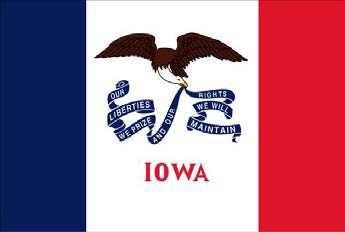
**Iowa Department of Inspections, Appeals, and Licensing**

**Iowa Occupational Safety and Health Administration**

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**Prepared by:**

**U. S. Department of Labor Occupational Safety and Health Administration**

**Region VII Kansas City, MO**



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# Executive Summary

The primary purpose of this report is to assess the Iowa Occupational Safety and Health Administration’s (IOSHA) activities for Fiscal Year (FY) 2023 and its progress related to five observations from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. There are four new findings and two new observations identified during the FY 2023 Comprehensive FAME. There were no findings for the FY 2022 follow-up FAME Report. Four of the FY 2022 observations were closed, and one will be continued until the FY 2025 Comprehensive FAME.

The new findings for this 2023 Comprehensive FAME Report include IOSHA’s deficiencies in the Voluntary Protection Program (VPP). The new observations concerned the decrease in planned versus actual safety and health inspections completed in the past two years and the lack of experience of the backup investigator for the Whistleblower Protection Program (WPP).

Since the last FAME, IOSHA experienced significant changes. At the start of FY 2023, IOSHA was administered by the Iowa Workforce Development (IWD) Department under the leadership of the Iowa Labor Commissioner, Mr. Rod Roberts. During the second quarter of FY 2023, Commissioner Roberts retired from State government, and the role was assumed by the Department of Inspections, Appeals, and Licensing (DIAL) Director, Larry Johnson Jr. as the Acting Labor Commissioner. In June 2023, the IOSHA Administrator, Mr. Russell Perry, left employment, and the Acting Iowa Administrator became Ms. Tracey Gibson (until the position was filled by Mr. Adam Lathrop who came aboard March 1, 2024). Beginning July 1, 2023, the realignment of the Iowa State government brought about more changes. IOSHA was moved from IWD to DIAL. The new Labor/OSHA Division includes OSHA - Enforcement, Discrimination (Whistleblower), Cooperative Programs, Education, and Consultation. Additionally, in 2023, IOSHA moved its business location from 150 Des Moines Street, Des Moines, Iowa 50309, to 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321-1270.

Cooperative Programs 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 staff attendance at booths during conferences. New initiative programs were to reach workers experiencing heat hazards as well as suicide in construction in Iowa, and outreach materials and compliance assistance were provided to these groups. IOSHA also participated in Grain Safety Week, Worker Memorial Day, and Safe and Sound Week. Cooperative Programs and Education continue to follow enforcement initiatives.

IOSHA continued a long-term trend in the reduction of injuries and illnesses. Specifically, the

U.S. Department of Labor (USDOL), Bureau of Labor Statistics (BLS) injury and illness rates for the State have overall continued to decline over the past five years. These rates represent the number of injuries and illnesses surveyed per 100 full-time workers. The rates were as follows: 3.5 in CY 2018, 3.4 in CY 2019, 3.4 in CY 2020, 3.3, in CY 2021, and 3.5 in CY 2022.

IOSHA maintained 38 VPP participants and 15 construction partnerships. A partnership with three construction sites was dissolved in FY 2024 because they failed to meet the standard of a partnership. The five alliances have expired, but the relationships with the partners have not changed.

The comprehensive review of IOSHA resulted in four new findings on deficiencies of the VPP casefiles. There were two new observations, i.e., one concerning the decrease in planned versus actual safety and health inspections completed and the lack of experience of the backup WPP investigator. There is one continued observation concerning casefile documentation relative to citation worksheets, specifically, employer knowledge, and severity and probability justification.

