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

**Maryland Occupational Safety and Health (MOSH)**

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## Executive Summary

The purpose of the Follow-up Federal Annual Monitoring Evaluation (FAME) Report is to assess the MOSH program’s performance during Fiscal Year (FY) 2022, and its progress in resolving the three outstanding findings identified during previous FAMEs. In addition, this report provides an overview of MOSH’s performance based on quarterly monitoring meetings, the FY 2022 State OSHA Annual Report (SOAR), and the FY 2022 End-of-Year (EOY) State Activity Mandated Measures (SAMM) Report.

MOSH covers over 2.4 million workers in nearly 176,000 establishments in the state of Maryland. Throughout FY 2022, Maryland businesses fully reopened since the COVID-19 pandemic and MOSH continued to increase the number of on-site inspections it conducted. MOSH remains challenged with compliance staff position vacancies and is actively recruiting to fill benchmark positions.

During the FY 2022 evaluation period, MOSH continued to make progress addressing overdue Federal Program Changes (FPCs). MOSH completed identical equivalent adoption of all standards*.* MOSH is actively working on adoption of overdue directives where required. In 2019, MOSH attempted to pass new legislation to permit adoption of FPCs within six months of OSHA promulgation when there is a delay in OSHA enforcement, but was not successful. This issue remains unresolved. MOSH has not yet adopted the FY 2016 Maximum Penalty Increase FPC. A legislative proposal package was submitted requesting an increase to MOSH penalties for consideration during Maryland’s FY 2022 legislative session. In FY 2022, MOSH did not meet its State and Local Government (SLG) inspection goal, falling below the Further Review Level (FRL) by approximately three inspections. Due to the notable increase, OSHA considered the associated finding completed.

OSHA identified one new observation in FY 2022 for falling below the planned safety and health inspection FRL since FY 2019. With respect to the five observations identified in FY 2021, OSHA determined it will be most effective to review complaint enforcement and complaint response time during the next comprehensive on-site case file review due to the transition to a new OSHA electronic complaint (e-complaint) entry procedure in the OSHA Information System (OIS). OSHA will also verify submitted corrective action regarding next-of-kin notification and evaluate open abatement.

OSHA’s review of OIS reports for this FAME did not identify any traffic-related fatalities where an inspection was not documented in OIS. OSHA will conduct an unprogrammed activity (UPA) and comprehensive on-site case file review during next year’s FAME to verify MOSH’s assessment of commonly employed traffic safeguards in cases where roadway hazards are present.

Overall, two findings identified in the FY 2021 FAME report remain open and one was completed. Five observations were continued, and one new observation was identified in FY 2022.

## State Plan Background

The Maryland Department of Labor (MDOL), Division of Labor and Industry (DLI), is the state agency designated by the governor to administer the MOSH program. The Maryland State Plan was initially approved on July 5, 1973, pursuant to Section 18 of the Occupational Safety and Health (OSH) Act. The State Plan was certified on February 15, 1980, and granted final approval on July 18, 1985.

MOSH operates under the authority of the MOSH Act, Labor and Employment Article, Section 5-101 through 5-901. MOSH operated under the guidance of Tiffany P. Robinson who was appointed secretary of the MDOL in July 2019. Portia Wu was designated as the Acting Maryland Secretary of Labor from January 18, 2023 to February 13, 2023, and was appointed Maryland’s Secretary of Labor on February 13, 2023. Matthew Helminiak served as Commissioner of DLI. The former Assistant Commissioner, Michael Stracka, departed MOSH in July 2021. Michael Penn, Chief of Compliance, was delegated the authority to act as Assistant Commissioner until the position is filled. MDOL is headquartered in Baltimore. The DLI offices are in Hunt Valley. MOSH representatives are stationed in different regional and field offices located in Hunt Valley, Easton, Hagerstown, and Upper Marlboro.

