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

**State of Alaska**

**Department of Labor and Workforce**

**Development Labor Standards and Safety Division**

**Alaska Occupational Safety and Health (AKOSH)**



**Evaluation Period: October 1, 2021 – September 30, 2022**

**Initial Approval Date: August 10, 1973**

**State Plan Certification Date: September 13, 1977**

**Final Approval Date: September 28, 1984**

**Prepared by:**

**U. S. Department of Labor**

**Occupational Safety and Health Administration**

**Region X**

**Seattle, WA**



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## Executive Summary

The purpose of this report is to assess Alaska Occupational Safety and Health’s (AKOSH) performance during Fiscal Year (FY) 2022 regarding activities mandated by the Occupational Safety and Health Administration (OSHA), and to gauge the State Plan’s progress toward resolving outstanding findings from the FY 2021 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report.

AKOSH continued to hire new staff, provide mandatory training throughout the review period, and explored innovative methods to increase the number of applicants for technical positions. This fiscal year resulted in greatly reduced COVID-19 activity statewide. Both enforcement and Consultation and Training conducted field work similar to pre-pandemic years. AKOSH transitioned back into normal enforcement activity and exceeded the projected program goal for health inspections, which ensured the overall inspection goals were met this fiscal year. AKOSH continues to maintain a high level of performance by responding to metrics and data provided through reports and quarterly meetings. The state program has maintained a high level of responsiveness and communication with OSHA.

In enforcement, AKOSH implemented two new compliance directives, one for the excavation standard and one for cranes and derricks in construction. AKOSH continued to update and revise its Whistleblower Investigation Manual. AKOSH reclassified one vacant enforcement position into a position dedicated to the Whistleblower program and transitioned from the Whistleblower Application in the OSHA IT Support System (OITSS)/Web Integrated Management Information System (WebIMIS) to the OSHA Information System (OIS) for retaliation program data entry. Finally, AKOSH management continued to conduct program reviews to address FY 2022 findings and observations. One continued finding, eleven continued observations, and one new observation resulted from this review period.

## State Plan Background

The State of Alaska, in accordance with Section 18 of the Occupational Safety and Health Act of 1970, operated an occupational safety and health program through its Department of Labor and Workforce Development, Labor Standards and Safety Division, Occupational Safety and Health. Alaska received approval for the state plan on August 10, 1973. On September 13, 1977, OSHA certified that all developmental steps were completed as specified in its plan and final approval was granted on September 28, 1984.

The Alaska Occupational Safety and Health Program is part of the Alaska Department of Labor and Workforce Development, which falls under the Division of Labor Standards and Safety. Key leadership positions include the Commissioner, Dr. Tamika L. Ledbetter, who headed the Department in FY 2022 and was the State Plan Designee, and Division Director Tanya Keith, who heads the Labor Standards and Safety Division. AKOSH is divided into two sections: Enforcement, and Consultation and Training. The Enforcement section was managed by Dale Williamson, who supervised five Industrial Hygienists (IH), five Safety Compliance Officers (SCOs), and one SCO detailed for retaliation investigations. The Consultation and Training section was managed by Chief Elaine Banda, who supervised three IHs and eight Safety and Compliance consultants.

AKOSH funded 2.4 full time equivalent (FTE) of the safety consultation positions and one (1) FTE of the health consultation positions as state and local government consultants under the 23(g) grant. One (1) additional FTE was funded for compliance assistance activities and was split between several positions in both consultation and enforcement. During fiscal year 2022, one Consultation safety position was transferred to Enforcement.

The remainder of the consultation program activities and FTEs were funded by the 21(d) Cooperative Agreement and are evaluated in the Regional Annual Consultation Evaluation Report.

AKOSH exercises jurisdiction over all private sector employers except for employers at Denali National Park, Metlakatla Indian Reservation, maritime industries, federal government- owned and contractor-operated (GOCO) native health care facilities, artificial islands, and select military installations. The program does not cover federal agencies and federal employees. AKOSH retains jurisdiction in state and local government workplaces. AKOSH has developed and adopted state-specific standards for several hazardous operations in general industry and construction including oil and gas operations, logging, telecommunications, and electric power generation, transmission, and distribution.

