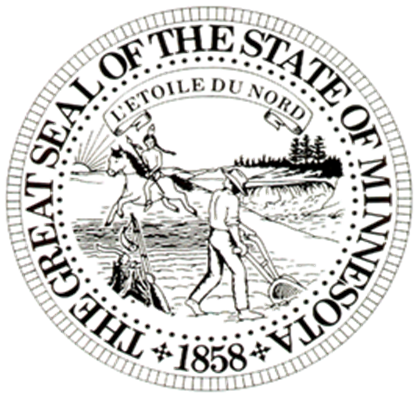
# FY 2022 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**State of Minnesota**

**Minnesota Department of Labor and Industry**

Occupational Safety and Health Division



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

**Initial Approval Date: June 6, 1973**

**Program Certification Date: September 28, 1976**

**Final Approval Date: July 30, 1985**

**Prepared by:**

**U. S. Department of Labor**

**Occupational Safety and Health Administration**

**Region V**

**Eau Claire, Wisconsin**



**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 4](#_Toc119418667)

[C. State Activity Mandated Measures (SAMM) Highlights 6](#_Toc119418668)

[Appendix A – New and Continued Findings and Recommendations 10](#_Toc119418669)

[Appendix B – Observations Subject to Continued Monitoring 11](#_Toc119418670)

[Appendix C - Status of FY 2021 Findings and Recommendations 12](#_Toc119418671)

[Appendix D – FY 2022 State Activity Mandated Measures (SAMM) Report 1](#_Toc119418672)4

## 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 and/or observations from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. This report also assesses the current performance of Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

MNOSHA made progress in addressing the previous two findings and three observations from the FY 2021 Comprehensive FAME Report. One finding is completed as increases to the State Plan’s maximum penalty levels are effective July 1, 2023, and include annual increases based on inflation. No new findings or observations were identified. MNOSHA’s efforts to ensure complainants are provided an opportunity to receive information on the outcome of the complaint is also notable. The related finding is completed but remains open pending verification during the on-site case file review for the FY 2023 FAME. A detailed explanation of the findings and observations, and the status of the State Plan’s response, is found in Section III, B, Findings and Observations.

The MNOSHA Strategic Management Plan for FY 2019 to FY 2023 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership; and 3) Strengthen and improve MNOSHA’s infrastructure. The FY 2022 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2022.

In the FY 2022 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishments toward meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, ten of the 15 annual performance goals have been met or exceeded.

Quarterly monitoring team meetings were held during FY 2022, at which time the State Activity Mandated Measures (SAMM) report and the State Indicators Report (SIR) were reviewed and discussed with MNOSHA compliance staff. The FY 2022 SAMM is Appendix D of this report.

## State Plan Background

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program began operating on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private sector and in state and local government agencies, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA’s mission is “to ensure every worker in the State of Minnesota has a safe and healthful workplace.” This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enables employers to maintain safe and healthful workplaces.

Roslyn Robertson served as DLI Commissioner until retiring in August 2022, and Nicole Blissenbach was named Temporary Commissioner. Mr. James Krueger is the Director of the OSH Compliance Division and Mr. Ryan Nosan is the Director of the WSC Division within DLI. The FY 2022 grant included funding totaling $9,926,939 and full-time equivalent (FTE) staffing of 76.67 positions. The State Plan’s expected staffing level is 31 safety investigators and 12 health investigators. MNOSHA allocated funding for 36.95 safety and 14.92 health positions.

**New Issues**

Effective July 1, 2023, the Minnesota Legislature passed, and the Governor signed, a modification to Minn. Stat. 182.666 thereby increasing maximum penalties to conform with OSHA’s 2023 penalty levels. Additionally, increases on October 1st of future years will be based on inflation and continue to conform to OSHA’s penalty increases.

## Assessment of State Plan Progress and Performance

### Data and Methodology

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

* State Activity Mandated Measures (SAMM) Report
* State Information Report (SIR)
* Mandated Activities Report for Consultation (MARC)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan (APP)
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

The State Plan made progress to address the previous two findings and three observations from the FY 2021 Comprehensive FAME Report. This follow-up FAME report completes one finding and continues the other four items. Three of the five items (one finding and two observations) relate to documentation in case files. MNOSHA is committed to training state plan staff and has enhanced case file reviews. No new findings or observations were identified. Appendix A describes the 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.