MOSH is the agency responsible for ensuring that employers provide Maryland workers with workplaces that are free from recognized safety and health hazards. MOSH covers over 2.4 million workers and nearly 176,000 employers in the state of Maryland. MOSH’s Compliance Services Unit conducts occupational safety and health inspections for all state, local government, and private sector places of employment in the state of Maryland. However, MOSH does not inspect places of employment which fall under OSHA’s jurisdiction. OSHA’s jurisdiction includes federal workers, the United States Postal Service, private sector maritime activities (shipyard employment, marine terminals, and longshoring), and U.S. military bases. Additionally, MOSH’s Outreach Unit provides free training and education; and manages its cooperative programs.

MOSH also provides free consultation services through its consultation program. MOSH operates a private sector on-site consultation project under Section 21(d) and an SLG consultation project under Section 23(g) of the OSH Act. MOSH’s Discrimination Unit investigates whistleblower complaints made by workers who may have been retaliated against by their employer for making a safety and health complaint or exercising other protected activity. The Research and Statistic Unit provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses. Industries covered by MOSH include a combination of agricultural, manufacturing, construction, transportation, and trade and service industries. Like OSHA, MOSH has selected certain high hazard industries on which to focus its safety and health activities through the implementation of emphasis programs.

As a State Plan, MOSH has the authority to promulgate standards and regulations which may be more stringent than OSHA’s standards. MOSH has multiple standards and regulations which differ from the federal program including, but not limited to: High Voltage Lines (Title 6), Fall Protection in Steel Erection (Code of MD Regulations (COMAR) 09.12.25), and Tree Care and Removal (COMAR 09.12.28). MOSH also made amendments to OSHA standards that are more stringent than OSHA’s such as: Occupational Exposure to Formaldehyde (29 CFR 1910.1048), Lead in Construction Work (29 CFR 1926.62), Excavations (Requirements for Protective Systems (29 CFR 1926.652), and Steel Erection (29 CFR 1926, Subpart R).

MOSH offers multiple cooperative programs designed to promote and recognize workplace safety and health efforts. They include the Voluntary Protection Program (VPP), Cooperative Compliance Partnerships (CCP), and a pilot program known as the Strategic Partnership for Excellence in Construction Safety (SPECS).

MOSH continues to experience safety compliance staff position vacancies and has been actively recruiting to fill the remaining benchmark positions. Based on the FY 2023 grant application, MOSH filled an overall 79% of compliance staff benchmarks. During FY 2022, MOSH reported that it lost four industrial hygienists, 12 safety compliance officers, and two program managers. The program added two industrial hygienists and eight safety compliance officers in FY 2022 and is actively ensuring new hires are fully trained.

MOSH overmatched the $4,408,700 federal award by $2,196,044, contributing to 60% of its funding in FY 2022.

**New Issues**

In accordance with the Bipartisan Budget Bill passed on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum penalties. As required by law, OSHA then increased maximum penalties annually, most recently on January 15, 2023, according to the Consumer Price Index (CPI). State Plans are required to adopt both the initial increase and subsequent annual increases within the corresponding six-month timeframe set by regulation. December 2023 marked seven years since the first deadline passed for adoption. A legislative proposal package requesting an increase to MOSH penalties was submitted for consideration during Maryland’s FY 2022 legislative session but has not yet completed the legislative changes to increase maximum penalties.

## Assessment of State Plan Progress and Performance

### Data and Methodology

OSHA established a two-year cycle for the FAME process. This report represents the follow-up year and, as such, OSHA did not perform an on-site evaluation and case file review. The 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:

* SAMM Report (Appendix D)
* State Information Report (SIR)
* Mandate Activities Report for Consultation (MARC)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and MOSH

### B. Findings and Observations

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

MOSH made progress to address the previous three findings and five observations from the FY 2021 Comprehensive FAME Report. OSHA will reevaluate the five observations identified in the FY 2021 Comprehensive FAME Report and the one observation identified in the FY 2022 FAME Report during next year’s comprehensive on-site review. This follow-up FAME report contains two continued findings, five continued observations, and one new observation. 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 Findings**

**Finding FY 2021-03:** In FY 2021, MOSH conducted 59 of 1,236 (4.77%) inspections in SLG workplaces – 125 fewer inspections than its anticipated goal of 8.4% of inspections.

