 all complaints were forwarded to a supervisor, who assigned the complaint to an investigator for screening when available or screened it themselves.

During FY 2023, IL OSHA docketed nine cases for investigation and administratively closed nine cases. All 18 whistleblower case files were reviewed to address three previous findings associated with the whistleblower program. The concerns included Finding FY 2022-03: whistleblower complaints were not properly processed, Finding FY 2022-04: administratively closed whistleblower intakes had an inaccurate or missing activity or telephone log, and Finding FY 2022-05: during FY 2022, the State Plan closed or completed zero whistleblower investigations.

In 17 of 18 cases reviewed, prior to closing the case, the complainant was contacted to conduct an interview and to obtain the complainant’s concurrence for closing. A memo to file was created to document the interview of the complainant and why the complaint was closed. In the final instance, the supervisor utilized an allowance for supervisory review and administrative closure of complaints that do not meet threshold requirements. IL OSHA followed established procedures in all 18 cases reviewed. Finding FY 2022-03 is completed.

All 18 whistleblower case files reviewed during the FY 2023 FAME audit contained an adequate activity or telephone log. Finding FY 2022-04 is completed.

In the second quarter of FY 2021, the Illinois Department of Labor Conciliation and Mediation Division (CONMED) transferred the whistleblower protection responsibilities to the Illinois State plan. The Illinois State Plan worked to staff and train investigators and management in the Whistleblower Protection Program policies and procedures through the rest of FY 2021 and through FY 2022. Finding FY 2022-05 addressed the State Plan’s struggles to complete and close any whistleblower cases and addressed the five docketed cases with 931 average days pending. During FY 2023 IL OSHA worked diligently to implement effective processes for the management of the whistleblower investigations and closed nine fully investigated cases using proper investigative methods and completed twenty administrative closures. FY 2023 saw an increase in whistleblower complaints and currently IL OSHA has thirteen open whistleblower complaints pending investigation, and three pending intakes. Four of those cases pending investigation are aged cases over three years. With the substantial improvement by IL OSHA to improve the whistleblower case management processes during FY 2023, Finding FY 2022-05 is being converted to Observation FY 2023-OB-03.

**Observation FY 2023-OB-03 (FY 2022- 05):** The Illinois State Plan currently has three pending docketed whistleblower cases and one pending whistleblower intake with 1,526 average days pending.

**Federal Monitoring Plan FY 2023-OB-01:** OSHA will discuss and evaluate Illinois OSHA’s progress to close docketed cases during quarterly monitoring meetings.

**8. Complaint About State Program Administration (CASPA)**

No CASPAs were received regarding IL OSHA during FY 2022 or FY 2023.

**9. Voluntary Compliance Program**

IL OSHA continued their Safety and Health Achievement Recognition Program (SHARP) for small state and local government employers in FY 2023. IL OSHA had a goal to maintain three state and local government workplaces in the SHARP program. In FY 2023 IL OSHA exceeded the goal and added one new state and local government agency to the SHARP program.

**10. STATE AND LOCAL GOVERNMENT 23(g) On-site CONSULTATION PROGRAM**

IL OSHA provides consultation services to state and local government employers through the sharing of 21(d) Consultation Program employees. In the annual performance plan for FY 2023, the State Plan 23(g) On-Site Consultation Program projected 20 state and local government consultation visits. In FY 2023, the State Plan conducted 38 total visits, exceeding their goal for the year. The visits consisted of 31 first time initial visits and all 31 (100%) initial visits were in high hazard establishments. The consultants conferred with employees on all 31 visits. The visits resulted in 51 serious hazards being identified, with 100% of the hazards being corrected in a timely manner. (Source: IL FY 2023 EOY State and Local Government MARC Report dated November 16, 2023)

| **FY 2023-#** | **Finding** | **Recommendation** | **FY 2022-# or**  **FY 2022-OB-#** |
| --- | --- | --- | --- |
|  | None |  |  |

