

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

**Oregon Department of Consumer and Business Services Occupational Safety and Health Division (Oregon OSHA)**



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

**Initial Approval Date: December 28, 1972**

**Program Certification Date: September 24, 1982**

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## **I. Executive Summary**

The purpose of this report is to assess the activities of the Oregon Occupational Safety and Health Division (Oregon OSHA) for Fiscal Year (FY) 2022 regarding activities mandated by the Occupational Safety and Health Administration (OSHA). In addition, this report gauges the State Plan's progress in resolving any outstanding findings and observations from the previous FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

Oregon OSHA maintained a high level of program performance during the review period. The State Plan implemented an excellent training program for its staff, made progress to increase staffing levels, and hired a new Consultation Program Manager. In addition, Oregon OSHA implemented a comprehensive system for scheduling programmed inspections and responded timely to complaints and referrals. Oregon OSHA maintained six alliances during this review period. Finally, OSHA approved Oregon OSHA's updates to temporary labor camp rules that took full effect in 2018, and a federal register notice is in progress to solicit public comment for the removal of the exception to their May 2005 final approval. Also, during this evaluation period, Oregon OSHA adopted two new rules for Wildfire Smoke and Heat Illness Prevention.

The FY 2022 follow-up FAME report contains nine observations (eight continued, and one new). One finding was converted to an observation, two observations were closed following a limited case file review, and eight were continued. There were no new findings or observations.

## **II. State Plan Background**

The State of Oregon, under an agreement with OSHA, operates an occupational safety and health program through the Oregon Consumer and Business Services Department, Occupational Safety and Health Division (Oregon OSHA). The Oregon State Plan received initial approval on December 28, 1972, and was certified on September 24, 1982, after all developmental steps, as specified in the plan, had been completed. In May of 2005, after a full opportunity for public review and comment, and a comprehensive program evaluation, OSHA granted final approval to the Oregon State Plan except for temporary labor camp enforcement. The temporary labor camp standard has been revised by Oregon OSHA to meet federal concerns. Oregon OSHA has requested that the exception to its final approval be removed. As of January 20, 2023, the Oregon OSHA Agricultural Labor Housing standard was in review for final approval to be published in the Federal Register. Final approval is a significant achievement, confirming that the operation of Oregon OSHA's program is at least as effective as the federal program.

The Administrator of Oregon OSHA is appointed by the director of the Oregon Consumer and Business Services Department and serves as the designee for the State Plan. Renée Stapleton was formally appointed as the Administrator for Oregon OSHA on October 27, 2022.

In Oregon, the Bureau of Labor and Industries (BOLI) has statutory responsibility for accepting, processing, and making determinations on complaints alleging occupational safety and health workplace retaliation. Rules pertaining to the processing of these complaints, also known as whistleblower protection complaints, are contained in Division 438 of Oregon's Administrative Rules. Oregon OSHA reimburses BOLI for costs associated with conducting retaliation investigations.

Oregon OSHA exercises jurisdiction over state and local government workplaces and private sector employers not covered by federal OSHA. OSHA's inspection authority is limited to federal agencies, the United States (U.S.) Postal Service, contractors on U.S. military reservations, private sector and federal government employers at Crater Lake National Park, and private sector maritime employment on or adjacent to navigable waters, including shipyard operations and marine terminals. OSHA also covers private sector establishments on Native American reservations and tribal trust lands, including Native American-owned enterprises.

In FY 2022, 23(g) grant funds were allocated for 84 compliance officers and five consultants. The Oregon OSHA staffing levels for the 21(d) program (four) were maintained throughout the year.

In the FY 2022 grant application, there were an estimated 1,857,800 workers covered by Workers' Compensation insurance employed in Oregon with an estimated 128,000 employers. These employers operate at approximately 198,268 locations.

