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

**State of Indiana**

**Occupational Safety and Health Administration**



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## Executive Summary

The primary purpose of this report is to assess the State Plan’s progress in fiscal year (FY) 2022, in resolving outstanding findings from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. The report also assesses the current performance of the Indiana Department of Labor Occupational Safety and Health Administration (IOSHA) in the context of agreed upon monitoring measures. The State Plan was responsive to the previous findings and recommendations and made progress in addressing the nine findings from the FY 2021 Comprehensive FAME report. Seven findings remain in this report. No new findings or observations were identified.

The State Plan has been challenged with turnover in compliance staff and steps taken by the Indiana Department of Labor as well as Indiana’s State Personnel Department in fiscal year (FY) 2022 have resulted in significant salary increases for Indiana OSHA staff. With the state’s commitment to retaining and recruiting qualified enforcement staff, the expectation is IOSHA will be on a track to meet inspection goals and mandated measures that were not met recently.

IOSHA implemented corrective actions to address all nine findings from FY 2021 and as a result, two findings are completed and four are awaiting verification. An onsite case file review will be part of the FY 2023 Comprehensive FAME to determine if the four findings awaiting verification are completed. The two completed findings are related to proof of receipt of whistleblower determination letters and percent in-compliance for health inspections. Three other findings remain open, with one of these related to implementing OSHA’s 2016 penalty increase and subsequent annual increases for inflation. IOSHA submitted language for consideration in the Indiana legislature, however, there has been no action taken, nor does IOSHA expect any movement on it this year.

The FY 2022 Indiana State OSHA Annual Report (SOAR) provided information that outlines IOSHA’s accomplishments toward meeting their Five-Year Strategic Management Plan. The report has been reviewed to assess their progress in meeting performance plan goals. Progress on strategic plan goals is discussed during quarterly monitoring meetings held during the fiscal year. The State Activity Mandated Measures (SAMM) report and the State Indicators Report (SIR) are also reviewed during the quarterly meetings with IOSHA enforcement staff. The FY 2022 SAMM is Appendix D of this report.

## State Plan Background

The Indiana Department of Labor, under an agreement with OSHA, administers the Indiana occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970 (OSHA Act). IOSHA’s plan was initially approved on March 6, 1974, and certified on October 6, 1981. On September 26, 1986, IOSHA received final approval. The State Plan designee Mr. David Redden, Commissioner of the Indiana Department of Labor was appointed by the Indiana Governor in July 2022. The director of IOSHA’s program is Ms. Michelle Ellison, Deputy Commissioner of Labor. Mr. Jameson Berry is Director of General Industry, and the Whistleblower Unit and Mr. Jeremy Galloway is Director of Construction.

IOSHA adopts all of OSHA’s safety and health standards and federal program changes, with some differences when allowed. Indiana state law, IC 22-8-1.1-17.5 does not allow IOSHA’s safety and health regulations to be more stringent than those of OSHA. The Indiana Department of Labor’s INSafe Division administers the private sector on-site consultation program funded under a 21(d) grant.

The FY 2022 grant included funding totaling $5,140,200. The federal share was $2,570,100. Indiana did not deobligate any funds in FY 2022. The State Plan’s benchmark staffing level is 47 safety officers and 23 industrial hygienists. IOSHA’s allocated staffing level in FY 2022 included 6 supervisors, 29 safety compliance officers, 13 health compliance officers (industrial hygienists) and two whistleblower investigators. Four of the safety compliance officers work as Team Leaders for the Voluntary Protection Program. The full-time equivalent (FTE) for allocated staffing was 62.47 on the FY 2022 grant.

IOSHA has jurisdiction for private sector and state and local government employees. Federal OSHA covers workers employed in maritime activities (shipyards, marine terminals, longshoring) and United States Postal Service (USPS) employees. IOSHA’s Whistleblower Protection Program covers only Section 11(c) of the OSH Act.

**New Issues**

None

## Assessment of State Plan Progress and Performance

### Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2022 is a follow-up year and as such, OSHA was not required to perform an on-site evaluation and case file review. However, due to concerns regarding the State Plan’s whistleblower program and IOSHA’s quick corrective actions to address them, one OSHA member reviewed a sample of select case files to determine if Findings FY 2021-07 and FY 2021-08 were completed. These findings involved proof of receipt of determination letters not being maintained in the files and the Report of Investigation (ROI) approval dates either not being entered or they were entered inaccurately in the database. The case file review was conducted from January 10-31, 2023, and consisted of reviewing 11 whistleblower files randomly selected from the FY 2022 performance period. As a result, Finding FY 2021-07 is completed, and Finding FY 2021-08 is continued as Finding FY 2022-06.