According to the demographic profile provided in the FY 2022 23(g) grant application, there were approximately 329,373 workers employed in 22,750 establishments. The initial award was $3,310,160 ($1,550,500 federal, $1,759,660 state funds). The State Plan did not accept a federal base increase of $34,900 offered in April 2022. The state reported final expenditures to be $3,109,701 ($1,550,500 federal, $1,559,201 state funds).

**New Issues**

A significant Complaint About State Program Administration (CASPA), AK 2022-01, was filed in FY 2022 regarding the referral of cases to the Alaska Attorney General’s office and advanced notice of inspection. OSHA investigated and found that AKOSH followed their policies and procedures. The investigation did not result in any findings.

## Assessment of State Plan Progress and Performance

### Data and Methodology

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

* State Activity Mandated Measures (SAMM) Report
* State Information Report (SIR)
* Mandated Activities Report for Consultation (MARC)
* OITSS Whistleblower Application/ Web Integrated Management Information System (Web IMIS)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* OSHA Information System Reports (OIS)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

#### Status of Previous and New Findings and Observations

The State Plan made progress addressing one finding and twelve observations from the FY 2021 Comprehensive FAME report, and OSHA closed one observation. This follow-up FAME report contains one continued finding and twelve observations (eleven continued and one new). Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2021 finding and recommendation in detail.

**Completed FY 2021 Findings**

No findings were completed in FY 2022.

**Continued FY 2021 Findings**

**Finding 2022-01:** In FY 2020 and 2021, nine of the seventeen (53%) state and local government workplace consultation case files did not contain the proper classification of hazards.

**Status:** A case file review is necessary to evaluate progress on this finding. This finding will be a focus during the FY 2023 consultation file review and remains open. AKOSH should ensure that hazards are classified appropriately.

**New FY 2022 Findings**

No new findings were identified in FY 2022.

**Closed FY 2021 Observations**

No observations were closed in FY 2022.

**Continued FY 2021 Observations**

**Observation FY 2022-OB-01 (FY 2021-OB-01):** In FY 2021, in two of 19 (10%) of case files that contained non-formal complaints, the electronic case files contained only the complaint form and lacked all other required documents, forms, and notes, as required by the State Plan’s Field Operations Manual (FOM).

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor to ensure required documents are in the complaint case file. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-02 (FY 2021-OB-02):** In FY 2021, in 18 of 91 (20%) of case files, the contact sheet was not used, nor were entries updated, as required by the State Plan’s Field Operations Manual (FOM).

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor to ensure contact sheets are in the case file and are updated to reflect actions taken on the case file. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-03 (FY 2021-OB-03):** In FY 2021, in three out of 20 (15%) complaint files, the initial acknowledgement contact letter to the complainant was not in the case file, and in six out of 19 (32%) of non-formal complaint files, the closure letter to the complainant was not in the case file.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor to ensure initial and final letters to the complainant are generated and in the case file. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-04 (FY 2021-OB-04):** In FY 2021, in one of three (33%) final next-of-kin letters, there was no evidence that required next-of-kin letters were sent.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor to ensure final next-of-kin letters are generated and in the case file. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-05 (FY2021-OB-05):** In three of 51 (6%) of FAME inspection case files and in two of two files reviewed as part of CASPA AK-2021-01, AKOSH did not combine violations in accordance with the AKOSH FOM, Chapter 4, paragraph X.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor to ensure that violations are combined appropriately either by grouping or combining as instances and that managers and compliance officers are trained on grouping and combining violations. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-06 (FY 2021-OB-06):** In FY 2021, in eight of 14 (57%) of cases with an informal conference, AKOSH did not document the justification for the penalty reductions in case files.

**Status:** In FY 2022, AKOSH was within the FRL range for penalty retention. A case file review is necessary to determination whether penalty reductions in case files were adequately documented; therefore, this will be evaluated during the FY 2023 comprehensive FAME file review. This observation is continued.

**Observation FY 2022-OB-07 (FY2021-OB-07):** In FY 2022, compared to FY 2021, average days pending increased to 1589 (compared to 730) and average days to complete an investigation increased to 985 (compared to 834), and AKOSH staffing for retaliation investigators stayed at the same level.