In FY 2022, the federally approved state OSHA program was funded at \$26,465,327. The state matched the initial federal base award of \$5,600,400. The federal base award was increased by \$106,500 in July. A one-time only award of \$416,006 in July and another one-time only award of \$1,329,877 in September contributed to the total federal grant of \$7,452,783. The state matched the total federal grant of \$7,452,783 and added an additional \$11,559,761 in 100% state funds. The state reported final expenditures to be \$28,416,579 (\$7,452,783 federal, \$7,452,783 state match, and \$13,511,013 in 100% state funds). In August 2021, the state was awarded an ARPA 23(g) grant, covering October 2021 through September 2023. The award amount is \$5,800,000 (\$2,900,000 ARPA funds and \$2,900,000 state match). The state reported at the end of September, ARPA 23(g) grant expenditures to be \$2,278,838 (\$1,139,419 federal and \$1,139,419 state match).

### **New Issues**

There was one Complaint About State Plan Administration (CASPA) received by OSHA during FY 2022 that warranted broader agency awareness. The CASPA raised concerns about Oregon OSHA's policies on the enforcement of portions of the respiratory protection standard for filtering facepieces used as a COVID-19 source control. Oregon OSHA rescinded the associated COVID-19 policy on April 3, 2023, and therefore, OSHA closed the CASPA.

## **III. Assessment of State Plan Progress and Performance**

### **Data and Methodology**

OSHA established a two-year cycle for the FAME process. A comprehensive case-file review was performed in FY 2021 and a limited case-file review was performed for FY 2022. A five-person OSHA team reviewed a randomly selected batch of case files completed by Oregon OSHA during the fiscal year. The case file review was conducted from December 20 to December 22, 2022, and it consisted of reviewing seventy-nine cases, twenty-three of which were fatalities.

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 10/14/2022)
- Mandated Activities Report for Consultation (MARC, dated 11/15/2022)
- OITSS Whistleblower Application/ Web Integrated Management Information System (WebIMIS)
- State OSHA Annual Report (SOAR, Appendix E)
- Oregon OSHA Annual Performance Plan
- OSHA Information System Reports (OIS)
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Limited case file review

### **Findings and Observations**

#### **Status of Previous and New Findings and Observations**

The State Plan made progress to address the previous finding and ten observations from the FY 2021 Comprehensive FAME Report. This follow-up FAME report contains nine observations (eight continued, and one new). One finding was converted to a new observation, while two

observations were closed and eight continued. 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 FY 2021 Finding**

**Finding FY 2021-01:** Oregon OSHA conducted 930 of 2,720 (34%) safety and 358 of 850 (43%) health inspections (SAMM 7), both below the further review level. This is following the state reducing the goal from 4,300 inspections to 3,570 inspections.

**Status:** This finding was converted to a new observation (Observation FY 2022-OB-09) in FY 2022. See the observation section for more information.

### **Continued FY 2021 Findings**

There were no continued findings in FY 2022.

### **New FY 2022 Findings**

There were no new findings identified in FY 2022.

### **Closed FY 2021 Observations**

**Observation FY 2021-OB-01:** The average violations per inspection for both SWRU and other-than-serious were both below the FRL.

**Status:** In FY 2022, the average number of violations per inspection (SAMM 5a) for SWRU (serious/willful/repeat/unclassified) was 1.59, which was within the FRL range of 1.42 to 2.12. The average number of violations per inspection for other than serious (OTS) violations (SAMM 5b) was 0.87, which was within the FRL range of 0.72 to 1.08. The FY 2022 limited case file review did not reveal any concerns related to these metrics. This observation is closed.

**Observation FY 2021-OB-03:** In FY 2021, in 14 of 15 (93%) inspections where workers were unionized, the union did not participate in the inspection, and the lack of involvement was not adequately explained in the file.

**Status:** The limited case file review conducted in December 2022 did not reveal any negative trends associated with documenting union involvement. This observation is closed.

### **Continued FY 2021 Observations**

**Observation FY 2022-OB-01 (FY 2021-OB-02):** Oregon OSHA's penalties are significantly below the national average and FRL for all categories of employer.