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)
* State Plan Annual Performance Plan
* State OSHA Annual Report (SOAR)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* Limited review of whistleblower case files

IOSHA transitioned from using the OSHA Express database on April 1, 2022 to OSHA’s Information System (OIS).

### Findings and Observations

IOSHA made progress addressing nine findings noted in the FY 2021 Comprehensive FAME report. There are no new findings or observations identified in FY 2022. Corrective actions were implemented for all findings and four are awaiting onsite verification which will be scheduled as part of the FY 2023 Comprehensive FAME. Two findings are completed since the in-compliance rate for health inspections is now within the further review level (SAMM 9b) and a limited file review indicates all but one whistleblower case file reviewed contained proof of delivery of determination letters. Three findings remain open. One of these is because the lapse time, while improved from FY 2021, remains outside the FRL. Another is open because IOSHA has not adopted OSHA’s 2016 penalty increase and subsequent annual increases for inflation and another because the limited case file review of whistleblower cases determined approval dates are still not being entered in OITSS or OIS or are entered inaccurately for Reports of Investigation (ROI). Seven findings remain in this FY 2022 Follow-up FAME report. Appendix A describes the continued findings and recommendations. Appendix C describes the status of each of the FY 2021 findings and recommendations.

**Completed Findings**

**Finding FY 2021-02:** IOSHA’s in-compliance rate for health inspections is 63.1% and is outside the Further Review Level (FRL) of +/-20% of 40.6% (32.5% to 48.8%; SAMM 9b, Appendix D).

**Status:** At 52.17% for FY 2022, the State Plan is now within the FRL (+/-20% of 44.42%, and an acceptable range of 35.54% to 53.30%) for percent of health inspections that are in-compliance (SAMM 9b, Appendix D). This item is completed.

**Finding FY 2021-07:** Proof of receipt of whistleblower determination letters must be preserved in the file with copies of the letters to maintain accountability. Proof of receipt of the determination letters was not evident in seven of the 20 (35%) case files reviewed from FY 2021.

**Status:** The limited review of 11 case files from FY 2022 indicates all but one of the files contained proof of delivery. Most determination letters were sent via UPS and by email. CHSOs must be sure to maintain delivery receipts for emails sent with determination letters in the case files. This item is completed.

**Continued Findings:**

**Finding FY 2022-01 (Finding FY 2021-01):** In FY 2021, in 20 of 27 (74.1%) fatality case files reviewed, letters to the next-of-kin (NOK) were not found in the files. Some files had either the initial or final letter and other files had neither.

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

**Finding FY 2022-02 (Finding FY 2021-03):** IOSHA’s average lapse time for health inspections is 115 days, above the FRL of +/-20% of 66.1 and the acceptable range of 52.9 to 79.3 (SAMM 11b, Appendix D).

**Status:** At 92.79 days, the State Plan’s average lapse time for health inspections, while improved in FY 2022, is still above the FY 2022 FRL of +/-20% of 69.03 days and the acceptable range of 55.22 to 82.84 (SAMM 11b, Appendix D). This finding remains open.

**Finding FY 2022-03 (Finding FY 2021-04):** In FY 2021, in two of five (40%) follow-up case files reviewed, adequate verification of abatement couldn’t be determined because information specific to the previously cited hazards was not documented in the case files.

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

**Finding FY 2022-04 (Finding FY 2021-05):** IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Status:** IOSHA submitted language for consideration by the Indiana legislature to increase penalties. However, there has been no action and IOSHA does not expect that the Indiana legislature will take up the annual penalty increase matter during the legislative session. This finding remains open.

**Finding FY 2022-05 (Finding FY 2021-06):** Appropriate analysis of the elements was nonexistent or incorrect in seven of the 20 (35%) whistleblower files reviewed from FY 2021.

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

**Finding FY 2022-06 (Finding FY 2021-08):** In 11 of the 20 (55%) whistleblower case files reviewed from FY 2022, the Report of Investigation (ROI) approval dates were either not entered in the database or were entered incorrectly.

