

# State of Oregon

Department of Consumer and Business Services  
Oregon OSHA

Enhanced Federal Annual Monitoring and Evaluation Report  
of the Oregon Occupational Safety and Health Program

October 1, 2008, through September 30, 2009

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Region 10

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## Executive Summary

OSHA conducted a baseline special evaluation of Oregon's occupational safety and health agency, commonly known as OR-OSHA. The evaluation covered federal fiscal year 2009 and focused primarily on the effectiveness of the state's enforcement program. A special study of OR-OSHA's assessment of penalties for serious violations was included in the evaluation.

### Summary of the Report and Recommendations

Overall, OSHA found that the state is operating an enforcement program which directs resources to where they are most needed. OR-OSHA's revised scheduling system is designed to improve the state's ability to inspect workplaces with the most serious hazards and exposures. Nevertheless, OSHA identified a need for the state to further reduce its lapse time for issuing health citations. Also, OSHA's special study of penalty assessments found that OR-OSHA's gravity-based penalties for serious violations are significantly lower than OSHA's.

OSHA's recommendations are as follows:

1. Take remedial actions to reduce the average health lapse time. This is a repeat recommendation (p.10).
2. Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations (p.12).

OR-OSHA's performance with respect to other activities that are mandated by the Occupational Safety and Health Act and its implementing policies and regulations continued to be very good. For example, Oregon's performance in timely responding to complaints, imminent dangers and appeals was good and there were no denials of entry for which entry was not obtained.

During the fourth year of its five-year strategic plan covering the period of FY 2006 through FY 2010, Oregon-OSHA also made progress toward accomplishing its strategic goals.

With respect to its first strategic goal, the state promoted employer self-sufficiency as a means of reducing injuries and illnesses. OR-OSHA's recognition programs, as well as its partnerships with and education of employers and employees, have contributed substantially toward meeting this strategic goal.

The state's second goal is to reduce injuries, illnesses and fatalities by working with employers to reduce occupational hazards and exposures. One of the many ways to accomplish this is to direct enforcement resources to high hazard locations. In the area

of health inspections, OR-OSHA concentrated successfully on specific hazards such as combustible dusts and methylene chloride. Other areas of focus included process safety management, logging, construction and motor vehicle safety.

Oregon OSHA's third strategic goal is to continuously improve its delivery of services in order to maximize the agency's effectiveness. Part of this effort includes specific timeliness goals for activities ranging from discrimination investigations to responses to fatalities. The state also measures customer satisfaction through surveys. OR-OSHA consistently accomplishes the majority of its performance goals from year to year.

## Introduction

The state of Oregon, under an agreement with OSHA, operates an occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970. The Oregon state plan was submitted on April 28, 1972, and was certified on September 15, 1982, after all developmental steps as specified in the plan had been completed. In May of 2005, after a full opportunity for public review and comment and a comprehensive program evaluation, OSHA granted final approval to the Oregon program, with the exception of its temporary labor camp enforcement. This significant achievement confirmed that Oregon OSHA's program in actual operations is at least as effective as the federal program with respect to issues covered by that decision. For additional information, please refer to Federal Register, volume 70, number 91, pp. 24947-24955, May 12, 2005.

OSHA monitors state plans to ensure that they are at least as effective as the federal program, and reports annually on state performance. Beginning in 1997, OSHA used strategic plans to establish five-year goals and objectives, and required state plan states to do likewise. As part of this process, states were asked to develop performance plans that would ultimately lead to the achievement of their five-year goals, and to include such performance plans in annual 23(g) grant applications.

**Evaluation Methodology.** This Enhanced Federal Annual Monitoring and Evaluation (FAME) report is a Baseline Special Evaluation of the Oregon State Plan. It evaluates state performance of required (mandated) performance areas and related enforcement activities. It also evaluates state performance at achieving its own performance goals as outlined in its grant application. The report represents the combined efforts of OSHA's Seattle Regional and Portland Area Offices, and covers federal fiscal year 2009, which is the period from October 1, 2008, through September 30, 2009.

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

- State Activity Mandated Measures (SAMM) report data (Appendix B).
- State Information Report (SIR) data (also in Appendix B).
- Other statistical reports comparing state performance to federal performance.
- Quarterly monitoring meetings between OSHA and the state.
- A special study that examined Oregon OSHA's penalty assessments and adjustments during the same period.
- The State OSHA Annual Report (SOAR) prepared by Oregon OSHA.

The SOAR (Appendix C) contains the details of the state's achievements with respect to its annual goals. In addition, the views and opinions of stakeholders were taken into consideration in preparing this report. For example, input was received from employers and their legal representatives who deal with both Oregon OSHA and federal OSHA; from organizations representing labor, such as the Labor Education Resource Council,

the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers (Ironworkers Union), and Legal Aid Services of Oregon; from the University of Oregon Medical School in Portland; and, from interviews with Oregon OSHA employees.

**Background.** The Oregon Occupational Safety and Health Division (OR-OSHA) is part of the Oregon Department of Consumer and Business Services (DCBS). The administrator of Oregon OSHA is the designee for the Oregon state plan. The administrator's position is supported by a deputy administrator and a quality control manager. Oregon OSHA has field offices in Portland, Salem, Eugene, Medford, Pendleton and Bend.

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

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

In Oregon, the Bureau of Labor and Industries (BOLI) has statutory responsibility for accepting, processing and making determinations on complaints alleging occupational safety and health discrimination. Rules pertaining to the processing of these complaints are contained in Division 438 of Oregon's Administrative Rules. BOLI is reimbursed by Oregon OSHA for costs associated with conducting discrimination investigations.

For FY 2009, the state plan was staffed as follows: 68 compliance officers (45 safety and 23 health), 31 100% state-funded consultants (19 safety and 12 health), and four consultants (two safety and two health) that were funded under a 21(d) cooperative agreement. In addition, the state supplemented its 23(g) compliance staff with nine safety compliance officers and five health compliance officers that were funded with 100% state monies. The program covers approximately 1.76 million workers employed by 91,551 employers in 141,226 locations around the state.

