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

**Hawaii Department of Labor and Industrial Relations Occupational Safety and Health Division (HIOSH)**



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**Table of Contents**

[I.Executive Summary 3](#_Toc119418663)

[II.State Plan Background 3](#_Toc119418664)

[III.Assessment of State Plan Progress and Performance 4](#_Toc119418665)

[A. Data and Methodology 4](#_Toc119418666)

[B. Findings and Observations 5](#_Toc119418667)

[C. State Activity Mandated Measures (SAMM) Highlights 8](#_Toc119418668)

[Appendix A - New and Continued Findings and Recommendations 11](#_Toc119418669)

[Appendix B - Observations Subject to Continued Monitoring 12](#_Toc119418670)

[Appendix C - Status of FY 2021 Findings and Recommendations 14](#_Toc119418671)

[Appendix D - FY 2022 State Activity Mandated Measures (SAMM) Report 17](#_Toc119418672)

## Executive Summary

The primary purpose of this report is to assess Hawaii Occupational Safety and Health’s (HIOSH’s) progress during Fiscal Year (FY) 2022 in resolving outstanding findings identified in the FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. HIOSH’s progress in meeting its annual performance plan and five-year strategic goals is addressed in its FY 2022 State OSHA Annual Report (SOAR).

HIOSH was responsive to identified findings and recommendations and continued to maintain an average level of program performance. However, the COVID-19 pandemic continued to affect HIOSH’s activities in FY 2022. Hiring difficulties and compliance staff retention challenges resulted in limited availability of qualified staff to conduct inspections. OSHA identified this as a new observation. FY 2022 was the fourth consecutive year that HIOSH did not meet its projected inspection goal. Only 534 of the projected 650 inspections were conducted and the average number of serious, willful, repeat, and unclassified (SWRU) violations cited per inspection also slightly decreased for the third consecutive year.

The Hawaii State Plan made some progress addressing the previous five findings and four observations from the FY 2021 Comprehensive FAME Report. No findings were completed, one observation was closed, and one finding was converted to an observation. Four findings and three observations were carried over to FY 2023. An on-site case file review is necessary to verify corrective action and will be scheduled as part of the FY 2023 comprehensive FAME.

## State Plan Background

The Department of Labor and Industrial Relations (DLIR) administers the Hawaii State Plan. Anne E. Perreira-Eustaquio, Director of DLIR, was the State Plan Designee and Norman Ahu was the HIOSH Program Administrator. Following the November 8, 2022 election, Governor Josh Green appointed Jade T. Butay to be the new Director of DLIR, but is awaiting confirmation.

HIOSH is comprised of two major sections: the Occupational Safety and Health (OSH) division administered the Hawaii Occupational Safety and Health Program, and the Boiler and Elevator Safety division administered the Hawaii Boiler and Elevator Safety Laws. OSHA does not monitor the Boiler and Elevator Safety division as it is not funded by the 23(g) grant. The OSH division consists of the Administrative and Technical Support; Occupational Safety; Occupational Health; and Consultation and Training branches.

In FY 2022, the initial 23(g) federal base award funding was $1,584,700.  Hawaii matched the federal funds, bringing the total award to $3,169,400.  The state was not able to match a grant amendment increasing the federal share by $37,000. The total unmatched federal funds of $65,000 includes a reclamation base award increase of $28,000 from FY 2021.  A financial review of the program was completed in FY 2022. Corrective actions for two findings related to acquisition management and internal inventory controls were implemented and completed. Due to the pending approval of Hawaii’s indirect cost rate agreement, the FY 2022 financial closeout report was submitted by the approved extension date of February 1, 2023. The total expenses were $3,169,400 and the program did not lapse any federal funds.

The grant provided funding for 28 full-time staff including four managers, nine safety compliance officers, nine health compliance officers, four clerical staff, one program specialist, one compliance assistance specialist (CAS), and one part-time state and local government agency safety and health consultant. Staffing levels fluctuated throughout the year and at the end of FY 2022, HIOSH employed five safety and six health compliance officers. The CAS position remained vacant for the entire year. Although HIOSH continued to experience staffing vacancies and high turnover rates, it has been actively working with state hiring officials to fill vacancies and increase salaries.

State and local government consultation services are provided under the 23(g) grant and private sector consultation is provided under the 21(d) Cooperative Agreement. The private sector consultation program is evaluated separately in the FY 2022 Regional Annual Consultation Evaluation Report (RACER).