**Status:** The limited review of 11 case files for this Follow-up FAME indicates the Report of Investigation (ROI) approval dates were either not entered in OITSS (6 of 11, 54.5%) or were entered inaccurately (1 of 11, 9.1%). This finding remains open.

**Finding FY 2022-07 (Finding FY 2021-09):** In FY 2021, in six of the 20 (30%) whistleblower case files reviewed, the supervisor did not review the file to ensure technical accuracy, thoroughness of the investigation, correct application of the law to the facts, completeness of the Secretary’s Findings, and merits of the case (Whistleblower Investigation Manual (WIM) Chapter 4, Section IV.A).

**Status:** A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME and remains open.

### 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. The State Plan was outside the FRL on the following SAMMs:

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 in 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 the evaluation of the State Plans’ whistleblower programs for FY 2022.

**SAMM 2a – Average number of workdays to initiate complaint investigations (state formula)**

Discussion of State Plan Data and FRL: The FRL for average number of workdays to initiate complaint investigations (state formula) is five days, which is negotiated by OSHA and the State Plan. The Indiana State Plan’s average number of workdays to initiate complaint investigations is 6.1 days which is higher than the FRL.

Explanation: The Indiana State Plan’s average number of days to investigate complaints has almost doubled since FY 2021 when it was 3.22 days. This can be attributed to issues related to complaint intake staff coding unprogrammed activities with incorrect actions in OSHA Express and subsequently OIS, as well as not having enough staff to manage the intake of complaints. Staff was provided training and additional intake staff was hired.

**SAMM 7a – Planned v. actual inspections (safety)**

Discussion of State Plan Data and FRL: The FRL for the number of safety inspections conducted 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 +/- 5% of 960 which is 912 to 1,008 safety inspections. The Indiana State Plan conducted 809 (84%) safety inspections, below the FRL.

Explanation: The Indiana State Plan’s low number of safety inspections can be attributed to staff focusing on the transition to OSHA’s Information System (OIS) from their long-term use of OSHA Express as their database, as well as turnover within the agency. Prior to the transition to OIS, staff spent time in training to become familiar with the new system. In FY 2022, 15 compliance safety and health officers resigned and IOSHA hired 13 new officers. With 38 positions allocated for inspection work, this is 39% and 34%, respectively. IOSHA projected to do 1,140 safety and health inspections in the fiscal year and did 883. In early FY 2022, salaries for supervisors and compliance officers were increased. In 2022, the State of Indiana completed a statewide compensation review. This resulted in another increase in salaries for all job classifications within the state, including compliance officers. The overall salary increase for IOSHA supervisors and compliance officers is 41-46%. This is significant for IOSHA in attracting new staff and maintaining them, as well as current staff and the overall number of safety inspections is expected to increase.

**SAMM 7b – Planned v. actual inspections (health)**

Discussion of State Plan Data and FRL: The FRL for the number of health inspections conducted 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 +/-5% of 180 which is 171 to 189 health inspections. The Indiana State Plan conducted 74 (41%) health inspections, below the FRL.

Explanation: The Indiana State Plan’s low number of health inspections can be attributed to IOSHA’s transition to OIS and turnover as explained above. In FY 2022, seven of the 15 compliance officers that resigned were health compliance officers. IOSHA allocated 13 health compliance officers in their FY 2022 23(g) grant which means more than 50% resigned during the year. As stated above, salaries have increased for IOSHA staff which should attract and maintain new staff as well as maintain current staff and the overall number of health inspections is expected to increase.

**SAMMs 8 and 8a-8d – Average current serious penalty in private sector – total (1 to greater than 250 workers): average current serious penalty in private sector (1-25 workers); average current serious penalty in private sector (26-100 workers); average current serious penalty in private sector (101-250 workers); average current serious penalty in private sector (greater than 250 workers)**

Discussion of State Plan Data and FRL: SAMM 8 is divided into categories based on the number of workers controlled by the employer, ex. 1-25, 26-100, 101-250, and greater than 250. The FRLs for average current penalties are based on three-year national averages for each category. The Indiana State Plan fell below the FRL range in every category. The FRL for all numbers of workers is +/-25% of the three-year national average of $3,259.35, which equals a range of $2,444.51 to $4,074.19. IOSHA’s average penalty was $1,424.24.