# State Plan Background

#### Background

At the start of FY 2023, IOSHA was administered, under the Iowa Division of Labor, under the authority of the Iowa Labor Commissioner Rod Roberts within the Iowa Workforce Development (IWD) Department. Commissioner Roberts retired from State government during the second quarter of FY 2023, and as of July 1, 2023, a realignment of State offices changed the Iowa Division of Labor to be under the Department of Inspection, Appeals, and Licensing (DIAL). The new Labor/OSHA Division includes OSHA - Enforcement, Discrimination (Whistleblower), Cooperative Programs, Education, and Consultation. Further, the role of the Iowa Labor Commissioner was added to Director Larry Johnson, Jr’s, duties, as the Acting Labor Commissioner. The IOSHA Administrator position was left vacant ending FY 2023. IOSHA was located at 150 Des Moines Street, Des Moines, Iowa 50309, during FY 2023. Going into FY 2024, IOSHA moved locations to 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321-1270, and Adam Lathrop began his job as IOSHA Administrator on March 1, 2024.

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 consultants comprise the Cooperative and Education Programs section which includes VPP. IOSHA also has a full-time WPP Investigator.

IOSHA Consultation and Education for the State and local government sector are supported by five consultants and are supervised by Ms. Peggy Peterson, Bureau Chief (who is also the OSHA 21(d) Consultation Grant, Program Manager). IOSHA’s Consultation and Education program, along with their Cooperative Programs, complement the enforcement effort to reduce exposure to occupational hazards and attempt to reduce fatalities.

IOSHA’s budget is a 50/50 match between federal and State funds with (optional) additional State-appropriated funds beyond the 50/50 match. IOSHA has historically overmatched the federal contribution in funding. IOSHA’s funding levels from FY 2019 through FY 2023 are shown below in Table 1. IOSHA was awarded $2,203,496 for FY 2023 with the 50/50 State matching of funds, resulting in a total budget of $4,406,991[[1]](#footnote-1). In FY 2022, IOSHA was awarded $2,036,757 through the federal grant, and the State matched funds by adding $2,036,757. Coupled with State matching funds and recipient funding, IOSHA lapsed funds in the amounts of $215,443 in FY 2022 and $48,705 in FY 2023. The cause of these lapses was a combination of a lack of understanding of financial requirements under the 23(g) grant and the fluctuation of personnel expenses with compliance officers and the IOSHA Administrator unexpectedly leaving the organization. IOSHA has been warned that if there is another lapse of funds (three consecutive years) there will be a permanent decrease in federal funding as referenced in the October 5, 2023, memo, “Updated Policy for Repeated Lapses and Deobligations of 23(g) Grant Funds”.

FY 2019 - 2023 Funding History


IOSHA has adopted most of federal OSHA’s standards as promulgated, and its enforcement program functions are very similar to OSHA’s program with no significant differences. During FY 2023, IOSHA conducted 540 inspections. The inspections by discipline were 399 Safety and 141 Health. IOSHA’s Consultation and Education program conducts public-sector 23(g) consultation activities in addition to providing training and education services.

* 1. **New Issues**

The casefile review was exceedingly difficult. DIAL required all documents to be electronic, and therefore, this resulted in a concentrated effort to scan all the IOSHA casefiles, documents, consultation visits, VPP folders, and WPP files before moving to the new office. The scanned documents did not have any organization and some pages were scanned upside down or the wrong side of the page was scanned. It is recommended that a casefile structure and a casefile development system be developed.

# Assessment of State Plan Progress and Performance

#### Data and Methodology

OSHA has established a two-year cycle for the FAME process consisting of a comprehensive year and a follow-up year. A comprehensive FAME includes full case reviews and onsite evaluation. The FY 2023 comprehensive review was conducted by an eight-person OSHA Regional Office team. The team included two WPP investigators, one compliance assistance specialist, one consultation program manager, one VPP manager, two compliance safety and health officers (CSHO), and the state plan monitor conducted full casefile reviews and a review of the cooperative programs. Since IOSHA has gone paperless, the casefiles were sent to the Regional Office (on a hard drive) for review. The review team conducted interviews virtually with management and employees in conjunction with the full casefile and cooperative programs review. In all, OSHA reviewed 154 safety, health, WPP, VPP, partnership, and alliance files. The randomly selected casefiles included safety and health enforcement files as well as WPP casefiles that were developed and closed during the evaluation period of October 1, 2022, through September 30, 2023. The population included:

