

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

**Puerto Rico Department of Labor  
Puerto Rico Occupational Safety and Health Administration (PR OSHA)**



**Evaluation Period: October 1, 2020 – September 30, 2021**

**Initial Approval Date: August 30, 1977  
State Plan Certification Date: September 7, 1982  
Final Approval: None**

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## Contents

I.	Executive Summary .....	3
II.	State Plan Background .....	4
	A. Background .....	4
	B. New Issues .....	5
III.	Assessment of State Plan Performance .....	5
	A. Data and Methodology .....	5
	B. Review of State Plan Performance .....	6
	1. Program Administration .....	6
	2. Enforcement .....	8
	3. Review Procedures .....	11
	4. Standards and Federal Program Changes (FPCs) Adoption.....	14
	5. Variances.....	16
	6. State and Local Government Worker Program .....	16
	7. Whistleblower (WB) Program.....	16
	8. Complaint About State Program Administration (CASPA).....	17
	9. Voluntary Compliance Program.....	17
	10. State and Local Government 23(g) On-Site Consultation Program.....	18
	11. Private Sector 23(g) On-Site Consultation Program .....	18

## Appendices

Appendix A – New and Continued Findings and Observations.....	A-1
Appendix B – Observations and Federal Monitoring Plans.....	B-1
Appendix C – Status of FY 2020 Findings and Recommendations .....	C-1
Appendix D – FY 2021 State Activity Mandated Measures (SAMM) Report .....	D-1

## I. Executive Summary

The purpose of this report is to assess the Puerto Rico Occupational Safety and Health Administration (PR OSHA) State Plan's performance for Fiscal Year (FY) 2021, and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) reports.

PR OSHA continued to have a significant enforcement presence in the workplace, even though the program modified its daily operations due to COVID-19 restrictions which began in March 2020 and continued throughout the 2021 calendar year. In FY 2021, OSHA continued to support the government's efforts to protect workers from the effects of COVID-19 by helping businesses comply with the Governor's Executive Order (EO) issued in 2020. This EO required all businesses to complete and submit a Self-Certification Form, along with a COVID-19 Control Plan to PR OSHA, prior to resuming normal operations, after the COVID-19 shutdowns occurred in 2020. In FY 2021, PR OSHA conducted a total of 804 interventions and reviewed COVID-19 Control Plans in response to this EO. Additionally, PR OSHA compliance assistance staff conducted 72 interventions on COVID-19 prevention to both private sector and state and local government (SLG) workers.

In the past, PR OSHA has actively engaged with OSHA by providing requested information in a timely manner, maintaining open lines of communication, and implementing policy. Unfortunately, in recent years these practices have changed with breakdowns in communication and PR OSHA often being unresponsive. For example, it has been almost six years (July 1, 2016) since OSHA published its rule that raised its maximum penalties. PR OSHA has failed to adopt both the initial increase and subsequent annual increases within the corresponding six-month timeframe due to legislative challenges. On September 3, 2021, OSHA sent a letter to PR OSHA requesting an action plan by October 1, 2021 that outlines the program's path for adoption of this new penalty structure. PR OSHA did not respond to OSHA's request for this action plan and to date, no response has been received. PR OSHA updated its Field Operations Manual (effective in April 2021) to raise penalties to the maximum allowed administratively; however, these changes do not raise the penalties to the amounts that the penalties would be raised if the rule was adopted. PR OSHA attributes not accomplishing this because of frequent staff turnover at the highest levels of the administration/government. A change in the PR OSHA Act needs to be approved by the Legislature before the new penalty structure can be adopted. PR OSHA needs to be more proactive to ensure that this occurs as soon as possible.

In FY 2021, PR OSHA conducted 904 inspections, which was 28% less than the goal of 1,260 inspections because of the low number of compliance safety and health officers (CSHOs) working and repercussions of the COVID-19 pandemic. PR OSHA has been experiencing a significant problem with recruiting and retaining enforcement staff which has worsened in recent years. In 2021, 17 CSHOs resigned from their positions – including a third of the new hires that started in 2019. As of February 2022, there were 24 vacant CSHO positions. As of May 2022, an additional three CSHOs resigned.

PR OSHA's Voluntary Programs Division continues to provide assistance to employers and workers on safety and health matters. PR OSHA has a comprehensive and active outreach and

training program. Twenty-five trainings and conference sessions were delivered in different workplaces, including universities and schools reaching over 1,244 SLG workplaces. Staff provided informational materials, booklets, and other educational material related to safety and health to employers and workers.

PR OSHA made progress to address one finding and six observations from the FY 2020 Follow-up FAME. One whistleblower finding was completed and two whistleblower observations closed. Two new findings were identified, two observations were converted to findings, two previous observations were continued, and seven new observations were identified during this year's comprehensive review; therefore, a total of four findings and nine observations are included in this report.

Appendix A describes the new and continued findings and recommendations. Appendix B describes the observations and the related federal monitoring plans. Appendix C describes the status of previous findings with associated completed corrective actions.

## **II. State Plan Background**

### **A. Background**

In January 2021, Pedro Pierluisi was sworn in as the new governor of Puerto Rico. PR OSHA, under the direction of Luis E. Pardo, Assistant Secretary of Labor, is responsible for administering the Puerto Rico State Plan. The Puerto Rico State Plan, which is part of the Puerto Rico Department of Labor and Human Resources, was headed by Carlos Rivera, previous Secretary of Labor until his resignation on December 31, 2021. On January 10, 2022, Gabriel Maldonado-Gonzalez was appointed as the new Secretary of Labor. PR OSHA serves a population of over 727,968 private sector workers and over 121,314 SLG workers. There is a central administrative office and six area offices for enforcement activities.