**Status:** From FY 2021 to FY 2022, AKOSH was able to decrease the number of total cases pending by 19 cases, from 103 to 84. However, average days pending and average days to complete an investigation continued to increase. Reference OITSS and OIS State Plan Investigative Data reports. This observation is continued.

**Observation FY 2022-OB-08 (FY2021-OB-08):** In FY 2021, in 28 out of 53 (53%) of retaliation case files reviewed, the files lacked the required documentation such as final signatures on settlement agreements, correspondence between AKOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, medical information not protected, or other documents required to be in the retaliation case file.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor during quarterly meetings to ensure that the State Plan include required documentation in case files. OSHA will use Electronic Case File (ECF) System Procedures for the Whistleblower Protection Program (CPL 02-03-009) as a guide. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.This observation is continued.

**Observation FY 2022-OB-09 (FY2021-OB-09):** In FY 2020 and 2021, 12 of 17 (71%) of state and local government consultation visits were identified as high hazard in OIS where the employer’s industry and worksite weren’t considered high hazard.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor and work with AKOSH to ensure all non-high hazard visits are coded appropriately. This observation will be a focus during the FY2023 consultation file review.This observation is continued.

**Observation FY 2022-OB-10 (FY2021-OB-10):** In FY 2020 and 2021, in four of 17 (24%) state and local government consultation files, incorrect OSHA standards were used for hazards identified in visits.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor and work with AKOSH to ensure correct OSHA standards are used. This observation will be a focus during the FY 2023 consultation file review.This observation is continued.

**Observation FY 2022-OB-11 (FY2021-OB-11):** In FY 2020 and 2021,in eight of 17 (47%) of state and local government consultation files reviewed, the written report to the employer did not have a comparison of the employer’s Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average.

**Status:** A case file review is necessary to evaluate performance in relation to this observation. OSHA will monitor and work with AKOSH to ensure the written report includes the DART and TRC rates. This observation will be a focus during the FY 2023 consultation file review. This observation is continued.

**New FY 2022 Observation**

**Observation FY 2022-OB-12:** In FY22 theaverage number of workdays to initiate complaint investigations (state formula) was 1.47, which was above the federal review level of 1 (SAMM 2A).

**Federal Monitoring Plan:** OSHA will continue to monitor SAMM data and discuss this metric with the State Plan during quarterly meetings.

**Discussion:** The further review level is negotiated by OSHA and the State Plan at 1 workday. Due to an error in a trend report used during quarterly meetings, performance on this measure was not discussed until the 4th quarter. AKOSH investigated and noted training and data entry errors. Training was conducted on coding and errors were corrected where applicable.

### State Activity Mandated Measures (SAMM) Highlights

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

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

State Plan’s performance in the following SAMMs was outside the FRL:

**SAMM 1a- Average number of workdays to initiate complaint inspections (state formula).**

Discussion of State Plan Data and FRL: The FRL for average workdays to initiate complaint inspections is negotiated with AKOSH and is fixed at five working days. In FY 2022, AKOSH initiated complaint inspections, on average, in 6.21 working days.

Explanation: There were seven complaint inspections opened in FY 2022 with a response time of over five days, significantly skewing the average for all complaint inspections. AKOSH experienced a high turnover of staff and experienced issues with improper data entry and reduced numbers of trained staff available to respond to complaints. The State Plan continues to hire and train new staff.

**SAMM 6 – Percent of total Inspections in state and local government workplaces**

Discussion of State Plan data and FRL: The further review level was based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review was from 5.76% to 6.36%. The State Plan conducted 9.73% of inspections in state and local government workplaces.

Explanation: AKOSH conducted 33 of 339 inspections with state and local government employers. The percent total of state and local government inspections was driven by complaints and pandemic related inspections, resulting in a 3.46% increase from the State Plan’s projected grant goal. This was not a cause for concern and OSHA will continue to monitor this metric during quarterly meetings.

**SAMM 7 – Planned v. actual inspections safety/health**

Discussion of State Plan data and FRL: The FRL for this metric is +/- 5% of the inspection goals negotiated in the FY 2022 23(g) grant application, which were 220 safety and 110 health inspections. The FRL range for safety inspections was 209 to 231 and the range for health inspections was 104 to 116. AKOSH conducted 196 safety inspections, which was 8% below the lower end of the FRL range, and 143 health inspections, which was 23% above the high end of the FRL range.

