

**FY 2013 Comprehensive
Federal Annual Monitoring and Evaluation (FAME) Report**

Oregon Occupational Safety and Health Administration Division

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I. Executive Summary

A. Summary of the Report

The purpose of this report is to assess the Oregon Occupational Safety and Health Administration (Oregon OSHA) Division activities for Fiscal Year (FY 2013) and its progress in resolving outstanding findings and recommendations from previous Federal Annual Monitoring Evaluations (FAMEs). As part of this comprehensive evaluation, the Occupational Safety and Health Administration (OSHA) reviewed a portion of Oregon OSHA's enforcement inspection files and whistleblower case files to verify corrective actions for the FY 2012 recommendations. In addition, OSHA conducted a special study on targeting of programmed inspections. This report also assesses the State Plan's achievement of its annual performance plan goals and its progress toward the goals in its five-year strategic plan.

Overall, Oregon OSHA's performance with respect to activities that are mandated by the Occupational Safety and Health Act and its implementing policies and regulations continues to be acceptable with exceptions as noted in this report below.

During this evaluation period, a review of the State Plan's Fall Protection standard in residential construction was completed and concerns were identified. A letter was sent requesting that the State Plan provide information on the effectiveness of their standard and the State Plan provided a detailed response; this issue is still under review.

The FY 2013 FAME Report on Oregon OSHA includes four observations. The previous FAME Report included a total of four recommendations and two observations, all related to the discrimination program. Oregon OSHA completed corrective actions for three recommendations and one observation from FY 2012. The State Plan implemented corrective action to one remaining recommendation regarding the discrimination program; however, this item was not completely resolved during this period and is reclassified to an observation. One previous observation was carried over into this period for continued monitoring. Two new observations were identified in FY 2013. Appendix C describes the status of each FY 2012 recommendation in detail. There are no remaining recommendations from FY 2012 which are considered open for this period. Three observations are discussed in the body of the report; one previous recommendation was reclassified to a new observation for this period and is discussed below.

In FY 2012, OSHA found that discrimination investigators were not always adequately testing evidence in 11(c) whistleblower discrimination cases before dismissing or closing a case. OSHA recommended the State Plan ensure all evidence is adequately tested before dismissing or closing a case and recommended to use appropriate justification for any closure of a case. Documentation of any decision to close a case should be included in each case file.

Oregon OSHA addressed this item by conveying the recommended action to the Bureau of Labor and Industries (BOLI), the organization which investigates the discrimination cases in Oregon. Oregon OSHA has implemented a quarterly review of all 11(c) files to emphasize additional attention to ensure all evidence is fully tested before closure of discrimination case files. Although this item has been mostly resolved, during the FY 2013 case file review, two cases of the 20 discrimination cases reviewed did not contain documentation within the case file to show the evidence was fully tested before closure. OSHA will continue to monitor this item as an observation for this period.

B. State Plan Introduction

The state of Oregon, under an agreement with OSHA, operates an occupational safety and health program through its Oregon OSHA, which is part of the Department of Consumer and Business Services. 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. The temporary labor camp standard was subsequently revised by Oregon OSHA to meet federal concerns; as of yet, the State Plan has not pursued a formal change to remove that narrow limitation on its final approval. Final approval is significant achievement confirming 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 Oregon 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.

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. Oregon 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.

In Oregon, 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. Oregon OSHA reimburses BOLI for costs associated with conducting 11(c) whistleblower discrimination investigations.

Oregon OSHA exercises jurisdiction over state and local government workplaces and private sector employers not covered by OSHA in the state of Oregon. OSHA's inspection authority is limited to 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.

In FY 2013, the State Plan was staffed with 76 compliance officers and 31 consultants. The program covers approximately 1.6 million workers and 99,200 employers in more than 147,358 locations around the State Plan. In FY 2013, Oregon OSHA's federally-approved state OSHA program was funded at \$22,480,412 of which \$5,265,266 were federal funds.

Oregon 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.

C. Data and Methodology

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

- Analysis and monitoring by OSHA of the FY 2012 Oregon OSHA Corrective Action Plan which provides the State Plan's status and response to the FY 2012 FAME (Appendix C).
- Statistical reports comparing State Plan performance to federal performance.
- State Activity Mandated Measures (SAMM) report data (Appendix D).
- State Information Report (SIR) data.
- The FY 2013 State OSHA Annual Report (SOAR) prepared by Oregon, which contains details of the State Plan's achievements with respect to its annual goals.
- Grant Assurances.
- Quarterly monitoring meetings between OSHA and the State Plan.
- Case file reviews of inspection and discrimination case files.

In addition to reviewing the SAMM and Oregon OSHA's implementation of its Annual Performance Plan and five-year Strategic Plan, OSHA conducted two on-site reviews of the State Plan's enforcement and discrimination programs to assess the quality of documentation, violation classification, penalty calculations, abatement verification, settlements and other factors.

From September 3-5, 2013, two OSHA discrimination investigators conducted a discrimination case file review of 20 case files and 10 screened complaints which were processed or completed during FY 2013. All cases reviewed were randomly selected from a list provided from the Integrated Management Information System (IMIS) database of all closed cases from the Division of Occupational Safety and Health (DOSHS) through July 2013. Of those, 20 cases were selected to accomplish over a period of two and one half days on site.

A comprehensive case file review of Oregon OSHA's inspections was also conducted during a five-day period from January 14-16 and 23-24, 2013. The inspection case file review team consisted of the Acting Portland Area Director, and three staff members from the area office. During the case file review process, interviews were conducted with the Oregon OSHA senior staff. The discrimination case file review occurred at BOLI's Portland, Oregon, office; the enforcement case file review was conducted on-site at Oregon's Salem, Oregon, headquarters. These assessments resulted in findings and recommendations which are discussed in the body of this report.

Case File Review Methodology:

The inspection case file review covered three major categories: fatality inspections, complaint inspections, and programmed inspections. The case files were selected based on the goal of reviewing 100 case files and distributed as follows: 10 fatality case files, 50 programmed inspection case files, and 40 complaint inspection case files. The actual number of case files reviewed was 11 fatality inspections, 39 complaint inspections, and 50 programmed inspections for a total of 100 case files reviewed. An additional fatality case file was reviewed because it was related to another identified fatality on the review list. The State Plan Monitoring Access Database for Case File Review was used for the evaluation of the case files.

The fatality case files were identified using the IMIS detailed fatality/catastrophe scan report for the period October 1, 2012, through September 30, 2013, which generated a list with 26 establishments. The list was further narrowed to include only closed cases, with ten case files identified for review.

The OSHA Intranet IMIS page supplied the population for complaint and programmed inspection case files for review. Parameters used at the Establishment Search link were: all establishments, all Oregon State Plan offices, and the inspection date period October 1, 2012, through September 30, 2013. After retrieving this data, it was further refined by selecting only complaint and programmed inspections which resulted in a citation being issued; cases without violations were eliminated. The total review population list for programmed inspections was 2,752 with citations issued in 1,964, and the total review population list for complaint inspections was 871, with citations issued in 572 inspections. To accomplish a random selection of case files from the considered population, the case files were chosen for review using a random number chart.

Special Note: Where FY 2013 national data is identified throughout this report, these figures only include State Plan averages over three years. Federal data was compiled in this period's national average due to the movement of all federal data from IMIS to a new information system, OIS. Thus, any comparison of Oregon's data to "national average" data will compare the State Plan's results with all other State Plans averaged over three years. It is not expected that the lack of federal data in these figures will skew or sway the data negatively from the data of the particular State Plan discussed in this report; the data should reflect more favorably when compared to all State Plans.

D. Findings and Recommendations

This section summarizes OSHA's findings and recommendations for the evaluation period of FY 2013. There were four observations noted, which are not considered to directly impact the effectiveness of the State Plan and are included for purposes of future State Plan monitoring. Details of findings, recommendations, and observations are further discussed in the body of the report and in Appendix A and B at the end of the report. Findings and recommendations denoted as "continued" are those which had been identified in the previous FY 2012 FAME Report and were again noted in FY 2013.

Overall, Oregon OSHA met or exceeded the majority of its FY 2013 performance goals and fulfilled its obligations with regard to activities mandated by OSHA.

This FAME Report does not include any recommendations relative to Oregon OSHA's enforcement program. This evaluation period identified an item for further monitoring which resulted from a previous finding and was newly reclassified as an observation for this period. OSHA does not consider observations to directly impact the effectiveness of the State Plan and are included for purposes of future State Plan monitoring. They are as follows:

Observation FY13-OB-1 (Reclassified Recommendation 12-4): Ensure all evidence is adequately tested prior to dismissing or closing an 11(c) discrimination case. Use appropriate justification for any closure and document in the case file accordingly.