PR OSHA's SLG worker consultation program is funded under the 23(g)-grant agreement and its services are provided primarily out of the central office. In the private sector, PR OSHA covers all employers except for those from the maritime industry (e.g., marine cargo handling, long shoring, shipbuilding, and ship repairing). Employers of the Commonwealth and local government are under PR OSHA's jurisdiction. The United States Postal Service (USPS), all federal agencies, and military facilities are under OSHA's jurisdiction.

OSHA safety and health standards are adopted identically by PR OSHA. The regulations and operational systems of the plan are essentially the same as the federal program. A hearing examiner handles review procedures with employer rights of appeal to the district court. The federal award for FY 2021 was \$2,363,700. The total operating budget for FY 2021 with both state and federal funds was \$6,058,297.

## **B. New Issues**

### Staffing Vacancies

PR OSHA has been experiencing a significant problem with recruiting and retaining enforcement staff which is getting worse each year. In 2021, 17 CSHOs resigned from their positions including a third of the new hires that started in 2019. As of February 2022, there were 24 vacant CSHO positions. As of May 2022, an additional three CSHOs resigned.

As a result of the worsening staffing situation and large number of vacant enforcement positions, a Complaint About State Program Administration (CASPA), dated November 2021 was filed. In response to this CASPA, OSHA Region II Regional Administrator emailed a letter to the new Secretary of Labor, Mr. Gabriel Maldonado-Gonzalez on April 19, 2022. This letter conveyed OSHA's concern with PR OSHA's large number of staffing vacancies and not adequately protecting PR workers or complying with the terms of the 23(g) State Plan Grant Agreement. A request to provide an action plan to the Regional Office by April 30, 2022, was outlined in the letter. As of May 17, 2022, OSHA has not received an action plan from PR OSHA regarding how this lack of staffing issue will be addressed. However, PR OSHA interviewed 10 candidates on May 13, 2022 for 16 CSHO positions, and recently, an additional four new positions has also been requested.

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

### **A. Data and Methodology**

OSHA established a two-year cycle for the FAME process. This is a comprehensive year, and as such, OSHA performed a comprehensive on-site case file review. A three-person OSHA team which included personnel from both the safety and the health discipline, as well as the Whistleblower (WB) program, was assembled to conduct a comprehensive on-site case file review.

The on-site case file review was conducted at PR OSHA's central office in Hato Rey, Puerto Rico during the timeframe of February 7 through February 11, 2022. A total of 91 safety, health, consultation, 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, 2020, through September 30, 2021). The selected population included:

- Forty-seven safety enforcement files
- Eighteen health enforcement files
- Five fatality enforcement files
- Eight non-formal complaint investigations
- Two safety consultation case files
- Three VPP case files

- Eight whistleblower investigation case files

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

- State Activity Mandated Measures 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
- Comprehensive on-site case 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 2021 State Activity Mandated Measures Report and includes the FRL for each measure.

## A. Review of State Plan Performance

### 1. PROGRAM ADMINISTRATION

#### a) Training

In FY 2021, staff attended OTI virtually. Nine CSHOs participated in the Initial Compliance course, six CSHOs participated in the Introduction to Safety Standards for Safety Officers course, three whistleblower investigators attended the Interviewing Techniques for Whistleblower Investigations course, and five CSHOs attended the Respiratory Protection course.

#### b) OSHA Information System (OIS)

The FRL for average lapse time for safety is +/- 20% of the three-year national average of 52.42 days which equals a range of 41.94 to 62.90 days. During FY 2021, PROSHA's average lapse time for citations was calculated at 62.43 days for safety – compared to 70.77 days in FY 2020. The FRL average lapse time for health is +/- 20% of the three-year national average of 66.10 which equals a range of 52.88 to 79.32 days. PROSHA's health lapse time for FY 2021, was calculated at 81.69 days – compared to 89.62 days in FY 2020. Both the safety and the health lapse time are higher than the FRL (SAMM #11).

#### **Observation FY 2021-OB-01 (FY 2020-OB-05): Citation Lapse Time - Safety**

The safety lapse time was calculated at 62.43 days for safety which was above the FRL range of 40.46 days to 60.70 days.

**Federal Monitoring Plan:**

OSHA will monitor using the SAMM Report quarterly.

**Observation FY 2021-OB-02 (FY 2020-OB-06):** *Citation Lapse Time – Health*

The health lapse time was calculated at 89.62 days for health which was above the FRL range of 48.31 days to 72.47 days.

**Federal Monitoring Plan:**

OSHA will monitor using the SAMM Report quarterly.

c) State Internal Evaluation Program (SIEP) Report

PR OSHA's State Internal Evaluation Program (SIEP) is used to identify potential policy and procedural weakness, areas for improvement, and unsatisfactory execution of the State Plan and any other activity discovered during evaluations. Evaluation activities are accomplished by conducting on-site visits, cases file reviews, OIS data reviews, questionnaire completion, and/or other documentation reviews. Evaluations are conducted annually.

d) Staffing

The FY 2021 Annual Performance Plan (APP) submitted with the FY 2021 grant application identified a total of 109.15 full time employees funded under federal and state funds. The APP noted that as of July 1, 2020, the State Plan had 58.30 full time employees or 53% of the number of employees allocated under the grant employed. There were 32 CSHOs, .45 public safety and .45 public health consultants, two discrimination officers, and two compliance assistance specialists employed as of July 1, 2020.