**Status:** In FY 2022, MOSH conducted 101 of 1,308 (7.72%) inspections in SLG workplaces. MOSH’s percentage of inspections conducted in SLG workplaces (7.72%) fell slightly outside the FRL in FY 2022 (7.96% to 8.80%). In addition, MOSH’s FY 2023 SLG inspection goal was significantly decreased to 4.0%. Due to the notable increase in FY 2022, OSHA considered this finding completed.

**Continued Findings**

**Finding FY 2022-01 (Finding FY 2021-01):** MOSH did not take action on FPC directives within the required timeframes.

**Status:** During FY 2022, MOSH acted on four of the eight (50%) OSHA directive FPCs identified during last year’s FAME in addition to the Compliance Directive for the Cranes and Derricks in Construction standard, which was adopted by OSHA in FY 2022. OSHA is completing a review of the MOSH Instructions to ensure that they are at least as effective (ALAE) as OSHA’s. The State Plan still needs to take action on four of the previously identified FPC directives. This finding remains open.

**Finding 2022-02 (Finding FY 2021-02):** MOSH failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Status:** A legislative proposal package requesting an increase to MOSH penalties for consideration during Maryland’s FY 2022 legislative session was submitted but an increase has not yet been adopted. This finding remains open.

**New FY 2022 Findings**

There were no new findings identified in FY 2022.

#### Closed Observations

There were no observations closed in FY 2022.

**Continued Observations**

**Observation FY 2022-OB-01 (Observation FY 2021-OB-01):** In FY 2021, MOSH did not initiate enforcement action on 46 OSHA e-complaints alleging serious and hazardous workplace conditions.

**Status:** OSHA is transitioning to a new OSHA e-complaint data entry system in OIS during FY 2023. OSHA will reevaluate MOSH enforcement action on OSHA e-complaints during the comprehensive FY 2023 on-site evaluation.

**Observation FY 2022-OB-02:** In FY 2021, MOSH did not accurately reflect the receipt dates for 50 of 89 (56%) OSHA e-complaints that OSHA deemed serious and that MOSH inspected or investigated.

**Status:** OSHA is transitioning to a new OSHA e-complaint data entry system in OIS during FY 2023. OSHA will reevaluate MOSH’s documentation of complaint receipt dates during the comprehensive FY 2023 on-site evaluation.

**Observation FY 2022-OB-03 (Observation FY 2021-OB-03):** In FY 2021, in six of 14 (43%) fatality case files, there was no documentation showing that the final next-of-kin notification letter with the inspection results was sent to the family members.

**Status:** MOSH adopted a new Instruction (MOSH Instruction 23-01), Communicating MOSH Fatality Inspection Procedures to a Victim’s Family, on November 15, 2022. OSHA will verify that MOSH is following its new procedure for next-of-kin notification during the comprehensive FY 2023 on-site evaluation.

**Observation FY 2022-OB-04:** In FY 2021, MOSH did not document and adequately perform inspections for two traffic-related fatalities ensuring that commonly employed traffic safeguards were in place where work was being conducted on or near roadways.

**Status:** OSHA did not identify any traffic-related fatalities occurring in FY 2022 for which an inspection was not documented in OIS and will complete a UPA and case file review during the FY 2023 comprehensive FAME on-site evaluation to verify MOSH’s assessment of commonly employed traffic safeguards in cases where roadway hazards are present.

**Observation FY 2022-OB-05 (Observation FY 2021-OB-05):** In FY 2022, MOSH has not verified and documented abatement for 148 non-contested inspection cases that have been open for more than 60 days – an increase of 27 cases.

**Status:** The FY 2021 EOY SIR identified 121 non-contested inspection cases that have been open for more than 60 days. The FY 2022 EOY SIR identified 148 non-contested inspection cases that have been open for more than 60 days. By the end of the first quarter in FY 2023, MOSH reduced open abatement to 91 cases. OSHA will reevaluate open abatement during the FY 2023 FAME.