Observation FY13OB-2 (FY12-OB-1): Ensure the initial interview with an 11(c) discrimination complainant is completed to include obtaining a thorough understanding of the complainant's protected activity.

Observation FY13-OB-3: 11(c) discrimination settlement agreements should be consistent with the Whistleblower Investigation Manual with regard to provisions for waiving future employment. BOLI should ensure the factors outlined in Chapter 6 are addressed and documented in the case file.

Observation FY13-OB-4: Oregon OSHA's standards and enforcement program for fall protection in residential construction may not be at least as effective as OSHA's. OSHA and Oregon OSHA have been in dialogue about this issue and it is currently under review by OSHA.

There were no findings and recommendations for FY 2013; thus Appendix A is blank. Observations found in FY 2013 are provided in Appendix B.

II. Major New Issues

OSHA issued STD 03.11.002 on December 16, 2010, which required the use of conventional fall protection in residential construction. The directive became effective on June 16, 2011, and advised State Plans that they must have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as OSHA's program.

Oregon OSHA standards and enforcement policies on fall protection in residential construction raised concerns and on June 3, 2013, a letter was sent to Oregon OSHA. On October 8, 2013, Oregon OSHA responded that it did not adopt STD 03.11.002 because the State Plan had not adopted the OSHA directive allowing alternatives to the fall protection standards. In addition, the State Plan contends they do not need a compliance directive specific to residential construction because they do not have a standard specific to residential construction and treat residential fall hazards the same as any other construction activity fall hazard.

Oregon OSHA's response continues to be under review by OSHA.

III. Assessment of State Plan Performance

1. ENFORCEMENT

a) Complaints

Oregon OSHA has four-tiered criteria for measuring complaint responsiveness: imminent danger complaint inspections, initiate within 24 hours in 95% of cases; serious complaint inspections, initiate within five working days in 95% of case; other-than-serious complaint inspections, initiate 95% of the time within 30 working days; phone/fax response, initiate within 10 working days in 95% of cases. The State Plan's negotiated goal is to send a response letter within 10 working days to complainants in 90% of the cases. Oregon OSHA reports on its performance during quarterly meetings and annually in its annual report. Please note that SAMM data does not accurately capture Oregon's negotiated goal or data, as the values are averaged together on the SAMM report. Oregon OSHA's results were as follows:

- 100% for imminent danger complaints.
- 96.1% for serious hazard complaints.
- 98.8% for other-than serious hazard complaints; and
- 96.4% for phone/fax investigations.

There was one outlier identified for the period in data for SAMM #4 reflecting that Oregon OSHA responded 98% (77/78) timely to imminent danger

complaints. This complaint was determined to be incorrectly coded as imminent danger and was actually a serious complaint. The table below conveys the correct rate of timeliness for Oregon OSHA at 100% timely for imminent danger complaints.

**Table 1
Complaints (SAMM 1, 2, 3)**

	FY 2013	FY 2012	FY 2011	Goal
Avg. Days to Initiate Inspection (SAMM 1)	4.94 days	4.68 days	5.21 days	5 days
Avg. Days to Initiate Investigation (SAMM 2)	5.24 days	3.86 days	2.45 days	10 days
Complainants Notified Timely (SAMM 3)	98.04% 852/869	97.35%	98.52%	90%
Imminent Danger Response (SAMM 4)	100% 77/77	100% 63/63	100% 63/63	95%

The State Plan exceeded its criteria for acceptable performance in all four categories. Oregon’s performance continues to be acceptable.

During the FY 2013 case file review, OSHA found that Oregon OSHA was not always communicating the findings of a complaint inspection to the complainant. Of the 39 complaint files reviewed, three case files did not contain a complaint response letter to the complainant, and one response letter was not dated, so it could not be determined if the response was timely. The majority of complaint case files reviewed included documentation of correspondence of the results of the complaint inspection to the complainant. OSHA does not consider this issue to be significant to impact the overall effectiveness of the State Plan, nor does it consider an item for future observation. This issue was discussed with the State Plan and it is believed these were isolated occurrences with possible errors in document scanning (by which it removed the date on a few of the letters). No further monitoring is considered necessary.

b) Fatalities and Catastrophes

In FY 2013, Oregon OSHA investigated 26 fatalities, responding timely (within one day) in 23 out of the 26 cases (88.5%). Two of the untimely fatality responses were due to an Oregon OSHA manager making a decision not to investigate at the time since the fatalities were from a motor vehicle accident. However, after speaking with the local police department, Oregon OSHA decided to open an investigation of one case; the other case was opened after Oregon OSHA requested a copy of the employer’s investigation of the incident and the company failed to provide the information. One other untimely inspection was delayed two days due to it being incorrectly identified as a “no inspection.” Oregon OSHA’s performance is acceptable.

As part of this FAME Report, the Portland Area Office conducted a case file review to evaluate fatality and incident cases in the state of Oregon. OSHA’s

review of 11 fatality inspection case files found well-documented investigations that clearly explained the events leading to the incident. The documentation supported the findings and citations where appropriate. The State Plan actively includes family members in the fatality investigation process by providing an initial letter to the family and a follow-up letter when the investigation is closed. It is standard procedure for Oregon OSHA's compliance officers to make contact with the families of victims at the onset of an inspection and at the close of an investigation to inform families of any findings. Oregon OSHA contacted families of victims in a timely manner in all cases.

Bureau of Labor Statistics (BLS) Rates

An overview of Oregon's private industry TCIR¹ and DART² rates for calendar years 2008 through 2012, as well as for industries, is provided in the table that follows. At the close of this monitoring period, 2012 was the most recent year for which data was available. (Data source: www.bls.gov)

	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012	% Change, 08-12	% Change, 10-12
Private Industry							
TCIR	4.6	4.4	3.9	3.8	3.9	-15%	0%
DART	2.5	2.3	2.2	2.1	2.2	-12%	0%
Construction, NAICS³ 23							
TCIR	5.4	4.6	4.5	4.3	4.5	-17%	0%
DART	3.0	2.0	2.5	2.3	2.5	-17%	0%
Manufacturing, NAICS 31-33							
TCIR	5.7	4.7	4.4	5.0	4.4	-23%	0%
DART	3.2	2.8	2.6	2.9	2.7	-16%	+4%
State and local government							
TCIR	5.8	5.2	4.6	4.7	4.2	-28%	-9%
DART	2.3	2.5	2.2	2.3	2.0	-13%	-9%

The data for the last five years shows an overall downward trend ranging from a decrease of total case injury and illness rate (TCIR) of 17 percent in the Construction Industry to a significant decrease of 28% for state and local governments. The DART data show an overall decline as well with a larger

¹ TCIR is the total case incident rate, which represents the number of recordable injuries and illnesses per 100 full-time workers, calculated as: $(N/EH) \times 200,000$ where N = number of injuries and illnesses; EH = total hours worked by all workers 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

decrease earlier from 2008 and 2009 for Private Industry and Construction. There was little fluctuation in the DART and TCIR for Private Industry, Construction, and Manufacturing for the last two data years with the exception of a slight increase in DART for Manufacturing to 4%. There was a slight increase in both the TCIR and DART rate for state and local government to 9%. Notable is that the rates for the Construction Industry have continued to decrease and resulted in an overall five-year reduction of 17% for TCIR and DART rates. Likewise, the dip in TCIR rate in Manufacturing within five years to 23% is notable. This achievement may be attributed to Oregon’s emphasis to increase enforcement presence in high hazard industries. Based on these data points, it appears Oregon’s efforts are contributing to rate reductions in the targeted industries.

c) Targeting and Programmed Inspections

During FY 2013, Oregon OSHA conducted 3,221 safety and 973 health inspections for a total of 4,194 inspections statewide. This represents 104% of Oregon’s annual performance goal of conducting 4,050 inspections during this period.

Over the past several years, the State Plan has continued to establish reasonable inspection goals in order to achieve the appropriate performance based on previous staffing challenges and past performance. See table below.

**Table 2
Inspections Conducted FY 2010 – 2013**

Inspections	FY 2013	FY 2012	FY 2011	FY 2010
Goal	4,050	4,050	5,200	5,500
Conducted	4,194	4,100	4,587	5,261
Difference	144	50	(613)	(239)

During the FY 2013 case file review, OSHA found two enforcement cases where serious violations were identified and documented in the case files, but a related citation was not issued. Although this issue was found in two isolated cases, a thorough supervisory review of inspection case files is necessary to ensure that where serious hazards are found and documented, citations are issued as appropriate. OSHA does not consider this issue to be significant to impact the overall effectiveness of the State Plan, nor does it consider an item for future observation. This issue was discussed with the State Plan at the time of the case file review, and it is believed these were isolated occurrences with justification needing to be further examined and documented within the case file.

d) Citations and Penalties

The State Plan issues citations in a timely manner. The lapse time from opening conference to citation issuance for safety inspections in Oregon was 41.7 calendar

days for FY 2013. This is better than the corresponding national average of 53.7 days. For health inspections, Oregon averaged 55.1 days from opening conference to citation issuance. This is better than the corresponding national average of 65.5 days. Both safety and health lapse times have slightly increased each year since FY 2011, and both outcomes continue to be acceptable.