The FY 2021 grant allocated the following positions: 9.55 managers, 6.15 supervisors, 21.90 safety CSHOs, 31.90 health CSHOs, three (3) whistleblower investigators, .45 safety consultants, .60 health consultants, three (3) compliance assistance specialists, 24.70 administrative support personnel and 7.90 designated as other staff.

During FY 2021, the State Plan had 14 CSHOs resign their positions. By the end of the calendar year, there were 17 resignations. Those positions as of March 2022 have not been filled.

PR OSHA struggles to retain and recruit staff due to salaries that are not competitive. For example, three of the nine CSHOs hired in July 2020 already resigned in FY 2021. PR OSHA has not hired no new employees to replace the 17 CSHOs that resigned in 2021.

**Finding FY 2021-01: Staffing**

There were 17 resignations during calendar year 2021. These positions have not been filled. There are currently 24 vacant CSHO positions out of 54 total CSHO positions (44%).

The FY 2021 grant application noted that for the approximate 54 CSHO positions funded under the grant only 32 CSHO positions as of July 1, 2020 were filled. This represented 59% of the funded positions at the start of FY 2021.

**Recommendation FY 2021-01:**

PR OSHA needs to continue with work with their Human Resources Assistant Secretary to get the vacant positions announced and filled.

**2. ENFORCEMENT**

a) Complaints

During this evaluation period, PR OSHA responded to 362 complaints with an average response time of 3.61 days from notification. This represents a decrease from 3.80 days in FY 2020 (SAMM Report, SAMM #1a). PR OSHA received one imminent danger complaints or referrals (SAMM #3) which they responded with one day (100%). PR OSHA responded within one day (100%) to imminent danger complaints or referrals (SAMM #3) in both FY 2021 and FY 2020. There were no denials of entry (SAMM #4) in FY 2021 and FY 2020. During the review of 22 formal complaint inspection case files, all (100%) contained documentation that the complaint items were addressed and complainants were notified of the investigation results.

**Complaint Investigations**

PR OSHA conducted 221 complaint investigations with an average response time of 1.20 days from notification. This represents a decrease from 1.35 days in FY 2020 (SAMM #2a).

**Observation FY 2021-OB-03: Complaint Investigations**

Two of eight (25%) complaint investigation cases were missing documentation including the letter to the employer, a response from the employer, and the letter to the complainant.

**Federal Monitoring Plan FY 2021-OB-03:**

A limited number of complaint investigations will be reviewed during the next comprehensive FAME to determine if these cases are isolated instances or trends.

b) Fatalities

During FY 2021, 12 fatalities occurred within PR OSHA's jurisdiction. One day response time to fatalities in FY 2021 was 91.67% compared to 85.71% in FY 2020. (SAMM #10) Five fatality case files were reviewed during this evaluation.

**Observation FY 2021-OB-04: Responding to Fatalities Within One Day:**

One of five (20%) fatality cases were not inspected within one day of notification.



**Federal Monitoring Plan FY 2021-OB 04:**

During the next comprehensive FAME review, a limited number of fatality case files will be selected randomly and reviewed to determine if this is an isolated instance or if this represents a trend that requires further review.

Documentation that the next-of-kin (NOK) letters had been send was lacking in one of the five (20%) fatality case files reviewed. The OSHA 36 Fatality/Catastrophe (FAT/CAT) form and the OSHA 170 Investigation form were found in all five cases (100%) of the case files reviewed.

**Observation FY 2021-OB-05: Next-of-Kin Letters (NOK)**

There was documentation lacking in one in five case files that the final inspection results notification letter was sent to the families of the victim.

**Federal Monitoring Plan FY 2021-OB-05:**

During the next comprehensive FAME review, a limited number of fatality case files will be selected randomly and reviewed to determine if this is an isolated instance or if this represents a trend that requires further review.

c) Targeting and Programmed Inspections

PR OSHA conducted 904 inspections in FY 2021, which was 28% below the projected goal of 1,260 inspections, but 473 more inspections than conducted in FY 2020. Of the 904 inspections conducted, 669 were in the private sector and 235 took place in SLG workplaces (SIR #1a and #1b). Safety staff conducted 611 inspections (37% below the goal) compared to the industrial hygiene staff who conducted 293 inspections (3% above the goal), (SAMM #7).

PR OSHA focused its inspection resources within the industries listed below:

- Amputations LEP industries-137 inspections
- Gasoline Service Stations- 34 inspections
- Hazardous Public Activities for Mobile Crews -61 inspections
- Construction-110 inspections

The FRL for percent in-compliance for safety inspections is +/- 20% of the three-year national average of 31.65% which equals a range of 25.32% to 37.98%. PR OSHA's percent in-compliance for safety is 57.96% which is higher than the FRL. The FRL for percent in-compliance for health inspections is +/- 20% of the three-year national average of 40.64% which equals a range of 32.51% to 48.77%. PR OSHA's percent in-compliance for health is 67.52% which is higher than the FRL (SAMM #9).

**Finding FY 2021-02 (FY 2020-OB-01, FY 2019-OB-01, FY 2018-OB-05): Percent In-Compliance – Safety**

In FY 2021, the percent in-compliance (SAMM 9) for safety inspections was 57.96% which was above the three-year national average of 31.65%.

