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

**Department of Business & Industry**

**Division of Industrial Relations, Occupational Safety & Health Administration**

**(NVOSHA)**



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## **Executive Summary**

The primary purpose of this report is to assess the Nevada Occupational Safety and Health Administration’s (NVOSHA) progress in Fiscal Year (FY) 2022, in resolving outstanding findings from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. NVOSHA’s achievement of the annual performance plan and five-year strategic goals is addressed in their FY 2022 State OSHA Annual Report (SOAR).

NVOSHA’s efforts continued to be significantly hampered by an increased personnel turnover rate compared to FY 2021. While NVOSHA made progress in filling vacant positions, a high percentage of compliance safety and health officers (CSHOs) were on probationary status in training and possessed less than two years of enforcement experience. A progressive training section was in place and enhancements were made to meet program goals, through hands-on development of CSHOs using a variety of methods combined with supervisory involvement. These adverse conditions had a direct impact on NVOSHA’s enforcement indicators, such as response time to fatality investigations, total projected enforcement inspections, above average in-compliance inspection rate and lapse time for citation issuance, and the number of violations per inspection with violations.

The Nevada State Plan made progress to address the previous seven findings and three observations from the FY 2021 Comprehensive FAME Report. One finding was completed and two observations were closed. Although six of seven findings and one of the three observations were carried over to FY 2023, corrective actions for three findings will be a focus of next year’s on-site case file review during the FY 2023 comprehensive FAME.

## State Plan Background

The State of Nevada, under an agreement with the Occupational Safety and Health Administration (OSHA), operates an occupational safety and health program per Section 18 of the Occupational Safety and Health Act of 1970. Initial approval of the Nevada State Plan occurred on January 4, 1974, and final approval was established on April 18, 2000.

The Division of Industrial Relations (DIR) is the designated agency for administering the OSHA-funded enforcement program, under the Nevada Occupational Safety and Health Administration (NVOSHA). Victoria Carreon was the State Plan Designee and Administrator of DIR during this review period. William Gardner was the Chief Administrative Officer (CAO) of NVOSHA. The consultation program was administered through Todd Schultz, CAO of the Nevada Safety Consultation and Training Section (SCATS). The program is headquartered in Las Vegas with an additional office located in Reno.

The NVOSHA enforcement program is funded under Section 23(g) of the Occupational Safety and Health Act. NVOSHA has jurisdiction and provides services to nearly 1.5 million workers in the State except for federal workers, the United States Postal Service (USPS), Tribal lands, military installations, and other areas of exclusive federal jurisdiction.

In FY 2022, the initial federal base award to fund the 23(g) program was $1,631,200.  Nevada matched the federal funds and contributed an additional $6,183,044 in 100% state funds, bringing the total award to $9,445,444.  Nevada matched an amendment increase of $39,200 and a one-time only award of $3,317 in federal funds and added an additional $95,421 in 100% state funds, increasing total federal and state funds to $9,625,899.  Nevada did not spend $726,006 in 100% state funds mostly due to staffing vacancies throughout the year. A financial monitoring review was conducted in April 2022. Corrective actions were completed for eight findings related to timesheet and travel requirements, contract cost allocations, cash management, leave and overtime policies and procedures, acquisition on equipment and services, and OSHA Information System (OIS) access management.

In addition to the 23(g) grant, Nevada received $246,046 in American Rescue Plan (ARP) federal funds for activities aimed at protecting workers during the COVID-19 pandemic and post pandemic recovery for the performance period of October 1, 2020, through September 30, 2023.  Nevada matched the federal funds, bringing the total federal and state ARP funds to $492,092. Quarterly ARP reports were submitted timely. Nevada spent all the grant funds in FY 2022 and closed this grant in January 2023.

State and local government consultation services and training were provided under the 23(g) grant. Private sector consultation was provided under the 21(d) Cooperative Agreement and performance results will be covered in the FY 2022 Regional Annual Consultation Evaluation Report (RACER).

NVOSHA adopted and implemented two new initiatives in FY 2022. First was the December 22, 2021 adoption of regulation R044-20 on Workplace Violence at Medical Facilities that established time periods for reporting incidents, procedures for prevention of and response to incidents, prevention or mitigation of risks, and recordkeeping. Effective outreach and enforcement targeting were conducted in cooperation with the Department of Health of Human Services (DHHS), resulting in the investigation of 64 incident reports. Subsequently on May 4, 2022, NVOSHA adopted OSHA’s National Emphasis Program (NEP) for Outdoor and Indoor Heat-Related Hazards. Since the date of adoption, NVOSHA processed 170 complaints/referrals associated with allegations of exposure to heat and conducted a total of 67 inspections to protect workers from heat-related illness.

