

## **FY 2024 Follow-up Federal Annual Monitoring Evaluation (FAME) Report**

**State of Oregon**

**Oregon Department of Consumer and Business Services**

**Occupational Safety and Health Division (Oregon OSHA)**



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**Prepared by:**

**U.S. Department of Labor**

**Occupational Safety and Health Administration**

**San Francisco Region**

**San Francisco, CA**



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## I. Executive Summary

The purpose of this report is to assess the activities of the Oregon Occupational Safety and Health Division (Oregon OSHA) for Fiscal Year (FY) 2024 regarding activities mandated by the Occupational Safety and Health Administration (OSHA). In addition, this report gauges the State Plan's progress in resolving any outstanding findings and observations from the previous FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

Oregon OSHA maintained a high level of program performance during the review period. The State Plan exceeded safety and health inspection goals, maintained collaborative relationships with partners and alliances, implemented an extensive training program for its staff, adopted and implemented a new penalty structure to align with OSHA's, and continued to implement program changes for new standards and/or OSHA directives adoption. In November of 2023, Oregon OSHA adopted changes to civil penalty and work refusal in response to Oregon Senate Bills (SB) 592 and 907. In addition, Oregon OSHA proposed comprehensive amendments to its Agriculture Labor Housing (ALH) rules, which has been ongoing for six years in the state.

Overall, the Oregon State Plan made progress to address two findings and seven observations from the FY 2023 Comprehensive FAME report. In FY 2024, two findings and seven observations were continued. No findings or observations were completed or closed from the previous year, and there were no new findings or observations resulting from this review period.

## II. State Plan Background

The State of Oregon, under an agreement with OSHA, operates an occupational safety and health program through the Oregon Consumer and Business Services Department, Occupational Safety and Health Division (Oregon OSHA). The Oregon State Plan received initial approval on December 28, 1972, and was certified on September 24, 1982, after all developmental steps, as specified in the plan, had been completed. In May of 2005, after a full opportunity for public review and comment, and a comprehensive program evaluation, OSHA granted final approval to the Oregon State Plan except for temporary labor camp enforcement. On August 30, 2023, the final approval exception for Oregon's state plan was removed ([FRN 2023-18717](#)). Notably, in 2018, Oregon initiated a comprehensive review of Agriculture Labor Housing rules. After six years of stakeholder meetings, Oregon OSHA adopted comprehensive amendments to ALH rules on January 8, 2025.

Renée Stapleton served as the Administrator of Oregon OSHA and the State Plan Designee. Julie Love served as the Deputy Administrator, Bryon Snapp was the Statewide Safety Enforcement Manager, and Penny Wolf-McCormick was the Statewide Health Enforcement Manager. Holt Andron was the Consultation Manager through November 2023, and the position remained vacant through January 2024 when Greig Lowell filled the role.

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

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

the demographic profile in the FY 2024 23(g) grant application, there were an estimated<sup>1</sup> 1,980,500 workers covered by Workers' Compensation insurance employed in Oregon with an estimated 135,400 employers. These employers operate at approximately 216,509 locations.

In FY 2024, the 23(g) grant provided funding for a full-time equivalent (FTE) staff comprised of 6.00 FTE managers, 10.00 FTE first line supervisors, 56.00 FTE safety compliance officers, 29.00 FTE health compliance officers, 1.00 FTE compliance assistance specialist, 5.00 FTE trainers, 30.00 FTE clerical, and 25.00 FTE other positions. An additional 4.64 FTE provided consultation for state and local government employers and other activities outside of the 23(g) grant. Four FTE provided private sector consultation activities and were covered under a 21(d) cooperative agreement. The 21(d) program is evaluated separately in the FY 2024 Regional Annual Consultation Evaluation Report (RACER).

In FY 2024, the Oregon State Plan was funded at \$34,544,241. The state matched the initial federal base award of \$6,056,700. Due to the funding reduction of all OSHA 23(g) programs, the federal base award was decreased by \$218,000 in July 2024. A one-time only award of \$74,815 in August contributed to the total federal grant of \$5,913,515. The state matched the total federal grant of \$5,913,515 and added an additional \$22,717,211 in 100% state funds. The state reported final expenditures to be \$36,516,097.04 (\$5,913,515 federal, \$5,913,515 state match, and \$24,689,067 in 100% state funds).