The following tables represent Oregon OSHA's performance history for both industrial hygiene and safety citation lapse times (SAMM #7 and #23).

**Table 3
Citation Lapse Time (SAMM 7)***

	FY 2013	FY 2012	FY 2011	FY 2013 National Data
Safety	41.7 days	37.3days	37.1 days	53.7 days
Health	55.1 days	54.3 days	51.8 days	65.5 days

*Due to recent mandated activity policy revisions during FY 2012, lapse time calculations during FY 2013 is now being monitored using SAMM #23 rather than SAMM #7 used during previous years. The SAMM #7 information above is provided for informational purposes only. Table 4 provides SAMM #23 data in accordance with OSHA's mandated measure for this item:

**Table 4
Citation Lapse Time (SAMM #23)***

	FY 2013	FY 2012	FY 2011	FY 2013 National Data
Safety	31.9 days	27.9 days	28.4 days	43.4 days
Health	39.8 days	40.1 days	40.5 days	53.1 days

In FY 2013, of the total number of inspections conducted, 2,320 were programmed safety inspections and 408 were programmed health inspections. Serious, willful, or repeated violations were cited in 41% of the programmed safety inspections and 51% of the programmed health inspections. Oregon OSHA's rates for FY 2013 are slightly lower than the three-year national rate for State Plans. Oregon OSHA's performance remains consistent for the past three years, and is considered acceptable.

**Table 5
Percent of Programmed Inspections with S/W/R Violations (SAMM 8#)**

	FY 2013	FY 2012	FY 2011	FY 2013 National Data
Safety	41%	40.5%	44%	57%
Health	51.2%	51.7%	46%	54%

Oregon OSHA's rate of inspections with serious/willful/repeat (S/W/R) violations has continued to remain just slightly above half of the national average over the

past several years (1.15). Oregon OSHA’s rate of classifying violations as “other-than-serious” remains consistent with the national State Plan average of 1.3. Oregon OSHA attributes the lower rate for issuing violations as S/W/R to the higher number of employers who are small employers in the State Plan. Oregon also maintains that a higher enforcement presence assists to reduce serious violations because there is a higher probability that Oregon OSHA will be inspecting these Oregon companies.

**Table 6
Average Violations per Inspection with Violations (SAMM #9)**

	FY 2013	FY 2012	FY 2011	FY 2013 National Data
S/W/R	1.15	1.10	1.23	2.0
Other	1.38	1.49	1.49	1.3

Oregon OSHA conducted 915 (30%) safety inspections and 239 (26.5%) health inspections which were closed without citing violations and recorded as in-compliance. Thus, Oregon OSHA’s in-compliance rates during FY 2013 have remained consistent with the national State Plan average for safety and slightly lower than the national State Plan average for health for the past three years. Both outcomes are considered acceptable.

**Table 7
Field Compliance Measure, Percent In-Compliance (SAMM #20)**

	FY 2013	FY 2012	FY 2011	FY 2013 National Data
Safety	30%	26.4%	27.1%	29%
Health	26.5%	26.3%	26.9%	34%

Oregon OSHA’s rules and policies require that serious violations be assessed penalties. Oregon’s average initial penalty per serious violation in the private sector during FY 2013 was \$406.49, slightly down from the average serious violation penalty during FY 2012 of \$416.39 (SAMM report FY 2013 - SAMM #10). Table 8 provides Oregon OSHA’s average initial penalty amounts for three years which remains approximately \$1,800 lower than the national State Plan average amount.

**Table 8
Average Initial Penalty per Serious Violations (SAMM #10)***

FY 2013	FY 2012	FY 2011	FY 2013 National Data
\$406.49	\$416.39	\$355.13	\$2,244.60

*This measure is for informational purposes only. SAMM 18 is the official mandated measure for penalties. See Appendix D for more details.

Oregon OSHA’s average current penalty per serious violation in the private sector

in FY 2013 for each size category of employers remains far below the acceptable range of +/- 25% of the national State Plan average (SAMM report FY 2013 - SAMM #18). The average initial penalty per serious violation has begun to rise for the past three evaluation periods. Oregon OSHA continues to achieve good retention of penalties and at 100% (SAMM report FY 2013 - SAMM #24). See Appendix D for more information. OSHA will continue to monitor and address low penalties with Oregon during quarterly meeting discussions.

e) Abatement

Oregon OSHA requires that each hazard be abated, and that adequate verification of the correction is included in the case file. OSHA’s FY 2013 review of inspection case files revealed adequate Hazard Abatement Letters (HAL) and supporting documentation in the case files. Additionally, Oregon OSHA has a statute that requires employers to abate cited serious hazards during the appeals process. For FY 2013, the timely verification of abatement for S/W/R violations was 94.15% for private sector citations and 93.85% for public sector citations (SAMM report FY 2013 - SAMM #6). Performance in this element is acceptable.

**Table 9
S/W/R Violations Verified (SAMM 6)**

	FY 2013	FY 2012	FY 2011	Goal
Private Sector	94.15%	95.65%	95.45%	100%
Public Sector	93.85%	96.72%	94.52%	100%

f) Worker and Union Involvement

During Oregon OSHA’s inspections, workers are given the opportunity to participate either through interviews or by having worker representatives accompany inspectors. Workers are also afforded the opportunity to privately express their views about the workplace away from the employer. Whenever enforcement staff was unable to involve workers in the inspection process, explanations were documented. Oregon OSHA remains at 100% performance with inspections where an worker or worker representative was involved in the walk-around inspection or was interviewed during the inspection (SAMM report FY 2013 - SAMM #25).

2. REVIEW PROCEDURES

Oregon’s Administrative Code and Oregon 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 workers or their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

a) Informal Conferences

Oregon OSHA has similar informal conference procedures as OSHA, with the exception that the Oregon 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, the right to contest citations and penalties, and the right to object to assigned abatement dates. In Oregon, most employer citation appeals are resolved by informal settlement. No violations were vacated nor reclassified during informal reviews during this period.

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 performance acceptable.

b) Formal Review of Citations

Oregon OSHA has a formal review process in place for employer's to appeal citations. In FY 2013, there were three active cases before the Oregon Court of Appeals. In two cases, Oregon OSHA appealed the Administrative Law Judge's (ALJ) decision to the Court of Appeals. In both cases the court affirmed the ALJ's decision. In one case, where the Court of Appeals upheld the ALJ's decision withdrawing the citation, Oregon OSHA petitioned for review to the Supreme Court. There has been no decision at the time of this report. In a second case, the Court of Appeals upheld the ALJ's decision withdrawing the citation. A third case was active before the Court of Appeals at the end of the fiscal year. In February 2014, the Court of Appeals affirmed the opinion of the ALJ withdrawing the citation.

OSHA finds the actions in these three cases acceptable.

3. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCS) ADOPTION

The State Plan is required to notify OSHA of its intent to adopt standards and Federal Program Changes (FPCs) within 60 days of OSHA's issuance of the direct final rule or issuance of an automated notice to the State Plan. The State Plan then has up to 6 months to adopt a standard or FPCs with submission of such to OSHA within 60 days of adoption.

a) Standards Adoption

Oregon OSHA has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. During this evaluation period, OSHA issued one final rule that was required to be adopted by State Plans and one OSHA update which encouraged State Plan adoption. Action was required by the State Plan to respond to OSHA's notices regarding these two standards.

During FY 2013, OSHA issued five additional final rules. State Plans were not required to take any action or respond to OSHA regarding these five standards as indicated in Table 10 below. Oregon OSHA adopted all seven final rules. Oregon's timely response rate for both notification of intent regarding adoption of standards and ensuring timely adoption is 100%. The State Plan has an excellent record for adopting federal standards within the required time frame. Oregon OSHA has not had a delinquent standard in the past several years.

Table 10 lists the FY 2013 standards issued by OSHA and Oregon's response.