* + - * 10 fatality casefiles
      * 50 formal complaint casefiles
      * 58 investigation casefiles
      * 22 closed whistleblower casefiles
      * 5 Voluntary Protection Program files
      * 5 Partnership files
      * 4 Alliance files

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

* + - * State Activity Mandated Measures (SAMM) Report (Appendix D)
      * State Information Report (SIR)
      * Mandated Activities Report for Consultation (MARC)
      * State OSHA Annual Report (SOAR)
      * State Plan Annual Performance Plan
      * State Plan Grant Application
      * Quarterly monitoring meetings between OSHA and the State Plan
      * Full casefile reviews
      * OSHA Information System (OIS) reports
      * Field Operations Manual (FOM)
      * State Plan Application (SPA)
      * Iowa Administrative Bulletin (IAB)
      * Iowa Administrative Code (IAC)

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

#### Review of State Plan Performance PROGRAM ADMINISTRATION

1. Training

IOSHA adopted OSHA Instruction TED-01-00-019, Mandatory Training Program for OSHA Compliance Personnel, effective July 21, 2014, and OSHA Instruction TED 01-00- 020, Mandatory Training Program for OSHA Whistleblower Investigators, effective October 8, 2015, to administer its training program. The supervisors are responsible for tracking individual enforcement officer training.

The turnover of personnel has made training a high priority for IOSHA. All newly hired compliance officers have been enrolled in their appropriate initial training courses; however, there is a backlog at the OSHA Training Institute (OTI) so new employees are unable to get into classes quickly. IOSHA takes advantage of all methods of training, webinars, online, hybrid, and in-person training at OTI. In the past, IOSHA brought in courses on-site where the OTI instructors came to Iowa to complete training. However, IOSHA has not taken advantage of this option in the past two years.

1. OSHA Information System (OIS)

IOSHA uses various reports within the OSHA Information System (OIS), such as Area Office Operational Reports, Audit and Data Reports, DCAT Reports, Enforcement Activity Reports, State Program Performance Measures Reports, and Trending/Statistic Reports. These reports aid in IOSHA’s enforcement management to ensure they meet established goals. Since the adoption of OIS in 2014, IOSHA personnel have demonstrated proficiency in entering data and running reports within OIS to evaluate and manage IOSHA. However, during the review, OSHA found an area open to improvement where the inspections were not coded. For example, many of the inspections did not code for any National Emphasis Program (NEP), Local Emphasis Program (LEP), or State Emphasis Program (SEP).

1. State Internal Evaluation Program Report

IOSHA internally evaluated its program every quarter to measure progress towards goals. The results were discussed in their State OSHA Annual Report (SOAR).

1. Staffing

IOSHA’s enforcement personnel benchmark is 16 safety compliance officers and 13 health compliance officers.  By the end of FY 2023, IOSHA had a total of 13 safety and 12 health compliance officers. Additionally, IOSHA had four vacancies.

The leadership team at IOSHA consists of the IOSHA Administrator who directly supervises the three Public Service Manager 1 positions. Two of the Public Service Manager 1 positions are responsible for the daily supervision of enforcement field staff which is divided between safety and health compliance officers and industrial hygienists. Their duties include daily work and inspection assignments, casefile review and correction, training new staff through accompanied visits and assisting with complex inspections, evaluating work performance for annual evaluations, analyzing training needs, providing technical assistance to subordinates, answering questions from private industry and State and local government, conducting informal settlement conferences, reviewing documentation for violation abatement and corrective means, working with legal staff on contested cases and personnel issues, and providing assistance to the IOSHA Administrator and the Labor Commissioner. A third Public Service Manager 1 position supervises personnel working in the cooperative programs and education under the 23(g) grant (this Manager is also responsible for the Consultation Program (21(d)). IOSHA’s Consultation and Education program and cooperative programs complement the enforcement effort to reduce exposure to occupational hazards and attempt to reduce fatalities. The Cooperative Program and Education offers no-cost and confidential services for local and State government.

### ENFORCEMENT

* 1. Complaints

The FY 2023 SAMM(1a) indicated the average number of workdays to initiate a complaint inspection was within the FRL of five days. The report also indicated that the SAMM(2a) indicated the average number of workdays to initiate complaint investigations was within the FRL of one day.