**Status:** Oregon OSHA's 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 \$3,259.35, providing an FRL of \$2,444.51 to \$4,074.19. In FY 2022, Oregon OSHA's average current serious private sector penalty for all employer sizes was \$633.47, which was 74% below the FRL. Oregon OSHA's average current serious penalty in the private sector for each of the other categories was also below the FRL. Oregon OSHA's penalties in relation to the FRL for each category is provided in Appendix D under SAMM #8. This observation remains open.

**Observation FY 2022-OB-02 (FY 2021-OB-03):** The confidentiality of employees interviewed during inspections was not ensured during the appeal process.

**Status:** Oregon OSHA has been working to address the concern about witness confidentiality through legislative action and drafted a bill for the Oregon legislative session during FY 2023.

During meetings, stakeholders objected to some of the included discretionary language. Oregon OSHA is working with OSHA, Department of Labor solicitors, and worker advocate groups to resolve this issue and draft an updated bill. This observation is continued.

**Observation FY 2022-OB-03 (FY 2021-OB-05):** Oregon OSHA did not adopt federal program changes timely.

**Status:** Oregon OSHA made progress to resolve this observation by adopting or submitting alternatives to four federal program changes that were listed as overdue in FY 2021 FAME report and include the:

- Field Operations Manual (CPL 02-00-164);
- Inspection Procedures for the Respirable Crystalline Silica Standards (CPL 02-02-080);
- Site Specific Targeting (CPL 02-01-062); and
- Compliance Directive for the Excavation Standard (CPL 02-00-165).

However, Oregon OSHA has not adopted or submitted an alternative policy for the FY 2022 Whistleblower Investigations Manual (CPL 02-03-011). This observation will be continued, and OSHA will continue to request updates on adoption status and full plan changes supplements from Oregon for all federal program changes requiring adoption.

**Observation FY 2022-OB-04 (FY 2021-OB-06):** In FY 2021, in 100% (100 of 100) of retaliation cases, there was no evidence that complainants were advised of their right to dually file with OSHA.

**Status:** The OSHA Whistleblower Protection Program did not perform a case file review for this fiscal year. A case file review is necessary to evaluate progress on this finding. This observation will be a focus of next year's on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-05 (FY 2021-OB-07):** In FY 2021, retaliation case files lacked the required documentation in accordance with Oregon PD 288. In 72 out of the 100 (72%) case files reviewed, proper documentation was not found.

**Status:** The OSHA Whistleblower Protection Program did not perform a case file review this FY 2022 FAME. A case file review is necessary to evaluate progress on this finding. The breakdown of data from the 2021 review was that in 72 of 100 (72%) case files reviewed, proper documentation was not found.

Examples included: final signatures on settlement agreements (1), correspondence between BOLI and the parties (107), evidence of review by a supervisor (3), letters of designation (2), complaint summaries (1), interview summaries (4), rebuttal interviews (18), medical information not protected (1), or other documents required to be in the retaliation case file (5).

It should be noted that the examples above counted each instance in each case file. However, the lack of documentation did not affect the merits of the investigation. This observation will be a focus of next year's on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-06 (FY 2022-OB-08):** In FY 2021, Oregon OSHA did not ensure the abatement of serious hazards in state and local government consultations.

**Status:** OSHA did not conduct a consultation case file review of state and local government files for this fiscal year. Oregon OSHA is currently engaged in rulemaking to change the rules related to abatement of serious hazard for public entities in Consultation. This observation is continued. A case file review is necessary to evaluate progress on this finding. This observation will be a focus of next year's on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-07 (FY 2021-OB-09):** In FY 2021, in 17 of 18 (94%) of state and local government consultation files reviewed, the written report to the employer did not have a comparison of the employer's Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average.