Table 10
Status of 2012 Federal Standards Adopted

Standard:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
Updating OSHA Standards based on National Consensus Standards; Head Protection (11/16/2012) Adoption Not Required (ATS Notice Sent)	1/22/2013	Yes	No	7/16/2013	12/14/2012 (AO72012) and 2/15/2013 (AO22013)*
Personal Protective Equipment for Shipyard Workers (12/5/2012) Adoption Not Required (No ATS Sent)	2/22/2013	Yes	Yes	N/A Adoption not required	2/15/2013 Effective 4/1/2013
Occupational Exposure to Hazardous Chemicals in Laboratories (Non-Mandatory Appendix); Technical Amendment (1/22/2013) Adoption Not Required (No ATS Sent)	8/8/2013	Yes	Yes	N/A Adoption not required	7/18/2013
Hazard Communication; Corrections and Technical Amendment (2/8/2013) Adoption Not Required (No ATS Sent)	8/8/2013	Yes	Yes	N/A Adoption not required	7/19/2013
Cranes and Derricks in Construction: Underground Construction and Demolition (4/23/2013) Adoption Required (ATS Notice Sent)	5/9/2013	Yes	Yes	11/23/2013	10/9/2013 (A062013) and 2/14/2013 (A012013)*
Cranes and Derricks in Construction: Revising the Exemption for Digger Derricks (5/29/2013) Adoption Not Required (No ATS Sent)	10/4/2013	Yes	Yes	N/A Adoption not required	9/13/2013
National Consensus Standards; Signage (6/13/2013) Adoption Not Required (No ATS Sent)	12/18/2013	Yes	Yes	N/A Adoption not required	12/18/2013
*Oregon responded to the OSHA ATS notice with two separate Oregon Administrative Orders to cover all aspects of each OSHA standard with an identical or similar approach. Each has a different adoption and effective date.					

b) OSHA/State Plan-Initiated Changes

A total of five FPCs required a response in FY 2013. There were two remaining FPCs issued by OSHA in FY 2013 that will carry over into FY 2014. Oregon OSHA’s response to those will be evaluated during the next FAME cycle. Oregon OSHA’s timely response rate for notification of intent regarding adoption of FPCs is 100%. Oregon’s adoption and submission is consistently 100% timely. The table below lists FPCs from FY 2012 and FY 2013 which required a response from Oregon OHA in this FAME period and the outcome.

**Table 11
Status of Federal Program Changes (FPCs) Adoption**

FPC Directive/Subject:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Submission Date:
CPL 02-00-154 Longshoring and Marine Terminals “Tool Shed” (issued 7/31/2012) Equivalency Required	9/4/2012	Yes	No	N/A – adoption not required	9/6/2013
CPL 02-03-004 2012 544 Section 11(c) Appeals (issued 9/12/2012) Equivalency Required	11/2/2012	Yes	No	N/A – adoption not required	3/12/2013
CPL 02-01-054 Inspection & Citation Guidance for Roadway and Highway Construction Work Zones (issued 10/16/2012) Equivalency Required	12/25/2012	Yes	No	4/17/2013	4/11/2013
CPL 02-13-01 Site-Specific Targeting 2012 (SST-12) (issued 1/04/2013) Equivalency Required	1/8/2013	No	No	N/A – adoption not required	1/8/2013 Oregon has equivalent policy
CPL 03-00-017 National Emphasis Program Occupational Exposure to Isocyanates (issued 6/20/2013)	8/5/2013	Yes	No	12/20/2013	12/10/2013
STATE PLAN RESPONSE DUE IN FY 2014					
CPL 02-00-155 Inspection Scheduling for Construction (issued 9/06/2013)	11/29/2013	No	No	N/A – adoption not required	11/29/2013 Oregon has equivalent policy
CPL 02-01-055 Maritime Cargo Gear Standards & CFR Part 1919 Certifications (issued 9/30/2013) Equivalency Required	11/12/2013	Yes	Yes	N/A – adoption not required	11/12/2013

Additionally, Oregon OSHA submitted 19 State-initiated changes this period. All State-initiated changes were submitted timely.

4. VARIANCES

The State Plan reported three variance actions during this evaluation period. One permanent variance was granted and two permanent variances were revoked

because they were no longer needed. During the previous three years of reporting, Oregon OSHA has granted only one permanent variance. No temporary variances were granted in the last three report years.

The variance actions were handled properly and the decision to revoke the variances were justified.

5. PUBLIC WORKER PROGRAM

In FY 2013, Oregon OSHA conducted 4.43% (186/4194) inspections in the public sector (SAMM report FY 2013 - SAMM #11). The percent of inspections in the public sector is consistent with data for the State Plan average of 3.4% over the last three years and is slightly lower than the 4.4% in FY 2011. Over the last five years, the State Plan has consistently conducted an acceptable number of inspections in the public sector.

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

6. DISCRIMINATION PROGRAM

Section 654.062 (5) of the Oregon Safe Employment Act provides for discrimination protection equivalent to that provided by OSHA. Oregon OSHA contracts with BOLI for 11(c) discrimination complaint investigations.

Oregon's timeliness of completed discrimination cases has increased since FY 2012 to 77.50% within 90 days for FY 2013. Oregon OSHA's goal is to complete 80% of discrimination cases within 90 calendar days. This performance is only 2.5% below the goal. The average number of days to complete a discrimination investigation in FY 2013 was 72.90 days, slightly higher than the national State Plan average of 52.4 days. Oregon's merit rate of 12.50% is considerably lower than the national State Plan meritorious rate of 24.8%, although its settlement rate of meritorious cases is consistent with the previous two years.

The following table is a summary of discrimination activity during FY 2013.

Table 12
11(c) Investigations (SAMM 13, 14, 15)

	FY 2013	FY 2012	FY 2011	FY 2013 National Average
Completed Within 90 Days (SAMM 13)	77.50%	74.40%	87.61%	100%*
Merit Cases (SAMM 14)	12.50%	13.60%	8.85 %	24.8%
Merit Cases Settled (SAMM 15)	26.67%	23.53%	50%	89.4%

*The SAMM 13 national State Plan average goal is to complete 100% cases within 90 days.

OSHA conducted an on-site monitoring review of Oregon OSHA's discrimination program in FY 2013. The purpose of the case file review was to determine if the State Plan had taken corrective action with regard to the previous year's recommendations, as well as to gauge Oregon's current implementation of policies and procedures of whistleblower cases. During this year's case file review of Oregon OSHA's discrimination program, 20 discrimination case files and 10 screened complaints were reviewed by OSHA. In FY 2012, OSHA made four recommendations for program improvement. During the FY 2013 review, OSHA verified that Oregon OSHA had implemented satisfactory corrective action for three of the four recommendations related to the discrimination program; one recommendation was determined to be mostly resolved. The issue was found again during the FY 2013 case file review, and although more minimal in number of findings, this item was reclassified to an observation for this period. The status of these recommendations and a discussion of the State Plan's corrective action is provided below as well as any new findings and observations found in the FY 2013 case file review.

One item noted during the FY 2012 case file review was that several case files were reviewed which included an additional date (i.e., the date of initial contact) as an alternative filing date, although BOLI considers the date of receipt of a signed 11(c) complaint as the official filing date. Documenting two potential filing dates in the file made it unclear which date was the official filing date which should be entered into IMIS. OSHA recommended that the correct filing date be entered into IMIS for consistency.

Oregon OSHA responded to this Recommendation 12-1 by explaining that Oregon OSHA law requires that all complaints be filed in writing. Consequently, Oregon OSHA and BOLI's policy has always been to render all complaints into written form for signature by the complainant. Once the signed complaint is received and date stamped, this date is considered the official filing date for investigation tracking purposes and is entered into IMIS. There may be other dates identified in the case file, such as the initial contact date with the complainant; however, that date would only be used to help determine whether the complaint was filed timely within the statutory time limit. This practice has been discussed and reviewed between Oregon OSHA and OSHA. Oregon OSHA has communicated this policy to BOLI staff via email and in staff meetings to ensure the correct date is used in the IMIS database. Oregon OSHA will continue to communicate with BOLI to ensure the correct filing date is provided to Oregon OSHA for entry into the IMIS database system. OSHA verified the State Plan took satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers Recommendation 12-1 complete.

A second item noted in the previous evaluation period was that screened out 11(c) complaints reviewed during the case file review did not include documentation or justification as to why they were screened out. OSHA recommended that prior to

screening out a discrimination complaint, BOLI should ensure that the complaint does not include elements of a prima facie complaint and ensure the reasons for screening out such cases are documented.

Oregon OSHA responded to this Recommendation 12-2 by explaining that incoming discrimination complaints are reviewed by trained intake officers. If a potential 11(c) complaint does not meet the elements required for a prima facie complaint, BOLI requires staff to record the reasons and document these reasons in the CRD database. This data is then transmitted from BOLI's database to Oregon OSHA for entry into the IMIS database. Oregon OSHA has reviewed this policy with BOLI intake officers and with supervisors via email and in staff meetings to ensure the reasons for screening out 11(c) cases are identified and documented. Oregon OSHA will continue to review incoming data from BOLI through internal audits to ensure this information is being transmitted into IMIS correctly. OSHA has verified satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers Recommendation 12-2 complete.

A third issue found in last year's evaluation period was that screened out 11(c) complaints were not being entered into IMIS as appropriate under "create intake" function. OSHA recommended that Oregon OSHA and BOLI ensure all screened complaints are entered into the IMIS "create intake" feature for consistency.

