

# **FY 2015 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report**

State of Washington  
Division of Occupational Safety and Health (DOSH)



**Evaluation Period: October 1, 2014 – September 30, 2015**

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## **I. Executive Summary**

### **A. State Plan Activities, Trends, and Progress**

The purpose of this report is to assess the performance of Washington's Division of Occupational Safety and Health (DOSH) during Fiscal Year (FY) 2015 with regard to activities mandated by OSHA, and to gauge the State Plan's progress toward resolving recommendations from the FY 2014 Federal Annual Monitoring Evaluation (FAME) Report. As part of this comprehensive evaluation, OSHA conducted a review of a sample of DOSH's enforcement inspection files and whistleblower case files to verify corrective actions for the FY 2014 recommendations. This report also assesses the State Plan's achievement of its annual performance plan goals as well as its progress toward the goals in its five-year strategic plan.

DOSH'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 detail below. The State Plan continues to perform at a high level overall, and program management continues to be committed to resolving identified issues.

In this report, OSHA has made two findings relating to the enforcement program, and two observations – one pertaining to enforcement and one pertaining to DOSH's high staff turnover rate. DOSH made satisfactory progress to correct the one finding made by OSHA in the FY 2014 FAME Report.

DOSH met the majority of its FY 2015 annual performance goals. Where the need for program improvement was identified, recommendations are made herein for corrective actions. Details are further discussed in the body of the report.

### **B. State Plan Introduction**

The State of Washington, under an agreement with OSHA, operates an occupational safety and health program through its Department of Labor and Industries, Division of Occupational Safety and Health (DOSH). The Washington Industrial Safety and Health Act (WISHA) was established in accordance with Section 18 of the Occupational Safety and Health Act of 1970. The State Plan's enabling legislation, the WISHA, took effect in 1973, and the Secretary of Labor certified in 1982 that the State Plan had completed all of the required developmental steps in the plan.

The director of the Washington Department of Labor and Industries is appointed by the governor, and serves as the official State Plan designee. An assistant director is appointed by the director and is in charge of DOSH; the assistant director directs central office and regional operations. The current director is Joel Sacks; the assistant director is Anne Soiza.

DOSH establishes policy, provides technical guidance, writes standards, develops internal and external training, monitors and evaluates programs, conducts inspections, and provides consultation services. All on-site consultation (both public and private) in the state of Washington is provided through 23(g) or 100% state funding. There is no 21(d) consultation component.

DOSH exercises jurisdiction over state and local government workplaces and private sector employers not covered by OSHA. OSHA's inspection authority is limited to private employers at national parks and military installations, maritime activities on the navigable waters, and federal government employers. OSHA also covers establishments on Indian lands that are tribally-owned, as well as employers who are enrolled tribal members working on reservations or on trust lands.

Over the years, the State of Washington has adopted a number of safety and health standards which differ from their federal counterparts. Examples include Washington's rules for crane safety, respiratory protection, aerial lifts, and agriculture. DOSH has also adopted a number of state-initiated rules for which there are no federal counterparts, including requirements for written safety and health programs, safety committees, and heat-related illnesses.

During FY 2015, the State Plan was staffed with 383 positions, which included 116 compliance officers and 44 consultants. The program covers approximately 2.93 million workers employed in over 240,640 establishments statewide. Washington's federally-approved state OSHA program was funded at about \$42.75 million, \$7.15 million of which were federal funds. There were 172 DOSH positions funded entirely by the state.

### **C. Data and Methodology**

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

- Analysis and monitoring by OSHA of the FY 2014 DOSH Corrective Action Plan which provides the State Plan's status and response to the FY 2014 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
- FY 2015 State OSHA Annual Report (SOAR) prepared by Washington, which contains details of the State Plan's achievements with respect to its annual goals
- FY 2015 Mandated Activities Report for Consultation (MARC)
- Grant Assurances
- Quarterly monitoring meetings between OSHA and the State Plan
- Case file reviews of inspection and whistleblower case files

OSHA has established a two-year cycle for the FAME process. This is the comprehensive year, and as such, OSHA performed on-site case file reviews. OSHA conducted on-site reviews of the state's enforcement and whistleblower programs to assess the quality of documentation, violation classification, penalty calculations, abatement verification, settlements and other factors.

From January 21-22, 2016, OSHA conducted a whistleblower case file review of 17 case files

which were completed during FY 2015. All cases reviewed were randomly selected from a list compiled from Integrated Management Information System (IMIS) data of all DOSH closed cases between October 1, 2014, through September 30, 2015.

A comprehensive case file review of DOSH inspections was conducted during a three-day period from October 26-28, 2015. During the case file review process, interviews were conducted with DOSH senior compliance staff. Both case file reviews were conducted on-site at DOSH's Tumwater, Washington, headquarters.

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 a minimum of 100 case files and distributed as follows: 12 fatality case files, 100 programmed inspection case files and complaint inspection case files. All 112 case files were reviewed. The State Plan monitoring Access database for case file review was used to evaluate the case files.

The fatality case files were identified using the IMIS scan report for fatalities for the period of October 1, 2014, through September 30, 2015. Only closed cases were included on the review list.

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 Washington state offices, and the inspection date period of October 1, 2014, through September 30, 2015. After transferring this data to an excel spreadsheet, it was further refined by arranging the cases chronically based on open date, removing all fatalities and assigning each one a numerical value. To accomplish a random selection of case files the total number of files was entered into a random numbers generator and 100 numbers were selected. Those files which had a numerical value that matched the numbers created by the random number generator were selected for review. A check of the IMIS database ensured each file selected for entry into the Access database was of a closed file. If an inspection file was open, the next file on the list was selected for review. The IMIS database was used for review because the transition to OIS was not completed until the end of FY 2015.

DOSH transitioned from entering data into the NCR/IMIS system to entering data into the OSHA Information System (OIS) during the second quarter of FY 2015. A program was developed by the State Plan, working in collaboration with the OIS development team, which allows DOSH's in-house database to transfer data into OIS. The data presented here are based on reports from both the IMIS and OIS systems.

#### **D. Findings and Observations**

OSHA made one finding for program improvement related to a fatality inspection in the FY 2014 FAME Report. The State Plan made satisfactory progress to complete corrective action by conducting training related to corporations, sole-proprietorships, and partnerships, and updating their compliance manual which will be published in the spring of 2016. OSHA

considers DOSH's actions adequate to resolve this issue. Appendix C describes the status of this finding in more detail.

The FY 2015 FAME Report includes two findings relating to the enforcement program, one of which was converted from an FY 2014 observation.

There were four observations included in the FY 2014 FAME Report. As mentioned above, one observation included in the FY 2014 FAME was carried over for continued monitoring in this report as a finding, two observations have been closed, and one is subject to continued monitoring. There is one new observation for the FY 2015 FAME period.