| **Observation #**  **FY 2023-OB-#** | **Observation#**  **FY 2022-OB-# *or* FY 2022-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
|  | FY 2022-OB-01 | In six (100%) of the fatality inspections reviewed in FY 2021, the investigation summary form narrative lacked sufficient detail and information needed to provide a clear representation of the fatal incident and the factual circumstances surrounding the event consistent with Illinois OSHA FOM, Chapter 10-2, Paragraph D, subparagraph 2. |  | Closed |
|  | FY 2022-OB-02 | In all six (100%) of the fatality cases reviewed, there was no initial telephone contact with the next-of-kin of employees involved in fatal occupational injuries or illnesses consistent with OSHA Instruction CPL 02-00-166 (CPL 02-00-153) Communicating OSHA Fatality Inspection Procedures to a Victim’s Family. |  | Closed |
|  | FY 2022-OB-03 | Twelve of the 49 (25%) files reviewed lacked specificity and clarity in the severity and probability information as to how it was directly associated with the condition addressed in the violation consistent with the instructions and provisions of the Illinois OSHA FOM, Chapter 6-3, Paragraph A, Severity Assessment and Paragraph B, Probability Assessment. |  | Closed |
|  | FY 2022-OB-04 | In 30 of the 49 (61%) files with violations, the Alleged Violation Description (AVD) in one or more of the violations was not clear or did not describe the nature of the violation with particularity consistent with the instructions and provisions required in Chapter 820 Illinois Compiled Statutes (ILCS) 219 Sec. 80. Violation of Act or standard; citation or the Illinois OSHA FOM, Chapter 5-11, Citations. |  | Closed |
|  | FY 2022-OB-05 | In 12 (100%) of the files with general duty violations, the AVD language was not consistent with the instructions and provisions required in Illinois OSHA’s FOM Chapter 4-3 Use of the General Duty Clause. These included: the AVD was not clear, included corrective action or abatement language, or did not include the required language spelled out in paragraph I. |  | Closed |
| FY 2023-OB-01 | FY 2022-OB-06 | The Illinois State Plan’s number of planned vs actual inspections (safety) (SAMM 7a) is below the further review level of 380 safety inspections. The Illinois State Plan conducted 206 safety inspections (52%) of the 400 planned safety inspections. | OSHA will discuss and evaluate Illinois OSHA’s inspection strategies and progress during quarterly monitoring meetings. | Continued |
| FY 2023-OB-02 | FY 2022-02 | Fifteen of the 50 (30%) files reviewed, employee interviews were not thoroughly documented as required by Chapter 3-7. C.2 of the Illinois FOM. | In FY 2024, a limited number of case files will be selected randomly and reviewed to determine if this item was addressed. | New |
| FY 2023-OB-03 | FY 2022-05 | The Illinois State Plan currently has three pending docketed whistleblower cases and one pending whistleblower intake with 1,526 average days pending. | OSHA will discuss and evaluate Illinois OSHA’s progress to close docketed cases during quarterly monitoring meetings. | New |

