

State of Oregon

**Department of Consumer and Business Services
Oregon OSHA**

**Federal Annual Monitoring and Evaluation (FAME) Report
on the Safety and Health Program of Oregon**

FY 2011 Report Period
October 1, 2010, through September 30, 2011

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I. Executive Summary

The state of Oregon, under an agreement with OSHA, operates an occupational safety and health program through its Occupational Safety and Health Division (OR-OSHA), which is part of the Department of Consumer and Business Services. This report evaluates OR-OSHA's performance during FY 2011 in activities mandated by OSHA, and assesses the state's achievement of its annual performance plan goals as well as its progress toward the goals in its five-year strategic plan.

Overall, OR-OSHA met or exceeded the majority of its FY 2011 performance goals and fulfilled its obligations with regard to activities mandated by OSHA. Where the need for program improvement was identified, recommendations are made herein for corrective actions. One of the more significant challenges which OR-OSHA faced in FY 2011 was the achievement of its inspection goal. The economic downturn and budget shortfalls negatively impacted the state's ability to operate with a full complement of compliance staff. These negative impacts are likely to carry over into FY 2012.

A. Summary of the Report

The purpose of this Federal Annual Monitoring and Evaluation (FAME) report is to assess OR-OSHA's FY 2011 activities and to gauge the state's progress toward resolving recommendations from the FY 2010 FAME. As part of this evaluation, OSHA reviewed a portion of OR-OSHA's enforcement inspection files.

OR-OSHA's performance with respect to activities that are mandated by the Occupational Safety and Health Act and its implementing policies and regulations continued to be very good. For example, Oregon's timely responses to complaints, imminent dangers and appeals were outstanding. Other positive findings in this report include timely verification of the abatement of serious hazards; inspection lapse times better than national averages; timely responses to fatalities and catastrophes; and, continued reductions in injury and illness rates.

The FY 2010 FAME report on OR-OSHA contained a total of seven recommendations, six of which the state completed corrective actions for in FY 2011. The remaining unresolved recommendation is about significantly increasing penalty amounts to serve as a strong deterrent.

This FAME report contains a total of three findings. Two new findings with recommendations for corrective action pertain to achieving inspection goals and ensuring appropriate classification for violations. The repeated finding and recommendation is about significantly increasing gravity-based penalty amounts to serve as a strong deterrent. Each recommendation is summarized later in this Executive Summary and is discussed in detail in the body of this report.

B. State Plan Introduction

OR-OSHA, under an agreement with OSHA, operates an occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970. The Oregon state plan was submitted on April 28, 1972, and was certified on September 15, 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, with the exception of temporary labor camp enforcement. This significant achievement confirmed that Oregon OSHA's program in actual operations is at least as effective as the federal program with respect to issues covered by that approval.

The administrator of OR-OSHA is appointed by the director of the Oregon Department of Consumer and Business Services and serves as the designee for the state plan. The current administrator is Mr. Michael Wood, whose office is situated in Salem.

Over the years, Oregon OSHA has adopted a number of major safety and health standards which, while deemed as effective as comparable federal standards, also have significant differences. OR-OSHA has also adopted a number of state-initiated rules for which there are no federal counterparts, including Forest Activity Standards, Agricultural Standards, and Firefighter Standards. Oregon OSHA's rules, the Oregon Safe Employment Act, letters of interpretation, and recent rule activity can be accessed via the Rules and Compliance section of the Oregon OSHA website.

Appeals specialists review appealed citations and conduct informal conferences in an effort to resolve contested Oregon OSHA enforcement cases. Appealed cases not resolved by informal conferences are referred to the Workers' Compensation Board Hearings Division. Administrative Law Judges (ALJs) in the Hearings Division conduct contested case hearings for Oregon OSHA's citations and orders. Orders of the Workers' Compensation Board may be appealed to the Oregon Court of Appeals.

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 discrimination. Rules pertaining to the processing of these complaints are contained in Division 438 of Oregon's Administrative Rules. BOLI is reimbursed by Oregon OSHA for costs associated with conducting discrimination investigations.

In FY 2011, the state plan was staffed with 76 compliance officers and 27 consultants. The program covers approximately 1.6 million workers and 90,400 employers in more than 144,000 locations around the state. In FY 2011, OR-OSHA's federally-approved state OSHA program was funded at \$22,770,490, of which \$6,880,680 were federal funds.

OR-OSHA has staffed the consultation program with 27 consultants that are 100% state-funded and four additional consultants that provide private sector consultation under Section 21(d) of the Act. All consultants provide services to both public and private employers.

Oregon OSHA has jurisdiction over most workplaces in the state. Exceptions include workplaces covered by OSHA, such as federal agencies; the U.S. Postal Service; contractors on U.S. military reservations; private employers 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.

C. Data and Methodology

The opinions, analyses, and conclusions described herein are based on information obtained from a variety of sources, including:

- OSHA's analysis and monitoring of the FY 2010 Oregon OSHA Corrective Action Plan which provides the state's status and response to the FY 2010 FAME (Appendix B).
- OSHA statistical reports comparing state enforcement performance to federal enforcement performance (Appendix C).
- State Activity Mandated Measures (SAMM) report data (Appendix D).
- State Information Report (SIR) data (Appendix E).
- The state FY 2011 OSHA Annual report (SOAR) prepared by Oregon OSHA (Appendix F), which contains details of the state's achievements with respect to its annual goals.
- Quarterly monitoring meetings between OSHA and the state.

Comprehensive case file reviews of 68 enforcement inspections in agricultural-related SICs were accomplished by OSHA during FY 2011. The reviews focused on standards cited; classification of violations; employee participation; penalties issued; penalty reduction factors to include size of the company, DART rate; and, severity and probability factors.

D. Findings and Recommendations

This section summarizes OSHA's findings and recommendations for the evaluation period of FY 2011. Details are further discussed in the body of the report. The finding and recommendation denoted as "continued" is one that had been identified in the previous FY 2010 FAME report period and was again identified as a repeat finding in this reporting cycle.

Finding 11-1: OR-OSHA did not meet its inspection goals. OR-OSHA conducted 4,587 inspections during FY 2011 which fell short of its goal of 5,200 by 613 inspections, or 12%. The state experienced a high vacancy rate among enforcement staff during this period, which impacted its ability to achieve this goal.

Recommendation 11-1: Ensure appropriate inspection goals are set based on realistic expectations in consideration of current resources, abilities and training status of compliance staff, and properly allocated in order to achieve goals.

Finding 11-2 (Continued 10-7): OR-OSHA's average initial penalty per serious violation in the private sector during FY 2011 was 79% lower than the national average (SAMM 10) and 66% below the total state plan average for both the public and private sector (Appendix C). A significant disparity between OSHA's average gravity-based penalty and OR-OSHA's continues to exist.

Recommendation 11-2 (Continued 10-7): Revise penalty policies in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.

Finding 11-3: During a special study of agricultural inspection case files, it was found that of the 172 other-than-serious violations cited, 48 violations (or 28%) were identified to be misclassified by OR-OSHA. These violations were classified as other-than-serious where the classification should have been a serious or repeat violation.

Recommendation 11-3: Ensure the appropriate violation classification is determined based on the severity and probability of the hazard.

II. Major New Issues

Staffing: Oregon OSHA struggled with budget issues related to the downturn in the economy. In addition to furloughs, some positions were eliminated. Some reductions in authorized staffing that were made during the previous biennium became permanent or in some cases, indefinite. Of the 28 staff positions eliminated in FY 2011, 6 or 21% were safety compliance officers. No health compliance staff positions were eliminated. In addition, Oregon OSHA held several authorized positions vacant due to reductions in workers' compensation revenue. The state is confident that proactive planning will reduce the likelihood of further layoffs or reductions – but workers' compensation revenue remains very tight and is recovering slowly along with the broader economy.

During the current biennium, most Oregon OSHA staff and managers are subject to a total of 14 furlough days. Although Oregon OSHA offices are closed along with other state offices, for enforcement staff, the furlough days are used as "floating days," such that at least half of the enforcement staff (31 of 62 compliance officers) is in the field on such closure days, ensuring that staffing remains at or above benchmark levels.

Penalties: OSHA found OR-OSHA's penalties to be significantly lower than both the federal and state averages for serious violations as reported in the FY 2009 and FY 2010 Federal Annual Monitoring Evaluation (FAME) reports. In the FY 2009 report OSHA recommended that the state "Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise

penalty averages for serious violations.” OSHA repeated that recommendation in FY 2010 and noted that both the state and the region are awaiting further guidance on this matter.