**Recommendation FY 2021-02:**

PR OSHA should encourage staff to take photos on all inspections so that co-workers and supervisors can be consulted and review working conditions to detect any hazard not identified. In addition, PR OSHA should increase training opportunities for new CSHOs and analyze data regarding in-compliance inspections to detect trends.

**Finding FY 2021-03 (FY 2020-OB-02, FY 2019-OB-02, FY 2018-OB-06): Health Percent In-Compliance**

In FY 2021, the percent in-compliance (SAMM 9) for health inspections was 67.52% which was above the three-year national average of 40.64%.

**Recommendation FY 2021-02:**

PR OSHA should encourage staff to take photos on all inspections so that co-workers and supervisors can be consulted and review working conditions to detect any hazard not identified. In addition, PR OSHA should increase training opportunities for new CSHOs and analyze data regarding in-compliance inspections to detect trends.

d) Citations and Penalties

PR OSHA issued 721 violations in FY 2021 compared to 866 violations issued in FY 2020 – a decrease of 145 (17%) violations (FY 2021 PR OSHA SOAR). Of the 70 case files reviewed, 50 had citations issued.

The FRL for the average number of violations per inspection with violations by violation type is +/- 20% of the three-year national average of 1.44 for serious/willful/repeat (S/W/R) violations which equals a range of 1.42 to 2.14. PR OSHA's S/W/R average is 1.78 violations which is above the FRL range. The FRL for other-than-serious (OTS) violations is +/- 20% of the three-year national average of 0.99 which equals a range of 0.73 to 1.09. PR OSHA's OTS average was 0.91 which is slightly below the FRL (SAMM #5).

All 70 case files reviewed was identified as having citations for all apparent violations. All 50 (100%) case files with violations had adequate evidence to support violations and appeared to be grouped appropriately.

**Appropriateness of Violation Classification**

During this evaluation period, 50 of the 50 (100%) case files with violations revealed that the violation classification was appropriate.

PR OSHA's proposed penalties in FY 2021 were \$1,302,168 for safety and \$313,601.00 for health (PR OSHA SOAR FY 2021). The FRL for average current penalty per serious violation for private sector (1-250+ workers) is +/- 25% of the three-year national average of \$3,100.37 which equals a range of \$2,325.28 to \$3,875.46. PR OSHA's average current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) was \$1,103.82 in FY 2021 and below the FRL.

## Appropriateness of Penalties

### **Observation FY 2021-OB-06:** *Appropriateness of Penalties*

In 8 of 50 cases (14%) with violations issued, penalties were not calculated correctly in accordance with PROSHA's FOM. Penalties were not adjusted correctly for size and history specially for citations issued under Special Rule 17.

### **Federal Monitoring Plan FY 2021-OB-06:**

During the next comprehensive FAME, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

#### e) Abatement

The review of case files during this audit revealed that adequate verification/evidence of abatement was being obtained in 48 of the 50 (96%) case files reviewed with citations issued. This does not represent a trend that requires further action. Follow-up inspections were performed when indicated.

#### f) Worker and Union Involvement

Of the 70 case files reviewed, seven (10%) involved unions. Unions were present and involved in the inspection process in the seven case files reviewed regarding unions. However, the following issues were identified: In one case of 7 (14%), the union did not participate of the opening conference. In one case of 7 (14%), the union did not participate during the walkaround. In five cases with union where an informal conference was conducted, the case files did not contain documentation that contact had been made with the representative to establish they did not want to participate during the conference. Union representation was involved in 97.46% (SAMM #13) aspects of the inspection process.

### **Observation FY 2021-OB-07:** *Worker and Union Involvement*

In one case of seven (14%), the union did not participate of the opening conference. In one case of seven (14%), the union did not participate during the walkaround. In five of seven (71%) cases with a union where an informal conference was conducted, the case files did not contain documentation that contact had been made with the representative to establish, or that they did not want to participate during the conference.

### **Federal Monitoring Plan FY 2021-OB-07:**

During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

## **3. REVIEW PROCEDURES**

#### a) Informal Conferences

PR OSHA conducted 80 informal conferences in FY 2021 compared to 133 informal

conferences in FY 2020. During this evaluation period, 29 case files reviewed had informal conferences.

#### Adequacy of Procedures and Whether Followed -Informal Settlements

One of the 29 (3%) case files evaluated the informal conference was not held within 15 days. This does not represent a trend that requires further action.

Two of 29 (7%) cases where informal conferences were held, approval from the director of the Bureau of Inspections for a penalty reduction above 50% was not obtained. PR OSHA's Evaluation Division audits informal conference cases to ensure they are complying with this requirement. This does not represent a trend that requires further action.

#### b) Formal Review of Citations

Contested cases are handled by the PR Department of Labor Hearing Examiner Division. According to PR OSHA's Field Operations Manual, the Occupational Safety and Health Examiner (OSHE), created under Section 21 of the Act, is an independent adjudicatory entity. The Hearing Examiner's Office (HEO) is separate from PR OSHA and provides workers and employers hearing opportunities in matters associated with citations, proposed penalties, and abatement periods as provided by the Act. Formal settlement agreements and abatement documentation are kept at HEO in separate files and copies of such documentation are not included in the original case files at PR OSHA.

During FY 2021, the Legal Division received 82 contested cases. 62 of the 82 (76%) cases were closed with Hearing Examiner Resolutions as follows: 23 hearing with stipulated agreement, two cases closed with hearing examiner resolution, three dismissed, eight discharged, and 26 pending the Secretary's notification. The remaining 20 cases are under legal analysis from Hearing Examiner pending resolution PR OSHA SOAR FY 2021). A total of two contested case files were reviewed and both had timely contests filed.