**Status:** OSHA did not conduct a consultation case file review of state and local government files for this fiscal year. A case file review is necessary to evaluate progress on this finding. This observation will be a focus of next year's on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

**Observation FY 2022-OB-08 (FY 2021-OB-10):** In FY 2021, the review of state and local government consultation files found concerns with file management and the written report to the employer: 11 of 21 (52%) of the written reports were missing descriptions of workplace and working conditions, and 19 of 21 (90%) files were missing at least one type of documentation: 13 did not contain field notes, and nine did not contain a discussion of the data found on the OSHA 300's for trend analysis.

**Status:** OSHA did not conduct a consultation case file review of state and local government files for this fiscal year. A case file review is necessary to evaluate progress on this finding. This observation will be a focus of next year's on-site case file review during the FY 2023 comprehensive FAME. This observation is continued.

#### **New FY 2022 Observation**

**Observation FY 2022-OB-09 (Finding FY 2021-01):** Oregon OSHA conducted 1375 of 1600 (86%) of safety and 516 of 550 (94%) of health inspections (SAMM 7), both below the further review level. This is following the state reducing the goal from 3,570 inspection in FY 2021 to 2,150 inspections in FY 2022.

**Federal Monitoring Plan:** OSHA will continue to discuss this metric with Oregon OSHA during quarterly meetings and as part of the 23(g) grant application process.

**Converted from Finding FY 2021-01:** Oregon OSHA conducted 930 of 2,720 (34%) safety and 358 of 850 (43%) health inspections (SAMM 7), both below the further review level. This is following the state reducing the goal from 4,300 inspections to 3,570 inspections.

**Discussion:** In FY 2022, per SAMM #7 data, Oregon OSHA conducted 1375 of 1600 (86%) safety and 516 of 550 (94%) health inspections, both below the FRL. This is following the state reducing the goal from 3,570 inspections in FY 2021 to 2,150 inspections in FY 2022. The FRL for this metric is negotiated by OSHA and the State Plan through the 23(g) grant application process. The range of acceptable data not requiring further review is plus or minus 5% of the negotiated goal and was 1,520 to 1,680 for safety inspections and 523 to 578 for health inspections. Oregon OSHA conducted 1,375 safety inspections, which was 10% below the FRL range, and 516 health inspections, which was 6% below the FRL range. It should also be noted that per the Oregon OSHA SOAR report, 1916 of 1600 (86%) safety and 535 of 550 (97%) health inspections were conducted. Numbers may vary between the SAMM report used for the FAME and Oregon OSHA's reported data due to data maturation associated with different report run dates. As this is a marked improvement from FY 2021, this finding was changed to a new observation (Observation FY 2022-OB-01) in FY 2022.

### **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 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 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 on the following SAMMs:

#### **SAMM 1a - Average number of workdays to initiate complaint inspections (state formula)**

Discussion of Oregon OSHA's data and FRL: The further review level for this metric is 5 days for serious hazards and 30 days for (OTS) hazards. Appendix D shows that the overall average number of days to initiate a complaint inspection was 7.19.

Explanation: The SAMM report does not differentiate between complaint inspections with serious hazards and complaint inspections with only OTS hazards. The Oregon OSHA SOAR reported that 602 of 616 (97.7%) of serious complaints were initiated within 5 working days and that 271 of 281 (96.4%) of OTS complaints were initiated within 30 working days. OSHA will work with Oregon OSHA to ensure that the results of this measure are reported out in a way that corresponds to the goal, or to update the SAMM report for Oregon to breakdown the measure between serious and other than serious.

#### **SAMM 10 - Percent of work-related fatalities responded to in one workday**

Discussion of Oregon OSHA's data and FRL: The FRL for fatalities responded to in one workday is 100%. Oregon OSHA responded to fatalities in one workday in 90.91% of cases.

Explanation: Oregon OSHA satisfactorily explained the outliers for the fatalities that were not responded to within one workday. Inspection 317729762 was initially reported as an accident and handled as a Rapid Response Investigation. An update from the medical examiner indicated that it was a fatal accident, and the inspection was opened within 24 hours of that update. Inspection 317729946 was reported by the workers compensation division 43 days after the fatality. The fatality was apparently natural causes, but the employer failed to respond, and an inspection was opened after three days of no response. Inspection 317731005 was initially handled as a rapid response investigation. The victim passed away 28 days later, and an inspection was opened within 24 hours of that date.