**New Issues**

None.

## Assessment of State Plan Progress and Performance

### A. Data and Methodology

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

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

### B. Findings and Observations

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

The Nevada State Plan made progress to address the previous seven findings and three observations from the FY 2021 Comprehensive FAME Report. This follow-up FAME report contains six continued findings and one continued observation. One finding was completed and two observations were closed from the FY 2021 Comprehensive FAME. 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.

**Completed Findings**

**Finding FY 2021-01:** In FY 2021, the average number of workdays to initiate complaint inspections was 27.6 workdays (SAMM 1a), exceeding the negotiated goal of 14 workdays.

**Status:** NVOSHA was successful in reducing the average number of workdays to initiate complaint inspections (SAMM 1a) from 27.6 in FY 2021 to 7.71 workdays in FY 2022, falling well below the national average of 9.66 workdays days, and the negotiated goal of 14 workdays. This finding is completed.

**Continued Findings**

**Finding FY 2022-01 (FY 2021-02):** In FY 2021, the number of fatality investigations, 1 of 6 (16%), was not opened within one day (SAMM 10).

**Status:** NVOSHA conducted training and streamlined policies and procedures to ensure timely fatality investigations were initiated within one day (SAMM 10). However, in FY 2022, only 15 of 18 (83.33%) fatality investigations were responded to within the one-day timeline. This finding is continued.

**Finding FY 2022-02 (FY 2021-03):** In FY 2021, the total number of enforcement inspections, 810 (67.5%), was below the goal of 1,200 (SAMM 7).

**Status:** The FRL for SAMM 7 in Appendix D was +/-5% of the grant negotiated goal of 405 safety inspections and 530 health inspections. The range of acceptable data not requiring further review was 384.75 to 425.25 for safety inspections and 503.50 to 556.50 for health inspections. NVOSHA conducted a total of 836 private sector inspections (599 safety, 237 health).

NVOSHA’s effort continued to be significantly hampered by adverse conditions such as staff turnover rate of 36%, vacant or probationary status positions in training (41% of 44 CSHOs), 25 (56.8%) CSHOs possessed less than two years of enforcement experience. This finding is continued.

**Finding FY 2022-03 (FY 2021-04):** The percentage of in-compliance inspections for both safety (46.8%) and health (61.5%) inspections exceeded the FRL of 37.98% and 48.77% respectively.

**Status:** The FRL for SAMM 9a and 9b in Appendix D was +/-20% of the three-year national average of 32.25% for safety inspections and 44.42% for health inspections. The range of acceptable data not requiring further review was 25.80% to 38.70% for safety inspections and from 35.54% to 53.30% for health inspections. NVOSHA’s in-compliance rate was 43.91% for safety inspections and 57.14% for health inspections, both were well above the top of the FRL range.

This can be attributed to the high enforcement personnel turnover rate of 36% in FY 2022 compared to 30% in FY 2021. There were 35 CSHOs at the beginning of the fiscal year and 13 CSHOs left the agency during the year, transferred to other positions within the agency or were promoted. NVOSHA made progress with 14 new hires and ended the year with 36 CSHOs, a net increase of one position. A training program was designed to develop CSHOs and increase their hazard recognition skills using a variety of methods combined with supervisory involvement. In addition, NVOSHA was in the process of analyzing statistical data to ensure resources were directed at high hazard industries. This finding is continued.

**Finding FY 2022-04 (FY 2021-05):** In FY 2021, in 7 of 87 (8%) inspections, documentation of employee interviews was not included in the case file.

**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 2022-05 (FY 2021-06):** In FY 2021, in 6 of 8 (75%) case files with union involvement, the union participation or declination at the opening and closing conference was not documented. In five of eight (62.5%) of these cases, union participation in the walkaround portion of the inspection was not documented in the case file.

**Status:** NVOSHA implemented a checklist and use of a diary sheet to ensure that the involvement of or lack thereof union representation was afforded and documented as part of the case file review. 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 (FY 2021-07)**: In FY 2021, in 35 of 50 (70%) administratively closed investigation files, there was no evidence of a supervisory review.

**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.

**New Findings**

There were no new findings identified in FY 2022.

**Observations**

**Closed FY 2021 Observations**

**Observation FY 2021-OB-01:** In FY 2021, the average number of workdays to initiate complaint investigations was 6.47 workdays (SAMM 2a), above the negotiated goal of five days.