* 1. Fatalities

The FY 2023 SAMM Report indicated a 100% fatality response time of one workday (SAMM 10) which is within the FRL of 100%.

* 1. Targeting and Programmed Inspections

The FRL for planned vs. actual safety inspections is between 462.65 and 511.35. SAMM 7a data shows IOSHA conducted 399 safety inspections, which is lower and outside the FRL. The FRL for health inspections is between 197.60 and 218.40. SAMM 7b data show IOSHA conducted 141 health inspections, which is lower than and outside the FRL. This is a trend since IOSHA did not meet inspection goals in FY 2022.

**Observation FY 2023-01:** The number of safety and health inspections completed was outside the FRL two years in a row. In FY23, IOSHA had 88 fewer safety inspections and 64 fewer health inspections than the FRLs.

**Federal Monitoring Plan:** The number of inspections completed will be monitored during the quarterly meetings and verified, during the next comprehensive FAME.

The FRL for percent in-compliance (IC) for safety inspections (SAMM 9) is +/- 20% of the three-year national average of 29.35%, which equates to a range of 25.38% to 38.08%.

IOSHA percent IC for safety falls within the FRL. The FRL for percent IC for health inspections is +/- 20% of the three-year national average of 58.82%, which equates to a range of 35.06% to 52.58%. The IC rate for health inspections was outside the FRL at 58.82%. The health in-compliance rate is high because of an Iowa law that requires asbestos removal sites to be inspected yearly. Many of the same asbestos removal contractors are inspected, thus resulting in a high number of IC health inspections. For this reason, this outlier does not rise to the level of an observation.

The FY 2023 SAMM 5a data indicated that IOSHA had an average of 1.66 violations per inspection that were classified as serious, willful, or repeat. IOSHA was within the FRL of 1.40 and 2.10 for classifying serious, willful, and repeat violations. IOSHA had an average of 0.44 violations per inspection that were classified as other-than-serious (SAMM 5b), which is below the range of 0.71 to 1.07.

The FY 2023 Grant set forth goals of 234 NEP and 429 SEP inspections. The inspection categories included:

* Falls - 149
* Amputations - 239
* Grain - 4
* Scaffold - 39
* Trench - 28
* Construction /Zip code - 27
* Hexavalent Chromium - 9
* Combustible Dust -1
* Chrome 6 -19
* Asbestos Removal - 45
* Chemical Plant - 11

An OIS Inspection Summary by “Program Report” indicates that IOSHA exceeded its overall goals for NEP and SEP inspections.

* 1. Citations and Penalties

The FY 2023 SAMM data indicates that IOSHA’s percent of enforcement presence (SAMM 17) is 0.80% which is below the FRL of 1.31% to 2.19%. The average serious penalty of $5,475.24 (SAMM 8) exceeds the FRL ($2,718.91 and $4,531.51). SAMM 8a is within the FRL indicating the average current serious penalty in the private sector (1-25 workers) is $1,893.00, which is within the FRL of $1,761.02 to $2,935.04.

During this review, OSHA determined that 5 of 58 (8.6 %) casefiles reviewed did not contain OSHA 300 logs or an OIS-generated injury and illness printout in the casefile. This is a significant reduction from the previous audit. Therefore, Observation FY 2021-OB-01 was closed.

During the casefile review, 17 out of 94 (18.0 %) citations lacked, or included weak, employer knowledge within the worksheets that are needed to support the citations. This will continue to be an observation. IOSH Instruction IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4.II.C.4 outlines the requirements for establishing “knowledge of the hazardous condition” and states that this can be through actual knowledge or constructive knowledge. Paragraph b of this section states:

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

**Observation FY 2023-OB-02:** During the review, 17 out of 94 (18.0 %) of the citations reviewed lacked or included weak employer knowledge in the worksheets to support citations as required by the IACPL 02-00-160, FOM, February 11, 2018, Chapter 4. II.C.4.

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

During the casefile review, 84 out of 94 (89%) citations reviewed contained severity and probability justifications in the worksheets. Therefore, Observation FY20 OB-03 (FY2020-03) was closed.