#### **SAMM 11 – Lapse time**

Discussion of Oregon OSHA's data and FRL: The FRL for safety lapse time is +/- 20% of 54.58 days, or from 43.66 days to 65.50 days. Oregon OSHA's lapse time for safety was 42.50 days, one full day below the FRL range. The FRL for health lapse time is +/- 20% of 69.03 days, or from 55.22 days to 82.84 days. Oregon OSHA's lapse time for health was 46.60 days, or 16% below the FRL range.

Explanation: Oregon OSHA exceeded the FRL goals for both safety and health lapse times. This ensures rapid abatement and shows a commitment to quickly removing employees from hazards.

#### **SAMM 12 – Percent penalty retained**

Discussion of Oregon OSHA's data and FRL: The FRL for penalty retention is +/-15% of 69.97%, or from 59.47% to 80.47 percent. Oregon OSHA's penalty retention was 95.55%, or 16% above the FRL range.

Explanation: Oregon OSHA's penalty retention rate is significantly higher than the national average; this can be attributed penalties that are significantly below the FRL. Also, Oregon



OSHA's appeal process does not mirror that of OSHA and therefore this metric does not accurately reflect the true penalty retention of their cases.

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

FY 2022 Oregon OSHA Follow-up FAME Report

There were no new or continued findings identified in FY 2022.

## Appendix B – Observations Subject to Continued Monitoring

FY 2022 Oregon OSHA 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	Oregon OSHA’s penalties are significantly below the national average and FRL for all categories of employer.	OSHA will continue to monitor this over FY 2023 and will evaluate the most recent revision of Oregon OSHA’s FIRM as well as conducting a case file review at the conclusion of the FY.	Continued
	FY 2021-OB-03	In FY 2021, in 14 of 15 (93%) inspections where workers were unionized, the union did not participate in the inspection, and the lack of involvement was not adequately explained in the file.	The limited case file review did not reveal any negative trends associated with documenting union involvement.	Closed
FY 2022-OB-02	FY 2021-OB-04 FY 2020-OB-03 FY 2019-OB-03	The confidentiality of employees interviewed during inspections was not ensured during the appeal process.	OSHA will continue to work with, and provide guidance to, Oregon OSHA to ensure the confidentiality of employees who participate in enforcement activities.	Continued
FY 2022-OB-03	FY 2021-OB-05	Oregon OSHA did not adopt federal program changes timely.	OSHA will continue to track Oregon OSHA’s progress on adoption of federal program changes and will discuss the status during quarterly meetings.	Continued

<b>Observation # FY 2022-OB-#</b>	<b>Observation# FY 2021-OB-# or FY 2021-#</b>	<b>Observation</b>	<b>Federal Monitoring Plan</b>	<b>Current Status</b>
FY 2022-OB-04	FY 2021-OB-06 FY 2020-OB-04 FY 2019-OB-04	In 100% (100 of 100) retaliation cases, there was no evidence that complainants were advised of their right to dually file with OSHA.	OSHA will monitor quarterly that Oregon OSHA and BOLI are providing information regarding complainant's right to file at the federal level.	Continued
FY 2022-OB-05	FY 2021-OB-07	Retaliation case files lacked the required documentation in accordance with Oregon PD 288. In 72 out of the 100 (72%) case files reviewed, proper documentation was not found.	OSHA will work with the Oregon OSHA liaison and BOLI investigators to ensure that proper documentation is maintained in the case file.	Continued
FY 2022-OB-06	FY 2021-OB-08	Oregon OSHA does not ensure the abatement of serious hazards in state and local government consultations.	OSHA will continue to discuss the status of the state regulations update.	Continued
FY 2022-OB-07	FY 2021-OB-09	In 17 of 18 (94%) of state and local government consultation files reviewed, the written report to the employer did not have a comparison of the employer's Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average.	OSHA will conduct a limited casefile review during the next comprehensive FAME.	Continued