### **New Issues**

Oregon OSHA rulemaking in response to SB 592 and SB 907 amended 15 rules and adopted two new rules in Division 1, General Administrative Rules, related to Penalties and Work Refusal to align with the changes made to Oregon Safe Employment Act by SB 592 and changes to ORS 654.062 by SB 907 in the 2023 Oregon legislative session. As a result of Oregon's SB 592, Oregon OSHA's penalty structure was updated and went into effect for violations issued from inspections opened on or after January 1, 2024. Penalties are set to automatically increase annually according to the Consumer Price Index for Urban Consumers, West Coast Region (CPI-U) published by the Bureau of Labor Statistics.

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

### **A. Data and Methodology**

OSHA established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform an on-site case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the FY 2023 Comprehensive FAME report. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- State Activity Mandated Measures (SAMM) Report (Appendix D), dated 11/12/2024
- State Information Report (SIR) dated 11/12/2024
- Whistleblower Application in the OSHA IT Support System (OITSS)
- State OSHA Annual Report (SOAR)
- Oregon OSHA Annual Performance Plan
- OSHA Information System (OIS)
- State Plan 23(g) Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- State Plan Application

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<sup>1</sup> Source: Oregon Department of Consumer and Business Services, Central Services Division - May 2023, provided in the FY 2024 grant application

**B. Findings and Observations**

The Oregon State Plan made progress to address two previous findings and seven observations from the FY 2023 Comprehensive FAME. However, these findings and observations are continued and will be re-evaluated during the FY 2025 Comprehensive FAME. Appendix A describes the continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2023 finding and recommendation in detail.

**Findings (Status of Previous and New Items)**

**Completed Findings**

There were no completed findings in FY 2024.

**Closed Findings**

There were no closed findings in FY 2024.

**Continued Findings**

**Finding FY 2024-01 (FY 2023-01, FY 2022-OB-04):** In FY 2023, in 100% (76 of 76) retaliation cases, there was no evidence that complainants were advised of their right to dually file with OSHA.

**Status:** According to Oregon OSHA, language on dual filing was added to their initial complaint intake questionnaire and complainant notification letters, including after a complaint was docketed and when the retaliation investigation closed. However, a case file review is necessary to gather the facts needed to evaluate progress on this finding. This will be a focus of next year’s on-site case file review during the FY 2025 Comprehensive FAME. This finding remains open.

**Finding FY 2024-02 (FY 2023-02, FY 2022-OB-05):** In FY 2023, in 68% (52/76) of retaliation files reviewed, there was inconsistent documentation on allowing complainant to rebut the respondent’s information.

**Status:** According to Oregon OSHA, specific provisions for complainant rebuttal information was added to closing template letters. However, a case file review is necessary to gather the facts needed to evaluate progress on this finding. This will be a focus of next year’s on-site case file review during the FY 2025 Comprehensive FAME. This finding remains open.

**New Findings**

There were no new findings identified in FY 2024.

**Observations (Status of Previous and New Items)**

**Closed Observations**

There were no previous observations that were closed in FY 2024.

**Continued Observations**

**Observation FY 2024-OB-01 (FY 2023-OB-01, FY 2022-OB-02):** The confidentiality of employees interviewed during inspections was not ensured during the appeal process.

**Status:** Oregon OSHA continued taking action to address the overall concern of employee confidentiality, not specific to appeals. In 2023, Oregon OSHA drafted and introduced a legislative concept that addressed employee confidentiality in all public records. The concept was unable to gain advocate support in the state. Since Oregon has a two-year legislative cycle, the concept was updated and scheduled to be introduced again in 2025. OSHA will continue to

work with Oregon OSHA on the status of this. In addition, a case file review is necessary to gather the information needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2025 Comprehensive FAME. This observation remains open.

**Observation FY 2024-OB-02 (FY 2023-OB-02, FY 2022-OB-03):** Oregon OSHA did not adopt federal program changes timely.

**Status:** In FY 2024, Oregon OSHA provided intent to adopt five of the five (100%) federal program changes in a timely manner. However, adoption of the Severe Violator Enforcement Program (SVEP) directive was still pending from FY 2022 and not adopted within six months of the issuance date. Oregon OSHA's PD A-277 SVEP policy from February 2019 is still in effect. Oregon was delayed in updating this SVEP directive due to rulemaking associated with penalty legislation that contained overlapping criteria. OSHA continues to monitor the status of this with Oregon. This observation remains open.