**Status:** NVOSHA’s average response time to initiate complaint investigations decreased from 6.47 days in FY 2021 to 4.49 in FY 2022 (SAMM 2a). This observation is closed.

**Observatio****n FY 2021-OB-03**: In FY 2021,the number of inspections for state and local government entities was 7 of 810 and lower than the goal of 15.

**Status:** The FRL for SAMM 6 in Appendix D was +/-5% of the grant negotiated goal of seven (five safety, two health) was 1.07% with an acceptable range of 1.02% to 1.12%. NVOSHA modified their targeting plan with an increased presence in this area resulting in 17 (2.03%) inspections in state and local government workplaces. This observation is closed.

**Continued FY 2021 Observations**

**Observation FY 2022-OB-01 (FY 2021-OB-02):** The reclassification rate of private sector violations was higher at 45.10% than the national average of 12.17%.

**Status:** The reclassification rate after a contest had been filed for private sector inspections was 23.26% in FY 2022. Although this was a decrease from the 45.10% in FY 2021, it continued to be above the national average of 13.21%. The observation will be continued.

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

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

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

The Nevada 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 average number of violations per inspection with violations by violation type (SWRU) is +/- 20% the three-year national average of 1.77 which equals a range of 1.42 to 2.12. The FRL for average number of violations per inspection with violations by violation type (other) is +/- 20% the three-year national average of 0.90 which equals a range of 0.72 to 1.08. NVOSHA averaged 1.40 for SWRU and 1.29 for other than serious, both were outside the acceptable FRL range and warranted a closer look at the situation.

**Explanation:** The lower-than-average SWRU and higher-than-average other than serious violations per inspection was most likely due to two contributing factors. The first and probably most significant factor was the hiring and retention of staff. The second factor was staff inexperience and the need for training and development. In addition, NVOSHA cited 160 of 536 (30%) other than serious violations that were related to statutes and regulations specific to State initiatives. This result does not rise to the level of an observation, but it will continue to be discussed at quarterly meetings.

**SAMM 8 – Average Current Serious Penalty in Private Sector – total (1 to Greater than 250 Workers)**

**Discussion of State Plan data and FRL:** The FRL for SAMM 8 in Appendix D was +/-25% of the three-year national average of $3,259.35. The range of acceptable data not requiring further review was $2,444.51 to $4,074.19. NVOSHA’s average current serious penalty in the private sector with 1-250+ workers was $4,221.12, which was $962.77 above the upper end of the FRL range.

**Explanation:** NVOSHA’s implementation of Nevada Senate Bill 40, legislation paralleling the federal annual adjustment to penalties, resulted in an increase in average penalties during FY 2022. Individually, SAMM measures for the different size categories of employers were within the applicable FRL ranges and OSHA will continue to monitor this metric during quarterly meetings.

**SAMM 11 – Average Lapse Time**

**Discussion of State Plan data and FRL:**  The FRL for citation lapse time for safety and health inspections (SAMM 11) was +/- 20% of the three-year national average. For safety inspections, the three-year national average was 54.58 days, with an FRL range of 43.66 to 65.50 days. NVOSHA had a safety lapse time of 82.38, which was 16.88 days above the upper end of the FRL range. For health inspections, the three-year national average was 69.03 days, with an FRL range of 55.22 to 82.84 days. NVOSHA had a health inspection lapse time of 88.82 days, which was 5.98 days above the FRL range.

**Explanation:** The primary factor attributing to the increase in average lapse time for safety and health citation issuance was a compliance staff turnover rate of 36%. Of the 44 compliance staff vacant positions filled, 41% were in a probationary status. In addition, 25 of 44 (56.8%) compliance staff possess less than two years of enforcement experience. OSHA will continue to monitor this metric during FY 2023.

**SAMM 13 – Percent of Initial Inspections with Worker Walk-around Representation or Worker Interview**

**Discussion of State Plan data and FRL:** The FRL for SAMM 13 in Appendix D is fixed at 100% for all State Plans. In FY 2022, NVOSHA completed 99.88% of initial inspections with worker walk-around representation or worker interviews.

**Explanation:** NVOSHA was slightly below the FRL for SAMM 13, however it exceeded the national average of 96.98%. OSHA will continue to monitor this metric during FY 2023.