Oregon OSHA responded to OSHA's Recommendation 12-3 by acknowledging that data for screened out 11(c) complaints has not always been directly transmitted from BOLI to Oregon OSHA for entry into the IMIS database in the past. However, BOLI staff documents all items to fulfill the requirement for screened out 11(c) complaints through its maintenance of its CRD database and hard copy files. Additionally, BOLI is able to provide a report for all screened out complaints to Oregon OSHA and OSHA upon request. Oregon OSHA will ensure that all required information regarding screened out 11(c) complaints is transmitted from BOLI to Oregon OSHA for entry into the IMIS database. Oregon OSHA has reviewed this policy with BOLI via email and through discussions. Oregon OSHA will continue to review incoming data from BOLI through internal audits to ensure this information is being transmitted into IMIS correctly. OSHA has verified satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers recommendation 12-3 complete.

A final issue identified in the previous evaluation period was that two cases reviewed by OSHA were dismissed as "no merit" and both cases included documentation that the evidence had not been fully tested. Another case contained evidence that the case was not adequately tested in that BOLI did not interview other workers or follow-up on information provided by the complainant. OSHA recommended that Oregon OSHA and BOLI ensure all evidence is adequately tested prior to dismissing or closing a case and that

appropriate justification for any closure should be documented in the case file accordingly.

Oregon OSHA addressed Recommendation 12-4 with BOLI, and during Oregon OSHA's quarterly review of all 11(c) discrimination files, additional attention has been given to ensure that all evidence is fully tested. BOLI will review the investigations process and recommendations of OSHA to ensure a proper investigation and interviews are performed. Monthly reviews of open Oregon OSHA cases will be discussed in the monthly investigator's meetings and used as a training tool for investigators. Although this item has been mostly resolved as found in the FY 2013 case file review, two of the 20 cases reviewed did not contain documentation within the case file to show the evidence was fully tested. OSHA will continue to monitor this item by reclassifying the recommendation to an observation for this period.

Observation FY13-OB-1 (Reclassified Recommendation 12-4)

Ensure all evidence is adequately tested prior to dismissing or closing an 11(c) discrimination case. Use appropriate justification for any closure and document in the case file accordingly.

In FY 2012, it was noted as Observation FY12-OB-1 that BOLI did not always ensure the initial interview with a complainant was complete to include obtaining a thorough understanding of the complainant's protected activity. Based on the FY 2013 case file review, one in 20 files reviewed found that BOLI did not identify the reporting of a work-related injury or illness as a protected activity under the Oregon Safe Employment Act, ORS 654.062. Although such an allegation would usually be investigated as a workers' compensation retaliation complaint, there may be the situation where a worker reports a work-related injury or illness but does not also file a workers' compensation claim. In that case, it may cause a complaint to be improperly screened out. Since this item was previously noted and was not fully resolved in the period, this item will carry over as a continued observation for this evaluation period.

Observation FY13-OB-2 (FY12-OB-1)

Ensure the initial interview with an 11(c) discrimination complainant is completed to include obtaining a thorough understanding of the complainant's protected activity.

Of the six settlement agreements reviewed during the FY 2013 case file review, none appeared to make a constructive effort to alleviate any chilling effect, and none provided the complainant with a neutral reference for future employment. One settlement agreement did include a waiver of future employment, but did not document whether BOLI considered the factors detailed in Chapter 6, Sections III-VI of the Whistleblower Investigation Manual prior to approval. Settlement agreements entered into or approved by BOLI should at a minimum adhere to the principles outlined in Chapter 6 of the Whistleblower Investigation Manual.

Those principles include making a constructive effort to alleviate any chilling effect and providing the complainant a neutral reference. This issue was discussed with Oregon OSHA and BOLI during the closing conference for the FY 2013 case file review. This item will be considered a new observation for this evaluation period. See below:

Observation FY13-OB-3

11(c) discrimination settlement agreements should be consistent with the Whistleblower Investigation Manual with regard to provisions for waiving future employment. BOLI should ensure the factors outlined in Chapter 6 are addressed and documented in the case file.

7. SPECIAL STUDY – STATE PLAN TARGETING PROGRAMS

During the FY 2013 FAME cycle, a special study was developed to assess how the State Plan targets inspections of employers within the State Plan, what guidance the State Plan uses to determine the priority of these inspections, and how the State Plan gauges its effectiveness of the targeting approach. Oregon OSHA's enforcement program recently made a change from claims-based targeting to industry based targeting in 2009. The targeting was further adjusted in 2011. Stakeholders were involved with the process for the fixed site enforcement scheduling program rulemaking and shared in the discussions regarding how best to rank industries and hazards for inspection. The legal requirements of Oregon's industry based targeting system are established in Oregon's Revised Statute, and the framework for establishing targeted industries is laid out in Oregon Administrative Rules and policy directives such as provided in the following Internet web links:

- Oregon Revised Statutes, Chapter 654 – Occupational Safety and Health
<http://www.cbs.state.or.us/osha/standards/ORS654.html> [See ORS 654.035(1)(d)]
- Oregon Administrative Rules, Chapter 437 – Oregon Occupational Safety and Health Standards (See OAR 437-001-0057, Scheduling Inspections)
http://www.cbs.state.or.us/osha/pdf/rules/division_1/437-001-0053-0099.pdf
- Oregon Occupational Safety and Health Division Department of Consumer and Business Services, Program Directive A-244 – Inspection Criteria: Scheduling Lists for Safety and Health Inspections
<http://www.cbs.state.or.us/osha/pdf/pds/pd-244.pdf>

Safety and health fixed site scheduling lists are created using criteria and ranking factors that are used to identify the places of employment the Administrator believes to be the most unsafe in the state of Oregon. Oregon OSHA determines which industries and places of employment are the most hazardous through information obtained from the Department of Consumer and Business Services claim and employer files, BLS statistics for occupational injuries/illnesses and

fatalities, the Oregon Employment Department, and knowledge of recognized safety and health hazards associated with certain processes.

The scheduling lists are compiled at least annually and distributed initially during the month of October. The safety and health scheduling lists are designed as an electronic scheduling system for safety and health enforcement managers to schedule fixed places of employment for each compliance officer. Written neutral administrative standards using a series of seven criteria (i.e., Oregon TCIR, Oregon DART, federal TCIR, federal DART, federal fatality case rate, Oregon compensable fatality claims rate, Oregon accepted disabling claims rate) are standardized using a statistical weighting method involving t-scores. These weighted scores are averaged across the seven criteria to create a composite score. The composite score is used to determine the position of each industry, thereby listing the industry according to the North American Industrial Classification System (NAICS). Places of employment under the NAICS list are randomly selected within each tier group using predetermined percentages whenever a list is generated. The scheduling lists are sorted by office (see OAR 437-001-0057(1)-(4), and (6), referenced above).

Construction and forest activities scheduling lists are used by enforcement managers and compliance officers to focus enforcement efforts on the construction and forest activities employers with the most unsafe place of employment. Employers are selected and placed on one of two lists based on certain criteria (see OAR 437-001-0057(5), referenced above). The Division performs random inspections of places of employment that are scheduled and conducted under written neutral administrative standards (see OAR 437-001-0057(8) referenced above).

An inspection may be made if the place of employment is included in a national or local safety or health emphasis program. Emphasis programs are established by identifying the most hazardous industries and processes through information obtained from the Department of Consumer Business Services claim files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Oregon Employment Department, and knowledge of recognized hazards associated with certain processes (see OAR 437-001-0057(9) referenced above).

A health inspection of a mobile site may be scheduled when information such as recognized health hazards known to be associated with certain processes are reasonably thought to exist at a place of employment (see OAR 437-001-0057(7) referenced above).

Each year Oregon OSHA completes a summary evaluation of enforcement scheduling which includes information such as the number of scheduled inspections and the basis for those inspections, the number of attempted scheduled inspections that could not be completed and the results of those inspections. Once every three years beginning July 2012, Oregon OSHA assesses the enforcement

scheduling system and other available data to ensure that the scheduling system continues to accomplish its statutory purpose of predominantly focusing Oregon OSHA enforcement resources on those places of employment reasonably believed to be the most unsafe. Oregon's annual performance plan and five-year strategic plan include targeting goals. Oregon OSHA reports the results of these goals related to its targeting enforcement program to OSHA during quarterly monitoring meetings as well as annually in the SOAR.

As part of the special study, OSHA reviewed Oregon OSHA's current implemented Local Emphasis Programs (LEPs) which were in place during FY 2013. Oregon OSHA did not adopt OSHA's procedures for the approval of LEPs; instead Oregon implemented its own alternative approach and operating procedure for this process. The seven hazard-specific LEPs in place at the end of FY 2013 in the state of Oregon include: Falls in Construction, Field Sanitation, Struck-by Hazards in the Logging Industry, Agricultural Pesticide Handling and Application; Diisocyanates, Inspection of Assigned Risk Plan Employers, and Formaldehyde Exposures in Hair Salons.