**Observation FY 2024-OB-03 (FY 2023-OB-03, FY 2022-OB-05):** In FY 2023, in 100% (76/76) of retaliation case files reviewed, although draft letters were present in the file, there was no specific information on delivery of official letters presented for review.

**Status:** OSHA did not conduct a limited case file review in FY 2024 to determine if official retaliation letters were delivered. The activity log documents the date the determination letter was mailed, which through the State Internal Evaluation Program (SIEP) verified this date corresponded with the date on the determination letter. A case file review is necessary to gather the facts needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2025 Comprehensive FAME. This observation remains open.

**Observation FY 2024-OB-04 (FY 2023-OB-04):** In FY 2023, the activity log was not presented for review in 92% (70/76) of retaliation files.

**Status:** OSHA did not conduct a limited case file review in FY 2024 to determine if the activity log was maintained in retaliation files. However, the SIEP was used to evaluate that case files contained proper documentation. All cases have an electronic activity log when the case is entered into the data system (IMPACT). A case file review is necessary to gather the facts needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2025 Comprehensive FAME. This observation remains open.

**Observation FY 2024-OB-05 (FY 2023-OB-05):** In FY 2023, OSHA 300 logs were not in the files in five of nine (55%) state and local government consultation files reviewed, for employers with 10 or more employees at the worksite.

**Status:** OSHA did not conduct a case file review of state and local government consultation files during this fiscal year. A case file review is necessary to gather the facts needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2026 on-site consultation review. This observation remains open.

**Observation FY 2024-OB-06 (FY 2023-OB-06, FY 2022-OB-07):** In FY 2023, the DART rate comparison in the report to the employer was missing in 4 of 9 (44%) state and local government consultation files reviewed with 10 or more employees at the worksite.

**Status:** OSHA did not conduct a consultation case file review of state and local government files during this fiscal year. A case file review is necessary to gather the facts needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2026 on-site consultation review. This observation remains open.

**Observation FY 2024-OB-07 (FY 2023-OB-07, FY 2022-OB-06):** In FY 2023, inadequate abatement documentation for serious hazards was found in 7 of 14 (50%) state and local government consultation files reviewed for employers which had serious hazards at their worksite.

**Status:** OSHA did not conduct a consultation case file review of state and local government files this fiscal year. Oregon OSHA is currently engaged in rulemaking to change the requirements for serious hazard correction as it relates to state and local government workplaces. A case file review is necessary to gather the facts needed to evaluate progress on this observation. This will be a focus of next year's on-site case file review during the FY 2026 on-site consultation review. This observation remains open.

### **New Observations**

There were no new observations identified in FY 2024.

## **C. State Activity Mandated Measures (SAMM) Highlights**

Each SAMM has an agreed upon further review level (FRL) which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2024 SAMM Report and includes the FRLs for each measure.

It should be noted that OSHA is in the final stages of transitioning from the Whistleblower Application in the OSHA IT Support System (OITSS), a legacy data system, to the Whistleblower module in OIS, a modern data system. Only a small portion of State Plan whistleblower data was recorded in OITSS; Oregon OSHA transitioned into OIS in November 2023. However, OSHA encountered challenges in combining the report that generates SAMM 14, 15, and 16 from both systems. As such, OSHA will not be relying on SAMMs 14, 15, or 16 in their evaluation of the State Plans whistleblower programs for FY 2024.

The Oregon State Plan was outside the FRL on the following SAMMs which have not been previously addressed in this report:

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

**Discussion of Oregon OSHA's data and FRL:** The FRL for average number of working days to initiate complaint inspections (SAMM 1a) was 5 days for serious hazards and 30 days for other-than-serious (OTS) hazards and was negotiated by OSHA and Oregon OSHA through the 23(g) grant application. According to Appendix D, Oregon's average number of days to initiate complaint inspections was 5.88.