## **II. Major New Issues**

The State Plan continues to have a problem with a high turnover rate of compliance officers and consultants. The rate of turnover directly contributes to the State Plan's struggle to meet both its enforcement and consultation goals. In 2012 the State Plan chose to conduct exit interviews of employees leaving the program to better understand the increase in turnover rate. Sixty-six surveys were completed by both compliance and consultation staff. Of those 66, 62% (41/66) reported salary disparity as the primary factor in their decision to leave. DOSH conducted a study during FY 2015 and found that highest salary that they are able pay their compliance officers, consultants, and managers is in the 25% percentile or less of equivalent salaries for safety and health professionals in the State of Washington.

The State Plan has been working on efforts to address the issue of pay disparity. A Lean Problem Solving analysis was undertaken to help clarify and break the problem down into its individual components so they could more easily be addressed. Steps identified and taken include: working with state human resources personnel to evaluate the Washington State Salary Survey and update the safety and health category specifications; educating partners (business, labor, legislators, etc.) on pay disparity and the effects of not being able to retain experienced safety and health professionals; seeking approval for assignment pay of at least a 10% increase for the Certified Industrial Hygienist/Certified Safety Professional certifications, increasing pay for high-cost geographic locations; and increasing pay for hazardous assignments. The next steps include working with the legislature during the next session to codify an increase in pay. This is the subject of a continued observation, FY 2015-OB-01, and OSHA will continue to closely monitor developments during the next fiscal year.

During the FY 2013 evaluation period, a review of the State Plan's Fall Protection Standard in Residential Construction was completed and serious concerns were identified. Discussions were held with both the State Plan and the National Office. A letter was sent on October 2, 2015 requesting that the State Plan provide information on the effectiveness of their standard. Their response was received on October 19, 2015 indicating that they would review OSHA's concerns and that a comparative analysis would be performed. An evaluation of their progress indicated that they have solicited stakeholder comments and are currently evaluating their options. This item is under continued review as Finding FY 2015-02.

### III. Assessment of State Plan Performance

#### A. STATE PLAN ADMINISTRATION

The State of Washington continues to maintain a well-developed internal training program that is as effective as OSHA's. Both compliance and consultation staff are given training opportunities to increase their knowledge and keep them current in standards, guidelines and policies. DOSH has also taken the lead on supporting OSHA Training Institute courses at the Hazardous Materials Management and Emergency Response (HAMMER) Training Facility in Richland, Washington, by committing staff time to allow attendance at scheduled offerings.

Washington's State Plan was funded at about \$42.75 million, \$7.15 million of which were federal funds. There were 172 DOSH positions funded entirely by the state.

At the end of the year, the State Plan's on-board staffing was at 82% of the authorized compliance positions and at 93% of consultation positions. The details are as follows:

- The DOSH enforcement program has 86 safety enforcement positions authorized, of which 69 are filled, and 36 health enforcement positions authorized, of which 31 are filled.
- The DOSH consultation program has 27 safety consultant positions authorized, of which 25 are filled, and 17 health consultant positions authorized, of which 16 are filled.

As discussed above, the State Plan continues to have a problem with a high turnover rate of inspectors and consultants. This is the subject of continued monitoring under observation FY 2015-OB-01.

**FY 2015-OB-01 (FY 2014-OB-01):** The State Plan has struggled with a high turnover rate of inspectors and consultants due to salary disparity when compared to the private sector and other government agencies in the state. The rate of turnover directly contributes to the State Plan struggling to meet both its enforcement and consultation goals. This will continue to be monitored in FY 2016.

**Federal Monitoring Plan 2015-OB-01:** Region X will continue to monitor and support the State Plan in an attempt to remedy compensation disparity for inspectors and consultants pay.

DOSH transitioned from entering data into the NCR/IMIS system to entering data into the OSHA Information System (OIS) during the second quarter of FY 2015. DOSH opted to develop their own data collection system which is set-up to interface with OIS and transfer data into the federal system.

The State Plan has an effective internal auditing system that continually evaluates their internal

policies and procedures.

## **B. ENFORCEMENT**

### 1) Complaints

FY 2015 data shows that 7.4% of the State Plan's inspections were in response to complaints. This relatively low rate is attributable to how DOSH classified complaints and referrals during the period covered by this review. The State Plan's definition of a complaint is virtually identical to that of OSHA's formal complaint. However, because DOSH does not have a non-formal complaint process, all non-qualifying complaints, per the State Plan's definition, are treated as referrals. This results in DOSH inspections of referrals that OSHA would normally process as a phone and fax-type complaint or a non-formal complaint.

During FY 2015, the State Plan responded to a total of 331 complaints. The average time to respond with an on-site inspection during this period was 12.4 days, which is 2.6 days fewer than the negotiated goal of 15 days, but is 1.98 days more than in FY 2014. The State Plan maintains an effective system to ensure that complainants are notified timely.

According to data from the FY 2015 SAMM (Appendix D) report, the State Plan responded to 97 complaints or referrals by the phone/fax procedure with an average response time of 8.06 days, which is 3.06 days above the goal of five days. However, upon review of the supporting data for days to initiate investigation, DOSH discovered a data-entry error that artificially inflated the total number of days to respond. The State Plan has corrected the error and now the data in the WIN system reflects a response time of 5.1 days. A response time of 5.1 days is considered adequate towards meeting this goal and OSHA determined that it is not appropriate to track this as a finding for FY 2015. OSHA will continue to monitor DOSH's response rate for investigations in FY 2016 to ensure that they are meeting their goal.

**Table 1**  
**Complaints (SAMM 1 & 2)**

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>Goal</b>
Days to Initiate Inspection (SAMM 1)	9.24 Days	10.45 Days	12.43 Days	15 days
Days to Initiate Investigation (SAMM 2)	6.68 Days	4.44 Days	*8.06 Days	5 days

\*DOSH reviewed the supporting data for days to initiate investigation and discovered a data-entry error that artificially inflated the total number of days to respond. DOSH has corrected the error and now the data in the WIN system reflects a response time of 5.1 days

### 2) Fatalities

There were 26 fatalities reported in FY 2015 (per the IMIS Micro-to-Host Report); 7 of these fatalities were considered to not be work-related (i.e., natural causes) or were cases where DOSH deferred jurisdiction to a law enforcement investigation (such as traffic collisions). The



remaining 19 fatalities were investigated. Sixteen of the 19 fatalities (84%) were inspected within one day.

The three fatalities not inspected within one day were all justified based on reasonable delays as described below.