#### **4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION**

In accordance with 29 CFR 1902, State Plans are required to adopt standards and Federal Program Changes (FPCs) within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. During FY 2021, PR OSHA responded in a timely manner with the required notice of intent to adopt; however, they have not yet adopted the maximum penalty increase from 2016.

#### a) Standards Adoption

#### Adoption of Maximum and Minimum Penalty Increases

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](#). As required by law, OSHA then increased penalties annually, most recently on January 14, 2022, according to the Consumer Price Index (CPI). See 2022 Annual Adjustments to OSHA Civil Penalties, available at <https://www.osha.gov/memos/2022-01-13/2022-annual-adjustments-osh-civil-penalties>; [87 FR 2328](#) (Jan. 14, 2022).

OSHA-approved State Plans must have penalty levels that are at least as effective as federal OSHA's per Section 18(c)(2) of the Occupational Safety and Health Act; 29 CFR 1902.37(b)(12). State Plans were required to adopt the initial maximum penalty level increase and the subsequent annual increases. State Plans were required to submit their initial intent to adopt by September 1, 2016. The first deadline for adoption of an annual increase was January 1, 2017.

PR OSHA is required to adopt maximum and minimum penalty increases that are at least as effective as the Agency's most recent increase issued in January 2022 without further delay. OSHA recognizes that the State Plan needs to implement legislative changes before this adoption can occur; however, it is almost six years past the initial adoption deadline. On September 3, 2021, OSHA sent a letter to the Puerto Rico State Plan warning that failure to adopt these increases would likely result in a new FAME finding. OSHA also requested that PR OSHA submit an action plan for how it would implement the necessary legislative changes in order for the adoption to occur. Unfortunately, PR OSHA failed to respond to the letter or submit the requested action plan.

Over the past 10 months since receiving this letter, the Puerto Rico State Plan has made no progress or concrete steps toward completing the requisite legislative changes and adopting the minimum penalty increases. Until at least as effective maximum and minimum penalty levels are adopted, the following new finding will remain open.

**Finding FY 2021-04:** *Federal Program Changes (FPCs)*

PR OSHA has failed to adopt OSHA's initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Recommendation FY 2021-04:**

PR OSHA must work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA's maximum and minimum penalty levels.

The tables below provide a complete list of the federal directive and standards which required action during the evaluation period:

**Table A**  
**Status of FY 2020 and FY 2021 Federal Standards Adoption**

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Final Rule on the Beryllium Standard for General Industry 29 CFR 1910 (7/14/2020)	9/14/2020	9/17/2021	Y	Y	1/14/2021	1/4/2021
Final Rule on the Beryllium Standard for Construction and Shipyards 29 CFR 1915, 1926 (8/31/2020)	10/30/2020	11/9/2020	Y	N	2/27/2021	11/25/2020
Occupational Exposure to COVID-19; Emergency Temporary Standard 29 CFR 1910 (6/21/2021)	7/6/2021	7/8/2021	Y	Y	7/21/2021	9/14/2021
Final Rule on the Implementation of the 2020 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1903 (1/15/2020)	3/15/2020	3/15/2020	N	N/A	7/15/2020	N/A
Final Rule on the Implementation of the 2021 Annual Adjustment to Civil Penalties for Inflation (1/15/2021)	3/16/2021	7/22/2021	N	N/A	7/14/2021	N/A
Final Rule on the Rules for Agency Practice and Procedures Concerning OSHA Access to Employee Medical Records 29 CFR 1913 (7/30/2020)	9/28/2020	11/9/2020	N	N/A	1/26/2021	12/11/2020
Final Rule on Cranes and Derricks in Construction: Railroad Roadway Work 29 CFR 1926 (9/15/2020)	11/14/2020	11/9/2020	Y	Y	3/14/2021	12/1/2020

**Table B**  
**Status of FY 2020 and FY 2021 Federal Program Change (FPC) Adoption**

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Adoption Required</i>						
Amputations in Manufacturing Industries NEP	2/10/2020	6/15/2020	Y	Y	6/10/2020	8/21/2020

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
CPL 03-00-022 (12/10/2019)						
Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)	4/4/2020	6/15/2020	Y	Y	8/4/2020	7/15/2020
<b><i>Equivalency Required</i></b>						
Field Operations Manual CPL 02-00-164 (4/14/2020)	6/13/2020	5/13/2020	Y	N	10/14/2020	4/14/2021
Inspection Procedures for the Respirable Silica Standards CPL 02-02-080 (6/25/2020)	8/24/2020	6/29/2020	Y	Y	12/22/2020	5/4/2021
Site-Specific Targeting (SST) CPL 02-01-062 (12/14/2020)	2/12/2021	6/16/2021	N	N/A	6/12/2021	N/A
Consultation Policies and Procedures Manual CSP 02-00-004 (3/19/2021)	5/19/2021	5/12/2021	Y	Y	9/19/2021	7/30/2021
Inspection Procedures for the COVID-19 Emergency Temporary Standard CPL DIR 2021-02 (CPL 02) (6/28/2021)	7/13/2021	7/9/2021	Y	Y	7/28/2021	8/12/2021
Compliance Directive for the Excavation Standard 29 CFR 1926, Subpart P CPL 02-00-165 (7/1/2021)	8/30/2021	7/22/2021	Y	Y	12/28/2021	10/21/2021
Revised National Emphasis Program-Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-03 (CPL 03) (7/7/2021)	7/22/2021	7/9/2021	Y	Y	8/7/2021	8/24/2021
<b><i>Adoption Encouraged</i></b>						
Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005 (1/30/2020)	3/30/2020	6/15/2020	Y	N	N/A	8/17/2020