Since FY 2010, OR-OSHA has made significant progress toward rulemaking to revise its violation and penalty rules. A summary of OR-OSHA’s new proposed penalties rule, published in the fall of 2011, includes major provisions to make changes to size adjustments, history adjustments, and base penalty rates. For example, the rule would increase the difference between small employer and large employer penalties, reduce the Days Away Restricted Time (DART) injury rate reduction, and increase base penalties by 40 to 50% for the most severe violations where there is a risk of death. It would also eliminate the substantial immediate abatement adjustments in favor of a broader and somewhat more modest “good faith” adjustment, change the identification of repeat violations, and change penalties for multiple repeat violations to focus on repeat behavior. More specifically, the rule would address the penalty reduction for low DART rate from 35% to 10% and would eliminate the 30% reduction for violations corrected during inspection. Oregon plans to publish a final rule in late spring 2012, effective July. For a detailed summary of the proposed changes, see page 6, Status of Recommendation 10-7.

In a special study by the Portland Area Office, OSHA determined that although Oregon OSHA increased its average serious penalty, serious penalties continue to be significantly lower than federal and overall state averages. Whether these low penalties provide sufficient deterrent effect is a significant question. OSHA believes that higher penalties will have a greater deterrent effect and will compel voluntary abatement of hazards on a broader scale than just the cited employer.

III. State Response to FY 2010 FAME Recommendations

This section provides a summary of the status of the one remaining recommendation from the FY 2010 FAME report. During FY 2011, corrective actions were completed for 6 of the 7 enforcement-related recommendations. The remaining recommendation below relates to the disparity between OR-OSHA’s penalties and those of federal OSHA. Appendix B describes the status of each FY 2010 recommendation in detail.

Recommendation 10-7: Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.

Status: Pending. Following a series of public forums in the summer of 2010, the agency empaneled a stakeholder advisory group to work with Oregon OSHA in developing a proposal to improve the effectiveness of Oregon OSHA’s use of its existing penalty authority. As a result of that group’s work, Oregon OSHA published a proposed rule in the fall of 2011. That rule would make changes to base penalty rates, size adjustments and history adjustments, and it would eliminate the substantial immediate abatement adjustment in favor of a broader and somewhat more modest “good faith” adjustment. It also would make changes to the identification of repeat

violations and changes to penalties for multiple repeat violations. The agency has now accepted public comment on the rule and is in the process of evaluating those comments with the goal of publishing a revised final rule by late spring 2012, effective July. This item will be considered essentially completed at that time.

IV. Assessment of State Performance

As part of an approved state plan, each state must administer a program that meets its mandated responsibilities. The Occupational Safety and Health Act and regulations in 29 CFR 1902, 1953, 1954 and 1956 identify these core elements and responsibilities for an effective state occupational safety and health program. The OR-OSHA program has the necessary authority and procedures in place to carry out those mandates and has adopted required federal program changes that were due during this monitoring period. The following is an assessment of Oregon's performance under the specific mandated program areas. Monitoring data have come from grant assurances, statistical reports, case file reviews and interviews.

A. Enforcement

1. Complaints

Ensure that safety and health complaint processing is timely and effective, including notification of complainants and appropriateness of the state's responses.

The state responded to a total of 1,415 complaints, 868 with on-site inspections and 547 by the phone/fax procedure. The average time to respond with an on-site inspection in FY 2011 was 5.21 days, which is 5.45 days less than last year's average of 10.66 days and within the state's requirement of 5 days for serious hazards and 30 days for other-than-serious hazards. The average time for initiating phone/fax complaints was 2.46 days which is a decrease over last year's average of 3.28 days and is 6.72 days below the state's requirement of 10 working days.

OR-OSHA has a three-tiered criteria for measuring complaint responsiveness: imminent danger complaint inspections, initiate within 24 hours; serious complaint inspections, initiate within 5 working days; other-than-serious complaint inspections, initiate within 30 working days; phone/fax response, initiate within 10 working days. The state's goal is 95% timeliness for initiating responses to complaints. Oregon OSHA reports on the state's performance quarterly and annually in their SOAR provided in Appendix F. OR-OSHA reports its timeliness rates as follows:

- 100% (37/37) for Imminent Danger complaints.
- 95.6% (475/497) for serious hazard complaints.
- 99.1% (331/334) for other-than-serious hazard complaints.
- 97.6% (534/547) for phone/fax investigations.

The state exceeded its criteria for acceptable performance in all four categories.

2. Imminent Danger

Ensure imminent danger situations are responded to promptly and appropriately.

As with OSHA, it is OR-OSHA's policy to inspect imminent danger complaints and referrals within 24 hours of notification. During FY 2011, OR-OSHA met the timeliness requirement with respect to responding to imminent danger complaints or referrals in 63 of 63 instances (100%). OR-OSHA's response to imminent danger situations continues to be acceptable (SAMM 4).

3. Fatalities and Catastrophes

Ensure rules are in place requiring employer recordkeeping of workplace injuries and illnesses, and timely reporting of workplace fatalities and catastrophes.

OR-OSHA regulations for maintaining records of workplace injuries and illnesses are comparable to OSHA's. OR-OSHA regulations for reporting workplace fatalities and catastrophes differ from OSHA's in that the state requires employers to report the work-related hospitalization of one or more employees compared with the OSHA requirement of three or more.

Ensure fatalities and catastrophes are investigated properly, including responding timely to incidents and making contact with the families of victims.

OR-OSHA investigated 23 fatalities in FY 2011, responding timely within one day in 22 out of 23 cases or 96% (OSHA Detailed FAT/CAT Report FY 2011). The untimely response was due to the fatality being part of a criminal investigation and the opening conference was delayed.

The number of work-related fatalities in FY 2011 is identical to the number in FY 2010. Oregon OSHA's response for the untimely initiation of an investigation is acceptable, and OR-OSHA met this element.

OR-OSHA contacted families of victims by mailing next of kin letters within 10 days, or 98.3% of the time following a fatality (OSHA Detailed FAT/CAT Report FY 2011). The reason for the one untimely letter was because the next of kin address was unknown and several attempts to contact the family were made by OR-OSHA without the family's response.

During OSHA's special study, 68 agricultural inspection case files were randomly selected for review of which three were fatality inspections and one case was a catastrophe inspection. In all four FAT/CAT investigations, OR-OSHA responded timely upon notification of the event and made timely contact with the families. These case files were well documented with high severity citations issued, as appropriate.

In FY 2012, OSHA plans to review OR-OSHA’s fatality and catastrophe investigations as part of the annual monitoring process. Results will be addressed in the FY 2012 FAME report.

Bureau of Labor Statistics (BLS) Rates. Review state-specific rates to determine trends; compare to targeting and emphasis programs for correlation.

An overview of Oregon’s private industry TCIR¹ and DART² rates for calendar years 2006 through 2010, as well as for select industries, is provided in the table that follows. At the close of this monitoring period, 2010 was the most recent calendar year for which data were available. [Data source: www.bls.gov]

	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	% Change, 06-10	% Change, 08-10
Private Industry							
TCIR	5.3	5.1	4.6	4.4	3.9	-22%	-15%
DART	2.8	2.8	2.5	2.3	2.2	-21%	-12%
Construction, NAICS³ 23							
TCIR	6.3	6.8	5.4	4.6	4.5	-29%	-17%
DART	2.9	3.4	3.0	2.0	2.5	-14%	-17%
Manufacturing, NAICS 31-33							
TCIR	7.0	6.5	5.7	4.7	4.4	-37%	-23%
DART	4.0	3.6	3.2	2.8	2.6	-35%	-19%
State and local government							
TCIR	4.8	5.4	5.8	5.2	4.6	-4%	-21%
DART	2.8	2.6	2.3	2.5	2.2	-21%	-4%

Data indicates that in all industry sectors between CY 2008 and CY 2010, injury and illness rates have declined.

¹ TCIR is the total case incident rate, which represents the number of recordable injuries and illnesses per 100 full-time workers, calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses; EH = total hours worked by all employees during the calendar year; and 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² DART is the days away from work, job transfer, or restriction rate, which represents the number of such cases per 100 full-time workers. Calculation of the DART rate is similar to that of TCIR.

³ NAICS is the North American Industry Classification System.

4. Targeting and Programmed Inspections

Ensure an effective program is in place allowing the conduct of unannounced enforcement inspections (both programmed and unprogrammed).

Oregon OSHA conducted various National Emphasis Program (NEP) and Local Emphasis Program (LEP) inspections in FY 2011. They are as follows for NEP inspections: trenching, 78; field sanitation, 84; lead, 39; silica, 19; diisocyanate, 22; process safety management, 13; combustible dust, 18; hexavalent chromium, 24; and amputation, 363. For LEP inspections: falls in construction, 457; struck-by in logging, 148; silviculture, 8; farm labor housing, 59; pesticide, 60; and formaldehyde, 44.

OR-OSHA conducted 2,532 programmed safety inspections and 367 programmed health inspections in the private sector during FY 2011. Of these inspections, 59.7% of safety inspections resulted in a violation, with a corresponding in-compliance rate of 40.3%. Of the programmed health inspections in the private sector, 56% resulted in violations, with a corresponding in-compliance rate of 44% (SIR 1, 2). Based on these data, OR-OSHA's targeting of safety hazards through programmed inspections is 10.4 (59.7/70.1) lower than safety programmed inspections by OSHA resulting in violations. Oregon's health targeting resulted in 56% inspections with violations; this is comparable to OSHA's 56.2% (SIR 1, 2).