**Explanation:** The SAMM report does not differentiate between initiating complaint inspections with serious hazards versus other-than-serious hazards. According to Oregon OSHA's FY 2024 SOAR, 1,041 of 1,055 (98.7%) of serious complaints were initiated within 5 working days and 388 of 389 (99.7%) other-than-serious complaints were initiated within 30 working days. Oregon improved their performance from the previous review period where 97.7% of serious and 96.4% of other-than-serious complaint inspections were initiated within negotiated timeframes. This SAMM measure was updated for FY 2025 to distinguish the average number of working days to initiate complaint inspections by those with serious and those with other-than-serious hazards. OSHA will monitor this data through the new SAMM report in the next review period.

### **SAMM 4 – Number of denials where entry not obtained**

**Discussion of Oregon OSHA's data and FRL:** The FRL for this metric is fixed at zero for all state plans. In FY 2024, there were three denials where entry was not obtained.

**Explanation:** Oregon OSHA explained the outliers were denial of entries where compliance officers later returned to the worksite with a warrant but were denied entry a second time. In these circumstances, Oregon OSHA followed established procedures and referred the matter to the Department of Justice. The compliance officers were able to initiate an inspection at a later date. At this time, this is not cause for concern and OSHA will continue to monitor this with Oregon OSHA.

### **SAMM 5a – Average number of violations per inspection with violations by violation type (SWRU)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average number of serious, willful, repeat, and unclassified (SWRU) violations per inspection (SAMM 5a) is +/- 20% of the three-year national average of 1.74 which provides an acceptable range of 1.39 to 2.08. Oregon OSHA's average was 1.26 SWRU violations per inspection, which was below the FRL.

**Explanation:** Oregon's SWRU rate decreased from 1.45 the previous review period and could potentially be affected a variety of factors. In FY 2024, unprogrammed inspections were more prevalent and may result in fewer violations issued compared to a comprehensive or programmed inspection. According to the SIR, Oregon OSHA conducted 49.33% of their safety inspections and 29.65% of their health inspections as programmed (SIR 1c). Oregon OSHA is looking at increasing the number of comprehensive inspections and revising complaint-handling procedures to address this metric. In addition, management is reviewing inspection files to ensure violations are cited and classified appropriately based on the severity of injury that could result from a hazardous condition. At this time, this is not cause for concern and will continue to be monitored by OSHA.

### **SAMM 5b – Average number of violations per inspection with violations by violation type (other)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average number of other-than-serious violations per inspection (SAMM 5b) is +/- 20% of the three-year national average of 0.94 which provides an acceptable range of 0.75 to 1.12. Oregon OSHA's average was 1.16 other-than-serious violations per inspection, which was above the FRL.

**Explanation:** Oregon's other-than-serious violation rate per inspection slightly increased from 1.06 in FY 2023. Similar to SAMM 5a, management is reviewing inspection files to ensure violations are cited and classified appropriately based on the severity of injury that could result from a hazardous condition. In addition, Oregon may issue violations for unique, state-specific standards (e.g., individual provisions of the Safety Committees and Safety Meetings requirements) that are typically not cited as serious and can increase this average. At this time, this is not cause for concern and will continue to be monitored by OSHA.

### **SAMM 6 – Percent of total inspections in state and local government workplaces**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the percent of total inspections in state and local government workplaces (SAMM 6) is +/- 5% of 2.86%, which was negotiated between OSHA and Oregon OSHA through the 23(g) grant application and provides an acceptable range of 2.71% to 3.00%. According to the SAMM report, Oregon conducted 105 of 3,199 (3.28%) inspections in state and local government workplaces, exceeding the FRL.

**Explanation:** Oregon projected 70 inspections in state and local government agency workplaces, 27 safety and 43 health. Oregon exceeded their annual inspection goals, including in state and local government agency workplaces, which was not cause for concern.

### **SAMM 7a – Planned v. actual inspections (safety)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for planned versus actual safety inspections (SAMM 7a) is +/- 5% of 1,800, which was negotiated between OSHA and Oregon OSHA through the 23(g) grant application and provides a range of 1,710 to 1,890. A total of 2,376 safety inspections were conducted, which exceeded the FRL.

**Explanation:** Oregon's inspection numbers were at the highest number since FY 2019. Safety inspection numbers increased from 1,967 in FY 2023. Exceeding inspection goals shows that Oregon was able to bring compliance officers into more workplaces than anticipated.