During FY 2022, HIOSH implemented various strategies to increase outreach activities. This included a stress awareness campaign that was broadcast on multiple state radio stations during high temperature months; mailing monthly hazard awareness pamphlets through the HIOSH Hazard Highlights (HHH) publication; and routinely informing both workers and employers of hazards and activities through continuous HIOSH website updates. HIOSH also required staff to attend translation services training which included instruction on the Limited English Proficiency policies and services provided by the State of Hawaii designed to improve services to the public with limited English proficiency.

**New Issues**

None

## Assessment of State Plan Progress and Performance

###  A. 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 (Appendix D, dated 11/14/2022)
* State Information Report (SIR, dated 11/14/2022)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan 23(g) Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* Whistleblower Application in the OSHA IT Support System (OITSS)
* OSHA Information System (OIS)
* State Plan Application (SPA)

###  B. Findings and Observations

**Findings (Status of Previous and New Items)**

The Hawaii State Plan made some progress addressing the five findings and four observations from the FY 2021 Comprehensive FAME Report. This follow-up FAME report contains four continued and no new findings. No findings were completed and one finding was converted to an observation. One observation was closed and three were continued. There were no new observations in FY 2022. 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.

**Completed FY 2021 Findings**

No findings were completed in FY 2022.

**Continued FY 2021 Findings**

**Finding** **FY 2022-01 (FY 2021-02):** The average number of days to initiate complaint investigations (SAMM 2a) was above the negotiated Further Review Level (FRL) of two days.

**Status:** Based on SAMM data, the number of days to initiate complaint investigations increased from 4.06 days in FY 2021 to 5.46 days in FY 2022; significantly above the negotiated FRL of two days. In the first quarter, HIOSH identified that staff were indicating in OIS that the complaint was valid when it did not have all the information needed from the complainant to process the complaint. HIOSH conducted training for staff on the complaint processing procedure which decreased the average response time to 5.46 days from a high of 13.96 days in December 2021. This finding remains open.

**Finding FY 2022-02 (FY 2021-03):** HIOSH has not completed adoption of all of the required standards by the adoption due date.

**Status:** Adoption of standards has been dependent on staff resources and required positions have been vacant. This has been a concern for several years. HIOSH has initiated the first draft of the outstanding standards. This finding remains open.

**Finding FY 2022-03 (FY 2021-04):** HIOSH has not completed adoption all of the required directives by the adoption due date.

**Status:** Adoption of directives has been dependent on staff resources and required positions have been vacant. This has been a concern for several years. HIOSH has initiated the first draft of outstanding FPCs. This finding remains open.

**Finding FY 2022-04 (FY 2021-05):** In 100% (two of two) of retaliation cases withdrawn by the complainant, there was no documentation that HIOSH advised the complainant of the consequences of the withdrawal.

**Status:** HIOSH updated their withdrawal request forms to ensure the complainant is advised of theconsequences of the withdrawal and that the notification is documented. A case file review is necessary to gather the facts needed to evaluate progress of the corrective action. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

**New FY 2022 Findings**

There were no new findings identified in FY 2022.

**Observations**

**Closed FY 2021 Observations**

**Observation FY 2021-OB-02:** Policies and procedures for targeting high hazard industries for inspections were not documented.

**Status:** HIOSH developed a Site-Specific Targeting directive for targeting high hazard industries, which the Region approved on June 23, 2022. This observation is closed.

**Continued FY 2021 Observations**

**Observation** **FY 2022-OB-01** **(FY 2021-OB-01):** There was no evidence in the four closed fatality investigation files reviewed from FY 2021 that the family of victims were contacted during the investigation, and three of four (75%) closure letters were not sent within the timeline established in the HIOSH Field Operations Manual (FOM).

**Status:** HIOSH managers were re-trained on the procedures for communicating with the family of the victims and the case file diary sheet was re-formatted to include the contact with the family of the victims as a reminder. A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-02 (FY 2021-OB-03):** In FY 2021,retaliation case files lacked the required documentation such as interview summaries, activity logs, evidence of review by a supervisor, or other documents required to be in the retaliation case file.

**Status:** HIOSH staff were re-trained on the documentation requirements for retaliation case files. A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-03 (FY 2021-OB-04):** In FY 2021, in four of 16 (25%) case files, there was no evidence that union or other labor representatives were contacted to participate in the opening and closing conferences or walk around inspections.