Of the total violations cited by Oregon OSHA in FY 2011, 43% were cited as serious, as compared to 46% for all state-plan states, and 77% serious nationally for OSHA (Appendix C). In FY 2011, 1,185 of 2,690 OR-OSHA programmed safety inspections, or 44%, resulted in Serious, Willful, and/or Repeat violations. For health programmed inspections, 193 of 417, or 46%, resulted in Serious, Willful and/or Repeat violations (SAMI 8,9). When analyzing all programmed and unprogrammed inspections conducted, the state cited Serious, Willful and Repeat violations 44% of the time.

OR-OSHA conducted a total of 4,587 inspections during FY 2011. That was less than OR-OSHA's inspection goal of 5,200 by 613 inspections, or 12% less than the established goal (Appendix C).

The state set and established reasonable inspection goals for FY 2011 based on their history of inspections in the past. However, OR-OSHA was affected by reduced staffing levels during this period where the state incurred 14 vacancies in safety and health enforcement which impacted their ability to reach their inspection goal. See table below.

Inspections	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Goal	5,200	5,500	5,500	5,000	5,000
Conducted	4,587	5,261	5,534	5,248	5,036
Difference	(613)	(239)	34	248	36

Recommendation 11-1: Ensure appropriate inspection goals are set based on realistic expectations in consideration of current resources, abilities and training status of compliance staff, and properly allocated in order to achieve goals.

Ensure an effective mechanism is in place to obtain inspection warrants when denials of entry occur.

OR-OSHA has always had very fast and effective mechanisms to obtain warrants when compliance officers were denied entry. There were seven denials during FY 2011, and warrants and/or reentry was obtained for all. OR-OSHA met this element.

5. Citations and Penalties

Ensure an effective program exists for timely issuance of citations.

The state has successfully managed to issue citations in a timely manner. The lapse time from opening conference to citation issuance for safety inspections in Oregon was 37 calendar days for FY 2011. This is better than the corresponding national average of 52 days, and is comparable to OR-OSHA’s 36-day average in FY 2010. For health inspections, OR-OSHA averaged 52 days from opening conference to citation issuance. This is better than the corresponding national average of 65 days, and is a major improvement to OR-OSHA’s lapse time of 62 days in FY 2010 (SAMM 7). This significant achievement of OR-OSHA to reduce and maintain both industrial hygiene and safety lapse times is most commendable. OR-OSHA met this goal.

The following tables represent OR-OSHA’s five-year performance history for both industrial hygiene and safety citation lapse times. The data was compiled using the end of year final SAMM report. See Appendix D for details.

IH Lapse Times (Days)	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Goal	64.8	66	57.4	58.7	60
Actual	51.8	61.9	66.4	68.1	65.9
Difference	(13)	(4.1)	9	9.4	5.9

Safety Lapse Times (Days)	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
Goal	51.9	47.3	43.8	45.5	45.7
Actual	37.1	39	33.3	37	35.1
Difference	(14.8)	(8.3)	(10.5)	(8.5)	(10.6)

Ensure serious violations cited are assessed adequate penalties.

OR-OSHA’s rules and policies require that serious violations are assessed penalties. OSHA recommended OR-OSHA increase their penalties following a special study in FY 2009, and again in the FY 2010 FAME.

OR-OSHA’s average initial penalty for the public and private sectors is \$325.70, or 66% below the total state plan average of \$963.40 (Appendix C). Per SAMM 10, Oregon’s average initial penalty per serious violation in only the private sector during FY 2011 was \$353.88, which is 79% lower than the national average of \$1,680. Though Oregon’s average serious violation penalty during FY 2011 of \$353.88 was an increase of \$31.96 from FY 2010, there has been little appreciable change over the last five years in average serious penalty, as noted in the following table (SAMM 10 data).

Average penalty assessed per serious violation	FY 2011	FY 2010	FY 2009	FY 2008	FY 2007
	\$353.88	\$321.92	\$364.23	\$381.08	\$325.15

Recommendation 11-2 (Continued 10-7): Revise penalty policies in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.

Although the recommendation above is considered to be pending at this time, the state has made significant progress toward rulemaking on its penalty policy. Following a series of public forums held by OR-OSHA in the summer of 2010, the agency empaneled a stakeholder advisory group to work with OR-OSHA in developing a proposal to improve the effectiveness of OR-OSHA’s use of its existing penalty authority. As a result of the group’s work, OR-OSHA published a proposed rule in the fall of 2011. That rule would make changes to size adjustments, history adjustments, history adjustments, and base penalty rates. For example, the rule would increase the difference between small employer and large employer penalties, reduce the Days Away Restricted Time (DART) injury rate reduction, and increase base penalties by 40 to 50% for the most severe violations where there is a risk of death. It would also eliminate the substantial immediate abatement adjustment in favor of a broader and somewhat more modest “good faith” adjustment, change the identification of repeat violations, and change penalties for multiple repeat violations to focus on repeat behavior.

Oregon’s proposed elimination of its 30% penalty reduction for violation(s) corrected during an inspection and change in penalty reduction from 35% to 10% for a low DART rate would better align OR-OSHA’s penalty policy with OSHA’s.

The agency has accepted public comment on the rule and is in the process of evaluating those comments with the goal of publishing a revised final rule by early April, 2012, to take effect July 1, 2012.

Ensure violation classification is appropriate.

Violation classification was examined during a comprehensive case file review of enforcement inspections in the agriculture-related SICs during FY 2011. This case file review was performed to investigate allegations made in a significant CASPA. These significant allegations were filed in CASPA 0-190 against OR-OSHA regarding safety and health enforcement in the state's agriculture industry. These allegations were found to be valid. The allegations presented were that OR-OSHA continues to misclassify safety and health violations during inspections of agricultural operations, and that OR-OSHA rarely assesses a penalty during these types of inspections because it incorrectly categorizes violations as other-than-serious or determines the probability of harm to be low. A second complaint within CASPA 0-190 alleged that OR-OSHA fails to assess adequate penalties during agriculture operations inspections, thereby undermining the deterrent effect of penalties. The complaint suggests this is especially true since OR-OSHA's penalty structure is inherently substantially lower than OSHA's penalty structure.

During the case file review, OSHA studied 68 case files containing a total of 250 violations, 77 serious, 172 other-than-serious and one repeat violation. Oregon OSHA classified 68.8% (172/250) of these agricultural violations as other-than-serious and 31% as serious, though the state cited 43% of violations in all industries as serious. Of the 172 other-than-serious violations evaluated, 48 violations (28%) were found to be misclassified by the state as other-than-serious instead of serious. One of the violations misclassified as other-than-serious should have been classified as a repeat serious violation.

Examples of these issues include the following:

1. Lack of or inadequate bathing or hand-washing facilities
2. Dirty or inadequate toilets
3. Electrical hazards
4. Grouping other-than-serious violations without raising the classification to serious
5. Exposure to Hazardous Chemicals
6. Control of hazardous energy (Lockout/Tagout)
7. Respirator hazards
8. Inadequate fire protection
9. Failure to reduce air pressure to less than 30 psi

Recommendation 11-3: Ensure the appropriate violation classification is determined based on the severity and probability of the hazard.

There were no willful violations cited in these agricultural inspections but there were no hazards shown during the case file review which would have justified issuing a willful citation. Only three willful violations were cited across all Oregon industries in FY 2011, though the state plan average was 11 willful violations (Appendix C).

Average number of violations per inspection in these 68 agricultural case files was 3.67. Average penalty per serious violation issued was \$600.09, nearly twice that of the overall state average, which is \$325.70 (Appendix C). A disparity between OSHA's average gravity-based penalty and OR-OSHA's continues to be present. Penalty amounts are low as compared to average federal penalties issued, and this is addressed in the penalties section of the FAME.

Overall documentation contained in the case files reviewed was very good. Violations cited were supported by photos, diagrams, interviews and inspection notes. Hazards observed during the walk-around and documented in the case file were cited as violations. Although the hazards may have been underestimated with respect to gravity, severity or probability, and 28% of other-than-serious violations reviewed were incorrectly classified, the correct standard or Oregon Administrative Rule was cited.

OR-OSHA's review process for issuing citations is similar to OSHA's. Safety and health compliance officers in each field office are assigned to a safety or health enforcement manager in the field office. The safety or health enforcement managers (direct-line supervisors) review the case files and approve the citations to be issued.

6. Abatement

Ensure an effective program exists for timely assurance of hazard abatement.

OR-OSHA requires that each serious hazard be abated, and that adequate verification of the correction is included in the case file. For FY 2011, the timely abatement of serious, willful and repeat violations was 94.76% for private sector citations and 94.44% for public sector citations (SAMM 6).

In OSHA's review of 68 agricultural case files, a Hazard Abatement Letter (HAL) and abatement support documentation was observed in 100% of the case files reviewed. Six case files were still open at the time of the review; these files were pending formal appeal. OR-OSHA has a statute that requires employers to abate cited serious hazards during their appeal process. Of the six cases remaining open, pending appeal, 50% contained a HAL. OR-OSHA performance in this element is acceptable.