* 1. Abatement

During the review of the 58 non-in-compliance inspections, all (100%) had appropriate abatement periods. Adequate verification of abatement was evident in 100% of the files. This is imperative to removing employees from the hazards identified during the inspection process. IOSHA continues to obtain and verify abatement documentation as required.

* 1. Worker and Union Involvement

During the review of the non-in-compliance inspections, 100% had employee interviews or included worker walk-around representation. There was no union representation at informal conferences.

### REVIEW PROCEDURES

* 1. Informal Conferences

The FY 2023 SAMM Report indicated a 75.31% penalty retention, which falls within the FRL (SAMM 12) of 61.06% and 82.62%. State Indicator Report (SIR) data for FY 2023 shows that 5.4% of issued violations were vacated as compared to 2.75% nationally. It could not be determined in the casefile review, if additional requirements or concessions were given as part of the negotiation of the informal settlement agreement to improve worker safety.

* 1. Formal Review of Citations

The contest rate for IOSHA’s inspections in FY 2023 was 5.45%. Similar to the Occupational Safety and Health Review Commission, IOSHA’s DIAL program oversees litigation of IOSHA’s contested inspections. SIR data showed that 41.51% of issued violations were vacated once contested, which is above the national average of 15.30%. In cases where the company contested the citation, reclassification took place on 41.94% of the issued violations with a 70.69% penalty retention rate.

### STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

* 1. Standards Adoption

Standards adoption reflects appropriate action, in accordance with Iowa statutes. The Labor Services Division publishes a notice of intended action for public information and possible public hearings. At the end of the comment or hearing period, scheduling of standard adoptions is effective on a specified date in the near future. There were no State Plan-initiated standards during FY 2023.

* 1. Federal Program Change (FPC) Adoption

IOSHA made timely adoption of federal program changes (FPC) in FY 2023. Presently, there are no outstanding FPCs requiring adoption. See Table 4 below. IOSHA did not adopt the Field Operations Manual (FOM) CPL 02-00-164 (4/14/2020), since they use their own version of the FOM. IOSHA intends to ensure that the updated version of its FOM is at least as effective (ALAE) as OSHA’s FOM. IOSHA is planning to update the IOSHA FOM, but no firm date has been set for completion.

**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 | 2/19/2022 | Yes | Yes | 12/5/2021 | 8/12/2022 |
| Updated COVID-19 Vaccination and Testing; Emergency Temporary Standard  29 CFR 1910  (11/5/2021) | 1/7/2022 | 1/7/2022 | No | No | 1/24/2022 | NA |
| 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 | 1/27/2022 | Yes | Yes | 7/15/2022 | 6/1/2022 |
| 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 | 2/19/2024 | Yes | Yes | 8/14/2022 | 8/12/2022 |
| 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 | 1/20/2023 | Yes | Yes | 7/15/2023 | 6/1/2023 |
| Final Rule to Improve Tracking of Workplace Injuries and Illnesses  29 CFR 1904  (7/21/2023) | 9/21/2023 | 2/26/2024 | Yes | Yes | 1/21/2024 | 2/26/2024 |

**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 | 5/3/2023 | Yes | Yes | 7/30/2023 | 5/3/2023 |
| National Emphasis Program on Warehousing and Distribution Center Operations  CPL 03-00-026  (7/13/2023) | 9/11/2023 | 10/18/2023 | Yes | Yes | 1/9/2024 | 10/18/2023 |

**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 | 12/5/2022 | Yes | Yes | 11/3/2022 | 11/3/2022 |
| OSHA Whistleblower Investigations Manual  CPL 02-03-011  (4/29/2022) | 10/11/2022 | 11/7/2022 | Yes | No | 2/11/2023 | 2/11/2023 |
| Severe Violator Enforcement Program (SVEP)  CPL 02-00-169  (9/15/2022) | 11/15/2022 | 10/17/2023 | Yes | Yes | 3/15/2023 | 1/1/2023 |
| Site-Specific Targeting (SST)  CPL 02-01-064  (2/7/2023) | 4/8/2023 | 3/7/2023 | Yes | Yes | 8/6/2023 | 4/1/2023 |
| National Emphasis Program – Falls  CPL 03-00-025  (5/1/2023) | 6/30/2023 | 6/9/2023 | Yes | Yes | 10/28/2023 | 7/1/2023 |
| Consultation Policies and Procedures Manual  CSP 02-00-005  (9/29/2023) | 11/28/2023 | 11/14/2023 | Yes | Yes | 11/14/2023 | 11/14/2023 |

**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 | 6/15/2023 | No | N/A | N/A |
| National Emphasis Program – Outdoor and Indoor Heat-Related Hazards  CPL 03-00-024  (4/8/2022) | 6/8/2022 | 6/8/2023 | No | N/A | N/A |

### VARIANCES

No variances were initiated during this reporting period.