| **FY 2022-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date (if Applicable)** | **Current Status**  **(and Date if Item is Not Completed)** |
| --- | --- | --- | --- | --- | --- |
| FY 2022-01 | Twenty-five of the 49 (51%) files with violations did not contain adequate documentation of the information required to support the violations in accordance with Illinois OSHA FOM, Chapter 3-6, C, titled, “Record All Facts Pertinent to a Violation.” | Ensure case files contain all of the necessary information required to support the violations issued in accordance with the Illinois FOM. | A FAME review and training session scheduled for all enforcement team members was held on September 14, 2022, to address this finding.  Inspection files submitted to enforcement managers for review that lack adequate documentation to support violations per the IL FOM will be returned to the CSHO with comments indicating what additional documentation is need before citations can be issued. | September 14, 2022 | Completed |
| FY 2022-02 | Thirty-four of the 60 (57%) files reviewed, employee interviews were not conducted or properly documented as required by Chapter 3 of the Illinois FOM. | Ensure employee interviews are conducted and case files contain appropriately documented employee interviews as outlined in Chapter 3 of the Illinois FOM. | A FAME review and training session scheduled for all enforcement team members was held on September 14, 2022, to address this finding.  Inspection files submitted to enforcement managers for review that lack adequate documentation of employee interviews per the IL FOM will be returned to the CSHO with comments indicating the interview documentation must be included in the case file. | September 14, 2022 | Converted to Observation |
| FY 2022-03 | Whistleblower complaints were not properly processed in accordance with established policies. In 16 of the 18 (89%) administratively closed intakes, a memo to file was not created to document the interview of the complainant and why the complaint was closed. In six of the 18 (33%) administratively closed intakes, four of which presented prima facia allegations, the complaint was closed without contacting the complainant to conduct an interview and to obtain the complainant’s concurrence for closing the complaint. | Properly process complaints per the Illinois Department of Labor Whistleblower Investigation Manual (WIM), Effective July 1, 2017, Chapter II (B)(1) and (B)(2). | A FAME review and training session scheduled for all whistleblower investigators was held on September 14, 2022, to address this finding.  As of August 2022, IL OSHA has filled the position that serves as the Whistleblower Program Supervisor.  The Whistleblower Program Supervisor will ensure complaints are properly processed in accordance with established policies in the IDOL WIM. | September 14, 2022 | Completed |
| FY 2022-04 | Nine of the 18 (50%) administratively closed whistleblower intakes had an inaccurate or missing activity or telephone log. | Properly and accurately document all telephone calls made, messages received, and exchange of written or electronic correspondence during the course of an investigation in the activity/telephone log per the Illinois Department of Labor Whistleblower Investigation Manual (WIM), Effective July 1, 2017, Chapter II (G)(2)(f). | A FAME review and training session scheduled for all whistleblower investigators was held on September 14, 2022, to address this finding.  As of August 2022, IL OSHA has filled the position that serves as the Whistleblower Program Supervisor.  The Whistleblower Program Supervisor will ensure logs are accurate and maintained in the IDOL WIM. | September 14, 2022 | Completed |
| FY 2022-05 | During FY 2022, the State Plan closed or completed zero whistleblower investigations. The State Plan currently has five pending docketed cases with 931 average days pending. | Properly investigate, process and complete open complaints per the Illinois Department of Labor Whistleblower Investigation Manual (WIM), Effective July 1, 2017. | A FAME review and training session scheduled for all whistleblower investigators was held on September 14, 2022, to address this finding.  As of August 2022, IL OSHA has filled the position that serves as the Whistleblower Program Supervisor.  The Whistleblower Program Supervisor will ensure timely processing and resolution of investigations as per the IDOL WIM.  There were cases that were found to be improperly coded in IMIS and OIS. This has been corrected to reflect the current status of these cases. | July 17, 2023 | Converted to Observation |

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 6.11 | 5 days for safety; 10 days for health | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 5.33 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 2a | Average number of work days to initiate complaint investigations (state formula) | 1.55 | 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) | 0.02 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | N/A | 100% | 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) | 4.04 | +/- 20% of 1.75 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.40 to 2.10 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 1.13 | +/- 20% of 0.89 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.71 to 1.07 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 100% | 100% | Since this is a State and Local Government State Plan, all inspections are in state and local government workplaces. |
| 7a | Planned v. actual inspections (safety) | 206 | +/- 5% of  400 | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 380.00 to 420 for safety. |
| 7b | Planned v. actual inspections (health) | 109 | +/- 5% of  100 | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 95 to 105 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | N/A | +/- 25% of  $3,625.21 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 8a | Average current serious penalty in private sector  (1-25 workers) | N/A | +/- 25% of  $2,348.03 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 8b | Average current serious penalty in private sector  (26-100 workers**)** | N/A | +/- 25% of  $4,167.28 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 8c | Average current serious penalty in private sector  (101-250 workers) | N/A | +/- 25% of  $6,052.04 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 8d | Average current serious penalty in private sector  (greater than 250 workers) | N/A | +/- 25% of  $7,331.41 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 9a | Percent in compliance (safety) | 11.70% | +/- 20% of  31.73% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.38% to 38.08% for safety. |
| 9b | Percent in compliance (health) | 17.65% | +/- 20% of  43.82% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.06% to 52.58% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 27.05 | +/- 20% of  55.23 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.18 to 66.28 for safety. |
| 11b | Average lapse time (health) | 27.01 | +/- 20% of  69.72 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 55.78 to 83.66 for health. |
| 12 | Percent penalty retained | N/A | +/- 15% of  71.84% | NA – This is a State and Local Government State Plan and is not held to this SAMM.  The further review level is based on a three-year national average. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 100% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 17 | Percent of enforcement presence | N/A | +/- 25% of  1.75% | NA – This is a State and Local Government State Plan and is not held to this SAMM.  The further review level is based on a three-year national average. |

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 14, 2023, as part of OSHA’s official end-of-year data run.