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Electronic Case File System Procedures for the Whistleblower Protection Program CPL 02-03-009 (6/18/2020)	8/18/2020	3/11/2022	N	N	N/A	N/A
National Emphasis Program – Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-01 (CPL-03) (3/12/2021)	5/12/2021	3/19/2021	Y	N	N/A	3/19/2021
Communicating OSHA Fatality Inspection Procedures to a Victim’s Family CPL 02-00-166 (7/7/2021)	9/7/2021	7/30/2021	Y	Y	N/A	8/9/2021

**5. VARIANCES**

Variance requests were not received or processed during FY 2021 and FY 2020 (State Plan Application - SPA).

**6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM**

PR OSHA conducted a total of 235 (26%) inspections in SLG workplaces during FY 2021 (PR OSHA SOAR FY 2021 and SAMM #6). PR OSHA’s program contains provisions for the issuance of monetary penalties for SLG employers found not to be in-compliance with applicable standards on a first instance basis except in cases of FTA violations.

**7. WHISTLEBLOWER PROGRAM**

During FY 2021, The Bureau of Inspections received 30 cases with eleven (11) assigned for investigation. Of these 30 cases, none were determined to be merit cases, three were withdrawn, 19 were closed at the administrative level, and two were dismissed. There were no settlement agreements reached. Six cases remained under investigation at the end of FY 2021 (PR SOAR, FY 2021). There were no cases completed within 90 days (SAMM #14).

Region II’s Investigator for the Whistleblower Protection Programs reviewed eight case files all completed during FY 2020-2021. Of these eight case files reviewed, four were administratively closed (no full field investigations), and four were docketed investigations. Of the four docketed case files, two were dismissed (50%), one was settled (25%), and one withdrawn (25%).



The case files contained evidence that complaints were screened and docketed in a timely fashion thereby affording Complainants and Respondents their due process rights. Since the last review, case files in general show significant improvement in case file organization, and in the quality of the Reports of Investigations. This case file review verified that observations FY 2020-OB-03 and FY 2020-OB-04 from the FY 2020 FAME report were considered closed.

In most case files reviewed during this evaluation period PROSHA appropriately applied sound legal reasoning when analyzing the evidence. PROSHA's program and policies are at least as effective as OSHA's.

During this evaluation period, three staff members attended the OTI Interviewing Techniques for Whistleblower course.

**Finding FY 2020-01 (FY 2019-01):** Processing of Administratively Closed Whistleblower Complaints has been completed.

**Observation FY 2021-OB-08:** *Case file Documentation and Organization-Whistleblower*  
In one of four (25%) docketed investigations the complaint was not analyzed correctly during the initial intake and screening process. The complaint was incorrectly docketed when it was time barred from investigation. It is suggested the PROSHA conduct thorough screenings during the intake of all complaints to ensure those complaints meet the threshold requirements and are not mistakenly docketed for investigation negatively impacting PROSHA's limited resources.

**Federal Monitoring Plan FY 2021-OB-08:**

During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

## **8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)**

No CASPAs were filed in FY 2020 or FY 2021. (Note: a CASPA regarding staffing vacancies was filed in November 2021.)

## **9. VOLUNTARY COMPLIANCE PROGRAM**

PR OSHA has a comprehensive VPP which mirrors OSHA's VPP. The highest award, the "Guanin," is similar to OSHA's Star program, while the "Cemi" is like the Merit award. In addition, PR OSHA has a smaller category called the "Taino" for smaller employers and/or those working toward meeting all the core elements of the Guanin and/or Cemi. PR OSHA's VPP currently has 12 participants all in the Guanín level. During FY 2021, four sites were re-evaluated for continuing participation at the Guanín level (PR OSHA SOAR FY 2021). Three case files were evaluated during this evaluation period.

**Observation FY 2021-OB-09: Case File Documentation – VPP**

Two of the three (67%) VPP case files lacked documentation as to whether there were any 90-day items and the dates of correction of these hazards, if appropriate.

**Federal Monitoring Plan FY 2021-OB-09:**

During the next comprehensive FAME review, a limited number of VPP files will be reviewed to determine if this is a trend that requires further evaluation.

**10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM**

PR OSHA's SLG workers' consultation program conducted four visits in FY 2021 compared to three visits in FY 2020. There were three initial visits and one follow-up visit. These three initial visits included two limited and one full-service visit. The program issued 15 serious notices and correction was documented for all serious hazards. The average number of serious hazards per initial visit in FY 2021 was 4.50 (OSHA Consultation Reports).

**11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM**

The private sector consultation program for Puerto Rico has been funded under a 21(d) grant since July 2018.