In addition to the federal share, the Oregon OSHA program was funded by Oregon workers' compensation fund monies. The total level of FY 2009 funding for the program is indicated below and shows both the federal and state share for the 23(g) compliance program:

Program	Federal	State Match	100% State	Total
OR 23(g)	\$5,315,800	\$5,315,000	\$10,489,171	\$21,120,771

Oregon OSHA has jurisdiction over most workplaces in the state. Exceptions include workplaces covered by OSHA, such as private sector establishments on Native American reservations and tribal trust lands, including Native American-owned enterprises. OSHA also covers federal agencies; the U.S. Postal Service; contractors on U.S. military reservations; private employers and federal government employers at Crater Lake; and private sector maritime employment on or adjacent to navigable waters, including shipyard operations and marine terminals.

## **Status of the Recommendation from FY 2008 FAME Report**

There was one recommendation for improvement in the FY 2008 evaluation report.

Recommendation: Continue efforts to reduce the average health citation lapse time.

State's Response: The standard approach used by health enforcement managers for tracking health inspections includes the use of the Cases with Citations Pending Report (Federal IMIS) and the Compliance Officer Activity Log (COAL, State Oracle), to assure timely closure of health inspections, with particular focus on those open longer than 70 days. For FFY 2009, the average health citation lapse time was 66 days, down from 68 days for the prior fiscal year. The health enforcement management team remains committed to continue our improvement with this indicator.

Assessment of Effect of State Response: Oregon OSHA made progress in reducing its health lapse time from 68 calendar days to 66 calendar days. Nonetheless, additional improvement is needed for the state to be at or below the national average of 57 days.

## Major New Issues

**Furloughs.** Oregon OSHA is part of Oregon's Department of Consumer and Business Services (DCBS). For all personnel of DCBS there will be ten Friday closures during the 2010-2011 biennium. Depending on an employee's salary range, employees may need to take additional floating furlough days.

For the period of September 2009 through June 2010, the number of furlough days for the salary range of \$2,450 or below is five. For that same period, the number of furlough days for the salary range of \$2,451 through \$3,100 is six days during September 2009 through June 2010. Also for that same period, the number of furlough days for salaries of \$3,101 and above is seven days. This scheme will be repeated when OR-OSHA is operating from July 2010 through June 2011.

The impact of the furloughs in FY 2009 on the state's program is unclear. Nonetheless, Oregon OSHA does have procedures in place to ensure that at any given time safety and health coverage exists.

**Special Study.** This year, OSHA conducted a baseline special study to examine OR-OSHA's penalty assessments and adjustments. OSHA conducted case file reviews (CFRs) of inspections conducted by Oregon OSHA's Portland Field Office in FY 2009. The study compared penalties assessed by Oregon OSHA to those assessed by OSHA to determine whether there were significant differences and, if so, to identify contributing factors. The study resulted in a single recommendation as noted in the mandated activities section of this report.

## Assessment of OR-OSHA Performance in Fiscal Year 2009

### A. ASSESSMENT OF OR-OSHA PERFORMANCE IN MANDATED AND OTHER RELATED ACTIVITIES

This portion of the Enhanced FAME report discusses Oregon OSHA's performance in program areas mandated by OSHA. OR-OSHA has the necessary rules, policies and procedures in place to carry out those mandates in that it has adopted its response to the revised OSHA's Field Operations Manual (FOM), appropriate compliance program directives and administrative rules.

OSHA's assessment is based on information from grant assurances and statistical reports; reviews of case files; discussions between OSHA and OR-OSHA at quarterly meetings; and staff interviews. Recommendations for improvement are made, where appropriate.

#### 1. Enforcement

The following is an assessment of Oregon's performance under the mandated program areas. Monitoring data have come from grant assurances, statistical reports, case file reviews and interviews.

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

OR-OSHA has tiered criteria for measuring complaint responsiveness: imminent danger complaint inspections, initiate within 24 hours; serious complaint inspections, initiate within five working days; other-than-serious complaint inspections, initiate within 30 working days; phone/fax response, initiate within 10 working days. The state's goal is 95% timeliness for initiating responses to complaints. Performance goal 3.1 of the state's SOAR reports on the state's corresponding performance for each. OR-OSHA's timeliness rates are as follows:

- 100% (43/43) for imminent danger complaints.
- 92.4% (378/409) for serious complaints.
- 97% (221/229) for other-than-serious complaints.
- 96.9% (372/384) for phone/fax investigations.

The state exceeded its criteria for acceptable performance in three out of four categories.

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

OR-OSHA investigated 27 fatalities in FY 2009, responding timely (within one day) in 25 out of the 27 cases (92.6%). OR-OSHA's response to fatalities continues to be very good.

**Imminent Danger. Ensure imminent-danger situations are responded to promptly and appropriately.**

As with OSHA, it is OR-OSHA's policy to inspect imminent danger complaints and referrals within 24 hours of notification. During FY 2009, OR-OSHA met this timeliness requirement in 96 of 97 instances (99%). The state's performance in this area is satisfactory.

**Compliance Inspections. Ensure an effective program is in place allowing the conduct of unannounced enforcement inspections (both programmed<sup>1</sup> and unprogrammed<sup>2</sup>).**

OR-OSHA conducted 5,536 inspections during FY 2009, which exceeded its goal of 5,500 inspections and is a five percent increase over the number of inspections conducted in FY 2008. During this period, 4,616 safety inspections were conducted, of which 3,649 were programmed; 920 health inspections were conducted, of which 451 were programmed. OR-OSHA inspection activity remains very good.

**Employee and Union Involvement. Ensure employees are allowed to participate in inspection activities.**

OR-OSHA's policies and procedures require that employees be offered the opportunity to participate in inspections. OSHA reviewed 88 OR-OSHA case files and found that employees were involved in the interview process 100% in all of the cases reviewed, and employees participated in the walk-around 66% of the time (58/88). Historically, there has never been a problem in this category. Such was the case again this year.

**Citations. Ensure timely issuance of citations.**

The lapse time from opening conference to citation issuance for safety inspections in Oregon was 33 calendar days in FY 2009. This is better than the corresponding national average of 44 days and is a 7-day (11%) improvement over OR-OSHA's 37-day average in FY 2008.

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<sup>1</sup> Programmed inspections are scheduled based upon objective or neutral selection criteria. Examples include national and local emphasis programs which target inspections in high-hazard industries.

<sup>2</sup> Unprogrammed inspections are conducted in response to imminent dangers, fatalities, catastrophes, complaints and referrals.

For health inspections, OR-OSHA averaged 66 days from opening conference to citation issuance. This is nine days (16%) longer than the corresponding national average of 57 days, but also represents a two-day (3%) decrease in lapse time in comparison to the state's average health lapse time of 68 days in FY 2008. While OSHA commends OR-OSHA for reducing its health lapse time by three-percent, additional reduction is needed.