Explanation: The Indiana State Plan’s low average current penalties when compared to the national average, for all numbers of workers can be attributed to IOSHA not adopting OSHA’s penalty increase in 2016 and subsequent increases for annual inflation. Finding FY 2022-04 addresses this (previously Finding FY 2022-05).

**SAMM 10 – Percent of work-related fatalities responded to in one day**

Discussion of State Plan Data and FRL: The FRL for percent of work-related fatalities responded to within one day is fixed at 100% for all State Plans. The Indiana State Plan responded to 96.43% of work-related fatalities within one day.

Explanation: The Indiana State Plan responded to 27 of 28 work-related fatalities within one day (96.43%). One fatality was not responded to timely because the fatality was initially reported as a heart attack. When the State Plan realized that heat may have been a factor, they decided to do an inspection two days after receiving the report.

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

Discussion of State Plan Data and FRL: The FRL for percent of initial inspections with worker walk-around representation or worker interview is fixed at 100% for all State Plans. The Indiana State Plan had worker walk-around representation or worker interview for 97.73% of inspections. The Indiana State Plan conducted 20 inspections without worker walk-around representation or worker interviews.

Explanation: The Indiana State Plan did 20 inspections without worker walk-around representation or worker interviews, and some of this can be attributed to worker refusal to join the walk-around or to be interviewed. In response to this, compliance officers have been trained and instructed to seek worker participation in the walk-around or by interviewing them.

**SAMM 17 – Percent of enforcement presence**

Discussion of State Plan Data and FRL: The FRL for percent of enforcement presence is based on a three-year national average of +/- 25% of 1.64% with a range of acceptable data not requiring further review of 1.23% to 2.05%. The Indiana State Plan’s percent of enforcement presence is 0.73% which is significantly below the FRL and is cause for concern.

Explanation: The Indiana State Plan’s low enforcement presence can be attributed to staff turnover and retention. Salary increases for new hires as well as current staff should improve enforcement presence in Indiana.

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

FY 2022 Indiana OSHA Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-#**  |
|  FY 2022-01 | In 20 of 27 (74.1%) fatality case files reviewed, letters to the next-of-kin (NOK) were not found in the files. Some files had either the initial or final letter and other files had neither. | IOSHA should follow Chapter 11, Section II of the IFOM and ensure that both the initial and final letters to the victim’s family for fatality investigations are sent and copies are maintained in the file. Supervisors should use the fatality checklist when reviewing the case files to ensure the NOK letters have been sent and are maintained in the file. Corrective action complete. Awaiting verification. | FY 2021-01 |
|  FY 2022-02 | IOSHA’s average lapse time for health inspections is 92.79 days, above the FRL of +/- 20% of 69.03 and the acceptable range of 55.22 to 82.84 days. | IOSHA supervisors of health CSHOs should review progress on health case files periodically to ensure safety orders are issued within an acceptable number of days.  | FY 2021-03 |
|  FY 2022-03 | In two of five (40%) follow-up case files reviewed, adequate verification of abatement could not be determined because information specific to the previously cited hazards was not documented in the case files. | IOSHA should ensure that follow-up case files include all documentation related to hazard violations being followed up on during the inspection, including the previous inspection date(s), location(s) and violation(s). IOSHA should also follow their FOM, Chapter 3, Section IX.A.3. and include follow-up inspection reports in the original (parent) case file. Corrective action complete. Awaiting verification.  | FY 2021-04 |
| FY 2022-04 | IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | IOSHA should continue to work with their state authorities to complete the legislative changes necessary to adopt the maximum and minimum penalty increase and subsequent annual increases to be at least as effective as federal OSHA penalty levels. | FY 2021-05 |
| FY 2022-05 | Appropriate analysis of the elements was nonexistent or incorrect in seven of the 20 (35%) whistleblower files reviewed. | IOSHA should provide refresher training for Whistleblower investigators and supervisory staff to include appropriate analysis of elements. Corrective action complete. Awaiting verification.  | FY 2021-06 |
| FY 2022-06 | In 7 of the 10 files reviewed, the Report of Investigation (ROI) approval dates were either not entered in OITSS/OIS (6 of 10) or were entered inaccurately (1 of 10).   | IOSHA should ensure that the date the Whistleblower supervisor approves (signs) the Report of Investigation is entered and entered accurately into OITSS/OIS. | FY 2021-08 |
| FY 2022-07 | In six of the 20 (30%) whistleblower case files reviewed, the supervisor did not review the file to ensure technical accuracy, thoroughness of the investigation, correct application of the law to the facts, completeness of the Secretary’s Findings, and merits of the case (WIM Chapter 4, Section IV.A). | IOSHA should follow the WIM, Chapter 4, Section IV.A to ensure all whistleblower case files submitted for review are thoroughly reviewed by a supervisor to ensure completeness of the file, technical accuracy, thoroughness of the investigation, correctapplication of the law to the facts, completeness of the Secretary’s findings, and merits of the case. Corrective action complete. Awaiting verification.  | FY 2021-09 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 Indiana OSHA Follow-up FAME Report