The Falls in Construction LEP in Oregon was chosen by OSHA for evaluation in this FAME cycle because it has the largest scope of oversight throughout the State Plan and utilizes the most compliance safety and health officer (CSHO) resources. Fall hazards in construction are also of concern on a national level, and an emphasis program focusing on these types of hazards in the construction industry would be expected to have the most significant impact on employee safety. Oregon OSHA evaluates the effectiveness of this LEP annually with a report to the Administrator. The evaluation is considered comprehensive and contains a minimum of the number of inspections conducted within the LEP, number of S/W/R violations related to fall hazards as a result of the LEP inspections, number of in-compliance inspections, number of warrants required for these inspections, number of Red Warning Notices posted as a result of these inspections, number of follow-up inspections that were conducted, sampling of comments/feedback received regarding the LEP, number of related outreach presentations conducted, and incident/fatality rates for the construction industry. Oregon OSHA also has implemented OSHA's National Emphasis Programs (NEPs) which include: Process Safety Management, Silicosis, Trenching and Excavation, Combustible Dust, Lead in General Industry and Construction, Primary Metals Industries, Severe Violator Enforcement Program, Hexavalent Chromium, Amputations, Primary Metals Industries, and Nursing and Residential Care Facilities.

Inspection procedures for both targeting and emphasis programs are communicated to enforcement staff through statewide meetings, reviews/updates of inspection procedures and specific program directives, and interpretations to ensure uniformity. The large portion of information on implementation of LEPs is shared with stakeholders and employers through outreach efforts by Oregon OSHA.

OSHA considers Oregon OSHA's inspection targeting system and emphasis programs to be at least as effective as those implemented by OSHA.

8. Complaints About State Program Administration (CASPA's)

Two new CASPA's were filed in FY 2013 and one CASPA remained open from FY 2012.

The allegation in CASPA O-192, which was filed in FY 2012 and closed during FY 2013, was related to BOLI's discrimination section. This CASPA was discussed in detail in the previous FAME Report. Although only one allegation was determined to be valid, the outcome of the investigation resulted in three recommendations by OSHA in the CASPA letter to the State Plan. Oregon OSHA responded to these recommendations appropriately and the matter was closed. One recommendation was included in the FY 2012 FAME and the other two were included as observations based on the findings in the FY 2012 case file review. After closure of the CASPA, the complainant appealed OSHA's decision concerning the outcome. A final determination was made to close the matter. The current status of the recommendation and observations are noted in the discrimination section of this report as well as in Appendices B and C at the end of the report.

CASPA O-193 alleged the State Plan's investigation of a worker death was deficient. The State Plan provided a satisfactory response to OSHA. OSHA determined the allegations of the CASPA were not valid and the case was closed.

One potential CASPA was denied because the allegations were not considered valid for the purposes of OSHA oversight of the State Plan program. However, the complainant appealed OSHA's decision to the Regional Administrator who affirmed the decision to not investigate the allegations. The complainant was provided the opportunity to file a CASPA if new allegations were raised. The complainant filed a CASPA, which raised repeated concerns as the original complaint, with the exception of one allegation which OSHA chose to investigate as CASPA O-194. The allegation which OSHA investigated was related to Oregon OSHA divulging the complainant's identity as a complainant to the employer. The results of the investigation refuted this allegation, and the CASPA was closed. The complainant again appealed to the Regional Administrator, and upon analysis, the appeal was denied and the matter closed.

9. VOLUNTARY COMPLIANCE PROGRAM

In addition to the 100% State Plan funded consultation program and the 21(d) consultation program, Oregon OSHA has a Voluntary Protection Program (VPP) and a Safety and Health Achievement Recognition Program (SHARP) that recognizes and encourages employers with exemplary safety and health programs. At the end of FY 2013, Oregon had 26 VPP sites. In the same period, there were

52 SHARP participants, 117 graduates (employers who had completed the SHARP program), and 11 employers receiving initial SHARP certification.

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. At the end of FY 2013, Oregon OSHA had 33 active partnerships and had developed three alliances.

10. PUBLIC 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. Oregon's 21(d) on-site consultation program will be evaluated under a separate report called the Regional Annual Consultation Evaluation Report (RACER) which is issued separately from the FAME Report. Oregon OSHA's own annual report regarding the 21(d) portion of their on-site consultation program is issued under the State Plan's Consultation Annual Project Report.

11. STATE PLAN ADMINISTRATION

Oregon OSHA provided 24 hours of safety and health training to 65.2 percent of its professional staff, falling short of the fiscal year goal of 90 percent. As noted, the agency has adopted a two-year cycle for an all-staff training symposium which will result in a dramatic increase in training hours next fiscal year. However, Oregon OSHA has continued to offer training opportunities to all professional staff, whenever possible, through webinars, e-learning, and participation in local courses and conferences. The agency also maintains a commitment to basic training for new workers through the internal training program.

Oregon's safety enforcement benchmark is 47 with 48 positions identified. At the end of FY 2013, there were 44 positions filled. For health enforcement, both the benchmark and positions identified were 28 of which 27 were filled.

Oregon has 31 consultation positions (19 safety and 12 health consultants); four are funded under 21(d) and 27 are 100% state-funded. As of September 30, 2013, 20 consultation positions (16 safety and four health) were filled.

Oregon 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 Proficiency Analytical Testing (PAT) Program. The laboratory was rated as proficient for all contaminant categories of the PAT program and passed all fields of testing for Rounds 192 through 194 covering the

past year. The State Plan has also been rated proficient for the BAPAT (Bulk Asbestos) program and has passed the previous four rounds of the program. (Rounds A92-312, A93-412, A94-113, and A95-213).

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals

Oregon OSHA has established three broad goals in its five-year Strategic Plan which covers the period from October 2, 2010 (FY 2011) through September 30, 2015 (FY 2015). These goals include short-range (annual) and long-range (five-year) objectives aimed at improving safety and health for Oregon's workers. Each year Oregon OSHA develops and submits its annual performance plan as part of its application for federal funds.

Oregon's three strategic goals are as follows:

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.

OSHA did not identify any issues or concerns regarding Oregon's performance in meeting its annual performance goals during this period. All goals but one were met and were deemed acceptable. The one goal which was not met was adjusted by Oregon OSHA with the adjustment approved by OSHA in quarterly meeting discussions. Oregon's annual performance goal results are as follows:

Performance Goal (1,2,3)-1 Recognition Programs: Oregon OSHA will promote SHARP and VPP through consultation, enforcement, technical services, and education.

Results: At the end of FY 2013, a total of 180 companies were SHARP certified. This total includes 52 current employers, 117 graduates (employers completing the SHARP program) and 11 new sites that received initial SHARP certification during FY 2013. Additionally, for the same period, a total of 26 Oregon companies were VPP certified. During the period, Oregon OSHA recertified 2 existing VPP sites.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Performance Goal (1,2,3)-2 Outreach: Continue outreach efforts to small employers and vulnerable or hard-to-reach populations by increasing publications, workshops and conferences to those employers and workers.

Results: Oregon OSHA continued to develop and deploy online courses, although at a slower pace than in previous years. Oregon OSHA has had a long history of partnering with labor, business, and associations to coordinate occupational safety and health conferences throughout the State Plan and toward that effort conducted seven conferences during this period. Oregon OSHA also continued its outreach to non-English speaking workers by making training and outreach materials available to the multicultural workforce; six Spanish language publications were developed in FY 2013, in addition to 16 new or revised publications that were developed to target small employers and vulnerable or hard-to-reach worker populations. Additionally, six new Spanish language videos were added to Oregon OSHA's collection and 649 non-English videos were loaned out during the period.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (1, 2, 3)-3 Partnerships: Use existing partnerships to advise Oregon OSHA management on where more specific focus would be fruitful.

Results: At the end of FY 2013, Oregon OSHA had 33 active partnerships 14 of those partnerships are among the target industries of Agriculture, Construction, Transportation Logging, and Health Care. This is an increase of 7 partnerships from FY 2012. The most recent partnership came out of a strong desire between Oregon OSHA and the Occupational Health Sciences University (OHSU) – Center for Occupational and Environmental Toxicology (CROET) – Fatality Assessment and Control Evaluation (FACE) program to collaborate on active fatality reviews for in-depth research and findings. Other partnerships developed out of the legislative process during the 2013 session. Oregon Health Authority – Center for Health Promotion and Prevention introduced and the legislature passed HB2092A with the intent to partner Oregon OSHA and Oregon Department of Human Services to collect primary and secondary data related to injury and violence. The Governor's Office brought together Oregon Health Authority, Oregon OSHA and the Department of Environmental Quality to look at legislation relating to hazardous substances.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (1, 2)-1 Safety and Health Hazards: Health enforcement will focus on targeting high hazard industries and safety and health hazards at the following levels: Safety Enforcement 75%, Health Enforcement 60%, and Consultation 50%.