#### Findings (Status of Previous)

**Completed Finding**

**Finding FY 2021-02:** MNOSHA State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

**Status:** Effective July 1, 2023, the Minnesota Legislature passed, and the Governor signed, a modification to Minn. Stat. 182.666 thereby increasing maximum penalties to conform with OSHA’s 2023 penalty levels. Additionally, increases on October 1st of future years will be based on inflation and continue to conform to OSHA’s penalty increases. This item is completed.

**Continued Findings**

**Finding FY 2022-01 (FY 2021-01):** Five of the nine (56%) onsite complaint inspections reviewed for FY 2021 lacked evidence/documentation that an attempt was made to obtain a mailing address from the complainant and/or that the complainant was informed information would not be provided by email.

**Status:** MNOSHA’s MOOSE Manual was updated to include this requirement to ensure the complainant has been provided the opportunity to be informed.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 is awaiting verification.

#### Observations

**Continued FY 2021 Observations**

**Observation FY 2022-OB-01 (FY 2021-OB-01):** Within the case files reviewed for FY 2021, letters to the employer, complainant, and next-of-kin were not routinely saved in MOOSE as final with a signature.

**Status:** 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 will be continued.

**Observation FY 2022-OB-02 (FY 2021-OB-02):** In ten of the 85 (12%) inspection files reviewed in FY 2021, information in the file appeared to show one or more items were not proposed for citation issuance, and no information was present to explain why a citation item was not appropriate.

**Status:** 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 will be continued.

**Observation FY 2022-OB-03 (FY 2021-OB-03):** Field notes contained minimal information documented at the time of employee interviews in 18 of the 85 (21%) inspection files reviewed in FY 2021.

**Status:** 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 will be continued.

### State Activity Mandated Measures (SAMM) Highlights

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

It should be noted that OSHA is in the final stages of transitioning from the 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.

The 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 percent of complaints and referrals responded to within one workday (imminent danger) is 100%. The Minnesota State Plan responded to 98.5% of complaints and referrals coded as imminent dangers within one workday.

Explanation: During FY 2022, the Minnesota State Plan determined 133 complaints and referrals alleged imminent danger hazards, which accounted for approximately 21% of the total among state plans. Two of the 133 (1.5%) inspections were not opened within one workday because of the time required to obtain the anticipatory warrants required to access the site, which were requested the same day the complaints were received. The complaints alleged workers were exposed to the hazard of falling more than six feet. This metric does not yet rise to the level of an observation.

**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 other-than-serious (OTS) violations per inspection with violations is +/- 20% of the three-year national average of 0.90, which equals a range of 0.72 to 1.08. The Minnesota State Plan’s average for OTS violations is 0.47, lower than the FRL.

Explanation: The Minnesota State Plan’s average violations per inspection are evaluated during quarterly monitoring meetings and discussed when warranted. Although lower than the FRL for OTS violations, this metric does not yet rise to the level of an observation. MNOSHA’s average violations per inspection for serious/willful/repeat/unclassified violations is within the FRL of +/- 20% of 1.77 at 1.93 violations.

**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 is +/- 5% of 4.33%, which is the number negotiated by OSHA and the State Plan through the grant application. Therefore, the FRL range is 4.12% to 4.55%. The Minnesota State Plan’s percent of total inspections in state and local government workplaces is at 3.15%, which is below the FRL.

Explanation: MNOSHA projected conducting 1,435 inspections in the private sector and 65 inspections in state and local government workplaces. MNOSHA conducted 1,323 inspections in the private sector and 43 inspections in state and local government workplaces. Consequently, Minnesota State Plan achieved 92% of their goal for private sector and 66% of their goal for state and local government workplaces. The primary factor affecting the Minnesota State Plan’s ability to conduct inspections during FY 2022 was the newer staff resulting from retirements, promotions, and increase in allocated positions. This metric does not yet rise to the level of an observation.