## 

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

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

| **FY 2022-#** | **Finding** | **Recommendation** | **FY 2021-# or**  **FY 2021-OB-#** |
| --- | --- | --- | --- |
| FY 2022-01 | In FY 2021, the number of fatality investigations, 1 of 6 (16%), was not opened within one day. | NVOSHA should ensure all fatality investigations are initiated within one day. | FY 2021-02 |
| FY 2022-02 | The total number of enforcement inspections, 810 (67.5%), was below the goal of 1,200 (SAMM 7). | NVOSHA should implement corrective action to meet inspection goals. | FY 2021-03 |
| FY 2022-03 | The percentage of in-compliance inspections for both safety (46.8%) and health (61.5%) inspections exceeded the FRL of 37.98% and 48.77% respectively. | NVOSHA should determine the cause of the high in-compliance rates and implement corrective action. | FY 2021-04 |
| FY 2022-04 | In FY 2021, in 7 of 87 (8%) inspections, documentation of employee interviews was not included in the case file. | NVOSHA should ensure employee interviews are documented in accordance with the NOM. | FY 2021-05  FY 2020-OB-03  FY 2019-OB-03 |
| FY 2022–05 | In FY 2021, in 6 of 8 (75%) case files with union involvement, the union participation or declination at the opening and closing conference was not documented. In five of eight (62.5%) of these cases, union participation in the walkaround portion of the inspection was not documented in the case file. | NVOSHA should ensure union representatives are provided the opportunity to participate - or document the declination - in the opening conference, walkaround portion of the inspection, and closing conference. | FY 2021-06 |
| FY 2022-06 | In FY 2021 in 35 of 50 (70%) administratively closed investigation files, there was no evidence of a supervisory review. | NVOSHA should ensure a supervisory review is documented in the file. | FY 2021-07  FY 2020-OB-04  FY 2019-OB-04 |

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#### Appendix B – Observations Subject to Continued Monitoring

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

| **Observation #**  **FY 2022-OB-#** | **Observation#**  **FY 2021-OB-# *or* FY 2021-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2022-OB-01 | FY 2021-OB-02 | The reclassification rate of private sector  violations was higher at 45.10% than the national average of 12.17%. | OSHA will monitor NVOSHA’s progress towards this measure at quarterly meetings. | Continued |