Results – In FY 2013, Oregon OSHA continued its focus on inspections in high hazard industries. Oregon OSHA passed the goal of 75% of safety inspections in high hazard

industries. There were 2,692 (83.7%) safety inspections and 973 (65.2%) health inspections in high hazard industries. The DART rate for Calendar Year (CY) 2012, the most recent year available, was 2.2 for all sectors. Oregon considers its approach of targeting high hazard industries and safety and health hazards has contributed to Oregon OSHA achieving a DART rate of 2.2. The TCIR rate has been slowly decreasing each year from 5.6 in CY 2003, to 3.9 in CY 2011. There was a slight increase in the CY 2012 TCIR rate to 4.0.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (2-1) Health Hazards: Increase the number of severe chemical hazards identified (and therefore corrected) by at least 2 percent each year.

Results: For FY 2013, 751 serious hazards were identified. The five-year rolling average (FY 2009-2013) was 729. This outcome was a 2.2% (729/713) increase in the five-year rolling average compared to the same period last year. This result indicates an 11.8% increase in severe chemical hazards identified since the base indicator year of FY 2010 (729/652). Oregon's inspection priorities and resources are targeted in high hazard industries with the current inspection scheduling system and emphasis programs.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (1, 2, 3)-4 Emphasis: Implement all State Plan local emphasis programs and appropriate national emphasis programs.

Results: Oregon OSHA conducted 1,161 (27.6%) of all safety and health inspections in local and national emphasis programs. Oregon OSHA conducted 1,083 (39.96%) of all consultations in local and national emphasis programs. Emphasis areas include 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, primary metal industries, and nursing and residential care facilities.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (3) -1 Fatalities – Reduce the recent three-year average rate of workplace fatalities by 20% by 2016 and by 8% by CY2012 through inspections and interventions.

Results: During FY 2013, inspections in trenching, falls in construction, and struck by hazards in logging accounted for 14.2% (596 of 4190) of Oregon OSHA's total enforcement inspections. The compensable fatality count for CY 2012 was 30. This is 13 more than the record low of 17 in CY 2010, but it is still the third lowest ever reported

since Oregon began tracking the statistic in 1943. The CY 2012 compensable fatality rate of 1.80 is still a clear reduction over the baseline rate of 2.15 (CY2007-2009 three-year average rate). From FY 2010 – CY 2012, the three-year average fatality rate is 29%.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

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

Results: During this period, Oregon OSHA has developed a plan to reduce ergonomic hazards and targeted the health care sector, which has one of the highest claims rates for injuries. Oregon has addressed the national emphasis program in nursing and residential care facilities by conducting 54 inspections and 23 consultations in FY 2013.

Additionally, during this same period, Oregon OSHA's consultative program tracked the level of ergonomic information and assistance consultants provided to employers during consultations, including basic discussions, assessments and ergonomic consultation referrals. The results of this tracking indicate that Oregon's consultants have some level of interaction with employers regarding ergonomics during 49% of all consultative activities.

Note: The musculoskeletal disorder (MSD) claims rate data over all sectors was not reported this fiscal year because sufficient amounts of reliable data were not yet available. Beginning January 1, 2013, the department's claims coding system was changed to allow for more detailed reports. MSD claims rate data that has been entered in the claims coding system will be reviewed at the end of FY 2014 for its completeness and feasibility for future reporting.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual 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: Timely response to imminent danger complaints and complainant response goals were met. Timely response to the fatalities was 88.5% (23 of 26) due to two motor vehicle accident (MVA) fatalities that were initially not going to be inspected, but after speaking with the local police department, it was decided that an investigation would be opened. The local manager originally determined not to open an investigation for one other MVA, but decided to do an inspection and opened two days after the fatality. The yearly goal of timely investigations/inspections was met in 95% of all reported fatalities

and hazard complaints. The yearly complaint response goal of 90% to send a letter within 10 working days was met. The yearly goal for timely discrimination processing of 80% of cases was met for FY 2013, with 101 out of 114 (89%) cases completed within the expected 90-day time frame. BOLI continues to monitor and manage this requirement.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

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

Results: Throughout the year, Oregon OSHA submits surveys to stakeholders for the purposes of determining the results of customer service satisfaction. Surveys were given to stakeholders regarding conferences, training courses, the use of audio-visual materials, appeals, and laboratory services at the completion of consultation and inspection activities. Surveys received were analyzed with the overall FY 2013 customer satisfaction rating of 90% or better in all measured areas.

OSHA's Assessment: The State Plan met this annual performance goal. OSHA concurs with Oregon's achievement.

Annual Performance Goal (1, 2, 3)-7 Staff Development: Ensure 90% of Safety and Health staff receives 24 hours of Safety and Health professional development training.

Results: Sixty-four percent of the "safety and health" staff received professional development training during this fiscal year. Although this is below the goal of 90%, it should be noted that Oregon OSHA has adopted a two-year cycle for an all-staff training symposium which did not occur in this fiscal year. Oregon OSHA's safety and health staff includes Consultation, Enforcement, Appeals, Technical, and training safety and health professionals. For FY 2014, Oregon OSHA's "all-staff Symposium" has already been held, which will account for a large portion of the training hours. In addition, webinars and outside classes continue to be offered. Oregon OSHA is also offering or developing the following classes for staff: OSHA Process Safety Management (PSM) courses (including course #3300), basic training courses for new workers, and several agriculture classes for the spring.

OSHA's Assessment: For reasons noted above, this goal was not met. Oregon OSHA has requested a change in the annual goal to be 90% staff receives 24 hours of safety and health professional development training within a two-year period. OSHA has agreed and approved this change to Oregon OSHA's goal. OSHA will continue to monitor this in FY 2014 to ensure staff training is received.

V. Other Special Measures of Effectiveness and Areas of Note

As part of OSHA's FY 2013 comprehensive evaluation and monitoring of Oregon OSHA's inspection activities, OSHA's Portland Area Office compliance officers conducted a series of 18 accompanied visits with Oregon OSHA compliance staff. The accompanied visits were conducted with compliance officers from the five Oregon OSHA field offices. The Oregon OSHA CSHOs were evaluated throughout the entire inspection process, from the opening conference to the closing conference. The case file developments of the observed inspections were also reviewed. The inspections encompassed a variety of industries including 14 scheduled, one complaint, one referral, one follow-up, and one emphasis inspection.

In general, the OSHA CSHOs found the Oregon OSHA CSHOs followed the State Plan's policies and procedures. The Oregon OSHA CSHOs were observed to be very professional and made efforts to put the employers at ease during the inspection. All inspections were opened and closed using an inspection checklist with most serious hazards consistently recognized and documented. On a few occasions, it was noted the Oregon OSHA CSHOs did not identify or recognize some serious hazards which were observed during the inspection by the OSHA CSHOs who were present. Once the hazards were brought to the attention of the Oregon OSHA CSHOs by the OSHA CSHOs, these hazards were addressed with the employers appropriately. Oregon OSHA CSHOs addressed hazards outside their discipline if they were comfortable in doing so, or made a referral to the other discipline as needed. Employer and worker interviews and appropriate industrial hygiene samples were found to be appropriately collected. Classification of serious hazards and assignment of abatement dates were consistently appropriate. The Oregon OSHA CSHOs provided compliance assistance as needed with the employers during the inspections. There was only one trend observed during the accompanied visits noted by the accompanying evaluation team in that three different Oregon OSHA CSHOs wanted to delay the closing conference with the employer until they spoke with their supervisor. It was recommended that a closing conference be conducted at the time of the inspection and a second closing conference could be held after speaking to the supervisor. OSHA considers the actions and performance of the Oregon OSHA compliance officers acceptable.

Appendix A – New and Continue Findings and Recommendations
FY 2013 Oregon OSHA Comprehensive FAME Report

FY-Rec #	Finding	Recommendation	FY 2012

There were no findings in FY 2013.