**Status:** All HIOSH staff were re-trained on the requirement to contact and document in the case file that union or other labor representatives are invited to participate in the opening and closing conferences and walk around inspections. A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**New FY 2022 Observations (Converted from a FY 2021 Finding)**

**Observation FY 2022-OB-04 (FY 2021-01):** Required positions remained vacant for extended periods of time.

**Federal Monitoring Plan:** OSHA will monitor the progress of filling vacancies during quarterly meetings with HIOSH.

**Discussion:** This observation was converted from a finding identified in the FY 2021 FAME that required positions remained vacant for extended periods of time with no actions taken to fill the vacancies. This matter is currently with state hiring officials to fill vacancies and increase salaries. The observation was revised to reflect HIOSH continues to experience staffing vacancies and high turnover rates. HIOSH highlighted job vacancies through radio and digital media, its website, and a recruitment booth at the Pacific Rim Safety conference.

###  C. 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 SAMM Report and includes the FRLs for each measure.

It should be noted that OSHA is in the final stages of transitioning from the Whistleblower Application in the OSHA IT Support System (OITSS), a legacy data system, to the Whistleblower module in OIS, a modern data system. For FY 2022, a portion of the State Plan whistleblower data was recorded 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.

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

**SAMM 3 –** **Percent of Complaints and Referrals Responded to Within One Workday (Imminent Danger)**

**Discussion of State Plan Data and FRL:** The FRL for percentage of imminent danger complaints and referrals responded to within one workday is fixed for all State Plans at 100%. HIOSH responded to 98.08% of imminent danger complaints and referrals within one workday.

**Explanation:** Although the FRL is fixed for all State Plans at 100%, the national average for FY 2022 was 95.98%. Of the 52 complaints and referrals coded as imminent danger in OIS, there was one instance where HIOSH responded in two days. The referral involved an employer reported hospitalization for an employee crushed by his own vehicle. In this case, the definition of imminent danger may not apply. This result does not rise to the level of an observation, but accurate coding will continue to be discussed during quarterly meetings.

**SAMM 5 – Average Number of Violations per Inspection with Violations by Violation Type**

**Discussion of State Plan Data and FRL:** The FRL for average number of violations per inspection with SWRU violations (SAMM 5a) is +/- 20% of the three-year national average of 1.77 which provides a range of 1.42 to 2.12. HIOSH’s average number of SWRU violations was below the lower end of the FRL range at 1.24. The FRL for other-than-serious (OTS) violations (SAMM 5b) is +/- 20% of the three-year national average of 0.90 which provides a range of 0.72 to 1.08. HIOSH’s average number of other violations was above the FRL range at 1.24.

**Explanation:** The lower-than-average SWRU violations and higher-than-average OTS violations per inspection was most likely due to two contributing factors. The first and probably most significant factor was the hiring and retention of staff. Secondly, many Hawaii businesses were operating at a reduced capacity due to the COVID-19 pandemic during the first half of the year. Due to these circumstances, this result does not rise to the level of an observation but will continue to be discussed during quarterly meetings.

**SAMM 6 – Percent of Total Inspections in State and Local Government Workplaces**

**Discussion of State Plan Data and FRL:** The FRL for percent of total inspections in state and local government workplaces negotiated by OSHA and HIOSH through the 23(g) grant application was +/- 5% of 6.15%, which provides a range of 5.85% to 6.46%. HIOSH’s percentage of inspections in state and local government workplaces was above the FRL at 8.05%.

**Explanation:** HIOSH conducted 43 inspections in state and local workplaces; three more than the FRL of 40 inspections. Of the 43 inspections, 18 (41.86%) were unprogrammed which is in alignment with the 37.89% of unprogrammed inspections conducted in the private sector.

**SAMM 7b – Planned v. Actual Inspections (Health)**

**Discussion of State Plan Data and FRL:** The FRL for planned v. actual health inspections negotiated by OSHA and HIOSH through the 23(g) grant application was +/- 5% of 300 which provides a range of 285 to 315. HIOSH only conducted 189 of the 300 projected health inspections.

**Explanation:** The lower than planned inspections was most likely due to the high turnover of staff within the year, limiting the number of qualified staff available to conduct inspections. Due to the circumstances, this result does not rise to the level of an observation but will continue to be discussed at quarterly meetings.

**SAMM 9a – Percent In-Compliance (Safety)**

**Discussion of State Plan Data and FRL:** The FRL for average safety percent in-compliance inspections is +/- 20% of the three-year national average of 32.25% which provides a range of 25.80% to 38.70%. HIOSH’s average safety inspection in-compliance rate was 20.65%, significantly below the three-year national average of 32.25% and deserves acknowledgment.