7. Employee and Union Involvement

Ensure employees are allowed to participate in inspection activities.

During OR-OSHA's inspections, employees are given the opportunity to participate either through interviews or by having employee representatives accompany inspectors. Employees are also afforded the opportunity to privately express their views about the workplace away from the employer. Employee participation was verified in OSHA's special study review of 68 agricultural case files. When enforcement staff was unable to involve employees in the inspection process, an explanation or justification was provided in the case file. Employee

participation occurred in 65% instances, or 96% of the time. In addition, inspection results are provided to employee representatives and complainants through written correspondence. Inspection results were provided to employee representative and complainants 100% of the time as observed in the special study. Monitoring did not identify any cases where employees were not afforded the right to participate in the inspection process. Historically, there has never been a problem in this category, and such was the case again this year. Oregon OSHA met this element.

B. Review Procedures

Ensure effective mechanisms are in place to provide employers the right of review of alleged violations, abatement periods, and proposed penalties and that employees or their representatives have an opportunity to participate in the review proceedings and provide for contest of abatement dates.

Oregon's Administrative Code and OR-OSHA's Compliance Manual afford employers the right to administrative and judicial review of alleged violations, proposed penalties, and abatement periods. These procedures also give employees or their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

1. Informal Conferences

Oregon OSHA has similar informal conference procedures as OSHA, with the exception that the OR-OSHA appeals unit schedules the informal conference with the employer, and generally only the appeals officer and compliance officer attend. Employers have the right to discuss citations informally with Oregon OSHA (see Oregon Administrative Rules (OAR) 437-001-0255). Oregon's rules at OAR 438-085-0111 provide employers with the right to contest citations and penalties. Those rules also provide employees with the right to object to assigned abatement dates. Oregon, however, does not have a penalty reduction program.

In Oregon, most employer citation appeals are resolved by informal settlement. In FY 2011, OR-OSHA held 402 informal settlement conferences which resulted in settlements in 351 (87.3%) of those cases. No violations were vacated nor reclassified during informal review during this period (SIR C 7,8).

During case file reviews, any changes made to citation classification, deletions, or penalty reduction were well documented. OSHA did not identify any concerns, and finds this activity acceptable.

2. Formal Review of Citations

In FY 2011, there were six cases active before Oregon's Court of Appeals. In one case where OR-OSHA appealed, the employer cross-appealed. OR-OSHA appealed on two cases. In three cases, the employer appealed the court's opinion which resulted in the citation being affirmed. There were no Oregon Supreme Court decisions issued in FY 2011.

In comparing OR-OSHA's FY 2011 performance to OSHA's in areas such as vacating or reclassifying violations and retention of penalties after appeal, Oregon's performance was better than OSHA's. A lower percentage of OR-OSHA's violations, 8.9%, was vacated in FY 2011 in comparison to the federal percentage of 23%. OR-OSHA's post-contest penalty retention for FY 2011 was 62.6% compared to 62.3% retention federally. In the area of post-contest violation reclassification, OR-OSHA reclassified 4%, compared to OSHA's reclassification rate of 13.3%. The results of the state's process are comparable to OSHA's (SIR E 1,2,3).

C. Standards and Federal Program Changes (FPCs) Adoption

1. Standards Adoption

Ensure new and revised standards are adopted within required time frames.

OR-OSHA has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. During this evaluation period, there were two final rules issued by OSHA. The state adopted the General Working Conditions in Shipyard Employment by reference and scheduled the adoption of the Standards Improvement Project – Phase III within the required time period.

The state has an excellent record for adopting federal standards within the required time frame. OR-OSHA has not had a delinquent standard in the past several years.

The state adopted one state-initiated rule in this review period that is different from federal rules. The state adopted a revision to their recordkeeping rules outlining how assaults on health care workers are to be recorded and reported.

2. Federal Program/State-Initiated Changes

Ensure timely adoption of program changes.

OSHA policy requires states to acknowledge each Automated Tracking System (ATS) change within 70 days of a program change's transmittal date. In those changes requiring state change, acknowledgement by the state must include whether it intends to adopt the change or adopt an alternative

A total of 10 federal program changes (FPCs) required a response in FY 2011. There were 3 remaining FPCs that will carry over into FY 2012. Oregon's response to those will be evaluated during the next FAME cycle. In all cases, OR-OSHA provided their intent of adoption, or to otherwise administer a program change that was at least as effective as the federal program change, in a timely manner.

OR-OSHA submitted 21 state-initiated changes this period. All state-initiated changes were submitted timely and were provided in quality form which met the federal requirement. OR-OSHA did not adopt federal OSHA's revised penalty policy. However, OR-OSHA intends to submit a proposed change to their penalties and hold public hearings on the proposed rulemaking in early FY 2012.

D. Variances

Ensure variance applications are processed properly and decisions justified.

The state reported two variance actions during this evaluation period. No permanent variances were granted and two permanent variances were revoked because they were no longer needed. During the previous three years of reporting, OR-OSHA has granted only one permanent variance. No temporary variances were granted in the last three report years. The variance applications were handled properly and the decision to grant the variance was justified.

E. Public Employee Program

Ensure a representative share of safety and health enforcement inspections is conducted in the public sector.

In FY 2011, OR-OSHA conducted 3.4% (157/4587) inspections in the public sector (SAMM 11 and Appendix C). Of the total 157 public inspections, 94 were program planned inspections – 69 safety, 25 health (SIR D.1). The percent of inspections in the public sector (3.4% per SAMM 11 and Appendix C: 157/4587) is low compared to state plan average of 15%, but is consistent with an average of 4.1% over the last 3 years and is slightly higher than in FY 2010. Percent of inspections in the public sector was 5% in FY 2009 but declined to 3.13 in FY 2010 because OR-OSHA concentrated its enforcement efforts on high hazard private sector inspections (2010 FAME p. 10).

FY 2011 performance is consistent with the 3.6% OR-OSHA projected in their FY 2011 Annual Performance Plan. OR-OSHA met this element.

Oregon imposes monetary penalties for public agencies similar to the penalties imposed to private employers.

F. Discrimination Program

Ensure the state provides necessary and appropriate protection against employee discharge or discrimination.

Section 654.062 (5) of the Oregon Safe Employment Act provides for discrimination protection equivalent to that provided by federal OSHA. Oregon OSHA contracts with the Oregon Bureau

of Labor and Industries (BOLI) for discrimination complaint investigations. The discrimination program is run by OR-OSHA's contractor, Oregon Bureau of Labor and Industries (BOLI).

The following table is a summary of discrimination activity during FY 2011.

Disposition	Totals
Total cases from FY 2011	140
Cases completed FY 2011	112
Cases completed timely	88%
Overage cases	16
~ Withdrawn	12
~ Dismissed	90
~ Merit	10
~Settled	5
~Settled Other	0
~ Reinstatement (if any)	0
~ Litigated	0
Investigators on staff	15

In FY 2010, OSHA conducted a comprehensive on-site review which resulted in six findings and recommendations for improvement to the whistleblower program. OR-OSHA initiated appropriate corrective action for each of the findings and the items were closed. A summary of the FY 2010 recommendations and corrective actions is discussed below.

In accordance with OSHA's recommendations, Oregon OSHA discussed appropriate actions to take with BOLI, and BOLI has agreed to accept timely complaints in any form including orally without notarizing written complaints. Additionally, BOLI has conducted training for their whistleblower screeners and investigators and ensures that the appropriate respondent and other required documents are maintained in case files, coverage of parties is being reviewed and documented at the beginning of the intake process rather than at the completion of an investigation, and complaints which fall under other covered statutes are being appropriately referred to OSHA, as appropriate.

In finding FY 2010 (10-4), OSHA recommended that case files include a copy of the settlement agreements in the case file in order to indicate if the settlement was fair and equitable. This was of concern to OSHA because if the parties do not allow BOLI to review the agreement, a final determination on the case cannot be accomplished to see whether the agreement was entered into voluntarily and in good faith. Since state law requires BOLI to process whistleblower cases under its rules, and BOLI's rules currently prohibit BOLI from being a party to private settlements, OR-OSHA may want to consider discussing with BOLI to revise its rules to allow BOLI to have the option or opportunity to be a party to or request a copy of the settlement agreement for case file purposes. This item will continue to be discussed with OR-OSHA and monitored in the future.

One recommendation from FY 2010 (10-6) was based on the finding that investigators were closing cases arbitrarily to meet the 90-day time frame. Many of BOLI's 11(c) dismissals were based on assumptions or evidence that was not in the case file. Although Oregon has addressed this concern in training with investigators and in quarterly reviews and considers these actions to be ongoing, OR-OSHA maintains that it has seen little evidence of this occurring. OSHA continues to be concerned about the lack of supporting evidence to justify dismissals and plans to specifically readdress this issue during the comprehensive case file review in FY 2012.