Explanation: Despite high staff turnover, a low number of experienced staff in safety, and pandemic related issues, AKOSH narrowly missed meeting its safety inspection goal for the fiscal year. In addition, the health inspection goal was exceeded and contributed to AKOSH surpassing its overall inspection goals. OSHA will continue to monitor this metric during quarterly meetings.

**SAMM 13 – Percent of initial inspections with worker walk around representation or worker interview**

Discussion of State Plan data and FRL: AKOSH’s percent of initial inspections with employee walk around representation or employee interview was 92.63%, which was below the FRL fixed at 100%.

Explanation: During quarterly meetings, AKOSH has explained that in some inspections conducted at workplaces there was only a manager on site or employees refused to be interviewed. This metric relates to Finding FY 2020-07 which was marked as completed during the FY 2021 FAME after the file review found that AKOSH was adequately documenting the reason for a lack of worker involvement in specific cases. OSHA will continue to discuss this metric during quarterly meetings and review files for documentation during the FY 2023 Comprehensive FAME.

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

FY 2022 AKOSH Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or**  **FY 2021-OB-#** |
| FY 2022-01 | In FY 2020 and 2021, nine of 17 (53%) state and local government workplace consultation case files did not contain the proper classification of hazards. | AKOSH should ensure that hazards are classified appropriately. | FY 2021-01 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 AKOSH Follow-up FAME Report

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Observation # FY 2022-OB-#** | **Observation# FY 2021-OB-# *or* FY 2021-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| FY 2022-OB-01 | FY 2021-OB-01  FY 2020-03 | In FY 2021, in two of 19 (10%) of case files that contained non-formal complaints, the electronic case files contained only the complaint form and lacked all other required documents, forms, and notes, as required by the State Plan’s Field Operations Manual (FOM). | OSHA will monitor to ensure documents relevant to the non-formal investigation are within the case file. | Continued |
| FY 2022-OB-02 | FY 2021-OB-02 | In FY 2021, in 18 of 91 (20%) of case files, the contact sheet was not used, nor were entries updated, as required by the State Plan’s Field  Operations Manual (FOM). | OSHA will monitor to ensure contact sheets are in the case file and are updated to reflect actions taken on the case file. | Continued |
| FY 2022-OB-03 | FY 2021-OB-03 | In FY 2021, in three out of 20 (15%) complaint files, the initial acknowledgement contact letter to the complainant was not in the case file, and in six out of 19 (32%) of non-formal complaint files, the closure letter to the complainant was not in the case file. | OSHA will monitor to ensure initial and final letters to the complainant are generated and in the case file. | Continued |
| FY 2022-OB-04 | FY 2021-OB-04  FY 2020-04 | In FY 2021, in one of three (33%) final next-of-kin letters, there was no evidence that required next-of-kin letters were sent. | OSHA will monitor to ensure final next-of-kin letters are generated and in the case file. | Continued |
| FY 2022-OB-05 | FY 2021-OB-05 | In FY 2021, three of 51 (6%) of FAME inspection case files and in two of two files reviewed as part of CASPA AK-2021-01, AKOSH did not combine violations in accordance with the AKOSH FOM, Chapter 4, paragraph X. | OSHA will monitor to ensure that violations are combined appropriately either by grouping or combining as instances and that managers and compliance officers are trained on grouping and combining violations. | Continued |
| FY 2022-OB-06 | FY 2021-OB-06 | In FY 2021, in eight of 14 (57%) of cases with an informal conference, AKOSH did not document the justification for the penalty reductions in case files. | OSHA will monitor to ensure that managers are trained on documenting the justification for reductions offered during the informal conference. | Continued |
| FY 2022-OB-07 | FY 2021-OB-07 | In FY 2022, compared to FY 2021 average days pending increased to 1589 (compared to 730), and average days to complete an investigation increased to 985 (compared to 834), and AKOSH staffing for retaliation investigators stayed at the same level. | OSHA will continue to monitor and will encourage AKOSH to put more resources into the Whistleblower program. | Continued |
| FY 2022-OB-08 | FY 2021-OB-08 | In FY 2021, in 28 out of 53 (53%) of retaliation case files reviewed, the files lacked the required documentation such as final signatures on settlement agreements, correspondence between AKOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, medical information not protected, or other documents required to be in the retaliation case file. | OSHA will monitor during quarterly meetings to ensure that the State Plan include required documentation in case files. OSHA recommends using the Electronic Case File (ECF) System Procedures for the Whistleblower Protection Program (CPL 02-03-009) as a guide when maintaining ECF. | Continued |
| FY 2022-OB-09 | FY 2021-OB-09 | In FY 2020 and 2021, 12 of 17 (71%) of state and local government consultation visits were identified as high hazard in OIS where the employer’s industry and worksite weren’t considered high hazard. | OSHA will work with AKOSH to ensure all non-high hazard visits are coded appropriately. | Continued |
| FY 2022-OB-10 | FY 2021-OB-10 | In FY 2020 and 2021, in four of 17 (24%) state and local government consultation files, incorrect OSHA standards were used for hazards identified in visits. | OSHA will conduct a limited file review. | Continued |
| FY 2022-OB-11 | FY 2021-OB-11 | In FY 2021, eight of 17 (47%) of state and local government consultation files reviewed, the written report to the employer did not have a comparison of the employer’s Days Away, Restricted or Transferred  (DART) and Total Recordable Case (TRC) to the national average. | OSHA will conduct a limited file review. | Continued |
| FY 2022-OB-12 |  | In FY 2022, theaverage number of workdays to  initiate complaint investigations was 1.47, above  the federal review level of 1. | OSHA will continue to monitor SAMM 2A  data and discuss this metric with  the State Plan during quarterly  meetings. | New |