## Appendix A – New and Continued Findings and Recommendations

### FY 2021 PR OSHA Comprehensive FAME Report

FY 2021	Finding	Recommendation	FY 2020-#
FY 2021-01	<p><i>Staffing</i> There were 17 CSHO staff resignations during calendar year 2021. These positions have not been filled. There are currently 24 vacant CSHO positions out of 54 total CSHO positions (44%).</p> <p>The FY 2021 grant application noted that for the approximate 54 CSHO positions funded under the grant only 32 CSHO positions as of July 1, 2020 were filled. This represented 59% of the funded positions at the start of FY 2021.</p>	PROSHA needs to continue with work with their Human Resources Assistant Secretary to get the vacant positions announced and filled.	New
FY 2021-02	<p><i>Safety Percent In-Compliance</i> In FY 2021, the percent of in-compliance for safety was 57.96% which was above the three-year national average of 31.65%.</p>	PR OSHA should encourage staff to take photos on all inspections so that co-workers and supervisors can be consulted and review working conditions to detect any hazard not identified. In addition, PR OSHA should increase training opportunities for new CSHOs and analyze data regarding in-compliance inspections to detect trends.	FY 2020-OB-01 FY 2019-OB-01 FY 2018-OB-05
FY 2021-03	<p><i>Health Percent In-Compliance</i> In FY 2021, the percent in-compliance (SAMM 9) for health inspections was 67.52% which was above the three-year national average of 40.64%.</p>	PR OSHA should encourage staff to take photos on all inspections so that co-workers and supervisors can be consulted and review working conditions to detect any hazard not identified. In addition, PR OSHA should increase training opportunities for new CSHOs and analyze data regarding in-compliance inspections to detect trends.	FY 2020-OB-02 FY 2019-OB-02 FY 2018-OB-06

## Appendix A – New and Continued Findings and Recommendations

### FY 2021 PR OSHA Comprehensive FAME Report

FY 2021	Finding	Recommendation	FY 2020-#
FY 2021-04	PR OSHA has failed to adopt OSHA's initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.	PR OSHA must work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA's maximum and minimum penalty levels.	New

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2021 PR OSHA Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-01	FY 2020-OB-05	<p><i>Safety Lapse Time</i> The safety lapse time was calculated at 62.43 days for safety which was above the FRL range of 40.46 days to 60.70 days.</p>	OSHA will monitor using the SAMM Report quarterly.	Continued
FY 2021-OB-02	FY 2020-OB-06	<p><i>Health Lapse Time</i> The health lapse time was calculated at 89.62 days for health which was above the FRL of 48.31 days to 72.47 days.</p>	OSHA will monitor using the SAMM Report quarterly.	Continued
FY 2021-OB-03		<p><i>Complaint Investigations</i> Two of eight (25%) complaint investigation cases were missing documentation including the letter to the employer, response from the employer, and the letter to the complainant.</p>	A limited number of complaint investigations will be reviewed during the next comprehensive fame to determine if these cases are isolated instances or trends.	New
FY 2021-OB-04		<p><i>Responding to Fatalities Within One Day:</i> One of five (20%) of the fatality inspection files were not inspected within one day of notification.</p>	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2021 PR OSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation # FY 20XX-OB-#	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-05		<p><i>Next-of-Kin Letters</i></p> <p>There was documentation lacking in one in five (20%) case files that the final inspection results notification letter was sent to the families of the victim.</p>	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY 2021-OB-06		<p><i>Appropriateness of Penalties</i></p> <p>In 8 of 50 cases (14%) with violations issued, penalties were not calculated correctly in accordance with PROSHA’s FOM. Penalties were not adjusted correctly for size and history specially for citations issued under Special Rule 17.</p>	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY 2021-OB-07		<p><i>Worker and Union Involvement</i></p> <p>In one case of seven (14%), the union did not participate of the opening conference. In one case of seven (14%), the union did not participate during the walkaround. In five of seven (71%) cases with a union where an informal conference was conducted, the case files did not contain documentation that contact had been made with the representative to establish, they did not want to participate during the conference.</p>	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2021 PR OSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation # FY 20XX-OB-#	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-08		<i>Case file Documentation and Management</i> In one of four (25%) docketed investigations, the complaint was not analyzed correctly during the initial intake and screening process. The complaint was incorrectly docketed when it was time barred from investigation.	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY 2021-OB-09		<i>Case File Documentation-VPP</i> Two of the three (67%) of VPP case files lacked documentation as to whether there were any 90-day items and dates of correction of these hazards, if appropriate.	During the next comprehensive FAME review, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
	FY 2020-OB-01 FY 2019-OB-01 FY 2018-OB-05	<i>Safety Percent In-Compliance</i> In FY 2020, the percent in-compliance for safety inspections is 54.46% which is above the three-year national average of 31.03%.	In FY 2021, OSHA will continue to monitor this issue by utilizing the quarterly SAMM reports.	Converted to Finding
	FY 2020-OB-02 FY 2019-OB-02 FY 2018-OB-06	<i>Health Percent In-Compliance</i> In FY 2020, the percent in-compliance for health inspections is 56.56% which is above the three-year national average of 37.15%.	In FY 2021, OSHA will continue to monitor this issue by utilizing the quarterly SAMM reports.	Converted to Finding

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2021 PR OSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation # FY 20XX-OB-#	Observation	Federal Monitoring Plan	Current Status
	FY 2020-OB-03 FY 2019-OB-03	<p><i>OITSS-IMIS Data Entry</i></p> <p>In FY 2019, one of four (25%) docketed whistleblower investigations, the OITSS-IMIS database did not accurately reflect timely docketing of the complaint although the parties were put on notice of the docketing and initiation of the complaint investigation in a timely fashion. The IMIS entry showed that the complaint was docketed four months after closure, although the case file itself clearly documented the docketing of the complaint and followed PR OSHA’s policy and procedures.</p>	In FY 2021, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	Closed
	FY 2020-OB-04 FY 2019-OB-04	<p><i>Settlement Procedures</i></p> <p>One of four (25%) docketed whistleblower cases was settled. The settlement agreement contained language that PR OSHA agreed to hold the settlement amount confidential. This contradicts the Whistleblower Investigations Manual page 6-19; PR OSHA will not approve or be a party to a confidentiality agreement. The case file appeared to indicate that a private agreement had also been signed by the parties, however, the agreement was not provided to PR OSHA for review and approval as per the manual page 6-18.</p>	In FY 2021, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	Closed