A detailed summary of the FY 2010 findings, recommendations and corrective action taken is provided in Appendix B to the FAME Report.

During FY 2011, OSHA worked with the new OR-OSHA program manager about the previous year's audit. The meeting included a discussion of the process for auditing a state's safety and health discrimination program, FY 2010 audit results, and OSHA's policy for settling whistleblower complaints. In FY 2011, OR-OSHA developed a new document called the "11(c) Quarterly Case Audit Worksheet". This is a checklist used by auditors when reviewing closed case files to determine if the investigation was conducted appropriately. This worksheet should assist Oregon to adequately monitor the investigation of 11(c) complaints filed in Oregon.

In FY 2011, BOLI received four more complaints than in FY 2010 and completed 22 less investigations. BOLI's timeliness of completed cases continues to be acceptable, at 88%. However, BOLI's merit rate was 9%, significantly lower than the overall state plan rate of 17%. BOLI's merit rate in FY 2010 of 7.5% was also significantly lower as compared to the overall state plan merit rate of 21.2%.

OSHA's next comprehensive on-site review is scheduled on a biannual basis and accordingly will be conducted in FY 2012. OSHA plans to analyze the impact of BOLI's corrective action due to the six recommendations from the FY 2010 FAME and investigate and analyze the reasons for Oregon's continued lower merit rate.

G. Complaints About State Plan Administration (CASPA's)

Ensure timely and thorough responses to CASPA allegations, investigative findings and recommendations for program improvement are provided by the state.

Two CASPA's were filed in FY 2011 and were still under investigation at the end of the period with expected closure in early FY 2012. One CASPA remained open from the previous fiscal year and was completed in FY 2011. The CASPA which was completed in the period covering this FAME, was found to be invalid and summarized below.

CASPA O-189 was investigated and closed in FY 2011. This CASPA was filed against Oregon's Bureau of Labor and Industries (BOLI) discrimination section where the complainant alleged that BOLI dismissed the complainant's safety and health discrimination complaint. It was determined that the complaint did not support the CASPA allegation and therefore the

complaint was not valid. BOLI was correct in dismissing the case for a number of reasons which include lack of *prima facie* evidence. Other aspects of the complainant's allegations did not fall under OR-OSHA's authority and, therefore, were not subject to investigation or review by federal OSHA as a covered activity.

The following information briefly summarizes the CASPAs remaining open at the end of FY 2011:

Significant allegations were filed in CASPA 0-190 against OR-OSHA regarding safety and health enforcement in the state's agriculture industry. These allegations were found to be valid. The first allegation was that OR-OSHA continues to misclassify safety and health violations during inspections of agricultural operations, and that OR-OSHA rarely assesses a penalty during these types of inspections because it incorrectly categorizes violations as other-than-serious or determines the probability of harm to be low. A second allegation was that OR-OSHA fails to assess adequate penalties during agriculture operations inspections, thereby undermining the deterrent effect of penalties. The complaint suggests this is especially true since OR-OSHA's penalty structure is inherently substantially lower than OSHA's penalty structure.

In a special study conducted by the Portland Area office to investigate this CASPA, OSHA determined that although Oregon OSHA has raised its average serious penalty for agricultural inspections, the serious penalties continue to be significantly lower than federal and overall state averages. Whether these low penalties provide sufficient deterrent effect is a significant question. OSHA believes that higher penalties will have a greater deterrent effect and will compel voluntary abatement of hazards on a broader scale than just the cited employer.

The following two findings were noted during the case file reviews:

- Of the 172 other-than-serious violations evaluated, 48 violations (28%) were found to be misclassified by the state as other-than-serious instead of serious.
- One of the violations misclassified as other-than-serious should have been classified as a repeat serious violation.

The CASPA was closed in early February 2012 and recommendations to CASPA O-190 were as follows:

1. Revise OR-OSHA's penalty policies and rules, and submit these changes for Regional review as a state-initiated change. These revisions should include more specific language in the OR -OSHA FIRM for grouping related violations and for severity classification.
2. Conduct initial and periodic training for all OR-OSHA enforcement staff regarding the change in policies for grouping and classification to ensure understanding of and compliance with the new guidance.

3. Ensure that supervisory review addresses the issues identified above by conducting periodic quality control reviews of case files and citations. Should the case file reviews identify improper classification or penalties, take the appropriate steps to ensure compliance.

CASPA O-191 was received in FY 2011 regarding the investigation of a health complaint that related to noise exposure to workers in a dental office. The allegations were that the state did not adequately test the noise exposure of the employees during a health complaint inspection. This complaint was not found to be valid. While investigating the allegations, Oregon provided an adequate response in addition to fully cooperating in OSHA's review of the related health inspection case file, which was noted for being thorough in the investigation and documentation of the complaint items.

H. Voluntary Compliance Program

Ensure the existence and implementation of an appropriate program to encourage voluntary compliance by employers through consultation and intervention.

OR-OSHA's Voluntary Protection Program (VPP) has grown with 6 employers receiving certification in FY 2011. At the end of FY 2011, Oregon had 28 VPP sites. This exceeds OR-OSHA's five-year target by an additional 4 employers. In the same period, 11 employers received initial SHARP certification, increasing the total number of employers in the program to 169, which includes 74 current participants and 95 graduates. Although 8 employers in the program closed their businesses in FY 2011, new SHARP employers increased by 175% above the five-year target.

Oregon OSHA continues to form collaborative relationships with industry groups in targeted industry sectors as well as make full use of advisory stakeholder groups to assist in rulemaking resulting from legislative activity. Many of the partnerships and alliances have produced tangible and well-received products and developed strong working relationships with employers. At the end of FY 2011, OR-OSHA had 25 active partnerships, with 2 new partnerships added in this period.

I. Public and Private Sector On-Site Consultation Program

The state of Oregon does not operate a 23(g) funded consultation program. The majority of Oregon OSHA's consultative visits are conducted by 100% state-funded consultants. These consultants provide consultation to both public and private employers. Four additional consultants provide private sector consultation under 21(d) of the Act.

OR-OSHA conducted 681 health consultations of which 360, or 53%, were in high-hazard establishments. Out of 1,800 safety consultations conducted, 922, or 51%, were in high-hazard industries. There were 9,508 serious safety hazards and 2,578 serious health hazards identified during on-site consultation activities. Hazard abatement documentation is not required by the state-funded consultation program.

No deficiencies with respect to the performance of those 100% state-funded consultants or four 21(d) consultants were identified in FY 2011.

J. Program Administration

With decreases in budget and training staff impacting delivery, additional opportunities through e-learning and webinars ensured the availability of training opportunities for continued professional development. Even though OR-OSHA was not able to reach the overall 90% training goal this fiscal year, OR-OSHA's professional safety and health staff remains knowledgeable of standards and issues and the state did assure that new safety and health staff completed required training as specified in their internal training program.

Oregon OSHA continues to commit its resources to expanding occupational safety and health education by increasing materials for hard-to-reach audiences, and providing workshops and conferences. The PESO program, geared toward Spanish speaking workers in Oregon, continues to grow with more publications and training modules available. Outreach activities remained of prime importance in Oregon throughout the year.

Oregon's safety enforcement benchmark is 47 with 48 positions identified. At the end of FY 2011, there were 40 positions filled. For health enforcement, both the benchmark and positions identified were 28 of which 23 were filled.

Oregon has 27 state-funded consultation positions (17 safety and 10 health consultants). As of September 30, all state-funded consultation positions were filled.

Although OSHA, Region X, does not routinely audit OR-OSHA's performance with regard to information management, other methods are used to ensure the integrity of the data. For example, OSHA meets quarterly with representatives of OR-OSHA to review program performance. Prior to such meetings, IMIS reports are run by the Portland Area Office for purposes of gauging the state's performance with respect to mandated activities. Likewise, the state updates its report on performance against the goals in its annual plan. In order for such reports to be accurate, the data need to be properly entered in a timely fashion; if any issues or concerns about data integrity arise, they are discussed at quarterly meetings in order to achieve resolution.

In addition to the above, the Seattle Regional Office monitors the IMIS monthly to ensure that the state plans in Region X enter OSHA-170 information for fatalities they investigate. Also, responses are prepared for ad hoc requests for clarification or correction of state data in the IMIS.

OR-OSHA operates its own laboratory to analyze industrial hygiene samples. The laboratory is accredited by the American Industrial Hygiene Association and is a participant in the Bulk Asbestos Proficiency Analytical Testing (BAPAT) Program. The laboratory was rated as

proficient for all contaminant categories of the PAT program and passed all fields of testing for Rounds 183 through 185 covering the past year. The state has also been rated proficient for the BAPAT (Bulk Asbestos) program and has passed the previous three rounds of the program. (Rounds A84-310, A85-410, and A86-111).

OSHA will work with OR-OSHA in FY 2012 to establish a formal audit process to evaluate compliance with established policies and procedures.