**Recommendation 1** – Take remedial actions to reduce the average health lapse time. This is a repeat recommendation.

**Penalties. Ensure appropriate penalties for serious violations.**

This year, OSHA conducted a baseline special study to examine OR-OSHA's penalty assessments and adjustments. OSHA conducted case file reviews (CFRs) of inspections conducted by Oregon OSHA's Portland Field Office in FY 2009. The study compared penalties assessed by Oregon OSHA to those assessed by OSHA to determine whether there were significant differences and, if so, to identify contributing factors.

The audit was performed during parts of December 2009 and January 2010. An opening conference was held with Oregon OSHA personnel prior to file reviews. At that time, the OSHA Portland Area Director explained the purpose of the study, the sampling process and the data that would be captured.

A blind, random sample of FY 2009 safety and health inspections was selected. OSHA examined the violations classified as serious for the following:

- gravity-based penalty.
- severity and probability assessment.
- adjusted penalty.
- types of adjustments allowed.

The reviewers then calculated the penalties OSHA would have assessed for each violation, based upon the state's severity and probability assessments. A template was developed and used for capturing information from each case file. OSHA audited 56 safety files and 32 health files for a total of 88 files.

**Review Questions and Findings:**

1. Are violations assigned the proper severity and probability, based on type of hazard, number of employees exposed, and frequency of exposure?

Overall, Oregon OSHA does a very good job of assessing severity and probability. OSHA found only four violations where OSHA differed in the state's assessment. This is quite an achievement, considering OSHA looked at 152 safety violations and 61 health violations (213 violations total).

2. Are penalty reductions applied appropriately?

Oregon OSHA rules and policies permit the following reductions:

- 10% for size of the employer (those with fewer than 50 employees).
- 35% if the employer's Days Away Restricted Time (DART) rate is below the state-wide average for its industry.
- 30% for violation(s) corrected during inspection.

OSHA offers reductions for size, with a range of company sizes receiving reductions up to 60%. Good faith reductions are up to 25%. If there is no history of serious violations by the employer within the most recent three years, a 10% reduction could be applied.

OSHA observed some inconsistencies in OR-OSHA's reductions. For example, on occasion, penalty reductions given for one violation were not given for another within the same case file. Also, a reduction for size given in one inspection was not given in another case, even though the employers had the same number of employees. There were two instances where the DART rate reduction was allowed for some violations, but not for others in the same file.

3. What is the range of gravity-based penalties for Oregon OSHA and how does this compare to OSHA?

Oregon OSHA's gravity-based penalties range from \$300 (for low probability, serious) to \$5,000 (for high gravity, death). In comparison, OSHA's gravity-based penalties range from \$1,500 (for low severity, lesser probability) to \$5,000 (for high severity, greater probability). Of the 213 violations audited, 113 (or 53%) were assessed at \$300 and 52 (24%) were assessed at \$500. In other words, 77% of the violations fell in the serious but low probability category.

4. What is the average gravity-based penalty, based on total and number of violations?

Oregon OSHA had a grand total of \$143,800 in gravity-based penalties for the serious violations contained in the case files that OSHA examined; the average penalty per violation was \$675. By comparison, OSHA's GBP, when applying federal criteria to the violations cited in the state's files, totaled \$494,900, with an average penalty of \$2,323 per violation. In other words, OSHA's average gravity-based penalty was about 3.4 times higher than Oregon OSHA's.

Differences were noted between safety and health violations. The state's total GBP was \$118,300 for safety and \$25,500 for health. The average penalty per violation for safety was \$778, and \$418 for health. In comparison, OSHA's total GBP was \$377,700 for safety and \$117,200 for health. OSHA's average penalty per violation for safety was \$2,485 and \$1,921 for health.

5. Based on total and number of violations, what is the average adjusted penalty?

After the state applied its penalty adjustments, the total dollar amount for penalties in the cases OSHA examined was \$92,690; the average penalty per violation was \$435. In comparison, OSHA's total penalties were \$130,150; the average penalty per violation was \$1,046, or 2.4 times greater than Oregon OSHA's. These figures illustrate how there is less disparity between the state's and OSHA's penalties, after penalty adjustment factors are applied. Where OR-OSHA's average gravity-based penalty was 3.4 times lower than OSHA's, its average adjusted penalty is 2.4 times lower. Nonetheless, 2.4 times is a rather significant difference.

The state's adjusted penalty amounts for safety and health were as follows: \$78,630 for safety; and \$14,060 for health. This translated into an average penalty per violation for safety of \$517; for health, \$230. OSHA's adjusted penalties were \$178,240 for safety and \$44,600 for health. The average adjusted penalty per violation for safety was \$1,173, and \$731 for health.

**Other Observations:**

- Oregon OSHA employs a multiplier effect in instances where an employer with multiple locations allows violations to be present in those locations. In such cases, OR-OSHA multiplies the number of instances by the penalty amount. That is a commendable policy.
- The documentation and organization in the case files were excellent.
- Oregon OSHA staff use a well designed form to calculate the DART rate and the statewide average.

**Conclusion:**

Most of the disparity between OR-OSHA's penalties and those of OSHA can be attributed to the state's low gravity-based penalties for low-probability serious hazards. After penalty adjustment factors were applied, the gap between state and federal penalties narrowed although the disparity remained significant.

**Recommendation 2** – Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations.

**Abatement. Ensure an effective mechanism exists for assurance of hazard abatement.**

OR-OSHA requires that serious hazards be abated, and that adequate verification of correction be included in the case file. OSHA found such verification of hazard abatement in the inspection files that were reviewed. Additionally, OR-OSHA has a statute that requires employers to abate cited hazards during the appeals process.

**Recordkeeping and Reporting. Ensure rules are in place requiring employer recordkeeping of workplace injuries and illness, and timely reporting of workplace fatalities and catastrophes.**

OR-OSHA's regulations for maintaining records of workplace injuries and illnesses and for reporting workplace fatalities and catastrophes are comparable to OSHA's.

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

OR-OSHA has always had very fast and effective mechanisms to obtain warrants when compliance officers are denied entry. There were no denials during FY 2009 where entry was not gained.