| **Observation #****FY 20XX-OB-#** | **Observation#****FY 20XX-OB-# *or* FY 20XX-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| None |  |  |  |  |
|  |  |  |  |  |

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

FY 2022 Indiana OSHA Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
| FY 2021-01 | In 20 of 27 (74.1%) fatality case files reviewed, letters to the next-of-kin (NOK) were not found in the files. Some files had either the initial or final letter and other files had neither. | IOSHA should follow Chapter 11, Section II of the IFOM and ensure that both the initial and final letters to the victim’s family for fatality investigations are sent and copies are maintained in the file. Supervisors should use the fatality checklist when reviewing the case files to ensure the NOK letters have been sent and are maintained in the file. | IOSHA has retrained administrative staff to ensure a copy of the letters for the next of kin are placed in the respective file. | 8/18/2022 | Awaiting Verification8/18/2022  |
| FY 2021-02 | IOSHA’s in-compliance rate for health inspections is 63.1% and is outside the Further Review Level (FRL) of +/-20% of 40.6% (32.5% to 48.8%). (SAMM 9, Appendix D) | IOSHA supervisors should continue to ensure inspection case files with hazards in plain view are thoroughly investigated and all other apparent violations are cited during review of case files. IOSHA should also ensure resources are spent in workplaces that are exposing workers to hazards by implementing corrective action in the most hazardous worksites. | IOSHA will continue to train its health inspectors and supervisors to ensure they have excellent hazard recognition skills. IOSHA will ensure supervisors maintain their thorough review of health inspection files. IOSHA will work to use emphasis programs to target establishments as appropriate. | 9/30/2022 | Completed11/14/2022 |
| FY 2021-03 | IOSHA’s average lapse time for health inspections is 115 days, above the FRL of +/- 20% of 66.1 and the acceptable range of 52.9 to 79.3 days. | IOSHA should ensure CSHOs are conducting health sampling as soon as possible after opening an inspection. IOSHA should also ensure that in consultation with supervisors, CSHOs determine as soon as possible which citations will be issued after opening an inspection. The citation(s) should be issued soon after making this determination to reduce lapse time. | IOSHA will ensure CSHOs perform required sampling in the most productive way and issue any Safety Orders, as appropriate and as timely as possible. Additionally, IOSHA is procuring more equipment to better allow for same day sampling whenever possible. Training is continual for all IOSHA staff, including IHs. IOSHA has instituted a team of experienced IHs to help ensure equipment is maintained and ready for use. The goal is for every IH to have the majority of their own equipment to prevent having to shuttle equipment from various team members. | Not completed | Open9/30/2022 |
| FY 2021-04 | In two of five (40%) follow-up case files reviewed, adequate verification of abatement could not be determined because information specific to the previously cited hazards was not documented in the case files. | IOSHA should ensure that follow-up case files include all documentation related to hazard violations being followed up on during the inspection, including the previous inspection date(s), location(s) and violation(s). IOSHA should also follow their FOM, Chapter 3, Section IX.A.3. and include follow-up inspection reports in the original (parent) case file. | IOSHA typically includes all information on the previously cited hazards with the original (parent) case file. It was not that IOSHA couldn’t adequately verify abatement, as the information was in the original (parent) file. It was that IOSHA failed to copy that information to the new follow-up file. IOSHA will make an addition to its IFOM and provide additional training to all CSHOs on where all this information should be documented. | 12/8/2022 | Awaiting Verification12/8/2022 |
| FY 2021-05 | IOSHA failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | IOSHA should work with their state authorities to complete the legislative changes necessary to adopt the maximum and minimum penalty increase and subsequent annual increases to be at least as effective as federal OSHA penalty levels. | IOSHA submitted a legislative proposal for the 2023 session to its legislative liaison to increase its penalties. | Not completed | Open2/1/2023 |
| FY 2021-06 | Appropriate analysis of the elements was nonexistent or incorrect in seven of the 20 (35%) whistleblower files reviewed. | IOSHA should provide refresher training for investigators and supervisory staff to include appropriate analysis of elements. | IOSHA re-trained all WB investigators to include appropriate analysis of the elements. IOSHA will continue to provide additional training to WB staff to better hone these skills. | 9/30/2022 | Awaiting Verification 9/30/2022 |
| FY 2021-07 | Proof of receipt of whistleblower determination letters must be preserved in the file with copies of the letters to maintain accountability. Proof of receipt of the determination letters was not evident in seven of the 20 (35%) case files reviewed. | IOSHA should ensure that proof of receipt is preserved in the file with copies of the Whistleblower determination letters, as required by WIM Chapter 4.IV.B. | IOSHA will continue to add proof of receipt when it is received and has provided refresher training to staff. When proof of receipt is not received, IOSHA will attempt to retrieve tracking information via USPS website and document efforts in the file. | 2/14/2023 | Completed2/14/2023 |
| FY 2021-08 | In 11 of the 20 (55%) whistleblower case files reviewed, the Report of Investigation (ROI) approval dates were either not entered in OITSS or were entered inaccurately. | IOSHA should ensure that the date the supervisor approves (signs) the Report of Investigation is entered into OITSS. | IOSHA’s Whistleblower Supervisor has been re-trained in this and will ensure that the dates are entered and entered accurately in OITSS (now OIS). | Not completed | Open2/14/2023 |
| FY 2021-09 | In six of the 20 (30%) whistleblower case files reviewed, the supervisor did not review the file to ensure technical accuracy, thoroughness of the investigation, correct application of the law to the facts, completeness of the Secretary’s Findings, and merits of the case (WIM Chapter 4, Section IV.A). | IOSHA should follow the WIM, Chapter 4, Section IV.A to ensure all whistleblower case files submitted for review are thoroughly reviewed by a supervisor to ensure completeness of the file, technical accuracy, thoroughness of the investigation, correctapplication of the law to the facts, completeness of the Secretary’s findings, and merits of the case. | IOSHA’s Whistleblower Supervisor has been re-trained in this and will ensure whistleblower case files are thoroughly reviewed to ensure completeness, technical accuracy, thoroughness of the investigation, correct application of the law to the facts, completeness of the Secretary’s findings, and merits of the case. | 9/30/2022 | Awaiting Verification9/30/2022 |