**Explanation:** Although the average SWRU violations per inspection was lower than the FRL, the low percent in-compliance indicates that violations are being identified during safety inspections.

**SAMM 10 – Percent of Work-related Fatalities Responded to in One Workday**

**Discussion of State Plan Data and FRL:** The FRL for the percentage of work-related fatalities responded to in one workday was fixed for all State Plans at 100%. In FY 2022, HIOSH only responded to three of the four (75%) work-related fatalities in one workday which warranted further evaluation.

**Explanation:** The inspection that was not responded to in one workday occurred on the island of Kauai. Due to a delay in approving travel, it was two days before the inspector arrived on-site and initiated the inspection. If HIOSH encounters circumstances delaying travel to the site in the future, it will conduct an opening conference by telephone and will initiate the inspection remotely by gathering as much information as possible. Due to the circumstances, this result does not rise to the level of an observation but will continue to monitor HIOSH’s response time to fatalities.

**SAMM 11a – Average Lapse Time (Safety) and SAMM 11b – Average Lapse Time (Health)**

**Discussion of State Plan Data and FRL:** The FRL for average lapse time for safety inspections (SAMM 11a) is +/- 20% of the three-year national average of 54.58 days provides a range of 43.66 to 65.50 days. The FRL for average lapse time for health inspections (SAMM 11b) is +/- 20% of the three-year national average of 69.03 days provides a range 55.22 to 82.84 days. HIOSH’s lapse time rate for safety was 29.97 and 55.19 days for health; both were below the FRL.

**Explanation:** Although the lower-than-average SWRU violations could be a factor in the lower safety and health lapse times, the low inspection lapse time is a positive outcome.

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

FY 2022 Hawaii Occupational Safety and Health Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or** **FY 2021-OB-#** |
|  FY 2022-01 | The average number of days to initiate complaint investigations (SAMM 2a) was above the negotiated Further Review Level (FRL) of two days. | HIOSH should develop a system to ensure complaint investigations are initiated timely. | FY 2021-02 |
|  FY 2022-02 | HIOSH has not completed adoption of all of the required standards by the adoption due date. | HIOSH should ensure the standards are adopted by the due date. | FY 2021-03 |
|  FY 2022-03 | HIOSH has not completed adoption all of the required directives by the adoption due date. | HIOSH should ensure it meets the requirements for response and adoption of OSHA’s FPCs. | FY 2021-04 |
| FY 2022-04 | In 100% (two of two) of retaliation cases withdrawn by the complainant, there was no documentation that HIOSH advised the complainant of the consequences of the withdrawal. | HIOSH should ensure the case file has documentation when complainants are advised that by entering a withdrawal, they will be forfeiting all rights to appeal or to object, and the case will not be reopened. Corrective action complete, awaiting verification. | FY 2021-05 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 Hawaii Occupational Safety and Health 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-01FY 2020-01FY 2019-01 | There was no evidence in the four closed fatality investigation files reviewed from FY 2021 that the family of victims were contacted during the investigation, and three of four (75%) closure letters were not sent within the timeline established in the HIOSH Field Operations Manual (FOM). | During next year’s FAME, all fatality investigation files will be reviewed to determine if this reflects the data trend. | Continued |
|  | FY 2021-OB-02FY 2020-02FY 2019-02FY 2018-01FY 2017-02FY 2016-09 | Policies and procedures for targeting high hazard industries for inspections were not documented. | Not Applicable | Closed |
| FY 2022-OB-02 | FY 2021-OB-03 | In FY 2021, retaliation case files lacked the required documentation such as interview summaries, activity logs, evidence of review by a supervisor, or other documents required to be in the retaliation case file. | During next year’s FAME, retaliation case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2022-OB-03 | FY 2021-OB-04 | In FY 2021, four of 16 (25%) case files, there was no evidence that union or other labor representatives were contacted to participate in the opening and closing conferences or walk around inspections. | During next year’s FAME, inspection case files will be reviewed to determine if this reflects the data trend. | Continued |
| FY 2022-OB-04 | FY 2021-01 | Required positions remained vacant for extended periods of time.  | OSHA will monitor progress of filling vacancies during quarterly meetings with HIOSH. | New (Converted from Finding FY 2021-01) |