V. Assessment of State Progress in Achieving Annual Performance Goals

In fiscal year 2011, OR-OSHA revised and implemented a new updated five-year strategic plan which included short- and long-range objectives aimed at improving safety and health for Oregon workers. OR-OSHA's five-year strategic plan covers the period of FY 2011 through FY 2015. OR-OSHA has established three broad goals in its 2011-2015 strategic plan. They are as follows:

Strategic Plan Goals

Strategic Goal 1: Reduce serious workplace injuries and the risks that lead to them.

Strategic Goal 2: Reduce serious workplace illnesses and the risks that lead to them.

Strategic Goal 3: Reduce workplace deaths and the risks that lead to them.

Each year OR-OSHA develops annual performance plans which support the achievement of its strategic goals, and submits the plans to OSHA for review and approval. OR-OSHA developed and submitted its FY 2011 annual performance plan in support of its strategic plan as part of its application for federal funds.

The following is OSHA's assessment of OR-OSHA's performance against its FY 2011 annual goals, and the state's progress in achieving the three broad goals in its 2011-2015 Strategic Plan. Each goal is related to one or more of the three broad goals as noted in parentheses. Oregon's more detailed report on its accomplishments with respect to its 2011 Annual Performance Plan goals is attached as Appendix F, the State OSHA Annual Report (SOAR).

Strategic Goal # (1, 2, 3)-1,-2,-3: Self-Sufficiency, Outreach, Partnerships

FY 2011 Performance Goal (1, 2, 3)-1 Recognition Programs – Increase the number of new SHARP participants by 4 and the number of new VPP participants by 2.

Result – At the end of FY 2011, a total of 169 companies were SHARP certified. This total includes 74 current participants and 95 graduates. Eleven new sites received initial SHARP certification during FY 2011, exceeding the five-year target by 7. During this

same period, a total of 28 Oregon companies were VPP certified and OR-OSHA added 6 new VPP sites.

OSHA Assessment – This goal was exceeded.

FY 2011 Performance Goal (1, 2, 3)-2 Outreach – Continue outreach to small employers and hard-to-reach audiences by increasing publications, workshops and conferences. Educate employers and employees regarding the value of occupational safety and health by providing workshops, conferences, and other offerings to small businesses.

Result – Oregon OSHA continues to effectively pursue its outreach activities to small employers and hard-to-reach audiences. Seven safety and health conferences were held in the state in FY 2011, with a total of 2,944 participants. Seven 4-hour workshops were presented in Spanish drawing a total of 214 attendees. Nine on-line classes were developed and deployed, bringing the total offerings to 14, one of which is in Spanish. There were a total of 13,701 participants at OR-OSHA training sessions (both on-line and onsite). Out of 2,639 consultations completed, 1,203 were provided to employers who have not used OR-OSHA’s consultation services during the previous five years.

Four publications were translated into Spanish:

- Safe Practices When Working Around Hazardous Agricultural Chemicals
- Water, Rest, Shade. The Work Can’t Get Done Without Them – Heat Safety
- Qué es PESO?
- Prevent Tractor Rollovers – Quick Facts Sheet

In addition, there were 5 new educational resources developed in FY 2011:

- PESO – Restaurant (Audio Tip Sheet in Spanish)
- Silica in Construction (Audio Tip Sheet in English)
- Portable Ladder Safety (Audio Tip Sheet in English)
- Fall Protection (Audio Tip Sheet in English)
- Lead in Construction (On-Line Course in English)

OSHA Assessment – The goal was met.

FY 2011 Performance Goal (1, 2, 3)-3 Partnerships – Use existing partnerships to advise Oregon OSHA management on focus areas more specific to Oregon OSHA activities. Promote occupational safety and health by maintaining and enhancing the effectiveness of existing partnerships and establishing three new partnerships, each with specific safety and/or health awareness improvement objectives.

Result – Partnerships continued to provide valuable expertise and contributions to Oregon’s safety and health program. In FY 2011, two new partnerships were added

bringing the total active partnerships to 25. There were 3 alliances developed. They are as follows:

- Oregon Coalition for Health Care Employees (OCHE)
- Oregon Home Builders Association (OHBA)
- Oregon Restaurant Association (ORA)

OSHA's Assessment – The goal was met.

Strategic Goal # (1, 2): Workplace Safety and Health

FY 2011 Performance Goal (1, 2)-1 Safety & Health Hazards – Reduce the statewide injury and illness DART rate to 2.2 (or less) per 100 workers and total case incidence rate TCIR to 3.7 (or less) per 100 workers by 2016 through focusing on targeted safety and health hazards at the following levels: Safety Enforcement 75%, Health Enforcement 60%, and Consultation 50%.

Result – Health enforcement conducted 901 inspections of which 598, or 66% were in high-hazard industries. This is an increase of 101 total high-hazard health inspections from FY 2010. Safety enforcement conducted 3,687 inspections in FY 2011, which is a decrease of safety inspections from the previous fiscal year due primarily to a high safety compliance officer vacancy rate. Out of the total number of safety inspections conducted, 2,655, or 72%, were targeted at high-hazard industries, which is 3% less than the annual goal of 75%. Oregon reported in its SOAR a total of 4,588 inspections were conducted in FY 2011, and 70.9% of the total inspections were in high-hazard industries (3253/4588). OR-OSHA continues efforts to reduce DART and TCIR rates towards their five-year goal based on FY 2010 BLS data.

OSHA Assessment – The goal was essentially met.

Strategic Goal # (1, 2, 3) - 4: Emphasis

FY 2011 Performance Goal (1, 2, 3)-4 Emphasis – Implement all state local emphasis programs and appropriate national emphasis programs.

Result – OR-OSHA conducted 32.3% of all safety inspections, and 27.4% of all health inspections, in local and national emphasis programs. Out of all consultations provided, 26.5% were conducted in local and national emphasis programs. Total number of inspections and consultations were focused on the following emphasis and national emphasis programs: trenching, falls in construction, struck-by in logging, silviculture, assigned risk pool, farm labor housing, field sanitation, pesticide, lead, silica, diisocyanate, process safety management, combustible dust, hexavalent chromium, amputation, formaldehyde and primary metal industries.

OSHA Assessment – The goal was met.

Strategic Goal # (3): Fatalities

FY 2011 Performance Goal (3-1) Fatalities – Reduce the average rate of workplace fatalities by 4% by FY 2011 through scheduled inspections and interventions at worksites in targeted industries.

Result – The compensable fatality count for CY 2010 was 17. There were 31 accepted compensable fatalities in CY 2009. Total compensable fatalities in CY 2010 are down by 14 from the previous year and are the lowest number reported since the state began tracking the statistic in 1943. The CY 2010 compensable fatality rate was 1.05, a clear reduction over the baseline rate of 2.09 (2005-2009 average rate). The fatality rate for the past years is CY 2009 (1.89), CY 2008 (2.58), CY 2007 (1.99), CY 2006 (2.13), and CY 2005 (1.85). The fatality rate reduction in FY 2011 is 7.7%, and met the five-year target to reduce workplace fatalities by 4% by FY 2011. There was an average penalty of \$1,069 where the hazard cited created a meaningful increase in the risk of workplace death.

OSHA Assessment – The goal was met.

Strategic Goal # (1, 2): Ergonomics

FY 2011 Performance Goal (1,2)-2 Ergonomics – Increase awareness and reduce workplace injuries related to ergonomic factors by providing assistance to employers.

Results – A total of 149 ergonomic consultations were provided during FY 2011. Consultation activities included 1,110 ergonomic issues addressed with at least basic discussions on the topic of risk factors in the workplace. There were 67 ergonomic assessments and 40 referrals conducted during the year.

OSHA Assessment – The goal was met.

Strategic Goals # (1, 2, 3): Excellence in Timely Response, Customer Service, Staff Development

FY 2011 Performance Goal (1,2,3)-5 Timely Response – Investigations/inspections will be initiated timely in 95% of all reported fatalities and hazard complaints; complainant responses will be timely in 90% of all cases; family members will be notified 100% timely, and discrimination cases will be processed 80% timely.

Results – All measures for the goal were met. During FY 2011 OR-OSHA responded timely 95% of the time to complainants and opened phone/fax and letter complaint investigations timely 97% of the time. The state responded to fatalities timely 96% of the time and notified the family members of workplace fatalities timely 98.3% of the time.

The state also responded to imminent danger, serious and other-than-serious complaints 100%, 95.6% and 99.1% timely, respectively. Discrimination complaints were processed timely 91.94% of the time.

OSHA's Assessment – This goal was met.

FY 2011 Performance Goal (1,2,3)-6 Customer Service – Achieve and maintain customer satisfaction in the delivery of OR-OSHA programs and services as evidenced by a survey rating of 90% or above on each program survey.

Results – All of the survey findings released in FY 2011 exceeded the 90% satisfaction goal.

OSHA Assessment – This goal was met.

FY 2011 Performance Goal (1,3,3)-7 Staff Development – Ensure 90% of safety and health staff receive 24 hours of safety and health professional development training.

Result – Oregon OSHA continues to develop and implement a variety of training opportunities for its professional staff through on-line and on-site sessions. Participation in several webinars through ASSE, ACGIH, AIHA, federal OSHA and other safety and health groups offered learning opportunities. During FY 2011, 56% of staff received professional training.