### STATE AND LOCAL GOVERNMENT WORKER PROGRAM

IOSHA has policies and procedures for conducting inspections involving State and local government workers. The FY 2023 SAMM data (SAMM 6) indicates that IOSHA conducted 6.48% of its inspections in State and local government workplaces achieving an average greater than the FRL (4.51% to 4.99%). In this case, exceeding the FRL helps to ensure that employees in State and local government workplaces are provided with safe workplaces.

### 

### WHISTLEBLOWER PROTECTION PROGRAM

### Measures 14, 15, and 16 are not being reported for FY 2023, due to the transition of whistleblower data from IMIS to OIS. During the casefile review, it was observed that the casefiles were incredibly detailed. However, IOSHA needs a backup with some on-the-job whistleblower experience in place in the event that the primary investigator was to take a leave of absence or exit the agency. Without a backup with some experience administering and investigating whistleblower cases, IOSHA is vulnerable to lengthy delays and subpar investigations in the event of the primary investigator’s absence.

**Observation FY 2023-OB-03:** During the onsite review, it was observed that while the backup to the primary investigator has taken the basic whistleblower course at OTI, the backup lacks actual experience, when it comes to administering, screening, and investigating whistleblower complaints. This makes the State Plan vulnerable from a succession planning standpoint.

**Federal Monitoring Plan:** During the next year’s FAME, confirm that the backup to the primary whistleblower investigator has obtained some on-the-job experience with administering, screening, and investigating whistleblower complaints.

### COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

None

### VOLUNTARY COMPLIANCE PROGRAM

IOSHA's written policies and procedures for voluntary and cooperative programs are substantially similar to CSP 03-01-005, Voluntary Protection Policies and Procedures Manual, effective date January 30, 2020, and are adequate to accomplish IOSHA’s goals. IOSHA adopted federal directives for VPP. IOSHA published its own instruction for its partnership program, which is vastly similar to the federal partnership directive and appropriately provides non-enforcement incentives. There were no changes made to the IOSHA’s voluntary and cooperative programs, during FY 2023. IOSHA had 38 VPP participants at the end of FY 2023. The VPP program continued to certify and re-certify worksites throughout the fiscal year.

The observations from the FY2021 comprehensive FAME will be closed. New findings are inclusive of observations, FY2021-OB-04 and FY2021-OB-05.

**Finding FY 2023-01:** The IOSHA VPP program allowed sites to exceed reapproval due dates by an unacceptable amount of time. Per Chapter 10 of the VPP Policy and Procedure Manual, the first reapproval evaluation must be conducted 30 to 42 months after initial approval. Subsequent reapprovals must be conducted within 36 to 60 months (five years) of the previous on-site evaluation closing conference date.

**Recommendation FY 2023-01:** IOSHA needs to develop a system that tracks reapproval due dates to eliminate the possibility of sites exceeding the reapproval timeframes, as outlined in the VPP Policy and Procedure Manual Chapter 10, Section II, Paragraph B.

**Finding FY 2023-02**: During the review of VPP processes, public files/folders were not maintained for each VPP participant.

**Recommendation FY 2023-02:** IOSHA needs to develop files for each VPP participant that contain a “public” file or folder. Public files shall be maintained in accordance with VPP Policy and Procedure Manual Chapter 2, Section VII, Paragraph L. The public folders must include the following: VPP application, on-site evaluation reports, Labor Commissioner approval letters, and participant annual self-evaluations.

**Finding FY 2023-03**: During the review of the VPP files, it was determined that IOSHA did not send copies of the VPP approval/reapproval reports and Labor Commissioner approval letters to the National Office liaison upon approval/reapproval of participant sites.