In the first, a taxi driver was robbed and killed. DOSH made contact within one day, but due to the ongoing criminal investigation and emotional state of the company owner, they were not able to conduct an in-person opening conference until 10 days after the incident occurred.

In the second case, a subcontractor was killed during demolition work. DOSH arrived on scene the day of the accident and opened with the general contractor and conducted the site inspection. The owner of the subcontracting company was not on-site, but was contacted by phone that same day. He did not want to meet on-site and agreed to meet DOSH two days later.

In the final case, DOSH received an after-hours report of a fatality the day of the accident. The caller left a name but no other contact information or details. Two days later, the DOSH Regional Office received a referral regarding a fatality and the manager in charge recognized the caller's name and realized that they were the same incident. The CSHO assigned the investigation was not able to open the investigation until the following Tuesday – five calendar days later.

The FY 2015 review of fatality inspection case files revealed 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.

As mentioned above, the delay in each of these instances was justifiable and consequently no finding was made.

#### *Bureau of Labor Statistics (BLS) Rates*

An overview of Washington's private industry Total Case Incident Rate (TCIR) and Days Away Restricted Transfer (DART) rate for calendar years 2010 through 2014, as well as for select industries, is provided in the table that follows. At the close of this monitoring period, 2014 was the most recent year for which data was available.

**Table 2**  
**BLS Rates**  
**Data Source: www.bls.gov**

	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	% Change, 2010-2014
<b>Private Industry</b>						
TCIR	4.8	4.9	4.8	4.8	4.6	-4%
DART	2.4	2.5	2.5	2.5	2.5	4%
<b>Construction, NAICS<sub>1</sub> 23</b>						
TCIR	7.2	8.7	6.5	7.2	7.4	3%
DART	3.4	4.4	3.4	3.3	4.3	26%
<b>Manufacturing, NAICS 31-33</b>						
TCIR	6	6	6.1	6	6	0%
DART	3.5	3.4	3.6	3.5	3.7	6%
<b>State and local government</b>						
TCIR	6.4	6.1	6.3	5.5	5.6	-13%
DART	2.8	2.8	2.9	2.6	2.7	-4%

The State Plan achieved a downward, or null, trend for TCIR data for all categories from FY 2010 through FY 2014 with the exception of the construction industry, which saw a nominal increase of 3%.

The DART rate between FY 2010 through FY 2014 trended slightly upward for all categories with the exception of state and local government, which decreased marginally during the period.

The State Plan's targeting system appears to be effectively identifying high hazard employers for inspections which contributed to overall a decrease, or nominal increase, in TCIR and DART rates for three of the four categories. The construction DART rate has fluctuated back and forth from year to year and the TCIR has been increasing the last two years. The State Plan should continue to refine their inspection targeting lists using the resources that they have available, including: Washington workers' compensation data, safety and health inspection and consultation data, DOSH Safety and Health Lab analysis data, fatality data, Safety and Health Assessment & Research for Prevention (SHARP) data, and Bureau of Labor Statistics data.

### 3) Targeting and Programmed Inspections

**Table 3**  
**Inspections Conducted FY 2013 – 2015 (SAMM 7)**

<b>Inspections</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Goal	5,200	5200	5000
Conducted	4,655	5024	4444
Difference	(545)	(176)	(556)

DOSH conducted a total of 4,444 inspections or 88.9% of their goal of 5,000. Of those 3,484 were safety inspections and 960 were health inspections. The State Plan has consistently struggled over the last several years to meet their inspection goals. Over the last four years (FY 2012 – FY 2015), they have reduced their inspection goals from 7,000 to 5,000.

**Finding FY 2015-01:** DOSH has consistently missed their inspection goals each of the last three years. This is due primarily to staffing vacancies resulting from a high turnover rate and retirements.

**Recommendation FY 2015-01:** The State Plan should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach inspection goals.

4) Citations and Penalties

The inspection file review for FY 2015 indicated that citations were issued for all apparent violations and that all violations were adequately supported. The use of willful and repeat citations was appropriate.

**Table 4**  
**Percent In-Compliance (SAMM 9)**

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2015 National Data</b>
Safety	29%	32%	37%	28%
Health	27%	28%	27%	33%

In FY 2015, DOSH’s safety in-compliance rate rose to nine points above the national average while their health in-compliance rate remained consistent and below the national average. While the safety in-compliance rate is trending upwards, OSHA does not believe it merits being a finding or observation at this time. However, the State Plan should make an effort to determine the cause of the upward trend.

**Table 5**  
**Average Violations per Inspection with Violations (SAMM 5)**

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2015 National Data</b>
S/W/R	1.61	1.64	1.69	1.92
Other	2.12	2.07	1.87	0.87

DOSH’s rate of all inspections with S/W/R violations has remained constant over the past three years. The State Plan’s rate of classifying violations as general, or “other-than-serious” remains higher than the national average of 0.87, although the rate is slightly lower than the previous two years.

**Table 6**  
**Citation Lapse Time (SAMM 11)**

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2015 National Data</b>
Safety	49.1 days	38.8	31.1	42.8 days
Health	64.7 days	51.9	52.0	53.5 days

The State Plan continues to successfully manage the issuance of citations in a timely manner. The above table represents DOSH’s three-year performance history for both industrial hygiene and safety citation lapse times.

DOSH completed five significant cases where total penalties were over \$100,000. They issued a number of novel cases, including: citations for a host and temporary worker agency; violations for needle stick injuries at a hotel; willful citations for an asbestos abatement company and the subsequent spin-off company after the original company declared bankruptcy; and the workplace retaliation division processed eight cases resulting from an un-programmed construction inspection at the U.S. Open golf tournament facilities.

DOSH has made progress to increase the average initial serious penalty. From FY 2013 to FY 2015, the State Plan increased its average serious penalty from \$787 to \$1041, resulting in an overall increase of \$254, or 32%. DOSH’s penalty structure is written in state law and can only be changed by legislative action. DOSH successfully worked with the statutory WISHA Advisory Committee to develop and implement changes to the penalty rules which were implemented at the end of FY 2014. The penalty changes brought DOSH’s penalty structure in alignment with OSHA’s current penalty structure, although the average current penalty per serious violation in the private sector still remains below the Further Review Level (FRL).

**Table 7**  
**Average Initial Penalty per Serious Violations (SAMM 8)**

Average penalty assessed per serious violation	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
	\$787	\$863	\$866	\$984	\$1082

DOSH’s average current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) was \$ 1,040.97 in FY 2015. The FRL is -25% of the National Average (\$2,002.86), which equals \$1,502.14. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are “at least as effective as” (ALAE) those contained in the Field Operations Manual (FOM), which was revised on October 1, 2015 to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection.