OSHA Assessment – The goal was not met. However, with OR-OSHA's use of innovative technologies, a commitment to an array of training opportunities, and the training histories of safety and health staff, it appears that CSHOs and consultants are capable and knowledgeable in their respective fields. In addition, an *All Staff Symposium* held in October 2011 provided a significant portion of staff training hours for the next evaluation period of FY 2012, thereby progressing toward meeting its goal next year.

Appendix A
FY 2011 Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 10 Rec #
11-1	OR-OSHA did not meet its inspection goals. OR-OSHA conducted 4,588 inspections during FY 2011. That was fewer than OR-OSHA's goal of 5,200 by 612 inspections, or 12% fewer than the established goal. The state was affected by a high vacancy rate for enforcement staff during this period, which impacted their ability to reach their inspection goal.	Ensure appropriate inspection goals are set based on realistic expectations in consideration of current resources, abilities and training status of compliance staff, and properly allocated in order to achieve goals.	
11-2	A significant disparity between OSHA's average gravity-based penalty and OR-OSHA's continues to be present.	Revise penalty policies in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.	10-7
11-3	Violations were issued as other-than-serious where a serious and/or repeat classification would have been more appropriate.	Ensure the appropriate violation classification is determined for the severity and probability of the hazard when warranted.	

Appendix B
Status of State Actions in Response to FY 2010 FAME

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-1	11c complaints are required to be in writing and notarized. BOLI stated that it is required to “verify” all complaints and that notarized complaints satisfy this requirement that complaints be verified. If BOLI takes a complaint by telephone, they will help the complainant to prepare a complaint. BOLI will provide notarization with no charge to a complainant or will help the complainant find a notary public where they live. If the complainant is unable to notarize their complaint at BOLI, presumably they will incur the cost to pay an outside notary public.	Accept 11c complaints as timely filed whether made orally or in writing and do away with the requirement of the written and notarized complaint.	In accordance with ORS 659A.820, complaints are signed by the Complainant and notarized with reference to violations of ORS 654.062 and are kept consistent with the complaint process for the Civil Rights Division. BOLI designates OSHA complaints as priority complaints and ensures that the complaints are processed as such. Complaints can be timely filed in person, regular mail, e-mail or fax.	Oregon OSHA has been in conversation with BOLI, and as of August 17, 2011, BOLI has agreed not to require the notarization of 11c complaints, and to accept timely complaints in any form whether orally, by phone, fax, regular mail or email, and to take appropriate actions to verify during the investigation process.	Completed.
10-2	BOLI managers said that 11c intake screeners complete a form titled <i>Naming Proper Respondents</i> .	Ensure that completed <i>Naming Proper Respondents</i> forms are placed in each open 11c file.	Intake processing of charges requires a Respondent check through the State of Oregon Business Registry Name Search. The Business Entity information is added to the file. Only active information is used. Further research through the Internet and Respondent’s website (if one available) is also conducted. Again, the information is added to file.	This is an item that BOLI has been working on in the past year and has conducted training for their screeners. This is one of the items that Oregon OSHA has included in quarterly reviews.	Completed.

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-3	BOLI 11c files do not show how coverage is analyzed or determined.	Require 11c investigators to document in their case files the determination or confirmation that the parties are covered employers and employees.	All investigators conducted 11c investigations will document in their case files the determination or confirmation that the parties are covered employers and employees.	OROSHA is now getting the complaint intakes prior to the investigation and are reviewing them as well. Oregon OSHA now enters the intakes at the beginning of the process rather than after the completion of the investigation. The new process has helped us to identify cases as 11c and allow us to better track work load. Our quarterly reviews now include this element for all case files, and as of the last quarterly review no files were identified with this finding.	Completed.
10-4	The privately settled complaints reviewed did not have copies of the settlement agreements in the case file including the terms of the settlement. There is no indication in the file how the investigator decided that the settlement was fair and equitable or a make whole remedy. If the parties will not show a private settlement to BOLI for review, then BOLI must proceed with recommended litigation unless the complaint wants to withdraw the complaint.	Require that 11c investigators ask the parties to include BOLI in the settlement and provide a draft BOLI settlement agreement with pre-approved language, or alternatively, if the parties insist on entering into a private settlement, obtain a copy of the private agreement and determine whether the agreement is fair and equitable and was entered into in good faith and voluntarily.	In accordance with Oregon Administrative Rules, BOLI is not able to participate in or enforce private agreements, 839-003-055(5). The Division may allow the Complainant and the Respondent to enter into a private agreement with release language in addition to the Division's Conciliation Agreement. The Division will not be party to nor will it enforce private agreements. BOLI does not retain copies of any private settlements.	Oregon State law (ORS654.062) requires BOLI to Process 11c complaints according to BOLI's policies and procedures. BOLI's administrative rules prohibit them from being a party to private settlements.	Completed.

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-5	Several case files were reviewed where it appeared that the case could have been referred to OSHA as a STAA complaint. Even though referrals are no longer required under Oregon state law, complainants should be informed of their rights to file complaints with OSHA.	Ensure that all 11c screeners and investigators know how to identify when a case falls under STAA or any of the other statutes for which OSHA has whistleblower enforcement responsibilities, and notify complainants of their rights to file complaints with OSHA.	BOLI staff will refer STAA Complaints to OSHA and will ensure all necessary steps are taken on the intake and investigative levels to refer STAA complaints to OSHA.	This was addressed in a training of BOLI staff conducted on 6/23/2011 and referrals have since been made.	Completed.
10-6	BOLI investigators have 20-80 cases at any given time and 0-5 of these cases are Section 11(c) cases. Investigators are required to complete Section 11(c) cases within 90 days from the date the case is filed. Many of BOLI's 11(c) dismissals are based on assumptions or evidence that is not in the file. OSHA is concerned that the current caseload combined with the timeliness requirement is influencing investigators to not conduct thorough investigations. In numerous instances the investigator dismissed a case before collecting, or attempting to collect, evidence that might corroborate or refute the complainant's allegations or the respondent's defense. There were cases that were dismissed based solely on assumptions that the employer's stated non-discriminatory reason for the adverse action was true. Generally, we found witness interviews to be too brief, and document requests were minimal. In summary, OSHA is concerned about the lack of supporting evidence to justify dismissals.	Ensure that 11c cases are not dismissed without supporting evidence to justify the reason for the dismissal. Also ensure that the respondent's position is adequately tested and a proper search to find evidence that might corroborate or refute the complainant's allegations is conducted.	BOLI will review the investigations process of OSHA to ensure proper investigation and interviews and conducted. Monthly reviews of open OSHA cases will be addressed in the monthly investigators' meetings, and these will be used as training tools for investigators. We will ensure that the respondents' position is adequately tested and all relevant evidence that might corroborate or refute the complainant's allegations.	This item was addressed in the training conducted on 6/23/2011. It is an item that is ongoing as far as training is concerned. We are taking a closer look during quarterly reviews at this item as well and have seen little to no evidence of this being the case. During Oregon OSHA's quarterly reviews of all case files we are specifically looking for these issues and the investigators have been provided additional training related to this item.	Completed.

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-7 (repeated 9-2)	OSHA's average gravity-based penalty [GBP] was about 3.4 times higher than Oregon OSHA's [\$2,323 vs. \$675]. Most of the disparity between OR-OSHA's penalties and those of OSHA can be attributed to the state's low gravity-based penalties for low-probability serious hazards. After penalty adjustment factors were applied, the gap between state and federal penalties narrowed though the disparity remained significant [\$1,046 vs. \$435, 2.4 times greater].	Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.	Following a series of public forums held by Oregon OSHA in the summer of 2010, the agency empaneled a stakeholder advisory group to work with Oregon OSHA in developing a proposal to improve the effectiveness of Oregon OSHA's use of its existing penalty authority. As a result of that group's work, Oregon OSHA published a proposed rule in the fall of 2011. That rule would make changes to base penalty rates, size adjustments and history adjustments, and it would eliminate the substantial immediate abatement adjustment in favor of a broader and somewhat more modest "good faith" adjustment. It also would make changes to the identification of repeat violations and changes to penalties for multiple repeat violations.	The agency accepted public comment on the rule and is in the process of evaluating those comments with the goal of publishing a revised final rule by early April to take effect July 1, 2012.	Pending.