**Recommendation FY 2023-03:** Ensure that copies of VPP approval/reapproval reports and Labor Commissioner approval letters are forwarded to the National Office liaison upon approval/reapproval of participant sites.

**Finding FY 2023-04:** The VPP approval/reapproval reports reviewed that were prior to 2023 contained errors and, in some cases, did not follow the current report template.

**Recommendation FY 2023-04:** Going forward, ensure that VPP approval/reapproval reports follow the current report format and are free of serious errors.

#### STATE AND LOCAL GOVERNMENT 23(g) CONSULTATION PROGRAM

IOSHA accomplished 22 State and local government consultation visits during FY 2023. Most visits were conducted between the first and third quarter with 13 visits in the first quarter and nine visits in the second quarter. IOSHA identified 52 serious hazards that were abated during the FY 2023 visits resulting in 3,450 workers being removed from risk.

#### PRIVATE SECTOR 23(g) CONSULTATION PROGRAM

IOSHA’s employers benefited from the consultation program’s education staff through training on the use of safety and health management programs to help reduce injury and illness rates. IOSHA affected 18,579 outreach participants through consultation and provided training during FY 2023. One hundred and twenty training sessions trained 5,186 students. Six of those sessions were 10-hour training with 100 students receiving 10-hour cards. Consultation program staff coordinated events during the National Stand Up 4 Grain Safety Week during the second quarter of FY 2023 and a proclamation was signed by Governor Reynolds. The education staff teamed up with the University of Iowa's Healthier Workforce to present on Suicide Prevention in Construction. There are 15 partnerships, and IOSHA regularly scheduled monthly visits with each partnership site during FY 2023 resulting in 148 job site visits. IOSHA accomplished walk-around audits, hazard identification, and correction during regularly scheduled visits. During FY 2023, none of the partnership participants had an incident, injury, or fatality that required reporting as outlined in 29 CFR 1904.39. The five alliances have expired, but the relationship with the partners has not changed, and IOSHA is working with the alliance partners to renew the expired agreements.

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

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

FY 2023 Iowa Comprehensive FAME

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2023- #** | **Finding** | **Recommendation** | FY 2023-# or  FY 2022-OB-# |
| **FY 2023-01** | The IOSH VPP program allowed sites to exceed reapproval due dates by an unacceptable amount of time. Per Chapter 10 of the VPP Policy and Procedure Manual, the first reapproval evaluation must be conducted 30 to 42 months after initial approval. Subsequent reapprovals must be conducted within 36 to 60 months (five years) of the previous on-site evaluation closing conference date. | IOSHA should develop a system that tracks reapproval due dates to eliminate the possibility of sites exceeding the reapproval timeframes outlined in the VPP Policy and Procedure Manual Chapter 10, Section II, Paragraph B. |  |
| **FY 2023-02** | During the review of VPP processes public files/folders were not maintained for each VPP participant. | IOSHA should develop a “public” VPP file or folder, in accordance with VPP Policy and Procedure Manual Chapter 2, Section VII, Paragraph L. |  |
| **FY 2023-03** | IOSHA must send copies of the VPP approval/reapproval reports and Labor Commissioner approval letters to the National Office liaison upon approval/reapproval of participant sites. | IOSHA should ensure that copies of VPP approval/reapproval reports and Labor Commissioner approval letters are forwarded to the National Office liaison upon approval/reapproval of participant sites. |  |
| **FY 2023-04** | The VPP approval/reapproval reports reviewed that were prior to 2023 contained errors and, in some cases, did not follow the current report template. | IOSHA should ensure that VPP approval/reapproval reports follow the current report format and are free of serious errors. |  |