Note that with the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA is now required to raise its maximum penalties in 2016 and to increase penalties according to the Consumer Price Index (CPI) each year thereafter. State Plans are required to follow suit. As a result of this increase in maximum penalties, OSHA will be revising its penalty adjustment factors in Chapter 6 of the FOM. Following completion of the FOM revision and after State Plans have the opportunity to adopt the required changes in a timely manner, OSHA will be moving forward with conducting ALAE analysis of State Plan penalty structures, to include evaluation of average current penalty per serious violation data.

5) Abatement

The State Plan has adequate policies and procedures to ensure that reasonable abatement dates are set, abatement is tracked, and proper documentation is obtained. Of the case files reviewed less than 1% did not contain abatement information. Follow-up inspections were conducted as necessary. The State Plan’s performance in this element is satisfactory.

6) Worker and Union Involvement

As documented in the case files, during DOSH 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. In addition, inspection results are provided to union or other labor representatives and complainants. The State Plan’s policy is identical to the federal policy for the allowance of worker participation in inspection activities.

**C. REVIEW PROCEDURES**

1) Informal Conferences

DOSH’s procedures for informal and formal review of appealed Citation and Notices are known as the Reassumptions Program. The outcomes of the Reassumptions Program are similar to OSHA’s informal conference process, although the time frames are different. Once

a citation is delivered to an employer, the employer has 15 working days to file an appeal with DOSH. If DOSH decides to reassume jurisdiction, the State Plan has 30 working days (45 working days with agreement of both parties) to issue the Corrective Notice of Redetermination (CNR). If the department decides to reassume, DOSH holds an informal conference with the employer, and modifications to the citation and notice are made in the corrective notice of redetermination issued to the employer.

When a reassumption hearing is held, the proceedings are documented in a written narrative. The narrative explains the hearing officer's decision and supports any changes that the hearing officer made to the citations.

During the case file review, five inspections were found to result in a reassumption hearing. In one instance, the hearing officer offered a 25% penalty reduction but did not document the reason why. In all other cases, the penalty was reduced appropriately and the reasons were well documented in the narrative of the reassumption hearing officer's findings, or the penalty was not reduced. Citations were reclassified in two of the files reviewed and reasons were well documented.

Penalty retention during reassumption (those not appealed to the Board of Industrial Insurance Appeals, or BIIA) was 91.76% (SMM 12), which exceeds the national average of 67.96%. OSHA finds this performance acceptable.

## 2) Formal Review of Citations

DOSH's Administrative Rules and DOSH's Administrative Manual contain procedures that afford employers the right to administrative and judicial review of alleged violations, initial penalties and abatement periods. Those procedures also provide workers and their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

If the State Plan determines that they will not reassume a Citation and Notice, the appeal is sent directly to the BIIA. Employers can also file a second level appeal of the CNR to the Board. The BIIA is a separate state agency that hears the contested cases of the department. The department is represented by the Attorney General's Office. If a settlement agreement is not reached during mediation, the case will be assigned to an Industrial Appeals Judge who will hear the case and issue a decision on contested issues.

OSHA determined that DOSH's formal review of citations was adequate in FY 2015.

## **D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION**

### 1) Standards Adoption

DOSH has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. During this evaluation period, OSHA issued three final rules that were

required to be adopted by State Plans. Action was required by the State Plan to respond to OSHA's notices regarding these three standards.

The State Plan did not adopt the Occupational Injury and Illness Recording and Reporting Requirements standard identically because the State Plan's existing rule was already at least as effective in most aspects. DOSH adopted the changes necessary to make their rule equivalent to the federal rule, effective July 1, 2015.

For the Cranes and Derricks in Construction, Operator Certification Final Rule, DOSH did not adopt OSHA's changes. DOSH has required both operator certification and employer responsibility for determining qualification and seat time experience since 2010.

The State Plan is scheduled to adopt the Final Rule for Electric Power Generation, Transmission and Distribution: Electrical Protective Equipment on May 3, 2016. The rule has an effective date of July 1<sup>st</sup>, 2016. DOSH requested an extension of time for adoption of the rule on October 9, 2014 because they have a number of provisions that are different from the OSHA rule and required economic analysis and because the changes required them to do a great deal of outreach to industry stakeholders.

DOSH's standards and enforcement program for fall protection in residential construction continue to be less effective than those of OSHA. This issue dates back to December 2010, when OSHA issued STD 03.11.002, which required the use of conventional fall protection in residential construction.

DOSH standards and enforcement policies on fall protection in residential construction raised concerns, and on June 12, 2013, a letter was sent to DOSH. On August 8, 2013, Washington responded that it believed DOSH's fall protection standard is just as effective as OSHA's standard. Washington 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.

DOSH filed a CR-101 (Preproposal Statement of Inquiry) on March 22, 2016 to start the rulemaking process as required by state law (RCW 34.05 of the Administrative Procedures Act). Filing the CR-101 serves as DOSH's official notification to stakeholders that they will begin rulemaking to update their fall protection requirements for construction. They plan to hold meetings over the next couple of months to work with stakeholders to draft language to update their fall protection rules to address the issues raised by OSHA. Finding FY 2015-02 addresses this issue.

**Finding FY 2015-02:** DOSH's standards and enforcement program for fall protection in residential construction is not at least as effective as that of OSHA's. The failure to adopt an equivalent standard leaves Washington state employees exposed to fall hazards.

**Recommendation FY 2015-02:** The State Plan should implement a fall protection standard at

least as effective as the federal standard.

**Table 8  
Standards Adoption**

<b>Standard:</b>	<b>State Response Date:</b>	<b>Intent to Adopt:</b>	<b>Adopt Identical:</b>	<b>Adoption Due Date:</b>	<b>State Adoption Date:</b>
Cranes and Derricks in Construction – Operator Certification Final Rule (9/26/2014)	11/25/2014	N	N	3/26/2015	DOSH will not adopt OSHA’s changes. DOSH has required both operator certification and employer responsibility for determining qualification and seat time experience since 2010.  The specific standards that describe DOSH certification and qualification requirements are located in Chapter 296-155 WAC, Safety Standards for Construction Work, at the following link:  <a href="http://www.lni.wa.gov/Safety/Rules/chapter/155/WAC296-155.PDF#WAC_296_155_529">Http://www.lni.wa.gov/Safety/Rules/chapter/155/WAC296-155.PDF#WAC_296_155_529</a>  Specific WAC sections are: -WAC 296-155-53300, -WAC 296-155-53401(4)
Occupational Injury and Illness Recording and Reporting Requirements NAICS Update and Reporting Revisions (9/19/14) Adoption Required	10/14/2014	Yes	No	3/19/2015 Extension was requested	DOSH will adopt those requirements necessary for their rule to be equivalent. Adoption date 5/19/2015, effective 7/1/2015.  <a href="http://www.lni.wa.gov/safety/rules/chapter/27/WAC296-27.PDF">http://www.lni.wa.gov/safety/rules/chapter/27/WAC296-27.PDF</a>
Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment (7/11/2014)	4/11/2014	No	No	1/11/2015	On October 9, 2014 DOSH submitted a formal request for an extension of time to adopt this rule. The rule is scheduled to be filed and adopted on 5/3/2016 with an effective date of 7/1/2016.