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

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

Employers have the right to discuss citations informally with Oregon OSHA (see Oregon Administrative Rules (OAR) 437-001-0255). Oregon's rules at OAR 438-085-0111 provide employers with the right to contest citations and penalties. Those rules also provide employees with the right to object to assigned abatement dates.

In Oregon, most employer citation appeals are resolved by informal settlement. In FY 2009, OR-OSHA held 551 informal settlement conferences which resulted in settlements in 465 (84%) of those cases. Opinions and Orders issued by hearing referees during this period resulted in Oregon OSHA's position being affirmed in 46 out of 49 instances.

Oregon's Court of Appeals dismissed one appeal as untimely in FY 2009. Oral arguments have been made in one other case at the Oregon Court of Appeals and the parties are awaiting a decision. Finally, the Oregon Supreme Court dismissed an employer's appeal of the lower court's decision on four related cases, thus affirming OR-OSHA's citations.

For informational purposes, OSHA issues a quarterly State Indicator Report (SIR) for each state program. In comparing OR-OSHA's FY 2009 performance to OSHA's in areas such as vacating or reclassifying violations and retention of penalties after appeal, Oregon's performance was better than OSHA's.

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

In FY 2009, a little over five percent of safety and health inspections (304 inspections out of a total of 5,534 inspections) involved public sector employers. This is consistent with OR-OSHA's past performance and is satisfactory.

**Information Management. *Use of IMIS reports for program management; accuracy and integrity of data; timeliness of data entry and updates.***

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

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

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

An overview of Oregon’s private industry TCIR<sup>3</sup> and DART<sup>4</sup> rates for calendar years 2004 through 2008, as well as for select industries, is provided in the table that follows. At the close of this monitoring period, 2008 was the most recent calendar year for which data were available. [Data source: [www.bls.gov](http://www.bls.gov)]

	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	% Change, 04-08	% Change, 06-08
<b>Private Industry</b>							
TCIR	5.8	5.4	5.3	5.1	4.6	-20.6%	-13.2%
DART	3.1	2.9	2.8	2.8	2.5	-19.4%	-10.7%
<b>Construction, NAICS<sup>5</sup> 23</b>							
TCIR	7.9	8.0	6.3	6.8	5.4	-31.6%	-14.3%
DART	3.7	4.2	2.9	3.4	3.0	-19%	+3.4%
<b>Manufacturing, NAICS 31-33</b>							
TCIR	7.4	7.5	7.0	6.5	5.7	-23%	-18.6%
DART	4.1	4.2	4.0	3.6	3.2	-22%	-20%
<b>State and local government</b>							
TCIR	5.4	5.7	4.8	5.4	4.8	-11.1%	0%
DART	2.4	2.7	2.8	2.6	2.3	-4.2%	-17.9%

**2. Standards, Variances, and Plan Changes**

***Standards Adoption and Variance Actions. Ensure new and revised standards are adopted within required time frames and variance applications are processed properly and decisions justified.***

**Standards.** OR-OSHA has acceptable procedures for promulgating standards that are at-least-as-effective-as those issued by OSHA. During this evaluation period, OSHA issued four final rules, three of which were required to be adopted by the states. The “Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee,” “Revising Standards Referenced in the Acetylene Standard,” and the

<sup>3</sup> TCIR is the total case incident rate, which represents the number of recordable injuries and illnesses per 100 full-time workers, calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses; EH = total hours worked by all employees during the calendar year; and 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

<sup>4</sup> 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, as described in footnote 4 above.

<sup>5</sup> NAICS is the North American Industry Classification System.

“Longshoring and Marine Terminals; Vertical Tandem Lifts” rules were required to be adopted by the states. Adoption of the “Updating OSHA Standards Based on National Consensus Standards: PPE” rule was optional. OR-OSHA adopted the “Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee” and “Longshoring and Marine Terminals; Vertical Tandem Lifts” standards within the required time frame. The state has notified OSHA that it intends to adopt the other two rules within the required time frames as well.

Variations. The state reported four variance actions during this evaluation period. Four permanent variances were revoked; three were no longer needed and one was revoked for failure to follow the terms of the variance. During the previous three years of reporting, OR-OSHA granted an average of one permanent variance a year. No temporary variances have been granted in the last three report years.

**Federal Program Changes (FPCs) and State-Initiated Changes (SICs). Ensure timely adoption of program changes.**

Federal: In FY 2009, OR-OSHA timely acknowledged all seven of the federal program changes that were issued by OSHA. OR-OSHA provided a timely response to one of the two federal program changes for which a final response was due in the fiscal year. The exception was Oregon OSHA’s final response to OSHA’s revised Field Operations Manual. The state requested and was granted an extension of time to incorporate state-initiated changes into the final response. The final response was submitted within the time frame projected in OR-OSHA’s extension request.

State-initiated: OR-OSHA timely submitted all 17 of its state-initiated changes this period. The quality of OR-OSHA’s state-initiated changes as well as its responses to and acknowledgement of federal program changes continues to be excellent.

### **3. Voluntary Compliance**

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

Consultation.

The majority of Oregon OSHA’s consultative visits are conducted by 100% state-funded consultants. These consultants provide consultation services to both public and private employers. No deficiencies with respect to 100% state funded consultants were identified in FY 2009.

Other Voluntary Compliance. A discussion of OR-OSHA’s performance with respect to outreach, education, the Voluntary Protection Programs (VPP), and the Safety and

Health Achievement Recognition Program (SHARP) appears later in this report. See *B. Assessment of OR-OSHA's Progress in Achieving its Annual Performance Goals; OR-OSHA Five-Year Strategic Goal 1.*

#### **4. Discrimination Program**

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

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

OSHA did not conduct an on-site audit of BOLI during FY 2009. An on-site audit is planned for FY 2010. In February 2009, OSHA gave a presentation to BOLI investigators, managers and OR-OSHA officials about the previous year's audit. The presentation included the process for auditing a state's safety and health discrimination program, FY 2008 audit results, and OSHA's policy for settling whistleblower complaints.

During FY 2009, the Oregon state legislature passed a law amending Section 2 of the Oregon Safe Employment Act by adding ORS Chapter 659A.885. The amendment relates to employee protections for whistleblowing and went into effect in January 2010. It expands the protections for an employee who "blows the whistle" if the employee "in good faith" reported any "evidence of a violation of a state or federal law, rule or regulation."