**New FY 2022 Observations**

**Observation FY 2022-OB-07:** MOSH conducted 89% (1,172 of 1,320) of its planned safety inspections and 74% (136 of 183) of its planned health inspections in FY 2022.

**Status:** MOSH met 89% of its planned safety inspections and 74% of its planned health inspection goal in FY 2022. MOSH has fallen below the FRL and has not met the number of planned safety or health inspections since FY 2018. Due to the impact of COVID-19 in the state, OSHA did not identify this as a finding in FY 2020 or FY 2021. In addition, MOSH is currently experiencing a high turnover rate and is actively working to fill vacancies and provide training. OSHA will continue to monitor MOSH’s safety and health inspection activity.

### C. State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon FRL which can be either a single number or a range 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 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 their evaluation of the State Plans whistleblower programs for FY 2022.

The State Plan was outside the FRL for the following SAMMs:

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

Discussion of State Plan Data and FRL: The FRL for the average number of violations per inspection with violations by violation type is +/- 20% of the three-year national average of 1.77 for serious/willful/repeat/unclassified (S/W/R/U) violations which provides a range of 1.42 to 2.12. MOSH’s S/W/R/U average is 3.05 violations. The FRL for other-than-serious (OTS) violations is +/- 20% of the three-year national average of 0.90 which provides a range of 0.72 to 1.08. MOSH’s OTS average is 1.99.

Explanation: MOSH is above the FRL for the average number of S/W/R/U and OTS violations issued per inspection. MOSH also issued more S/W/R/U and OTS violations than the FRL in FY 2021. Previous on-site case reviews indicate that MOSH compliance staff are trained to recognize and document hazards in the field.

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

Discussion of State Plan Data and FRL: The FRL for the percent of total inspections in SLG workplaces is +/- 5% of the negotiated value of 8.38% which provides a range from 7.96% to 8.80%. MOSH conducted 7.72% of its total inspection in SLG workplaces in FY 2022 – falling just below the FRL.

Explanation: MOSH increased the percentage of SLG inspections from 59 of 1,236 (4.77%) in FY 2021 to 101 of 1,308 (7.72%) in FY 2022. Although MOSH consistently seeks to exceed this goal, it reduced its SLG goal for FY 2023 to 4.0%. The reduction aligns with historical trends concerning UPA and programmed activity in the Maryland SLG sector. Although MOSH did not meet this goal in FY 2022 it fell below the FRL by only approximately three inspections. OSHA considered the associated finding identified in FY 2021 completed.

**SAMM #7 – Planned vs. Actual Inspections (Safety/Health)**

Discussion of State Plan Data and FRL: The FRL for planned versus actual inspections is +/- 5% of the negotiated 1,320 safety inspections which provides a range of 1,254 to 1,386 inspections, and +/- 5% of the negotiated 183 health inspections which provides a range of 174 to 192 inspections. MOSH conducted 1,172 safety inspections and 136 health inspections in FY 2022 – falling below the FRL for both.

Explanation: MOSH increased its safety inspections from 1,117 in FY 2021 to 1,172 in FY 2022

and increased its health inspections from 119 in FY 2021 to 136 in FY 2022 for a total of 1,308 inspections in FY 2022. Although MOSH fell short of meeting its goal, it conducted 72 more inspections overall than it did in FY 2021. MOSH inspections were likely impacted by staff turnover. During FY 2022, MOSH reported that it lost four industrial hygienists, 12 safety compliance officers, two program managers, and several administrative staff officers. MOSH added two industrial hygienists and eight safety compliance officers in FY 2022 and is actively ensuring new hires are fully trained. See Observation FY 2022-OB-07.

**SAMM #8 – Average Current Serious Penalty in Private Sector**

Discussion of State Plan Data and FRL: Average current serious penalty in private sector is separated into five categories based on the number of workers at the site. The FRL for each category is set at +/- 25% of the three-year national average. The three-year national average for one to greater than 250 workers is $3,259.00, providing an FRL of $2,444.51 to $4,074.19. In FY 2022, MOSH’s average current serious penalty for one to greater than 250 workers was $874.03 – 95% below the FRL. MOSH’s average current serious penalty in the private sector for each of the other categories was also below the FRL. MOSH’s penalties in relation to the FRL for each category is provided in Appendix D under SAMM #8.