2) OSHA or State Plan-Initiated Changes

A total of six federal program changes (FPCs) required adoption in FY 2015. DOSH’s acknowledgement of intent was 100% timely for the FPCs due during FY 2015 and their adoption and submission of FPCs due during FY2015 was 100% timely.

There were five FPCs that required adoption and submission in FY 2014. DOSH’s acknowledgement of intent was 100% timely and their adoption and submission was 100%



timely for FPCs due during FY 2014.

The table below lists FPCs from FY 2014 and FY 2015 which required a response from DOSH in this FAME period as well as the outcome.

**Table 9**

<b>FPC Directive/Subject:</b>	<b>State Response Date:</b>	<b>Intent to Adopt:</b>	<b>Adopt Identical:</b>	<b>Adoption Due Date:</b>	<b>State Submission Date:</b>
CPL-03-00-018 REVISION - National Emphasis Program - Primary Metal Industries (issued 10/20/14)	12/17/2014	Yes	No	4/20/2015	4/23/2015 Alternative approach
CPL-02-01-057 Compliance Directive for the Cranes and Derricks in Construction Standard (issued 10/17/2014) Equivalency required	12/17/2014	No	No	4/17/2015	4/7/2015 Alternative approach already in place
TED-01-00-019 Mandatory Training Program for OSHA Compliance Personnel (7/21/2014)	9/15/2014	Yes	No	1/21/2015	2/9/2015 Alternative approach
CPL-02-01-056 Inspection Procedures for Accessing Communication Towers (7/17/2014)	9/14/2014	Yes	Yes	1/17/2015	2/9/2015
CPL-02-00-158 Inspection Procedures for the Respiratory Protection Standard (6/26/2014)	8/27/2014	No	No	12/24/2014	8/27/2014 Alternative approach already in place
CPL-02-00-157 Shipyard Employment Tool Bag Directive (4/1/2014)	3/27/2014	No	No	10/1/2014	3/27/2014 Alternative approach
CPL-02-14-01 Site-Specific Targeting 2014 (SST-14) (3/6/2014)	3/27/2014	No	No	9/6/2014	3/27/2014 Alternative approach
CPL-03-02-003 OSHA Strategic Partnership Program for Worker Safety and Health (11/6/2013)	1/14/2014	No	No	5/6/2014	1/14/2014 Alternative approach already in place
CPL-02-01-055 Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification (9/30/2013)	12/30/2013	No	No	3/30/2014	12/30/2013 Alternative approach

CPL-02-01-155 Inspection Scheduling for Construction Directive	10/31/2013	No	No	9/6/2013	10/31/2013 Alternative approach
CPL-03-00-017 National Emphasis Program Occupational Exposure to Isocyanates (6/20/2013)	7/23/2013	Yes	Yes	12/20/2013	12/19/2013

DOSH submitted 10 state-initiated changes this period. All state-initiated changes were submitted timely.

**E. VARIANCES**

During the period of FY 2014 to FY 2015, DOSH issued 15 permanent variances, amended 1, and denied 4. Both fiscal years are included because this section was not addressed in the FY 2014 Follow-up FAME Report. The variance applications were handled properly and the decisions to grant the variances were justified.

**F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM**

Penalties and sanctions are imposed on employers in the state and local government sector for violations of safety and health hazards in an identical fashion as for private industry. In FY 2015, DOSH conducted 4.4%. This percentage is close to meeting the State Plan negotiated goal of conducting 5.78% of inspections in the state and local government sector.

**G. WORKPLACE RETALIATION PROGRAM**

Section 49.17.160 of the Washington Industrial Safety and Health Act provides for whistleblower protection equivalent to that provided by OSHA.

DOSH’s timeliness of completed cases in FY 2015 is 92% which has improved significantly compared to the past two years and continues to be better than the national average of 38%. DOSH’s merit rate has held relatively steady over the last three years at 20% – 24%. This is consistent with the national average of 26%.

DOSH’s ability to settle retaliation cases has been directly impacted by the Supreme Court of Washington decision in Cudney v. AlSCO Inc. 2011, which states in part that complainants must first file a whistleblower complaint with the Department of Labor and Industries prior to being allowed to seek a private right of action. Thus DOSH is receiving more complaints and the ability to settle is diminished because resources are more strained.

**Table 10**  
**11(c) Investigations (SAMM 13, 14, 16)**

	<b>FY 2015</b>	<b>FY 2014</b>	<b>FY 2013</b>	<b>FY 2015 National Average</b>
Completed Within 90 Days (SAMM 13)	92%	73%	78%	36%
Merit Cases (SAMM 14)	24%	20%	24%	24%
Average Number of Calendar Days to Complete investigation	63	78	89	269

OSHA conducted an on-site monitoring review of DOSH’s whistleblower program in FY 2015. 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 findings as well as to gauge DOSH’s current implementation of policies and procedures for whistleblower cases.

The FY 2015 case file review revealed that DOSH case closure dates were accurate and correct, and FY 2014 OB-3 is considered closed.

DOSH’s policies and procedures are at least as effective as OSHA’s and their management of whistleblower complaints continues to be acceptable. Overall determinations reached were based on substantive evidence and sound legal reasoning.

**H. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)**

Two new CASPAs were received in FY 2015.

The first CASPA dealt with standard promulgation and information posted on the DOSH website. It was received on 3/16/2015. The State Plan was notified on 3/20/2015 and an initial response was received on 4/17/2015. The final determination was sent to the State Plan on 6/19/2015. OSHA accepted DOSH’s response as overall satisfactory and no corrective action was required. The CASPA was closed on 6/19/2015.

The second CASPA involved a complaint about an inspection and citations under the state’s methylene chloride standard and was received on 7/2/2015 and the State Plan was notified on that same day. An initial response from DOSH was received on 7/28/2015. The final determination was sent to the State Plan on 12/2/2015 with one recommendation for corrective action. The complainant appealed DOSH’s response and OSHA’s finding on 1/8/2016. DOSH responded with summary of corrective actions on 2/19/2016. OSHA accepted DOSH’s response as overall satisfactory and the CASPA was closed on 1/27/2016.