## **SAMM 7b – Planned v. actual inspections (health)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for planned versus actual health inspections (SAMM 7b) is +/- 5% of 650, which was negotiated between OSHA and Oregon OSHA through the 23(g) grant application and provides an acceptable range of 618 to 683. A total of 823 health inspections were conducted, which exceeded the FRL.

**Explanation:** Similar to SAMM 7a, Oregon's health inspection numbers increased from 705 in FY 2023, and they surpassed their goal. Similar to SAMM 7a, Oregon was able to enforce safety and health in more workplaces than anticipated.

## **SAMM 8 - Average current serious penalty in private sector – total (1 to greater than 250 workers)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average current penalty for 1-250+ workers was +/- 25% of \$3,793.81, which was based on a three-year national average and provides a range of \$2,845.36 to \$4,742.27. In Oregon, employers with 1-250+ workers were penalized at an average of \$1,581.75 per serious violation, which was below the FRL range.

**Explanation:** In 2023, the Oregon Legislature passed SB 592 to increase penalties and align with OSHA's penalty structure. Penalties are set to update annually based on the Western Region Consumer Price Index. After SB 592 went into effect, violations issued for inspections that were opened on or after January 1, 2024, would be under the new penalty structure. However, any penalty imposed related to an inspection opened prior to that date was under the previous penalty structure, which impacted penalties for inspections that were opened in the first quarter of FY 2024. As a result of SB 592, Oregon OSHA's total average penalty increased from \$604.08 in FY 2023. In addition, Oregon OSHA issued a large quantity of repeat classification violations, which is not captured in this metric. Lastly, the majority of establishments that are inspected are small employers, which may affect the average penalties overall. OSHA will continue to monitor total average penalties for serious citations into the next review period.

## **SAMM 8a - Average current serious penalty in private sector – total (1-25 workers)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average current penalty for 1-25 workers was +/- 25% of \$2,498.51, which was based on a three-year national average and provides a range of \$1,873.88 to \$3,123.14. In Oregon, employers with 1-25 workers were penalized at an average of \$1,123.00 per serious violation, which was below the FRL range.

**Explanation:** As a result of SB 592, Oregon's average serious penalty for employers with 1-25 workers increased from \$457.00 in FY 2023. It is expected that the penalty averages will continue to increase as it aligns with OSHA's. OSHA will continue to monitor average penalties for serious citations into the next review period.

## **SAMM 8b - Average current serious penalty in private sector – total (26-100 workers)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average current penalty for 26-100 workers was +/- 25% of \$4,322.61, which was based on a three-year national average and provides a range of \$3,241.96 to \$5,403.26. In Oregon, employers with 101-250 workers were penalized at an average of \$1,910.45 per serious violation, which was below the FRL range.

**Explanation:** As a result of SB 592, Oregon's average serious penalty for employers with 26-100 workers increased from \$711.16 in FY 2023. It is expected that the penalty averages will continue to increase as it aligns with OSHA's. OSHA will continue to monitor average penalties for serious citations into the next review period.

## **SAMM 8c - Average current serious penalty in private sector – total (101-250 workers)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average current penalty for 101-250 workers was +/- 25% of \$6,114.84, which was based on a three-year national average and

provides a range of \$4,586.13 to \$7,643.55. In Oregon, employers with 101-250 workers were penalized at an average of \$2,934.70 per serious violation, which was below the FRL range.

**Explanation:** As a result of SB 592, Oregon's average serious penalty for employers with 101-250 workers increased from \$926.99 in FY 2023. It is expected that the penalty averages will continue to increase as it aligns with OSHA's. OSHA will continue to monitor average penalties for serious citations into the next review period.

#### **SAMM 8d - Average current serious penalty in private sector – total (greater than 250 workers)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for the average current penalty for 250 or more workers was +/- 25% of \$7,533.58, which was based on a three-year national average and provides a range of \$5,650.19 to \$9,416.98. In Oregon, employers with greater than 250 workers were penalized at an average of \$2,298.18 per serious violation, which was below the FRL range.