Appendix C Enforcement Comparison

	OR	State Plan Total	Federal OSHA
Total Inspections	4,587	52,056	36,109
Safety	3,688	40,681	29,671
% Safety	80%	78%	82%
Health	899	11,375	6,438
% Health	20%	22%	18%
Construction	1,318	20,674	20,111
% Construction	29%	40%	56%
Public Sector	157	7,682	N/A
% Public Sector	3%	15%	N/A
Programmed	2,999	29,985	20,908
% Programmed	65%	58%	58%
Complaint	902	8,876	7,523
% Complaint	20%	17%	21%
Accident	219	2,932	762
Insp w/ Viols Cited	3,102	31,181	25,796
% Insp w/ Viols Cited (NIC)	68%	60%	71%
% NIC w/ Serious Violations	63.0%	63.7%	85.9%
Total Violations	9,061	113,579	82,098
Serious	3,863	50,036	59,856
% Serious	43%	44%	73%
Willful	3	295	585
Repeat	134	2,014	3,061
Serious/Willful/Repeat	4,000	52,345	63,502
% S/W/R	44%	46%	77%
Failure to Abate	41	333	268
Other than Serious	5,020	60,896	18,326
% Other	55%	54%	22%
Avg # Violations/ Initial Inspection	2.7	3.4	2.9
Total Penalties	\$1,814,034	\$ 75,271,600	\$ 181,829,999
Avg Current Penalty / Serious Violation	\$ 325.70	\$ 963.40	\$ 2,132.60
% Penalty Reduced	0.0%	46.6%	43.6%
% Insp w/ Contested Viols	12.7%	14.8%	10.7%
Avg Case Hrs/Insp- Safety	13.1	17.1	19.8
Avg Case Hrs/Insp- Health	28.9	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	27	35.6	43.2
Lapse Days Insp to Citation Issued- Health	37.4	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	50	1,387	2,436

*Note: Federal OSHA does not include OIS data.
The total number of inspections for Federal OSHA is 40,684.*

Appendix D
FY 2011 State Activity Mandated Measures (SAMM) Report

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U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)
 State: OREGON

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RID: 1054100

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From: 10/01/2010 CURRENT
 To: 09/30/2011 FY-TO-DATE REFERENCE/STANDARD

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MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	4643 5.21 890	313 6.26 50	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	1353 2.46 550	95 1.86 51	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	871 98.42 885	60 100.00 60	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	63 100.00 63	1 100.00 1	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	2804 94.76 2959	98 64.47 152	100%

42.					
43.		68	0		
44.	Public	94.44		100%	
45.		72	0		
46.					
47.	7. Average number of calendar days from				
48.	Opening Conference to Citation Issue				
49.		99364	8743	2631708	
50.	Safety	37.17	38.68	51.9	National Data (1 year)
51.		2673	226	50662	
52.					
53.		34055	2920	767959	
54.	Health	51.83	51.22	64.8	National Data (1 year)
55.		657	57	11844	
56.					
57.					
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60. *OR FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)
 State: OREGON

NOV

RID: 1054100

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD	
8. Percent of Programmed Inspections with S/W/R Violations				
Safety	1185 44.05 2690	110 56.12 196	90405 58.5 154606	National Data (3 years)
Health	193 46.28 417	16 40.00 40	10916 51.7 21098	National Data (3 years)
9. Average Violations per Inspection with Violations				
S/W/R	4110 1.23 3330	321 1.13 283	419386 2.1 198933	National Data (3 years)
Other	4990 1.49 3330	314 1.10 283	236745 1.2 198933	National Data (3 years)
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1372384 353.88 3878	161495 524.33 308	611105829 1679.6 363838	National Data (3 years)
11. Percent of Total Inspections in Public Sector	157 3.42 4587	5 1.83 273	627 4.1 15412	Data for this State (3 years)
12. Average lapse time from receipt of Contest to first level decision	25458 91.57 278	632 42.13 15	3533348 199.7 17693	National Data (3 years)
13. Percent of 11c Investigations Completed within 90 days	99 87.61	4 57.14	100%	

137.		113	7		
138.					
139.	14. Percent of 11c Complaints that are	10	1	1517	
140.	Meritorious	8.85	14.29	23.0	National Data (3 years)
141.		113	7	6591	
142.					
143.	15. Percent of Meritorious 11c	5	0	1327	
144.	Complaints that are Settled	50.00	.00	87.5	National Data (3 years)
145.		10	1	1517	
146.					
147.					
148.					
149.	*OR FY11				**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E State Information Report

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

INTERIM STATE INDICATOR REPORT (SIR)

STATE = OREGON

-- PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	3694 61.3 6026	624 72.1 866	8169 61.4 13312	1280 70.6 1814	18137 62.5 29042	2532 71.1 3562	40070 63.7 62876	5766 74.0 7787
B. HEALTH	480 39.7 1208	83 40.7 204	1020 36.4 2806	168 41.1 409	2126 34.6 6150	367 43.4 845	4357 34.7 12569	749 43.2 1732
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	3378 73.7 4583	450 56.6 795	7266 72.4 10036	929 57.0 1630	14959 70.1 21330	1968 59.7 3298	32614 69.1 47196	4495 60.4 7443
B. HEALTH	456 57.0 800	72 59.0 122	890 57.2 1555	143 59.6 240	1723 56.2 3068	296 56.0 529	3487 55.3 6309	605 59.4 1018
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	11703 79.6 14698	733 50.9 1441	23768 77.4 30703	1535 50.0 3068	48704 76.7 63528	3021 44.8 6740	109064 78.4 139117	6294 42.5 14810

	2634	193	5290	402	10266	747	21598	1498
B. HEALTH	66.6	37.1	64.7	37.9	64.4	36.3	66.7	36.2
	3957	520	8180	1061	15930	2057	32380	4140

4. ABATEMENT PERIOD FOR VIOLS

	2394	25	4978	76	10776	153	23693	333
A. SAFETY PERCENT >30 DAYS	16.6	3.1	16.8	4.5	17.9	4.6	17.9	4.8
	14465	807	29573	1688	60243	3303	132414	6913
	259	4	711	42	1451	72	3159	163
B. HEALTH PERCENT >60 DAYS	6.5	1.1	8.6	5.7	9.4	5.5	10.0	6.3
	4006	367	8234	737	15507	1302	31619	2597

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U. S. D E P A R T M E N T O F L A B O R

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

INTERIM STATE INDICATOR REPORT (SIR)

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	505479	23915	1258835	35715	2803637	47570	5086228	87590
OTHER-THAN-SERIOUS	1181.0	724.7	1195.5	489.2	1126.9	406.6	1055.2	379.2
	428	33	1053	73	2488	117	4820	231
B. HEALTH								
	219203	400	441915	900	853346	1745	1667151	5865
OTHER-THAN-SERIOUS	1184.9	100.0	1077.8	112.5	980.9	134.2	958.7	133.3
	185	4	410	8	870	13	1739	44
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	1060	15417	2205	33850	4358	73070	9604
	6.0	6.4	5.6	6.2	5.5	6.0	5.4	6.3
	1138	166	2730	353	6145	722	13476	1531
B. HEALTH								
	1458	256	3330	512	7311	1047	14958	2111
	2.4	2.7	2.2	2.6	2.2	2.7	2.0	2.8
	615	94	1501	194	3390	383	7404	762
7. VIOLATIONS VACATED %								
	1270	0	3026	0	6577	0	12352	0
	5.6	.0	6.6	.0	7.0	.0	6.2	.0
	22608	1999	46128	4031	93448	8467	200310	18236
8. VIOLATIONS RECLASSIFIED %								
	737	0	1997	0	4456	0	9147	0
	3.3	.0	4.3	.0	4.8	.0	4.6	.0
	22608	1999	46128	4031	93448	8467	200310	18236
9. PENALTY RETENTION %								
	19478404	205344	40012395	414409	77322520	928884	134938244	2052074
	61.0	100.0	61.6	100.0	62.8	100.0	62.8	100.0
	31918969	205344	65001782	414409	123124542	928884	214845679	2052074

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

INTERIM STATE INDICATOR REPORT

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	624	11	1280	27	2532	69	5766	138
	72.1	45.8	70.6	52.9	71.1	59.5	74.0	60.3
	866	24	1814	51	3562	116	7787	229
B. HEALTH	83	9	168	18	367	25	749	48
	40.7	64.3	41.1	72.0	43.4	59.5	43.2	51.1
	204	14	409	25	845	42	1732	94
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	733	16	1535	34	3021	54	6294	124
	50.9	53.3	50.0	53.1	44.8	43.2	42.5	41.1
	1441	30	3068	64	6740	125	14810	302
B. HEALTH	193	10	402	16	747	34	1498	88
	37.1	50.0	37.9	38.1	36.3	41.0	36.2	50.6
	520	20	1061	42	2057	83	4140	174

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	579	18	1131	47	2220	126	4270	254
	22.8	5.4	23.4	7.0	23.5	8.9	23.0	7.5
	2542	331	4834	669	9442	1414	18586	3375
2. VIOLATIONS RECLASSIFIED %	328	13	620	32	1259	57	2360	120
	12.9	3.9	12.8	4.8	13.3	4.0	12.7	3.6
	2542	331	4834	669	9442	1414	18586	3375
3. PENALTY RETENTION %	3616720	62760	9500018	141050	16062961	321365	28079915	946101
	56.1	62.9	62.4	62.2	62.3	62.6	60.6	68.2
	6443756	99765	15212620	226775	25766759	513060	46371522	1386986

Appendix F
FY 2011 State OSHA Annual Report (SOAR)
(Available Separately)