Explanation: In accordance with the Bipartisan Budget Bill passed on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum penalties. As required by law, OSHA then increased maximum penalties annually according to the Consumer Price Index (CPI). A legislative proposal package requesting an increase to MOSH penalties was submitted for consideration during Maryland’s FY 2022 legislative session but has not yet completed the legislative changes to increase maximum penalties. See Finding FY 2022-02.

**SAMM #9 – Percent In-Compliance**

Discussion of State Plan data and FRL: The FRL for percent in-compliance is +/-20% of the three-year national average of 32.25% for safety which provides a range of 25.80% to 38.70%. The FRL for percent in-compliance is +/-20% of the three-year national average of 44.42% for health which provides a range of 35.54% to 53.30%. The FY 2022 data shows that MOSH’s in-compliance rate for safety was 18.72% and 25.83% for health –both below the FRL.

Explanation: Historically, MOSH percent in-compliance rates have been lower than or well within the FRL. As discussed under SAMM #5, previous case file reviews have indicated that MOSH staff is well trained in recognizing and documenting hazards when in the field.

**SAMM #11 – Average Lapse Time**

Discussion of State Plan data and FRL: The FRL for average lapse time is +/- 20% of the three-year national average of 54.58 days for safety, which provides a range of 43.66 to 65.50 days and +/- 20% of the three-year national average of 69.03 days for health, which provides a range of 55.22 to 82.84 days. MOSH average safety lapse time is 37.49 days which is below the FRL and 73.96 days for health which is within the FRL.

Explanation: Safety lapse time below the FRL indicates that MOSH ensures citations are promptly issued. The FY 2022 EOY SIR indicates that MOSH issued violations in 90.98% of safety inspections and 88.89% of health inspections. Similarly, SAMM #9 discussed above, indicates that MOSH maintains low safety and health in-compliance rates. A review of these combined data points suggests that MOSH promptly responds to and addresses occupational safety and health concerns when conducting on-site inspections.

**SAMM #12 – Percent Penalty Retained**

Discussion of State Plan data and FRL: The FRL for percent penalty retained is +/- 15% of the three-year national average of 69.97%, which provides for a range of 59.47% to 80.47%. During FY 2022, MOSH retained 87.41 percent of penalty, significantly more than the FRL.

Explanation: Historically, MOSH has retained more penalty than three-year national average and strives to maintain issued violations. Although MOSH retains nearly 90 percent of its penalties, average current serious penalties continue to remain well below the national average. MOSH’s current serious penalty for one to greater than 250 employees remained 95% below the FRL due to significantly lower issued penalties.