**Explanation:** As a result of SB 592, Oregon's average serious penalty for employers with 250 or more workers increased from \$1,000.67 in FY 2023. It is expected that the penalty averages will continue to increase as it aligns with OSHA's. OSHA will continue to monitor average penalties for serious citations into the next review period.

#### **SAMM 9b – Percent in compliance (health)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for percent in compliance for health inspections (SAMM 9b) is +/- 20% of 44.18%, which was based on a three-year national average and provides an acceptable range of 35.34% to 53.01%. According to Appendix D, Oregon's percent in compliance for health inspections was 33.48% and below the FRL.

**Explanation:** In FY 2024, Oregon issued citations in a greater number of health inspections, lowering the in-compliance rate. This indicates that Oregon performed better than the national average.

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

**Discussion of Oregon OSHA's data and FRL:** The FRL for fatalities responded to in one workday is fixed for all state plans at 100%. According to Appendix D, Oregon OSHA responded to fatalities within one working day (SAMM 10) in 87.50% of cases, falling below the FRL.

**Explanation:** Oregon OSHA generally responded to fatalities within one working day. According to the SAMM report, in FY 2024, 28 of 32 (87.50%) inspections were initiated within one-day of the fatal event and below the FRL. The outliers are explained below.

In one case, an event was originally reported to Oregon OSHA as a hospitalization and later resulted in a fatality. The employer notified the compliance officer and Oregon OSHA manager via email of the update; however, both points of contact were out of the office. Oregon OSHA has since reminded their staff to use out-of-office notifications on their email, including instructions for callers to contact the main office if the matter was urgent or was regarding a fatality.

There were three instances where according to the SAMM report, Oregon OSHA did not initiate a fatality investigation timely, but the circumstances were out of their control.

In one case, an employee was found unresponsive at home, and Oregon OSHA determined that no action was necessary due to lack of work-relatedness. However, six days later, additional information was provided via a media inquiry that suggested it was work-related. As a result, Oregon OSHA initiated an inspection the following day.

In a second instance, after the fatal event occurred, Oregon OSHA attempted communication with the employer but was unsuccessful at making contact for two days. After receiving a call back from the employer, it was identified that the worker belonged to a different employer.

Oregon OSHA was unable to reach the correct employer that same day but was successful the following day. An inspection was subsequently opened, but it was four days beyond the event date.

Lastly, a fatal event was originally reported as a hospitalization, but the information provided was incomplete. Oregon OSHA made attempts to contact the employer but was unsuccessful. Two days later, the employer reported the information as a fatality, and an inspection was opened the same day.

OSHA will continue to monitor this measure with Oregon OSHA to ensure work-related fatalities are responded to timely. At this time, this does not rise to the level of an observation.

### **SAMM 11a – Lapse time (safety)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for lapse time for safety inspections (SAMM 11a) is +/- 20% of 56.02 days, which is based on a three-year national average and provides a range of 44.82 to 67.23 days. Oregon lapse time for safety inspections is 36.74 days and below the FRL.

**Explanation:** Oregon OSHA had a lower average lapse time which indicated safety inspections with violations were issued at a faster rate than the national average. Low lapse time indicates that employers receive written notification of hazards more quickly than the national average, which provides better opportunity for prompt hazard abatement.

### **SAMM 11b – Lapse time (health)**

**Discussion of Oregon OSHA's data and FRL:** The FRL for lapse time for health inspections (SAMM 11b) is +/- 20% of 67.21 days, which is based on a three-year national average and provides a range of 53.77 to 80.65 days. Oregon OSHA's lapse time for health inspections is 49.88 days and below the FRL.

**Explanation:** Similar to SAMM 11a, Oregon OSHA had a lower average lapse time for health inspections and violations were issued in a faster timeframe than the national average. Low lapse time indicates that employers receive written notification of hazards more quickly than the national average, which provides better opportunity for prompt hazard abatement.

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

**Discussion of Oregon OSHA's data and FRL:** The FRL for penalty retention retained (SAMM 12) is +/-15% of 70.81%, which is based on a three-year national average and provides a range of 60.19% to 81.44%. Oregon OSHA's penalty retention was 95.02% which was above the FRL.