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

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

| **FY 2021-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| --- | --- | --- | --- | --- | --- |
| FY 2021-01 | The average number of workdays to initiate complaint inspections was 27.6 workdays (SAMM 1a), exceeding the negotiated goal of 14 workdays. | NVOSHA should ensure complaint inspections are initiated timely. | A meeting was held with District Managers and Supervisors on 08/29/2022 regarding this FAME finding and the negotiated goal of initiating complaint inspections within 14 days. NVOSHA will ensure that supervisors generate OIS reports weekly to identify inspections that were not initiated within 14 workdays. Training will be provided, if necessary, to ensure the proper reports are being ran in the interest of identifying deficiencies with this performance measure. In the event that there continues to be evidence of complaint inspections being initiated outside of the negotiated goals, we will ensure to take proactive measures to evaluate our process and provide training regarding policies and procedures to ensure timeliness with the initiation of these inspections. | 11/15/2022 | Completed  11/15/2022 |
| FY 2021-02 | The number of fatality investigations, 1 of 6 (16%), was not opened within one day. | NVOSHA should ensure all fatality investigations are initiated within one day. | A meeting was held with District Managers and Supervisors on 08/29/2022 regarding this FAME finding and the negotiated goal of opening fatality investigations within one day. Upon notification of reported fatality via the 8-hour memorandum, the administrative staff will follow up with district office(s) to ensure that an investigation is scheduled to be open within a day, if warranted. Additionally, NVOSHA’s OSU is currently creating a training module pertaining to the findings included in the FAME. This training is currently scheduled to be presented to all enforcement staff on 09/19/2022. | Not Applicable | Open  09/15/2022 |
| FY2021-03 | The total number of enforcement inspections, 810 (67.5%), was below the goal of 1,200 (SAMM 7). | NVOSHA should implement corrective action to meet inspection goals. | A meeting was held with District Managers and Supervisors on 08/29/2022 regarding this FAME finding and the negotiated goal of conducting 1,200 inspections annually. Work Performance Standards for CSHOs are being reviewed and analyzed with an expected completion of 09/30/2022. Additionally, NVOSHA’s OSU is currently creating a training module pertaining to the findings included in the FAME. This training is currently scheduled to be presented to all enforcement staff on 09/19/2022. | Not Applicable | Open  09/15/2022 |
| FY 2021-04 | The percentage of in-compliance inspections for both safety (46.8%) and health (61.5%) inspections exceeded the FRL of 37.98% and 48.77% respectively. | NVOSHA should determine the cause of the high in-compliance rates and implement corrective action. | A meeting was held with District Managers and Supervisors on 08/29/2022 regarding this FAME finding. Statistics pertaining to NVOSHA’s most recent Inspection Targeting Plan will be analyzed during the first quarter of calendar year 2023 to assure that CSHOs are inspecting industries with high injury and illnesses rates. NVOSHA will continue to assess the needs of enforcement staff with respect to hazard recognition skills. This will be done by providing our staff with knowledge assessments, to identify areas where hazard recognition is deficient. Upon determining these areas, the training supervisor can determine what relevant training is required. In addition, NVOSHA will utilize our field evaluations (i.e. assisted visits) documentation in determining what hazards, if any, were overlooked during the walk around, determine trends and seek training to educate enforcement staff. | Not Applicable | Open  11/15/2022 |
| FY 2021-05 | In 7 of 87 (8%) inspections, documentation of employee interviews was not included in the case file. | NVOSHA should ensure employee interviews are documented in accordance with the NOM. | A meeting was held with District Managers and Supervisors on 08/28/2022 regarding this FAME finding and the importance of assuring that all employee interviews are documented and included in the case files. Staff were notified in team meetings held that same day. Upon communication to supervisors, we will ensure that during their review of a casefile, supervisors are ensuring employee interviews have been documented in the file and completing a checklist to indicate such. Additionally, NVOSHA will utilize our SIEP to determine whether employee interviews are being documented in our case files. If the SIEP yields deficiencies consistent with this finding, this will be communicated to the supervisor(s) and district manager(s). | 03/23/2022 | Awaiting Verification 09/07/2022 |
| FY 2021-06 | In six of 8 (75%) case files with union involvement, the union participation or declination at the opening and closing conference was not documented. In five of eight (62.5%) of these cases, union participation in the walkaround portion of the inspection was not documented in the casefile. | NVOSHA should ensure union representatives are provided the opportunity  to participate - or document the declination - in the opening conference, walkaround portion of the  inspection, and closing conference. | A meeting was held with District Managers and Supervisors on 08/29/2022 regarding this FAME finding and to assure that the involvement of, or lack thereof, union representation has been afforded and is documented in the case file. Upon communication to supervisors, we will ensure that during their review of a casefile, supervisors are ensuring employee interviews have been documented in the file and completing a checklist to indicate such NVOSHA’s OSU will be provided as necessary to ensure CSHOs and supervisors are familiar with the fields within OIS where this information is required to be entered. | 09/15/2022 | Awaiting  Verification 09/15/2022 |
| FY 2021-07 | In 35 of 50 (70%) administratively closed investigation files, there was no evidence of a supervisory review. | NVOSHA should ensure a supervisory review is documented in the file. | NVOSHA implemented the requirement for supervisory review of all whistleblower case files to be documented in the Complaint Call Log. | 03/23/2022 | Awaiting Verification 09/07/2022 |

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

FY 2022 Nevada Occupational Safety and Health 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) | 7.71 | 14 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of workdays to initiate complaint inspections (federal formula) | 3.61 | 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) | 4.49 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of workdays to initiate complaint investigations (federal formula) | 2.01 | 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) | 1.40 | +/- 20% of  1.77 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.12 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 1.29 | +/- 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 | 2.03% | +/- 5% of  1.07% | 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 1.02% to 1.12%. |
| 7a | Planned v. actual inspections (safety) | 599 | +/- 5% of  405 | 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 384.75 to 425.25 for safety. |
| 7b | Planned v. actual inspections (health) | 237 | +/- 5% of  530 | 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 503.50 to 556.50 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $4,221.12 | +/- 25% of  $3,259.35 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,444.51 to $4,074.19. |
|  | **a**. Average current serious penalty in private sector  (1-25 workers) | $2,602.00 | +/- 25% of  $2,145.46 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,609.10 to $2,681.83. |
|  | **b**. Average current serious penalty in private sector  (26-100 workers**)** | $4,688.33 | +/- 25% of  $3,818.56 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,863.92 to $4,773.20. |
|  | **c**. Average current serious penalty in private sector  (101-250 workers) | $5,736.63 | +/- 25% of  $5,469.60 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,102.20 to $6,837.00. |
|  | **d**. Average current serious penalty in private sector  (greater than 250 workers) | $6,107.95 | +/- 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) | 43.91% | +/- 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) | 57.14% | +/- 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 | 83.33% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 82.38 | +/- 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) | 88.82 | +/- 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 | 65.84% | +/- 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 | 99.88% | 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 | 1.56% | +/- 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.