As a result of the amendment to the state law, OSHA held a conference call with state officials in July 2009. Participants included the OSHA supervisory investigator, an attorney from the Department of Labor's Regional Solicitor's Office, and managers and staff from both OR-OSHA, and BOLI. The purpose of the call was to consider what impact, if any, the amendment might have on federal whistleblower laws enforced by OSHA. BOLI indicated that there already was an existing state law (ORS 659A.203) which included protections for employees who reported a violation of a federal law. (Employees working for the U.S. Postal Service are exempt from this state law.)

Apparently, there have not been any concerns voiced by the public about BOLI investigating retaliation complaints under ORS 659A.203(b)<sup>6</sup>. Participants in the conference call agreed that if an Oregon employee contacts federal OSHA and asks to file a whistleblower complaint, federal OSHA would accept the complaint (if properly

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<sup>6</sup>ORS 659A.203(b) Prohibited conduct by public employer: (b) *Prohibit any employer from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information that the employee reasonably believes is evidence of: (A) a violation of any federal or state law, rule or regulation...; 2007.*

filed), and inform the employee of the amended Oregon law. Likewise, BOLI agreed to inform complainants of applicable whistleblower laws enforced by OSHA should an employee file a whistleblower complaint with BOLI. OR-OSHA will provide OSHA with a copy of the amended state law for inclusion into the state plan.

In fiscal year 2009, BOLI continued to improve its timely resolution of Section 11(c) complaints. For example, in FY 2008, there were 62 overage cases; in FY 2009, the number of overage cases dropped to 22.

The following table is a summary of discrimination activity during FY 2009:

<b>Disposition</b>	<b>Totals</b>
<b>Total Cases</b>	<b>123</b>
<b>Cases Completed</b>	<b>106</b>
<b>Cases Completed Timely</b>	<b>84</b>
<b>Overage Cases</b>	<b>22</b>
<b>Withdrawn</b>	<b>8</b>
<b>Dismissed</b>	<b>79</b>
<b>Merit</b>	<b>19</b>
<b>Settled</b>	<b>1</b>
<b>Settled Other</b>	<b>5</b>
<b>Litigated</b>	<b>0</b>
<b>Reinstatement</b>	<b>0</b>
<b>Investigators on Staff</b>	<b>15</b>

## **5. Complaints About State Program Administration (CASPA)**

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

No new CASPAs were filed in FY 2009. All CASPAs from prior evaluation periods have been closed.

## **6. Other Program Elements**

***Personnel-Benchmark Positions Authorized and Filled. Track the state's authorized field safety and health enforcement positions at or above benchmark levels and actual safety and health enforcement positions filled.***

Oregon's safety enforcement benchmark is 47 with 54 positions identified and 49 positions filled. For health enforcement, both the benchmark and positions identified are 28 of which 25 were filled.

**Laboratory. Accredited and participates in quality assurance program.**

OR-OSHA operates its own laboratory to analyze industrial hygiene samples. The laboratory is accredited by the American Industrial Hygiene Association and is a participant in the Proficiency Analytical Testing (PAT) Program. The laboratory was rated proficient for all contaminant categories of the PAT program for Rounds 175 through 178 covering this past year.

**Summary Assessment of OR-OSHA Performance of Mandated and Related Activities**

Oregon's performance with respect to activities that are mandated by the Occupational Safety and Health Act or its implementing policies and regulations continues to be very good. Nonetheless, OSHA recommends that the state reduce its average health lapse time and increase its gravity-based penalty amounts.

## **B. FISCAL YEAR 2009 ASSESSMENT OF OR-OSHA PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS**

**Introduction.** OR-OSHA's five-year strategic plan covers the period of FY 2006 through FY 2010. The plan includes performance goals which were approved by OSHA. OR-OSHA developed and submitted its FY 2009 performance goals in support of its strategic plan as part of its application for federal funds.

The following is OSHA's assessment of the state's performance against each of its FY 2009 performance goals and the extent to which the state is making progress in achieving its FY 2006-2010 strategic goals. Oregon's more detailed report on its accomplishments with respect to its 2009 Annual Performance Plan goals is attached as Appendix C, the State OSHA Annual Report (SOAR).

**Five Year Strategic Goal 1: Reduce injuries and illnesses by promoting employer self-sufficiency.**

### **Performance Goal 1-1: Recognition Programs**

Increase the number of new SHARP participants by 25 and the number of new VPP participants by four.

**FY 2009 Performance Goal** – Continue to encourage employers to attain VPP status, and certify five new SHARP employers and one new VPP site.

**Results** – In FY 2009, nineteen employers received SHARP certification and seven employers attained VPP status. That addition increased the total of SHARP companies in Oregon to 155. As of September 30, 2009, another 52 companies were working toward SHARP. The seven new VPP sites increased the total number of VPP sites to 23.

**OSHA's Assessment** – The goal was exceeded.

### **Performance Goal 1-2: Education**

Educate employers and employees regarding the value of occupational safety and health by increasing materials available for hard-to-reach audiences, providing workshops and conferences, and by working with safety committees on 85% of consultations with employers who have a safety committee.

**FY 2009 Performance Goal 1-2a** – Increase outreach opportunities to non-English speaking workers by marketing existing Spanish-language workshops and continuing to review publications for translation where the need is high.

**Results** – A total of 63 four-hour workshops were presented in Spanish during the fiscal year. A total of 1,027 attendees participated in these workshops. Five publications were translated in FY 2009. These were:

- *Youth Worker Brochure.*
- *What is PESO?*
- *OSHA 300 Injury Log.*
- *Forestry Poster.*
- *How to File a Complaint (online only).*

**OSHA's Assessment** – The goal was met.

**FY 2009 Performance Goal 1-2b** – Educate employers and employees regarding the value of occupational safety and health by: (1) providing conferences and workshops, including safety and the small business, and (2) working with safety committees on 85% of consultations with employers who have an active safety committee.

**Results** – The following conferences were held during FY 2009: Southern Oregon Conference; Western Pulp & Paper Workers Conference; Oregon Governor's Occupational Safety & Health Conference (GOSH); Mid-Oregon Construction Safety Summit; Blue Mountain Conference; and Central Oregon Conference. A total of 37 sessions of Safety for the Small Business (SFSB) workshops were held. During FY 2009, 87.1% of consultations included the consultants working with the establishment safety committees to improve committee effectiveness.

**OSHA's Assessment** – The goal was met.

### **Performance Goal 1-3: Partnerships**

Promote occupational safety and health by maintaining existing partnerships and establishing five new partnerships, each with specific safety and/or health awareness improvement objectives.