### Appendix B – Observations Subject to Continued Monitoring

FY 2023 Iowa Comprehensive FAME Report

| **Observation #**  **FY 2023-OB-#** | **Observation#**  **FY 2022-OB-01 *or* FY 2022-01** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2023-OB-01 | The number of safety and health inspections was outside the FRL two years in a row. In FY23 IOSHA had 88 fewer safety inspections and 64 fewer health inspections than the FRL. | The number of inspections will be monitored during the quarterly meetings and verified during the next comprehensive FAME. | The number of safety and health inspections was outside the FRL two years in a row. In FY23 IOSHA had 88 fewer safety inspections and 64 fewer health inspections than the FRL. | New |
| **FY 2023-OB-02** | FY 2021-OB-02  FY 2022-OB-02 | During the review, 17 out of 94 (18.0 %) of the citations reviewed lacked or included weak 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 casefiles will be reviewed to determine, if this continues to reflect a data trend. | Continued |
| **FY 2023-OB-03** |  | During the onsite review, it was observed that while the backup to the primary investigator has taken the basic whistleblower course at OTI, the backup lacks actual experience when it comes to administering, screening, and investigating whistleblower complaints. This leaves the State Plan vulnerable from a succession planning standpoint. | During the next FAME, confirm that the backup to the primary whistleblower investigator has obtained some actual experience with administering, screening, and investigating whistleblower complaints. | New |
|  | FY 2021-OB-01 | Seven (7) of 80 (8.75%) casefiles reviewed, did not contain, both the OSHA 300 Logs and the OIS generated injury and illness printouts in the casefile. | As part of the FY 2024 FAME, a random selection of casefiles will be reviewed to determine if this continues to reflect a data trend. | Closed  FY 2021-OB-01  FY 2022-OB-01 |
|  | FY 2021-OB-03  FY 2022-OB-03 | Five of the 45 (11%) non-in-compliance casefiles did not include adequate severity and probability justifications in the worksheets | Since IOSHA is continuing to conduct training on this issue. As part of the FY 2024 FAME, a random selection of casefiles will be reviewed to determine if this continues to reflect a data trend. | Closed  FY 2021-OB-03  FY 2023-OB-03 |
|  | FY 2021-OB-04  FY 2022-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 VPP has been completed as part of the FY 2024 FAME, a random selection of casefiles will be reviewed to determine if this continues to reflect a data trend. | Closed  FY 2021-OB-04  FY 2022-OB-04 |
|  | FY 2021-OB-05  FT 2022-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 casefiles will be reviewed to determine if this continues to reflect a data trend since there is a new VPP manager. | Closed |

### Appendix C - Status of FY 2022 Findings and Recommendations

FY 2022 Iowa Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2022- #** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| **FY 2022-01** | 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 investigation complaint process continue 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 2023 State Activity Mandated Measures (SAMM) Report**

FY 2023 IOWA OSHA Comprehensive FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (State formula) | 3.96 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 3.33 | 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) | 0.61 | 1 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.39 | 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) | 1.66 | +/- 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) | 0.44 | +/- 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 | 6.48% | +/- 5% of  4.75% | 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 4.51% to 4.99%. |
| 7a | Planned v. actual inspections (safety) | 399 | +/- 5% of  487 | 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 462.65 to 511.35 for safety. |
| 7b | Planned v. actual inspections (health) | 141 | +/- 5% of  208 | 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 197.60 to 218.40 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $5,475.24 | +/- 25% of  $3,625.21 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,718.91 to $4,531.51. |
| 8a | Average current serious penalty in private sector  (1-25 workers) | $1,893.00 | +/- 25% of  $2,348.03 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,761.02 to $2,935.04. |
| 8b | Average current serious penalty in private sector  (26-100 workers**)** | $5,037.49 | +/- 25% of  $4,167.28 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $3,125.46 to $5,209.10. |
| 8c | Average current serious penalty in private sector  (101-250 workers) | $6,834.96 | +/- 25% of  $6,052.04 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,539.03 to $7,565.05. |
| 8d | Average current serious penalty in private sector  (greater than 250 workers) | $8,361.30 | +/- 25% of  $7,331.41 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,498.56 to $9,164.26. |
| 9a | Percent in compliance (safety) | 29.35% | +/- 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) | 58.82% | +/- 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) | 72.43 | +/- 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) | 69.46 | +/- 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 | 75.31% | +/- 15% of  71.84% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 61.06% to 82.62%. |
| 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 | 0.80% | +/- 25% 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 1.31% to 2.19%. |

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.

1. Note IOSHA match is $1 less than the Federal Award in 2023. The final total is correct. [↑](#footnote-ref-1)