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

FY 2022 Hawaii Occupational Safety and Health Follow-up FAME Report

| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
| --- | --- | --- | --- | --- | --- |
|  FY 2021-01 | Required positions remained vacant for extended periods of time with no actions taken to fill the vacancies. | HIOSH should work with state hiring officials to fill required vacant positions. | HIOSH will continue to diligently work with the DLIR HR Office on recruitment and efforts to reach out to the State’s Department of Human Resource Development office for assistance and guidance. HIOSH will continue promoting recruitment via radio and digital media, its website, and set up a recruitment booth at the Pacific Rim Safety Conference 10/6 -7/22/2023. Good progress has been made to date for FY 2022: two new EHS II hires (September); one new OSHCO II (October); one summer intern/potential EHS (November). | Not Applicable | Converted to an Observation02/09/2023 |
|  FY 2021-02 | The average number of days to initiate complaint investigations (SAMM 2a) was above the negotiated FRL of two days. | HIOSH should develop a system to ensure complaint investigations are initiated timely. | It was determined that the lack of staff during the COVID-19 pandemic and training of new hires directly impacted response time and resulted in multiple complaint investigations that were not addressed timely. HIOSH revisited current procedures and streamlined the complaint process in February 2022 to ensure the days to initiate investigations would be within the negotiated two days. This included more email communication, OIS template utilization, OIS report running and utilization, as well as training on procedures. | Not Applicable | Open02/09/2023 |
| FY 2021-03 | Five of eight OSHA standards were not adopted by the adoption due date. | HIOSH should ensure the standards are adopted by the due date. | Adoption of standards has been dependent on staff resources, required positions have been vacant and is a concern for several years. HIOSH will adopt the overdue standards by the end of the 2023 calendar year. HIOSH has initiated the first draft of updates as of 8/18/2022. | Not Applicable  | Open 02/09/2023 |
| FY 2021-04 | Requirements for adopting federal program change (FPC) directives were not completed within six months of the effective date of the directive or official issuance of the federal register notice. | HIOSH should ensure it meets the requirements for response and adoption of OSHA’s FPCs. | HIOSH staff will prioritize the response of intent to adopt directives and complete adoption. HIOSH will improve internal procedures for cumulative Manager and Administrator response to initialize intent early and ensure adoption is completed timely. HIOSH will have all directives currently behind completed by the end of calendar year 2023. | Not Applicable | Open 02/09/2023 |
| FY 2021-05 | In 100% (two of two) of retaliation cases withdrawn by the complainant, there was no documentation that HIOSH advised the complainant of the consequences of the withdrawal. | HIOSH should ensure the case file has documentation when complainants are advised that by entering a withdrawal, they will be forfeiting all rights to appeal or to object, and the case will not be reopened. | HIOSH updated their withdrawal request form with the following provision: “I understand that I have the right to appeal a determination by the Hawaii Occupational Safety and Health Division, and I waive that right.” Complainant’s signature on the form acknowledges this understanding. If complainant does not sign the form, HIOSH will document the case file with email or audio recording that complainant was informed of consequences and will be unable to appeal complaint. The complainant’s request form and email or audio recording shall be documented in the case file. A final closure letter is sent to complainant confirming the case is closed and offers an opportunity to bring up any questions or concerns regarding the closure or the HIOSH Whistleblower Law. | 05/11/2022 | Awaiting Verification 02/09/2023 |

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

FY 2022 Hawaii Occupational Safety and Health 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) | 6.24 | 7 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 2.56 | 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) | 5.46 | 2 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 4.10 | 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) | 98.08% | 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) | 1.24 | +/- 20% of1.77 | 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) | 1.24 | +/- 20% of0.90 | 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 | 8.05% | +/- 5% of6.15% | 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 5.85% to 6.46%. |
| 7a | Planned v. actual inspections (safety) | 345 | +/- 5% of 350 | 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 332.50 to 367.50 for safety. |
| 7b | Planned v. actual inspections (health) | 189 | +/- 5% of 300 | 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 285 to 315 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $3,088.60 | +/- 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) | $2,084.00 | +/- 25% of $2,145.46 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,609.10 to $2,681.83. |
|  | **b**. Average current serious penalty in private sector (26-100 workers**)** | $4,738.84 | +/- 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) | $5,771.85 | +/- 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) | $6,316.91 | +/- 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) | 20.65% | +/- 20% of32.25% | 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) | 44.02% | +/- 20% of44.42% | 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 | 75% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 29.97 | +/- 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) | 55.19 | +/- 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 | 76.69% | +/- 15% of69.97% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 59.47% to 80.47%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 100% | 100% | The further review level is fixed for all State Plans. |
| 14 | Percent of 11(c) investigations completed within 90 days | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2022. Please see note below. |
| 17 | Percent of enforcement presence | 2.03% | +/- 25% of1.64% | 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.