**I. VOLUNTARY COMPLIANCE PROGRAM**

At the end of FY 2015, there were 32 approved Voluntary Protection Program (VPP) sites in DOSH jurisdiction. DOSH continued to implement their provision that quality assurance (QA) audits be conducted on approximately 20% of VPP participants annually. The QA audits are scheduled based on a review of the participants’ annual self-audits and are in addition to the scheduled three to five year renewal audits. They are limited in scope and focus on injury and

illness records, changes reported by a VPP participant, or general site safety and health management practices.

DOSH's policies and procedures are as effective as the federal program policies and procedures. No significant changes were made to the program.

#### **J. STATE AND LOCAL GOVERNMENT SECTOR 23(g) ON-SITE CONSULTATION PROGRAM**

DOSH's 23(g) state and local government sector consultation program conducted a total of 235 visits. A total of 488 hazards were identified, of which 471, or 97%, were verified corrected within 14 days of the latest correction due date.

Please see the following goals below for information on the state's performance in relation to grant projections. They are a combination of both private and public visits:

- 5 year Performance Goal 2-1
- FY 2015 Performance Goal A-3
- FY 2015 Performance Goal A-4
- FY 2015 Performance Goal B-3
- FY 2015 Performance Goal B-5

With the exception of the number of visits to small employers, the program met all other mandated activity measures. DOSH conducted 84% of their state and local government sector visits with small employers, which is below the federally-mandated requirements that no less than 90% of visits be conducted with small employers (defined as less than or equal to 250 workers in the establishment, or 500 workers corporate-wide). This can be attributed to the fact that visits were conducted with state agencies, which by definition are considered large employers.

Both the private and state and local government sector consultation programs were evaluated the week of October 26, 2015 in accordance with the guidance found in Chapter 9 of the Consultation Policies and Procedures Manual.

#### **K. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM (KENTUCKY, PUERTO RICO, AND WASHINGTON STATE PLANS ONLY)**

DOSH's 23(g) private sector consultation program conducted a total of 1814 visits. They identified a total of 4829 hazards of which 4700, or 97%, were corrected within 14 days of the latest correction due date. For the private sector, DOSH conducted 99% of their visits to small employers thus meeting the federally-mandated requirement as described. All other mandated activity measures were met as well.

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

DOSH established a five-year Strategic Plan for the period from October 1, 2010 (FY 2011) through September 30, 2015 (FY 2015). These goals included short- and long-range objectives aimed at improving safety and health for Washington's workers. Each year DOSH develops and submits its annual performance plan as part of its application for federal funds.

The DOSH Annual Performance Plan is divided into three goal categories – (A) strategic, (B) direct service and (C) operational. In support of the five-year Strategic Plan, DOSH developed five goals in its Annual Performance Plan for FY 2015, along with seven direct services goals, and four operational goals. The following is OSHA's assessment of DOSH's performance compared to its FY 2015 annual goals and five-year Strategic Plan:

**Strategic Goal 1: Identify and act on the highest safety risks**

**5 year Performance Goal 1-1 – Get DOSH staff to the right places at the right time: During 2011 – 2015, increase the percentage of scheduled list inspection where serious violations found each year.**

**Result** – DOSH increased the percentage of scheduled inspections where serious violations were found by 15% during the 2011-2015 performance period.

**OSHA's Assessment** – The State Plan met this goal.

**5-year Performance Goal 1-2 – Get DOSH staff to the right places at the right time: Implement a hazard surveillance system that uses DOSH inspection data from WIN to identify non-traditional industry sectors or occupations where we have found unexpected significant hazards.**

**Result** – DOSH implemented several programs for identifying and targeting workplaces where significant hazards exist including: a targeting list for worksites where cadmium use may be present, a hazard surveillance reporting system to aid in outreach assignments, ongoing evaluation and analysis of inspection scheduling list criteria to ensure they're focusing on the high hazard industries, improvements to web-based applications to aid in the collection of industrial insurance data which would enhance their ability to identify workplaces where serious injuries have occurred, or are likely to occur, and continued evaluation of proactively assigned inspection list results to identify worksites where employees are exposed to serious hazards.

**OSHA's Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal A-1 – Our proactively assigned high hazard scheduling list inspections will result in finding serious violations at least 40% of the time.**

**Result** – DOSH identified serious violations in 44% of their proactively assigned inspections.

**OSHA's Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal A-2 – Adopt a set of cell tower rules by September 30, 2015.**

**Result** – The rule is still under development as other federal rule changes took precedent. It has been added to the FY 2016 performance plan.

**OSHA's Assessment** – While the State Plan did not meet this goal as set forth in FY 2015, progress was slowed as other rulemaking took priority. DOSH has updated this goal for FY 2016 to reflect a more realistic target.

**Strategic Goal 2: Prevent and reduce worker injuries, illness, and disability**

**5-year Performance Goal 2-1 – By 2015 60% of all consultation visits are conducted at small business (25 or fewer FTE statewide).**

**Result** – Over the 2011-2015 evaluation period an average of 53% of all consultation visits were to small employers (defined as 25 or fewer employees statewide). They had a low of 51% in 2011 and a high of 56% in 2013. High staff turnover and loss of high performing, seasoned field staff greatly impacted their ability to meet this goal. Efforts to meet this goal will continue during the 2016 – 2020 evaluation period.

**OSHA's Assessment** – While the State Plan did not meet this internal goal, they did meet the federal requirement that 90% of visits be conducted at small employers (250 employees in the establishment/500 employees corporate-wide) with a rate of nearly 100%. The State Plan continues to make satisfactory progress in this area.

**5-year Performance Goal 2-2 – Focus on “at-risk” populations and get to more places where vulnerable workers experience higher risk by 2015: Increase the number of serious hazards found and fixed in workplaces where Spanish language interaction is necessary by 10%.**

**Result** – DOSH established models of service delivery which can be evaluated with relation to changes in claim rates and costs in participating workplaces vs. non-participating workplaces. For example, a baseline was established for the number of inspection and consultation visits when languages other than English are needed. This allows DOSH to more effectively target their resources.

**OSHA's Assessment** – While progress has been made in developing ways to identify and track visits to the target audience, DOSH has not met this goal in that they were not able to quantify the number of serious hazards identified and fixed in workplaces where the target audience exists. DOSH should continue their efforts to track and quantify the number of serious hazards in workplaces where languages other than English are spoken.

**FY 2015 Performance Goal A-3 – At least 60% of all consultation visit are conducted at small businesses (25 or fewer FTE Statewide).**

**Result** – The FY 2015 rate for consultation visits to small employers (defined by DOSH as 25 or fewer employees statewide) was 51.8%. High staff turnover and loss of high performing, seasoned field staff have greatly impacted their ability to fully meet this goal.