**SAMM 7 – Planned v. actual inspections – Safety/Health**

Discussion of State Plan Data and FRL: The FRL for planned inspections compared to actual inspections is +/- 5% of the number of inspections negotiated by OSHA and the State Plan through the grant application; 1,200 safety inspections and 300 health inspections. The Minnesota State Plan conducted 1,172 safety inspections, which is within the acceptable range of 1,140 to 1,260 inspections. The Minnesota State Plan conducted 194 health inspections, which is below the acceptable range of 285 to 315 inspections.

Explanation: MNOSHA conducts inspections in accordance with national and local emphasis programs as well as in response to complaints. MNOSHA conducted 1,172 safety and 194 health inspections in FY 2022 for a total of 1,366. This is 91% of their projected total inspection goal of 1,500. The primary factor affecting the Minnesota State Plan’s ability to conduct inspections during FY 2022 was the newer staff resulting from retirements, promotions, and increase in allocated positions. This metric does not yet rise to the level of an observation.

**SAMM 8 – Average current serious penalty in private sector**

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 FRL for average current serious penalty is +/- 25% of a three-year national average for each category. The Minnesota 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. MNOSHA achieved an average penalty of $1,424.27.

Explanation: Effective July 1, 2023, the State Plan’s maximum penalty for a serious violation is increased by the Minnesota Legislature and Governor. Additionally, increases on October 1st of future years will be based on inflation and continue to conform to OSHA’s penalty increases. Finding FY 2021-02 regarding maximum penalties is completed as previously mentioned.

**SAMM 9 – Percent in-compliance**

Discussion of State Plan Data and FRL: The FRL for percent in-compliance for safety inspections is +/- 20% of the three-year national average of 32.25%, which equals a range of 25.80% to 38.70%. The Minnesota State Plan’s in-compliance rate for safety is 38.98%, which is slightly higher than the FRL. The FRL for percent in-compliance for health inspections is +/- 20% of the three-year national average of 44.42%, which equals a range of 35.54% to 53.30%. The Minnesota State Plan’s in-compliance rate for health is 47.17%.

Explanation: The Minnesota State Plan’s in-compliance rates are evaluated during every quarterly monitoring meeting and discussed when warranted. Although the safety in-compliance rate is slightly higher than anticipated, due to the newer staff this metric does not yet rise to the level of an observation.

**SAMM 11 – Average lapse time**

Discussion of State Plan Data and FRL: The FRL for average lapse time for safety inspections is +/- 20% of the three-year national average of 54.58 days which equals a range of 43.66 to 65.50 days. The Minnesota State Plan’s lapse time for safety is 32.43 days, which is substantially below the FRL. The FRL for average lapse time for health inspections is +/- 20% of the three-year national average of 69.03, which equals a range of 55.22 to 82.84 days. The Minnesota State Plan’s lapse time for health is 51.27 days which is also below the FRL.

Explanation: MNOSHA staff is committed to completing case files and issuing citations in a timely manner and their resulting lapse time is favorable.

**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 equals a range of 59.47% to 80.47%.

Explanation: The Minnesota State Plan retained 91.22% of penalties, which is well above the FRL and a positive outcome.

**SAMM 17 – Percent of enforcement presence**

Discussion of State Plan Data and FRL: The FRL for the percentage of enforcement presence was +/- 25% of the three-year national average of 1.64%, which equals a range of 1.23% to 2.05%. The Minnesota State Plan’s enforcement presence at 1.15% is slightly below the FRL.

Explanation: The percent of enforcement presence reflects the number of safety and health inspections conducted compared to the number of employer establishments within the state. The Minnesota State Plan reduced their number of inspections over the last two fiscal years, first due to the COVID-19 pandemic and then due to staff turnover. This metric does not yet rise to the level of an observation.