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

FY 2022 Indiana OSHA Follow-up FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of workdays to initiate complaint inspections (state formula) | 8.14 | 10 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of workdays to initiate complaint inspections (federal formula) | 6.44 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 2a | Average number of workdays to initiate complaint investigations (state formula) | 6.10 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of workdays to initiate complaint investigations (federal formula) | 3.7 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | 100% | 100% | The further review level is fixed for all State Plans. |
| 4 | Number of denials where entry not obtained | 0 | 0 | The further review level is fixed for all State Plans. |
| 5a | Average number of violations per inspection with violations by violation type (SWRU) | 2.04 | +/- 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) | 0.34 | +/- 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 | 2.15% | +/- 5% of1.32% | 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 1.25% to 1.38%. |
| 7a | Planned v. actual inspections (safety) | 809 | +/- 5% of 960 | 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 912 to 1,008 for safety. |
| 7b | Planned v. actual inspections (health) | 74 | +/- 5% of 180 | 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 171 to 189 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $1,424.24 | +/- 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) | $560.00 | +/- 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**)** | $1,863.18 | +/- 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) | $3,512.71 | +/- 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) | $3,268.51 | +/- 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) | 26.12% | +/- 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) | 52.17% | +/- 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 | 96.43% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 44.71 | +/- 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) | 92.79 | +/- 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 | 77.04% | +/- 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 | 97.73% | 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 | 0.73% | +/- 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 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 transition of 11(c) data from IMIS to OIS, SAMMs 14, 15, and 16 are not being reported for FY 2022.