**OSHA’s Assessment** – The State Plan did not meet this goal, but continues to make satisfactory progress in this area.

**FY 2015 Performance Goal A-4 – Provide comprehensive safety and health consultations to at least 35% of all manual logging employers.**

**Result** – Approximately 29% of active logging companies (those reporting more than 0 hours) received a comprehensive safety and health consultation.

**OSHA’s Assessment** – The State Plan did not meet this goal, but continues to make satisfactory progress in this area.

**Strategic Goal 3: Increase effective safety communications to the public**

**FY2015 Performance Goal 3-1 – Increase our activities with community based organizations that work with vulnerable population groups.**

**Result** – The Department of Labor & Industries website features short videos in both English and Spanish aimed at reaching vulnerable populations. The department also hosts numerous events and publishes communications in multiple languages. A series of short videos were produced that aired in theaters across the state to bring awareness to common workplace hazards.

**OSHA’s Assessment** – DOSH has a proven track record of collaborating and coordinating with community-based organizations working with vulnerable population groups. All the activities mentioned were developed in-house. DOSH should continue their efforts to identify and partner with community organizations that have established inroads into minority communities.

**FY 2015 Performance Goal A-5 – By September 30, 2015 develop curriculum and pilot agriculture-based safety training program similar to the OSHA 10 program.**

**Result** – All milestones and statistics for this goal were successfully met. The first session was delivered in May of 2015. This course will be a standard offering from their Education and Outreach Services program.

**OSHA’s Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal B-1 – Reduce deaths from work-related injuries in support of the 2015 goal of no more than 2.0 deaths per 100,000 full-time workers.**

**Result** – Data for this indicator has a two-year time lag. The 2013 rate was 1.7 deaths per 100,000 workers.

**OSHA’s Assessment** – It is not possible to determine if the State Plan met this goal during this period as the data used to calculate this indicator has a two-year lag time. The State Plan appears to be on track to meet this goal. Since 1996, the State Plan has consistently been at or below the national average for this indicator, with the last two years (2012 and 2013) averaging 2.0 deaths per 100,000 full-time workers. OSHA will continue to monitor this goal in FY 2016.

**FY 2015 Performance Goal B-2 – Reduce workplace injuries and illnesses by at least 10% as measured by the average time loss claims rate for employers with WISHA enforcement or consultation visits.**

**Result** – The 2013-2014 study and analysis continues to support the findings of the 10-year retrospective study, reflecting that when enforcement inspections at fixed-site businesses are conducted, they are followed by a 16.7% greater decline in compensable claims rates than at non-visited businesses. In non-fixed sites, such as construction, the state did not find a statistically significant difference in the change of claim rates.

DOSH consultation visits were also associated with a greater decrease in compensable claims rates for fixed industry businesses with a decline of 23%. In non-fixed sites, such as construction, there was a 43% greater decline in compensable claims rates than at non-visited businesses.

**OSHA’s Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal B-3 – Conduct at least 2,060 on-site consultations.**

**Results** – The State Plan completed 2,049 on-site consultations, which equates to 99.4% of the goal. Personnel issues related to retention and retirements have impacted the State Plan’s ability to meet this goal.

**OSHA Assessment** – While the State Plan did not meet this goal it was within 0.6%. OSHA will continue to monitor this during the quarterly meetings with the State Plan during FY 2016.

**FY 2015 Performance Goal B-4 – Conduct at least 5,000 compliance inspections.**

**Result** – DOSH completed 4,464 inspections for FY 2015, which is 89% of the goal. Staff retention and vacancies continue to be a significant contributor in the State Plan’s



struggle to meet its enforcement goals. Multiple strategies to address the compensation disparity for their safety and industrial hygiene position classifications are being worked on and closely monitored.

**OSHA's Assessment** – The State Plan did not meet this goal. OSHA has monitored and discussed DOSH's enforcement performance for FY 2015 during the quarterly meetings. OSHA agrees with the State Plan's assessment that staff retention issues impacted their ability to meet this goal. This is addressed in Finding FY 2015-01.

**FY 2015 Performance Goal B-5 – Ensure that 100% of serious hazards are corrected and that 95% are verified by consultants within 14 days of the abatement date.**

**Result** – DOSH ensured that 4717 of 4802 identified serious hazards, or 96%, were verified corrected within 14 days of the abatement date for consultations.

Note: Data is produced through the Washington Labor and Industries Data Warehouse, rather than the MARC Report. This allows DOSH to monitor performance on a more frequent basis and accommodates the reduction in the measurement period from 30 days to 14 days.

**OSHA's Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal B-6 – Ensure that 100% of serious violations are corrected and that 95% are verified by inspectors within 14 days of the abatement date.**

**Result** – DOSH ensured that 3177 of 3508 serious violations, or 91%, were verified abated within 14 days of the abatement date for inspections.

**OSHA's Assessment** – The State Plan did not meet this goal. Additionally, the average percentage of violations verified abated within 14 days of the abatement date has been decreasing over the last five years. This could be related to inexperienced CSHOs resulting from the high turnover rate.

**Observation FY 2015-OB-02:** DOSH did not meet their goal of having 95% of serious hazards verified abated within 14 days of the abatement date. Additionally, the average number of violations verified abated within 14 days of the abatement date has decreased over the last five years. This could be attributed to the high turnover rate and new, inexperienced staff. This will continue to be monitored in FY 2016.

**Federal Monitoring Plan 2015-OB-02:** Region X will emphasize the importance of compliance personnel being familiar with the abatement verification goal and the importance of abatement verification in quarterly meetings.

**FY 2015 Performance Goal B-7 – Maintain hygiene citation lapse time at or below the current national average of 64.9 calendar days (for citations with violations, from opening conference to issuance date).**

**Result** – The average lapse time for health inspections was 62.7 days.

**OSHA’s Assessment** – The State Plan met this goal.

**FY 2015 Performance Goal B-8 – Maintain safety citation lapse time at or below the current national average of 51.9 calendar days (for citations with violations, from opening conference to issuance date).**

**Result** – The average lapse time for safety inspections was 45.8 days.

**OSHA’s Assessment** – The State Plan met this goal.

**V. Other Special Measures of Effectiveness and Areas of Note**

N/A

## Appendix A – New and Continued Findings and Recommendations

### FY 2015 DOSH State Plan Comprehensive FAME Report

<b>FY 20XX-#</b>	<b>Finding</b>	<b>Recommendation</b>	<b>FY 20XX-# or FY 20XX-OB-#</b>
FY 2015-01	DOSH has consistently missed their inspection goals over each of the last three years. This struggle is due primarily to staffing vacancies resulting from a high turnover rate and retirements.	The State Plan should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach inspection goals.	
FY 2015-02	DOSH's standards and enforcement program for fall protection in residential construction is not at least as effective as that of OSHA's. The failure to adopt an equivalent standard leaves Washington state employees exposed to fall hazards.	The State Plan should implement a fall protection standard at least as effective as the federal standard.	FY 2014-OB-04