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

FY 2022 MNOSHA Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or**  **FY 2021-OB-#** |
| FY 2022-01 | Five of the nine (56%) onsite complaint inspections reviewed for FY 2021 lacked evidence/documentation that an attempt was made to obtain a mailing address from the complainant and/or that the complainant was informed information would not be provided by email. | Attempt to obtain a mailing address from the complainant and inform the complainant information will not be provided by email, and document when the attempts are unsuccessful to ensure the complainant has been provided the opportunity to be informed. MNOSHA now asks for the complainant’s mailing address and informs that refusal to provide such information will lead to a nonresponse. Corrective action complete, awaiting verification. | FY 2021-01 |

### Appendix B – Observations Subject to Continued Monitoring

FY 2022 MNOSHA 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 | Within the case files reviewed for FY 2021, letters to the employer, complainant, and next-of-kin were not routinely saved in MOOSE as final with a signature. | During next year’s FAME, a limited number of case files will be selected randomly and reviewed to determine if this item was addressed. | Continued |
| FY 2022-OB-02 | FY 2021-OB-02 | In ten of the 85 (12%) inspection files reviewed, information in the file appeared to show one or more items were not proposed for citation issuance, and no information was present to explain why a citation item was not appropriate. | During next year’s FAME, a limited number of case files will be selected randomly and reviewed to determine if this reflects the data trend. | Continued |
| FY 2022-OB-03 | FY 2021-OB-03 | Field notes contained minimal information documented at the time of employee interviews in 18 of the 85 (21%) inspection files reviewed. | During next year’s FAME, a limited number of case files will be selected randomly and reviewed to determine if this reflects the data trend. | Continued |

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

FY 2022 MNOSHA Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| FY 2021-01 | Five of the nine (56%) onsite complaint inspections reviewed for FY 2021 lacked evidence/documentation that an attempt was made to obtain a mailing address from the complainant and/or that the complainant was informed information would not be provided by email. | Attempt to obtain a mailing address from the complainant and inform the complainant information will not be provided by email, and document when the attempts are unsuccessful to ensure the complainant has been provided the opportunity to be informed. | MNOSHA’s MOOSE Manual was updated to include this requirement to ensure the complainant has been provided the opportunity to be informed. During July this requirement was communicated to investigators through staff meetings and division wide meetings to ensure this expectation was adequately communicated to staff. Starting August 1, 2022, investigators are required to comply with the requirements and MNOSHA phone supervisors are to review complaints taken daily to ensure the policy is being fully implemented. | August 1, 2022 | Awaiting Verification |
| FY 2021-02 | MNOSHA State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases. | MNOSHA State Plan should work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA’s maximum and minimum penalty levels. | Minn. Stat. 182.666 was modified thereby increasing maximum penalties to conform with OSHA’s 2023 penalty levels. Additionally, increases on October 1st of future years will be based on inflation and continue to conform to OSHA’s penalty increases. | July 1, 2023 | Completed |

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

FY 2022 MNOSHA 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) | 2.45 | 9 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 1.88 | 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) | 0.81 | 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) | 0.70 | 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) | 98.50% | 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) | 1.93 | +/- 20% of  1.77 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.12 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 0.47 | +/- 20% of  0.90 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.72 to 1.08 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 3.15% | +/- 5% of  4.33% | 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 4.12% to 4.55%. |
| 7a | Planned v. actual inspections (safety) | 1,172 | +/- 5% of  1,200 | 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 1,140 to 1,260 for safety. |
| 7b | Planned v. actual inspections (health) | 194 | +/- 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) | $1,424.27 | +/- 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) | $952.00 | +/- 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**)** | $1,084.72 | +/- 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) | $1,967.88 | +/- 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) | $3,801.43 | +/- 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) | 38.98% | +/- 20% of  32.25% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.80% to 38.70% for safety. |
| 9b | Percent in compliance (health) | 47.17% | +/- 20% of  44.42% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.54% to 53.30% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 32.43 | +/- 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) | 51.27 | +/- 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 | 91.22% | +/- 15% of  69.97% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 59.47% to 80.47%. |
| 13 | Percent of initial inspections with worker walk-around representation or worker interview | 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 | 1.15% | +/- 25% of  1.64% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.23% to 2.05%. |

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

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