Observation # FY 2022-OB-#	Observation# FY 2021-OB-# or FY 2021-#	Observation	Federal Monitoring Plan	Current Status
FY 2022-OB-08	FY 2021-OB-10	In FY 2021, the review of state and local government consultation files found concerns with file management and the written report to the employer: 11 of 21 (52%) of the written reports were missing descriptions of workplace and working conditions, and 19 of 21 (90%) files were missing at least one type of documentation: 13 did not contain field notes, and nine did not contain a discussion of the data found on the OSHA 300's for trend analysis.	OSHA will conduct a limited casefile review during the next comprehensive FAME.	Continued
FY 2022-OB-09	Finding FY 2021-01	Oregon OSHA conducted 1375 of 1600 (86%) of safety and 516 of 550 (94%) of health inspections (SAMM 7), both below the further review level. This is following the state reducing the goal from 3,570 inspection in FY 2021 to 2,150 inspections in FY 2022.	OSHA will continue to discuss this metric with Oregon OSHA during quarterly meetings and as part of the 23(g) grant application process.	Continued

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

FY 2022 Oregon OSHA Follow-up FAME Report

FY 2021-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2021-01	Oregon OSHA conducted 930 of 2,720 (34%) safety and 358 of 850 (43%) health inspections (SAMM 7), both below the further review level. This is following the state reducing the goal from 4,300 inspections to 3,570 inspections.	Oregon OSHA should evaluate the level of the SAMM 7 goal and whether or not it is achievable. This goal has not been met for the past three years. If Oregon OSHA determines that the goal is achievable, then they should develop a plan to ensure that they meet this goal. OSHA will continue to evaluate Oregon OSHA's planned versus actual inspections on a quarterly basis.	Oregon OSHA reduced the inspection goal for FY22 to 2,150 (pandemic related) and FY23 to 3,208. These goals adjust for the vacancy rate and recognize the necessary time to train individuals to conduct inspections. The division is prioritizing the necessity to hire compliance staff more frequently and complete the mandatory training sooner. Lastly, Oregon OSHA is distributing productivity expectations for both staff and managers as we wrap up post pandemic activities.	NA	Converted to Observation FY 2022-OB-09

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

FY 2022 Oregon OSHA 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)	7.19	5 days for serious hazards; 30 days for other-than-serious hazards	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	2.08	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	5.27	10	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	5.27	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)	1.59	+/- 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)	0.87	+/- 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	2.96%	+/- 5% of 2.46%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application.

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
				The range of acceptable data not requiring further review is from 2.34% to 2.59%.
<b>7a</b>	Planned v. actual inspections (safety)	1,375	+/- 5% of  1600	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 1520 to 1680 for safety.
<b>7b</b>	Planned v. actual inspections (health)	516	+/- 5% of  550	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 523 to 578 for health.
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$633.47	+/- 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.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$534.00	+/- 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>b.</b> Average current serious penalty in private sector (26-100 workers)	\$835.51	+/- 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.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$813.25	+/- 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.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$834.13	+/- 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.
<b>9a</b>	Percent in compliance (safety)	36.91%	+/- 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.



<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>9b</b>	Percent in compliance (health)	32.03%	+/- 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.
<b>10</b>	Percent of work-related fatalities responded to in one workday	90.91%	100%	The further review level is fixed for all State Plans.
<b>11a</b>	Average lapse time (safety)	42.50	+/- 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.
<b>11b</b>	Average lapse time (health)	46.60	+/- 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.
<b>12</b>	Percent penalty retained	95.55%	+/- 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%.
<b>13</b>	Percent of initial inspections with worker walk-around representation or worker interview	99.95%	100%	The further review level is fixed for all State Plans.
<b>14</b>	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.
<b>15</b>	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.
<b>16</b>	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.
<b>17</b>	Percent of enforcement presence	1.99%	+/- 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.