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

### FY 2015 DOSH State Plan Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2015-OB-01	FY 2014-OB-01	The State Plan has a problem with a high turnover rate of inspectors and consultants. The rate of turnover directly contributes to the State Plan struggling to meet both its enforcement and consultation goals. To better understand the turnover rate, in 2012, the State Plan began conducting exit interviews of employees leaving the program; of the 66 inspectors or consultants leaving DOSH, 41 (or 62%) reported salary disparity as the primary factor. The reported disparity has been as much as 75%.	Region X will continue to monitor and support the State Plan in an attempt to remedy compensation disparity for inspectors and consultants pay.	Continued
FY 2015-OB-02		DOSH did not meet their goal of having 95% of serious hazards verified abated within 14 days of the abatement date. Additionally, the average percentage of violations verified abated within 14 day of the abatement date has decreased over the last five years. This could be attributed to the high turnover rate and new inexperienced staff.	Region X will emphasize the importance of compliance personnel being familiar with the abatement verification goal and the importance of abatement verification in quarterly meetings.	New
	FY 2014-OB-02	The State Plan did not meet its goal A1 to find serious hazards at least 50% of the time when using the high-hazard scheduling list to assign inspections. The State Plan's results for this goal fell short by 14%.		Closed
	FY 2014-OB-03	OSHA found case closure dates were not consistent and contradicted documentation in 11(c) whistleblower case files. Several		Closed

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

### FY 2015 DOSH State Plan Comprehensive FAME Report

		whistleblower case files reviewed had complaint filing dates which were inconsistent with WebIMIS data. This occurred in 14 of 23 (61%) FY 2012 whistleblower case files reviewed and 5 of 18 (28%) FY 2013 whistleblower case files reviewed.		
	FY 2014-OB-04	DOSH's standards and enforcement program for fall protection in residential construction may not be at least as effective as OSHA's. OSHA and DOSH have been in dialogue about this issue, and it is currently under review by OSHA.	Region X will work with OSHA's National Office to determine if DOSH 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.	Converted to Finding FY 2015-03

## Appendix C - Status of FY 2014 Findings and Recommendations

### FY 2015 DOSH State Plan Comprehensive FAME Report

FY 20XX-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2014-01	A fatality inspection, where one worker was fatally injured and another worker was seriously injured, was improperly and prematurely closed where DOSH did not consider the fatality victim to be a worker of the corporation. Upon review of the case file, it was determined the victim was a statutory worker of the corporation.	Review the DOSH Compliance Manual for clarity of the issue of worker classification, and ensure all enforcement staff receives training on worker classification related to corporation, sole proprietorships, and partnership.	<p>Training related to corporations, sole-proprietorships, and partnerships, was conducted on May 20, 2015 as part of DOSH's training symposium.</p> <p>The compliance manual will be updated in the spring of 2016 with language which was approved by the Washington Attorney General's Office.</p>	5/20/2015	Completed

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 DOSH State Plan Comprehensive FAME Report**

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA’s ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the Notes column below for further explanation on the calculation of each SAMM.

Most of the Washington State Plan’s enforcement data was captured in OIS during FY 2015. The Washington State Plan opened 4,444 enforcement inspections in FY 2015. Of those, 1,178 were captured in the NCR while 3,266 were captured in OIS.

**Measures 1, 2, 8, 9, 11, 12:** State Plan data is solely from OIS. Data from NCR cannot be manually combined due to irregularities in the algorithms between OIS and the NCR.

**Measures 3, 4, 5, 6, 7, 10, 13, 17:** State Plan data is manually tabulated to include both OIS and NCR data.

**Measures 14, 15, 16:** State Plan data is from WebIMIS.

**U.S. Department of Labor**

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: <b>Washington - DOSH</b>			FY 2015	
<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	12.43	15 days for serious hazards; 30 days for other than serious hazards	State Plan data is pulled only from OIS.  Further review level is negotiated by OSHA and the State Plan.

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 DOSH State Plan Comprehensive FAME Report**

<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	12.43	N/A	State Plan data is pulled only from OIS.  This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	8.06	5	State Plan data is pulled only from OIS.  Further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	8.06	N/A	State Plan data is pulled only from OIS.  This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	91.67%	100%	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is fixed for every State Plan.
<b>4</b>	Number of denials where entry not obtained	2	0	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is fixed for every State Plan.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.69	+/- 20% of SWRU: 1.92	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is based on a one-year national rate, pulled only from OIS.
		Other: 1.87	+/- 20% of Other: .87	
<b>6</b>	Percent of total inspections in state and local government workplaces	4.41%	+/- 5% of 5.78%	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.



**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 DOSH State Plan Comprehensive FAME Report**

<b>7</b>	Planned v. actual inspections – safety/health	S: 3,484	+/- 5% of S: 3,950	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 960	+/- 5% of H: 1,050	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,040.97	+/- 25% \$2,002.86	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$800.53	+/- 25% \$1,402.49	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$1,134.64	+/- 25% \$2,263.31	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$1,729.56	+/- 25% \$3,108.46	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$2,373.48	+/- 25% \$3,796.75	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
<b>9</b>	Percent in compliance	S: 36.79%	+/- 20% of S: 28.47%	State Plan data is pulled only from OIS.
		H: 26.71%	+/- 20% of H: 33.58%	Further review level is based on a one-year national rate, pulled only from OIS.

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 DOSH State Plan Comprehensive FAME Report**

<b>10</b>	Percent of work-related fatalities responded to in one workday	82.14%	100%	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is fixed for every State Plan.
<b>11</b>	Average lapse time	S: 31.09	+/- 20% of S: 42.78	State Plan data is pulled only from OIS.
		H: 37.06	+/- 20% of H: 53.48	Further review level is based on a one-year national rate, pulled only from OIS.
<b>12</b>	Percent penalty retained	91.76%	+/- 15% of 67.96%	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	93.95%	100%	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is fixed for every State Plan.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	92%	100%	State Plan data is pulled from WebIMIS.  Further review level is fixed for every State Plan.
<b>15</b>	Percent of 11(c) complaints that are meritorious	24%	+/- 20% of 24%	State Plan data is pulled from WebIMIS.  Further review level is based on a three-year national average pulled from WebIMIS.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	63	90	State Plan data is pulled from WebIMIS.  Further review level is fixed for every State Plan.
<b>17</b>	Percent of enforcement presence	3.19%	+/- 25% of 1.35%	State Plan data is manually tabulated to include both OIS and NCR data.  Further review level is based on a one-year national rate, pulled only from OIS.