**FY 2009 Performance Goal** – Enhance effectiveness of partnerships in advising OR-OSHA management on focus areas. Use existing partnerships to provide more specific focus to OR-OSHA activities.

**Results** – OR-OSHA made extensive use of its relationships with partners during FY 2009. A detailed list of partners and their activities can be found on pages 8-17 of the attached Oregon State OSHA Annual Report (SOAR).

**OSHA's Assessment** – The goal was met.

**OSHA's Assessment of State Progress toward Accomplishing Strategic Goal 1:**  
*Reduce injuries and illnesses by promoting employer self-sufficiency.*

Overall, Oregon OSHA is making excellent progress towards accomplishing its first strategic goal to reduce injuries and illnesses by promoting employer self-sufficiency. Oregon OSHA met or exceeded each annual performance goal. In fact, over the first four years of its current five-year plan, Oregon OSHA has either met or exceeded most annual performance goals designed to accomplish this first strategic goal.

**Five-Year Strategic Goal 2: Reduce injuries, illnesses and fatalities by working with employers to reduce occupational hazards and exposures.**

**Performance Goal 2-1: Safety & Health Hazards**

Reduce the injury and illness DART rate by 10% by 2010 through focusing on targeted safety and health hazards.

**FY 2009 Performance Goal 2-1a** – Health enforcement will continue emphasis programs in the pesticide, lead in construction, silica, process safety management, diisocyanate and methylene chloride. A new emphasis program for combustible dusts is being introduced. Emphasis inspection targets are: pesticides, 60; lead in construction, 30; silica, 50; diisocyanate, 30; process safety management, 10; methylene chloride, 10; combustible dusts, 20. The total number of emphasis program inspections was 210.

**Results** – OR-OSHA's pesticide inspection goal was 60 inspections. By conducting 84 pesticide inspections, Oregon exceeded that goal by 24. OR-OSHA exceeded its inspection goals for lead in construction by 10, for silica by 16, for process safety management by 8, and for diisocyanates by 30. Oregon conducted 20 combustible dust inspections thus meeting that goal. Because OR-OSHA exhausted its list of methylene chloride emphasis targets after 8 inspections, the program was discontinued since there was no opportunity to meet the projected 10 inspections.

**OSHA's Assessment** – The goal was met. OR-OSHA is commended for its health enforcement activities. In conducting 296 emphasis inspections, OR-OSHA exceeded its goal of 210 such inspections.

**FY 2009 Performance Goal 2-1b** – High hazard industries with the highest number of claims will be scheduled for inspection. Conduct at least 2,700 inspections in high hazard industries.

**Results** – OR-OSHA conducted five percent more inspections in FY 2009 than it did in FY 2008 (5,536 in FY 2009 versus 5,248 in FY 2008). In so doing, OR-OSHA exceeded its FY 2009 goal of 5,500 inspections. OR-OSHA fell short of its goal for inspections in high hazard industries (2,285 conducted, which was 415 fewer than planned).

Although OR-OSHA fell short of its goal for scheduling inspections in high hazard industries, that shortfall is not a concern, especially since the state exceeded its overall inspection goal for FY 2009.

**OSHA's Assessment** – The goal was partially met.

**Performance Goal 2-2: Fatalities**

Reduce the five year average number of workplace fatalities by eight percent through scheduled inspections and interventions at work sites in targeted industries.

**FY 2009 Performance Goal** – Conduct 1,800 inspections in logging and construction. Address motor vehicle safety for all inspections and consultations where employees use motor vehicles.

**Results** – OR-OSHA fell six percent (110 inspections) short of this goal. Motor vehicle safety inspections were addressed 1,545 times in FY 2009. The number of work related fatalities rose from 35 in CY 2007 to 45 in CY 2008. A significant contributor to the increase was a single helicopter crash that killed eight workers.

**OSHA's Assessment** – The goal was partially met.

**Performance Goal 2-3: Ergonomics**

Develop and implement a plan, including outreach, education and identification of high-risk industries for educating employers regarding musculo-skeletal disorders, methods for reducing hazards, and the value of addressing ergonomic issues in the workplace.

**FY 2009 Performance Goal** – This year's focus for ergonomics will be on the health care industry. A particular initiative this year is a model Safe Patient Handling (SPH) program. A model process will be defined based on our experience with several pilot sites selected from Long Term Care (LTC) and rural hospital submissions. The "Facilities of Choice" will be a new certification program certifying LTC facilities meeting SPH requirements.

**Results** – Dallas Retirement Village and Good Shepherd Healthcare System in Hermiston, Oregon, were chosen to receive grant money to implement a Safe Patient Handling Program. Patient satisfaction and injury data are now being collected at both facilities. A description of the SPH model for the health care industry is available on the Oregon OSHA website.

**OSHA's Assessment** – The goal was met.

**OSHA's Assessment of State Progress toward Accomplishing Strategic Goal 2:**  
*Reduce injuries, illnesses and fatalities by working with employers to reduce occupational hazards and exposures.*

Oregon OSHA was successful in exceeding its goal for total number of health emphasis programs inspections. Since the state inspected all the work sites in Oregon where methylene chloride was used, it met its methylene chloride emphasis goal for all intents and purposes.

Oregon OSHA exceeded its FY 2009 safety and health inspection goal by five percent. OR-OSHA did not meet its specific numerical goal for inspections in high hazard industries with the highest number of claims. That is not a concern in light of the successes in other areas of Oregon's enforcement performance.

Overall, Oregon is making satisfactory progress towards accomplishing its second strategic goal of reducing injuries and illnesses by working with employers to reduce occupational hazards and exposures in the workplace.

**Five-Year Strategic Goal 3: Maximize OR-OSHA effectiveness by striving for continuous improvement in all areas of service delivery.**

**Performance Goal 3-1: Timeliness**

Respond timely to 95% of all fatalities and hazard complaints, 80% of alleged discrimination complaints, 90% of all complainants, and provide timely information of OR-OSHA actions to family members 100% of the time.

**FY 2009 Performance Goal** – Investigations and inspections will be initiated timely in 95% of all reported fatalities and hazard complaints; complaint responses will be timely in 90% of all cases; family members will be notified 100% timely, and discrimination cases will be processed 80% timely.