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

### FY 2021 PR OSHA Comprehensive FAME Report

FY 2020-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY 2020-01	<p><i>Processing of Administratively Closed Whistleblower Complaints</i></p> <p>In two of two (100%) of administrative closures there was no supervisory review. The supervisor handles both the screening of the complaint and the approval of the administrative closure. If a supervisor is responsible for the complaint screening process, PR OSHA must have a second supervisor review and approve the administrative closure.</p> <p>In two of two (100%) administratively closed cases, complaints were timely screened. However, IMIS did not accurately reflect who conducted the screening. The supervisor is responsible for the</p>	<p>PR OSHA should designate staff to review the administratively closed case files prepared by the supervisor. The supervisor should be registered in OITSS-IMIS.</p>	<p>A new process was implemented that incorporates the Bureau of Inspection Director (BID) reviewing and approving the administrative closure. The supervisor is now a registered OITSS-IMIS user. In addition, PR OSHA plans to hire and train an additional Whistleblower (WB) Investigator by December 31, 2020.</p>	July 1, 2020	Completed

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

### FY 2021 PR OSHA Comprehensive FAME Report

	screening of all complaints and at the time of these screenings, the supervisor was not registered as an OITSS-IMIS user. All administratively closed complaints entered in IMIS will show that someone other than the supervisor was responsible for the work.				
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**Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report**  
**FY 2021 PR OSHA Comprehensive FAME Report**

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>FY 2021 Further Review Level</b>	<b>FY 2021 Notes</b>
<b>1a</b>	Average number of workdays to initiate complaint inspections (state formula)	3.61	5	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of workdays to initiate complaint inspections (federal formula)	1.74	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of workdays to initiate complaint investigations (state formula)	1.20	1	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of workdays to initiate complaint investigations (federal formula)	0.33	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
<b>5a</b>	Average number of violations per inspection with violations by violation type (SWRU)	1.44	+/- 20% of 1.78	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.14 for SWRU.
<b>5b</b>	Average number of violations per inspection with violations by violation type (other)	0.99	+/- 20% of 0.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.73 to 1.09 for OTS.
<b>6</b>	Percent of total inspections in state and local government workplaces	26%	+/- 5% of 21.90%	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 20.81% to 23%.

**Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report**  
**FY 2021 PR OSHA Comprehensive FAME Report**

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>FY 2021 Further Review Level</b>	<b>FY 2021 Notes</b>
<b>7a</b>	Planned v. actual inspections (safety)	611	+/- 5% of 976	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 927.20 to 1,024.80 for safety.
<b>7b</b>	Planned v. actual inspections (health)	293	+/- 5% of 284	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 269.80 to 298.20 for health.
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,103.82	+/- 25% of \$3,100.37	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,325.28 to \$3,875.46.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$664	+/- 25% of \$2,030.66	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,523.00 to \$2,538.33.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$983.04	+/- 25% of \$3,632.26	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,724.20 to \$4,540.33.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$1,730.33	+/- 25% of \$5,320.16	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,990.12 to \$6,650.20.
	<b>d.</b> Average current	\$2,141.45	+/- 25% of	The further review level is

**Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report**  
**FY 2021 PR OSHA Comprehensive FAME Report**

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>FY 2021 Further Review Level</b>	<b>FY 2021 Notes</b>
	serious penalty in private sector (Greater than 250 workers)		\$6,575.70	based on a three-year national average. The range of acceptable data not requiring further review is from \$4,931.78 to \$8,219.63.
<b>9a</b>	Percent in compliance (safety)	57.96%	+/- 20% of 31.65%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.32% to 37.98% for safety.
<b>9b</b>	Percent in compliance (health)	67.52%	+/- 20% of 40.64%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 32.51% to 48.77% for health.
<b>10</b>	Percent of work-related fatalities responded to in one workday	91.67%	100%	The further review level is fixed for all State Plans.
<b>11a</b>	Average lapse time (safety)	62.43	+/- 20% of 52.42	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 41.94 to 62.90 for safety.
	<b>d.</b> Average current serious penalty in private sector (Greater than 250 workers)	\$2,141.45	+/- 25% of \$6,575.70	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,931.78 to \$8,219.63.
<b>11b</b>	Average lapse time (health)	81.69	+/- 20% of 66.10	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 52.88 to 79.32 for health.
<b>12</b>	Percent penalty retained	67.91%	+/- 15% of 69.08%	The further review level is based on a three-year national average. The range of

**Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report**  
**FY 2021 PR OSHA Comprehensive FAME Report**

SAMM Number	SAMM Name	State Plan Data	FY 2021 Further Review Level	FY 2021 Notes
				acceptable data not requiring further review is from 58.72% to 79.44%.
<b>13</b>	Percent of initial inspections with worker walk-around representation or worker interview	97.46%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	0%	100%	The further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	13%	+/- 20% of 20%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 16% to 24%.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	221	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	2.47%	+/- 25% of 0.99%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.74% to 1.24%.

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 8, 2021, as part of OSHA's official end-of-year data run.