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

FY 2022 AKOSH Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| FY 2021-01 | In FY 2020 and 2021, nine of 17 (53%) state and local government workplace consultation case files did not contain the proper classification of hazards. | AKOSH should ensure that hazards are classified appropriately. | After the audit, Consultation consultants received training on hazard classification. Training was conducted in March 2021 by the Region 9 State Plan Program Manager. Since then, each month the Consultation Program Manager randomly selects 5-10 case files and reviews written reports to verify if hazard have been properly classified. | Not Completed | Awaiting Verification  (8/4/2022) |

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

FY 2022 AKOSH Follow-up FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 6.21 | 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) | 1.10 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 2a | Average number of work days to initiate complaint investigations (state formula) | 1.47 | 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) | 0.71 | 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) | 98.73% | 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) | 1.79 | +/- 20% of  1.77 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.12 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 1.17 | +/- 20% of  0.90 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.72 to 1.08 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 9.73% | +/- 5% of  6.06% | 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 5.76% to 6.36%. |
| 7a | Planned v. actual inspections (safety) | 196 | +/- 5% of  220 | 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 209 to 231 for safety. |
| 7b | Planned v. actual inspections (health) | 143 | +/- 5% of  110 | 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 104.50 to 115.50 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $4377.30 | +/- 25% of  $3,259.35 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,444.51 to $4,074.19. |
|  | **a**. Average current serious penalty in private sector  (1-25 workers) | $2,120.00 | +/- 25% of  $2,145.46 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,609.10 to $2,681.83. |
|  | **b**. Average current serious penalty in private sector  (26-100 workers) | $4819.18 | +/- 25% of  $3,818.56 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,863.92 to $4,773.20. |
|  | **c**. Average current serious penalty in private sector  (101-250 workers) | $5,725.89 | +/- 25% of  $5,469.60 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,102.20 to $6,837.00. |
|  | **d**. Average current serious penalty in private sector  (greater than 250 workers) | $9857.35 | +/- 25% of  $6,725.78 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,044.34 to $8,407.23. |
| 9a | Percent in compliance (safety) | 29.66% | +/- 20% of  32.25% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.80% to 38.70% for safety. |
| 9b | Percent in compliance (health) | 33.33% | +/- 20% of  44.42% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.54% to 53.30% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 52.05 | +/- 20% of  54.58 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 43.66 to 65.50 for safety. |
| 11b | Average lapse time (health) | 70 | +/- 20% of  69.03 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 55.22 to 82.84 for health. |
| 12 | Percent penalty retained | 72.21% | +/- 15% of  69.97% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 59.47% to 80.47%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 92.63% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 17 | Percent of enforcement presence | 1.93% | +/- 25% of  1.64% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.23% to 2.05%. |

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

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