**Results** – All but one of the above measures were met. The exception was that OR-OSHA responded to 25 out of 27 fatalities (93%) within 24 hours of notification. The two untimely responses were due to a criminal homicide investigation that delayed OR-OSHA's opening conferences. In light of that circumstance, OSHA concludes that the state essentially met its goal of providing timely response to fatalities.

**OSHA's Assessment** – This goal was met.

**Performance Goal 3-2: Customer Service**

Achieve and maintain the percent of positive responses to OR-OSHA customer surveys at 90% or above.

**FY 2009 Performance Goal** – Achieve and maintain customer satisfaction in the delivery of OR-OSHA programs and services as evidenced by a survey rating of 90% or above on each program survey.

**Results** – OR-OSHA conducted customer surveys in the following areas: conferences; public education; audio-visual library; consultation; enforcement; appeals, and laboratory services. No survey results fell below the 90% satisfaction level.

**OSHA's Assessment** – The goal was met.

**Performance Goal 3-3: Staff Development**

Eighty-five percent of safety and health staff will receive professional development annually through a variety of methods.

**FY 2009 Performance Goal** – Develop and deliver a two day all staff professional development conference and complete basic training for new staff.

**Results** – Due to budgetary constraints, the FY 2009 all staff conference was cancelled.

OR-OSHA's work to revise its current curriculums for basic training is an ongoing project. For 2009, OR-OSHA completed the following curriculums: Safety Committees, OSH Act and Standards, Recordkeeping, Electrical Safety, Accident Investigation, Interviewing, and Vehicle Safety.

**OSHA's Assessment** – The goal was partially met.

**OSHA's Assessment of State Progress toward Accomplishing Strategic Goal 3:**

*Maximize OR-OSHA effectiveness by striving for continuous improvement in all areas of service delivery.*

Oregon OSHA continues to report excellent results in its customer satisfaction surveys. Overall, Oregon OSHA is making very good progress towards accomplishing its third strategic goal. Budgetary constraints precluded Oregon OSHA from developing a planned two day all staff conference. Despite the impact budgetary constraints had on that particular training projection, it is clear that OR-OSHA is making satisfactory progress toward meeting strategic goal number 3.

## APPENDIX A

### **FY 2009 Findings and Recommendations**

FY 2009 Oregon State Plan (OR-OSHA) Enhanced FAME Report  
Prepared by Region X

### Findings and Recommendations

[ ] = added text

Findings	Recommendations
<p>1 For health inspections, OR-OSHA averaged 66 days from opening conference to citation issuance. This is nine days (16%) longer than the corresponding national average of 57 days, but also represents a two-day (3%) decrease in lapse time in comparison to the state's average health lapse time of 68 days in FY 2008. While OSHA commends OR-OSHA for reducing its health lapse time by three percent, additional reduction is needed.</p>	<p>Take remedial actions to reduce the average health lapse time. This is a repeat recommendation (p.10).</p>
<p>2 OSHA's average gravity-based penalty [GBP] was about 3.4 times higher than Oregon OSHA's [\$2,323 vs. \$675]. Most of the disparity between OR-OSHA's penalties and those of OSHA can be attributed to the state's low gravity-based penalties for low-probability serious hazards. After penalty adjustment factors were applied, the gap between state and federal penalties narrowed though the disparity remained significant [\$1,046 vs. \$435, 2.4 times greater].</p>	<p>Increase gravity-based penalty amounts significantly in order to encourage employer voluntary compliance and to serve as a strong deterrent. Make policy adjustments to raise penalty averages for serious violations (p.12).</p>

## APPENDIX B

### **FY 2009 Enforcement Activity**

**Oregon State Plan (OR-OSHA)  
FY 2009 Enforcement Activity**

	Oregon	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>5,539</b>	<b>61,016</b>	<b>39,004</b>
Safety	4,617	48,002	33,221
% Safety	83%	79%	85%
Health	922	13,014	5,783
% Health	17%	21%	15%
Construction	1,704	26,103	23,935
% Construction	31%	43%	61%
Public Sector	304	7,749	N/A
% Public Sector	5%	13%	N/A
Programmed	4,102	39,538	24,316
% Programmed	74%	65%	62%
Complaint	698	8,573	6,661
% Complaint	13%	14%	17%
Accident	181	3,098	836
Insp w/ Viols Cited	4,101	37,978	27,165
% Insp w/ Viols Cited (NIC)	74%	62%	70%
% NIC w/ Serious Violations	63%	62%	87%
<b>Total Violations</b>	<b>11,421</b>	<b>129,363</b>	<b>87,663</b>
Serious	4,919	55,309	67,668
% Serious	43%	43%	77%
Willful	-	171	401
Repeat	165	2,040	2,762
Serious/Willful/Repeat	5,084	57,520	70,831
% S/W/R	46%	44%	81%
Failure to Abate	37	494	207
Other than Serious	6,300	71,336	16,615
% Other	55%	55%	19%
Avg # Violations/ Initial Inspection	2.7	3.3	3.1
<b>Total Penalties</b>	<b>\$ 2,155,187</b>	<b>\$ 60,556,670</b>	<b>\$ 96,254,766</b>
Avg Current Penalty / Serious Violation	\$ 330.60	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 330.00	\$ 934.70	\$ 977.50
% Penalty Reduced	90.0%	51.9%	43.7%
<b>% Insp w/ Contested Viols</b>	<b>13.2%</b>	<b>13.0%</b>	<b>7.0%</b>
Avg Case Hrs/Insp- Safety	12.6	15.7	17.7
Avg Case Hrs/Insp- Health	29	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	23.9	31.6	34.3
Lapse Days Insp to Citation Issued- Health	48.6	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	58	2,010	2,234

Source:

*DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009. Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09*

APPENDIX C

**Oregon-OSHA's FY 2009 State OSHA Annual Report (SOAR)**

(available separately)

## APPENDIX D

### **State Performance Data**

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

OCT 23, 2009  
 PAGE 1 OF 2

State: OREGON

RID: 1054100

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	5492 7.97 689	119 8.50 14	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	3526 9.11 387	228 14.25 16	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	675 96.57 699	28 100.00 28	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	86 98.85 87	2 100.00 2	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	3481 93.65 3717	9 12.16 74	100%
Public	155 95.68 162	1 100.00 1	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	116983 33.34 3508	7454 39.43 189	2489573 43.8 56880
Health	43968 66.41 662	2854 69.60 41	692926 57.4 12071

\*FY09OR

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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