Appendix B – Observations Subject to Continued Monitoring
FY 2013 Oregon OSHA Comprehensive FAME Report

FY13-OB-X	FY12-OB-X	Observation	Federal Monitoring Plan	Current Status
FY13-OB-1	n/a	Ensure all evidence is adequately tested prior to dismissing or closing an 11(c) discrimination case. Use appropriate justification for any closure and document in the case file accordingly.	OSHA will further address this item with Oregon OSHA and BOLI through additional monitoring of the discrimination program in FY 2014.	Reclassified to an observation from previous Recommendation 12-4
FY13-OB-2	FY12-OB-1	Ensure the initial interview with an 11(c) discrimination complainant is completed to include obtaining a thorough understanding of the complainant's protected activity.	OSHA will further address this item with Oregon OSHA and BOLI through additional monitoring of the discrimination program in FY 2014.	
FY13-OB-3	n/a	11(c) discrimination settlement agreements should be consistent with the Whistleblower Investigation Manual with regard to provisions for waiving future employment. BOLI should ensure the factors outlined in Chapter 6 are addressed and documented in the case file.	OSHA will further address this item with Oregon OSHA and BOLI through additional monitoring of the discrimination program in FY 2014.	
FY13-OB-4	n/a	Oregon OSHA's standards and enforcement program for fall protection in residential construction may not be at least as effective as OSHA's. OSHA and Oregon have been in dialogue about this issue and it is currently under review by OSHA.	Region X will work with OSHA National Office to determine if Oregon OSHA is at least as effective as OSHA with respect to fall protection in residential construction. The next step will be based on results and outcome of this evaluation.	

Appendix C– Status of FY 2012 Findings and Recommendations

FY 2013 Oregon OSHA Comprehensive FAME Report

FY-Rec #	Finding	Recommendation	Corrective Action Plan	State Plan Action Taken	Status
12-1	<p>BOLI considers the date of receipt of a signed 11(c) discrimination complaint as the official filing date. During the audit, several case files were reviewed which included an additional date (i.e., the date of initial contact) as an alternative filing date. Documenting two potential filing dates in the file made it unclear which date was the official filing date which should be entered into IMIS.</p>	<p>Ensure the correct filing date is entered into IMIS.</p>	<p>Oregon OSHA responded to this recommendation by explaining that Oregon law requires that all complaints be filed in writing. Consequently, Oregon OSHA and BOLI’s policy has always been to render all complaints into written form for signature by the complainant. Once the signed complaint is received and date stamped, this date is considered the official filing date for investigation tracking purposes and is entered into IMIS. There may be other dates identified in the case file, such as the initial contact date with the complainant; however, that date would only be used to help determine whether the complaint was filed timely within the statutory time limit. This practice has been discussed and reviewed between Oregon OSHA and OSHA.</p>	<p>Oregon has communicated this policy to BOLI staff via email and in staff meetings to ensure the correct date is used in the IMIS database. Oregon OSHA will continue to communicate with BOLI to ensure the correct filing date is provided to Oregon OSHA for entry into the IMIS database system. OSHA verified the State Plan took satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers this item complete.</p>	Complete.
12-2	<p>Screened 11(c) discrimination complaints reviewed</p>	<p>Prior to screening out an 11(c) discrimination</p>	<p>Oregon responded to this recommendation by explaining that incoming discrimination</p>	<p>Oregon OSHA has reviewed this policy with BOLI intake officers and with supervisors</p>	Complete.

Appendix C– Status of FY 2012 Findings and Recommendations
FY 2013 Oregon OSHA Comprehensive FAME Report

FY- Rec #	Finding	Recommendation	Corrective Action Plan	State Plan Action Taken	Status
	during the audit did not include documentation or justification as to why they were screened out.	complaint, ensure that the complaint does not include elements of a prima facie complaint. Document the reason(s) for screening out such cases.	complaints are reviewed by trained intake officers. If a potential 11(c) complaint does not meet the elements required for a prima facie complaint, BOLI requires staff to record the reasons and document these reasons in the database. This data is then transmitted from BOLI's database to Oregon OSHA for entry into the IMIS database.	via email and in staff meetings to ensure the reasons for screening out 11(c) cases are identified and documented. Oregon OSHA will continue to review incoming data from BOLI through internal audits to ensure this information is being transmitted into IMIS correctly. OSHA has verified satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers this item complete.	

Appendix C– Status of FY 2012 Findings and Recommendations

FY 2013 Oregon OSHA Comprehensive FAME Report

FY- Rec #	Finding	Recommendation	Corrective Action Plan	State Plan Action Taken	Status
12-3	Screened 11(c) discrimination complaints were not being entered into IMIS as appropriate under “create intake” function.	Ensure all screened 11(c) discrimination complaints are entered into the IMIS “create intake” feature.	Oregon responded to OSHA’s recommendation by acknowledging that data for screened out 11(c) complaints has not always been directly transmitted from BOLI to Oregon OSHA for entry into the IMIS database in the past. However, BOLI staff documents all items to fulfill the requirement for screened out 11(c) complaints through its maintenance of its CRD database and hard copy files. Additionally, BOLI is able to provide a report for all screened out complaints to Oregon OSHA and OSHA upon request. Oregon OSHA will ensure that all required information regarding screened out 11(c) complaints is transmitted from BOLI to Oregon OSHA for entry into the IMIS database.	Oregon OSHA has reviewed this policy with BOLI via email and through discussions. Oregon OSHA will continue to review incoming data from BOLI through internal audits to ensure this information is being transmitted into IMIS correctly. OSHA has verified satisfactory corrective action of this item during the FY 2013 discrimination case file review. OSHA considers this item complete.	Complete.

Appendix C– Status of FY 2012 Findings and Recommendations

FY 2013 Oregon OSHA Comprehensive FAME Report

FY- Rec #	Finding	Recommendation	Corrective Action Plan	State Plan Action Taken	Status
12-4	Two 11(c) discrimination cases reviewed by OSHA were dismissed as “no merit” and both cases included documentation that the evidence had not been fully tested. Another case contained evidence that the case was not adequately tested in that BOLI did not interview other workers or follow-up on information provided by the complainant.	Ensure all evidence is adequately tested prior to dismissing or closing an 11(c) discrimination case. Use appropriate justification for any closure and document in the case file accordingly.	Oregon OSHA addressed recommendation with BOLI, and during Oregon OSHA’s quarterly review of all 11(c) files, additional attention has been given to ensure that all evidence is fully tested. BOLI staff will refer complainants to OSHA and ensure all necessary steps are taken on the intake and investigative levels for STAA. Referrals will be sent to the intake/support manager for referral processing. BOLI will review the investigations process and recommendations of OSHA to ensure a proper investigation and interviews are performed. Monthly reviews of open OSHA cases will be discussed in the monthly investigator’s meetings and used as a training tool for investigators.	Oregon OSHA took satisfactory corrective action and although this item has been mostly resolved as found in the FY 2013 case file review, two cases of the twenty discrimination cases reviewed did not contain documentation within the case file to show the evidence was fully tested. OSHA will continue to monitor this item by reclassifying the recommendation to an observation for this period.	Reclassified as Observation FY13-OB-1 for this period.

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Oregon OSHA Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to National Averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Oregon			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	4.94	(Negotiated fixed number for each State Plan) - 5 days serious; 30 days - other than serious	State Plan data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	5.24	(Negotiated fixed number for each State Plan) - 10	State Plan data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	98.72%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	2	0	State Plan data taken directly from SAMM report generated through IMIS.

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Oregon OSHA Comprehensive FAME Report

9a	Average number of violations per inspection with violations by violation type	1.15	SWR: 2.04	State Plan data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
9b	Average number of violations per inspection with violations by violation type	1.38	Other: .88	
11	Percent of total inspections in the public sector	4.43	(Negotiated fixed number for each State Plan) - 3.6%	State Plan data taken directly from SAMM report generated through IMIS.
13	Percent of 11c Investigations completed within 90 calendar days	77.5	100%	State Plan data taken directly from SAMM report generated through IMIS.
14	Percent of 11c complaints that are meritorious	12.5	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
16	Average number of calendar days to complete an 11c investigation	72.9	90 Days	State Plan data taken directly from SAMM report generated through IMIS.
17	Planned vs. actual inspections - safety/health	3221/973	(Negotiated fixed number for each State Plan) - 2570/850	State Plan data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
18a	Average current serious penalty - 1 -25 Workers	a. 281.20		State Plan data taken directly from SAMM report generated through IMIS; national data is not available.
18b	Average current serious penalty - 26-100 Workers	b. 388.11		
18c	Average current serious penalty - 101-250 Workers	c. 508.57		
18d	Average current serious penalty - 251+ Workers	d. 778.80		

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Oregon OSHA Comprehensive FAME Report

18e	Average current serious penalty - Total 1 - 250+ Workers	e. 348.99		
19	Percent of enforcement presence	5.07%	National Average 1.5%	Data is pulled and manually calculated based on FY 2013 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	Safety - 30.01	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plan Plans and OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	Health - 26.48	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	80%	100%	State Plan data is manually pulled directly from IMIS for FY 2013
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
23a	Average Lapse Time - Safety	31.90	43.4	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plan Plans and OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	39.78	57.05	

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Oregon OSHA Comprehensive FAME Report

24	Percent penalty retained	100	66	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State Plan data taken directly from SAMM report generated through IMIS.