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or** **FY 2021-OB-#** |
|  FY 2022-01 | *Federal Program Changes (FPCs)*MOSH did not take action on FPC directives within the required timeframes. | MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes. | FY 2021-01FY 2020-01FY 2019-01FY 2018-01FY 2017-01FY 2016-01FY 2015-01 |
|  FY 2022-02 |  *Federal Program Change – Maximum Penalty Increase*MOSH has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | MOSH should work with its state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as federal OSHA’s maximum and minimum penalty levels. | FY 2021-02 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 Maryland Occupational Safety and Health Program 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 | *Complaint Enforcement*In FY 2021MOSH did not initiate enforcement action on 46 of OSHA e-complaints alleging serious and hazardous workplace conditions. | OSHA did not evaluate during FY 2022, but will conduct a review of OSHA e-complaints in FY 2023 to determine if MOSH initiated enforcement action in response to hazardous workplace allegations. | Continued |
| FY 2022-OB-02 | FY 2021-OB-02 | *Complaint Response Time*In FY 2021 MOSH did not accurately reflect the receipt dates for 50 of 89 (56%) OSHA e-complaints that OSHA deemed serious and that MOSH inspected or investigated. | OSHA did not evaluate during FY 2022, but will evaluate receipt dates in FY 2023 to determine if receipt dates are accurately identified in OIS an impact SAMMs #1A and #2A. | Continued |
| FY 2022-OB-03 | FY 2021-OB-03 | *Next-of-Kin (NOK) Notification Documentation*In FY 2021, six of 14 (43%) fatality case files, there was no documentation showing that the final next-of-kin letter with the inspection results were sent to the family members. | OSHA did not evaluate during FY 2022. In FY 2023, during the next comprehensive FAME, OSHA will review fatality case files to determine if NOK letters with inspection results are sent to the family members at the conclusion of the fatality investigations. | Continued |
| FY 2022-OB-04 | FY 2021-OB-04 | *Fatality Documentation and Inspections*In FY 2021 MOSH did not document and adequately perform inspections on two traffic-related fatalities ensuring that commonly employed traffic safeguards were in place where work was being conducted on or near roadways.  | OSHA did not evaluate during FY 2022. In FY 2023, during the next comprehensive FAME, OSHA will review OIS reports, UPA files, and inspections files for MOSH’s roadway and work zone incident and fatality response and documentation.  | Continued |
| FY 2022-OB-05 | FY 2021-OB-05 | *Abatement Verification and Documentation*In FY 2021MOSH did not verify and document abatement for 148 non-contested inspection cases that have been open for more than 60 days. | OSHA did not evaluate during FY2022. OSHA will continue to monitor the status of open abatement for non-contested inspection cases in FY 2023.  | Continued |
| FY 2022-OB-06 |  | *Planned Inspections*MOSH conducted 89% (1172 of 1320) of its planned safety inspections and 74% (136 of 183) of its planned health inspections.  | OSHA will continue to monitor the status of MOSH’s actual versus planned inspections.  | New |

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

FY 2022 Maryland Occupational Safety and Health Program Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status** **and Date** |
|  FY 2021-01 | *Federal Program Changes (FPCs)* MOSH did not take action on FPCs within the required timeframes.   | MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.   | MOSH will take action on overdue FPCs. |  Not Completed | Open (As of March 15, 2023) |
| FY 2021-02  | *Federal Program Change -Maximum Penalty Increase* MOSH has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.   | MOSH should work with its state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as federal OSHA’s maximum and minimum penalty levels.   | MOSH submitted a legislative proposal to the Office of the Secretary on September 9, 2022 that will enable its adoption of maximum and minimum penalty amounts at least as effective as federal OSHA’s maximum and minimum penalty amounts.  | Not Completed | Open (As of March 15, 2023) |
| FY 2021-03 | *State and Local Government (SLG) Inspection Goals* MOSH conducted 59 of 1,236 (4.77%) inspections in SLG workplaces – 125 fewer inspections than its anticipated goal of 8.4% of inspections.  | MOSH should develop a strategy to conduct more inspections in SLG as stated in its grant application.  | MOSH revised its annual SLG goals to represent 4% of its total inspections. | August 3, 2022 | Completed |

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

FY 2022 Maryland Occupational Safety and Health Program 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) | 2.86 | 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) | 2.53 | 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) | 2.58 | 3 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 1.38 | 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) | 3.05 | +/- 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) | 1.99 | +/- 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 | 7.72% | +/- 5% of8.38% | 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 7.96% to 8.80%. |
| 7a | Planned v. actual inspections (safety) | 1,172 | +/- 5% of 1,320 | 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 1,254 to 1,386 for safety. |
| 7b | Planned v. actual inspections (health) | 136 | +/- 5% of 183 | 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 173.85 to 192.15 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $874.03 | +/- 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) | $747.00 | +/- 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**)** | $1,046.87 | +/- 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) | $1,616.38 | +/- 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) | $1,663.11 | +/- 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) | 18.72% | +/- 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) | 25.83% | +/- 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 | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 37.49 | +/- 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) | 73.96 | +/- 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 | 87.41% | +/- 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 | 1.24% | +/- 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 is 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.