OCT 23, 2009  
 PAGE 2 OF 2

State: OREGON

RID: 1054100

MEASURE	From: 10/01/2008		CURRENT		REFERENCE/STANDARD
	To: 09/30/2009		FY-TO-DATE		
8. Percent of Programmed Inspections with S/W/R Violations					
	1848		87	92328	
Safety	51.15		54.72	58.6	National Data (3 years)
	3613		159	157566	
	221		9	11007	
Health	50.46		42.86	51.2	National Data (3 years)
	438		21	21510	
9. Average Violations per Inspection with Vioations					
	5200		305	420601	
S/W/R	1.24		1.32	2.1	National Data (3 years)
	4169		230	201241	
	6300		321	243346	
Other	1.51		1.39	1.2	National Data (3 years)
	4169		230	201241	
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1745795		98034	492362261	
	364.23		342.77	1335.2	National Data (3 years)
	4793		286	368756	
11. Percent of Total Inspections in Public Sector	302		2	759	
	5.47		2.00	4.8	Data for this State (3 years)
	5517		100	15829	
12. Average lapse time from receipt of Contest to first level decision	41192		994	4382038	
	98.78		76.46	246.1	National Data (3 years)
	417		13	17807	
13. Percent of llc Investigations Completed within 90 days	79		0	100%	
	78.22				
	101		0		
14. Percent of llc Complaints that are Meritorious	19		0	1466	
	18.81			20.8	National Data (3 years)
	101		0	7052	
15. Percent of Meritorious llc Complaints that are Settled	6		0	1263	
	31.58			86.2	National Data (3 years)
	19		0	1466	

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	6212	842	11892	1757	21855	3446	42572	6678
	67.3	76.8	67.5	78.4	66.8	79.0	65.2	78.7
	9230	1097	17617	2242	32713	4360	65304	8488
B. HEALTH	508	118	1004	234	1963	420	3678	802
	34.5	50.2	34.1	50.2	35.3	48.7	34.0	45.4
	1471	235	2946	466	5559	863	10829	1765
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4645	695	8997	1410	16745	2774	32019	5420
	67.7	64.6	65.9	66.9	65.8	69.4	65.9	70.4
	6860	1076	13654	2107	25453	3999	48603	7694
B. HEALTH	368	105	746	192	1486	325	2884	628
	52.2	51.2	50.8	51.1	51.7	52.9	55.6	57.0
	705	205	1468	376	2873	614	5187	1101
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	15510	924	29490	1953	56535	3916	111717	7353
	81.8	41.8	81.1	43.4	80.0	45.0	79.4	44.1
	18952	2211	36371	4502	70692	8707	140747	16690
B. HEALTH	2802	240	5343	410	10035	780	19393	1439
	70.1	35.3	69.9	34.7	69.7	36.9	67.7	34.7
	4000	679	7645	1181	14395	2111	28659	4143
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2938	64	5782	101	12109	196	25516	342
	15.9	6.3	16.2	4.7	17.6	4.5	18.7	4.2
	18492	1020	35597	2141	68607	4315	136812	8097
B. HEALTH PERCENT >60 DAYS	256	28	577	44	1452	85	3111	152
	6.3	6.4	7.5	5.8	10.0	6.1	10.9	6.3
	4078	437	7720	760	14561	1399	28488	2397

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	280876	18130	628826	46500	1303857	123860	2663433	312290
OTHER--THAN--SERIOUS	923.9	725.2	998.1	603.9	1030.7	555.4	1049.4	500.5
	304	25	630	77	1265	223	2538	624
B. HEALTH								
	83100	815	142950	4815	294225	10490	654830	24595
OTHER--THAN--SERIOUS	799.0	135.8	803.1	300.9	855.3	327.8	867.3	256.2
	104	6	178	16	344	32	755	96
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10459	1404	19991	2766	37160	5227	73338	10034
	6.1	7.4	5.7	7.0	5.5	6.8	5.3	6.9
	1722	190	3533	396	6727	770	13759	1460
B. HEALTH								
	1764	327	3581	637	6701	1140	12705	2191
	1.8	3.3	1.7	3.1	1.6	2.8	1.5	2.7
	994	99	2112	204	4125	405	8503	805
7. VIOLATIONS VACATED %								
	1278	0	2561	0	5139	0	10097	0
	4.9	.0	5.0	.0	5.1	.0	5.0	.0
	26336	2837	51387	5456	100187	10234	201495	19346
8. VIOLATIONS RECLASSIFIED %								
	1130	0	2440	0	4798	1	9539	1
	4.3	.0	4.7	.0	4.8	.0	4.7	.0
	26336	2837	51387	5456	100187	10234	201495	19346
9. PENALTY RETENTION %								
	13523966	233575	27149245	753855	54889469	1255354	111585445	2438556
	63.4	100.0	62.9	100.0	63.2	100.0	62.9	100.0
	21315664	233575	43130384	753855	86796382	1255354	177346966	2438556

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U. S. D E P A R T M E N T O F L A B O R  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	842	50	1757	119	3446	207	6678	356
	76.8	78.1	78.4	84.4	79.0	83.1	78.7	81.7
	1097	64	2242	141	4360	249	8488	436
B. HEALTH	118	7	234	13	420	32	802	56
	50.2	58.3	50.2	54.2	48.7	58.2	45.4	56.6
	235	12	466	24	863	55	1765	99
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	924	34	1953	80	3916	171	7353	273
	41.8	44.7	43.4	36.7	45.0	39.3	44.1	36.8
	2211	76	4502	218	8707	435	16690	741
B. HEALTH	240	13	410	38	780	57	1439	91
	35.3	41.9	34.7	44.7	36.9	44.5	34.7	43.8
	679	31	1181	85	2111	128	4143	208

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = OREGON

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	446 22.8 1956	40 8.5 469	875 24.2 3609	90 8.0 1123	1756 23.4 7506	138 7.6 1811	3749 24.1 15528	320 8.6 3704
2. VIOLATIONS RECLASSIFIED %	282 14.4 1956	12 2.6 469	563 15.6 3609	31 2.8 1123	1133 15.1 7506	56 3.1 1811	2274 14.6 15528	91 2.5 3704
3. PENALTY RETENTION %	2319074 54.1 4286744	144825 75.3 192450	4080249 51.5 7922126	283610 71.2 398400	10792902 58.5 18457526	479450 71.5 670405	20045599 55.9 35865959	1056830 71.0 1488555