**Explanation:** Oregon OSHA's penalty retention rate as reported in the SAMM is significantly higher than the national average. However, Oregon OSHA's appeal process is structured in a different manner than OSHA's; therefore, the OIS SAMM 12 data definitions can't be accurately applied. Oregon OSHA reported in the FY 2024 SOAR that 91% of overall penalties were retained. Penalty retention may be higher than the national average because under the previous penalty structure in Oregon, initial penalties were significantly lower than the FRL. OSHA has frequent discussions with Oregon OSHA regarding this data and it will continue to be monitored.

### **SAMM 17 – Percent of enforcement presence**

**Discussion of Oregon OSHA's Data and FRL:** The FRL for percent of enforcement presence is +/- 25% of 1.00%, which was based on a three-year national average. The range of acceptable data not requiring further review is a range from 0.75% to 1.25%. According to Appendix D, Oregon's enforcement presence was 3.14% and below the FRL.

**Explanation:** The percent of enforcement presence describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. In FY

2024, Oregon's enforcement presence was higher than the national average and indicated that it reached more employers with enforcement activity than the national average.

## Appendix A – New and Continued Findings and Recommendations

### FY 2024 Oregon OSHA Follow-up FAME Report

<b>FY 2024-##</b>	<b>Finding</b>	<b>Recommendation</b>	<b>FY 2023-# or FY 2023-OB-#</b>
FY 2024-01	In FY 2023, in 100% (76 of 76) retaliation cases, there was no evidence that complainants were advised of their right to dually file with OSHA.	BOLI must use language in their notification letters informing complainants of their right to dually file with OSHA. Oregon OSHA should monitor BOLI to ensure this information is documented and in the retaliation casefile. Corrective action complete, awaiting verification.	FY 2023-01
FY 2024-02	In FY 2023, in 68% (52/76) of retaliation files reviewed, there was inconsistent documentation on allowing complainant to rebut the respondent's information.	Oregon OSHA should ensure BOLI is following OR OSHA PD A-288 by allowing complainants to rebut the information provided respondents during investigations and that the rebuttal is documented in the case files. Corrective action complete, awaiting verification.	FY 2023-02

## Appendix B – Observations Subject to Continued Monitoring

### FY 2024 Oregon OSHA Follow-up FAME Report

Observation # FY 2024-OB-#	Observation# FY 2023-OB-# or FY 2023-#	Observation	Federal Monitoring Plan	Current Status
FY 2024-OB-01	FY 2023-OB-01	The confidentiality of employees interviewed during inspections was not ensured during the appeal process.	OSHA will continue to work with and provide guidance to Oregon OSHA to ensure the confidentiality of employees who participate in enforcement activities.	Continued
FY 2024-OB-02	FY 2023-OB-02	Oregon OSHA did not adopt federal program changes timely.	OSHA will continue to track Oregon OSHA's progress on adoption of federal program changes and will discuss the status during the quarterly meetings.	Continued
FY 2024-OB-03	FY 2023-OB-03	In FY 2023, in 100% (76/76) of retaliation case files reviewed, although draft letters were present in the file, there was no specific information on delivery of official letters presented for review.	OSHA will monitor quarterly that Oregon OSHA and BOLI are properly documenting retaliation investigations and will conduct a comprehensive file review for FY 2025.	Continued
FY 2023-OB-04	FY 2023-OB-04	In FY 2023, the activity log was not presented for review in 92% (70/76) of retaliation files.	OSHA will monitor quarterly that Oregon OSHA and BOLI are properly documenting retaliation investigations and will conduct a comprehensive file review for FY 2025.	Continued
FY 2024-OB-05	FY 2023-OB-05	In FY 2023, OSHA 300 logs were not in the files in five of nine (55%) state and local government consultation files reviewed, for employers with 10 or more employees at the worksite.	OSHA will discuss with Oregon OSHA during quarterly meetings and with the Consultation Program Manager. OSHA will conduct a file review during the next Comprehensive FAME.	Continued

FY 2024-OB-06	FY 2023-OB-06	In FY 2023, the DART rate comparison in the report to the employer was missing in five of nine (44%) state and local government consultation files reviewed with 10 or more employees at the worksite.	OSHA will discuss with Oregon OSHA during quarterly meetings and with the Consultation Program Manager. OSHA will conduct a file review during the next Comprehensive FAME.	Continued
FY 2024-OB-07	FY 2023-OB-07	In FY 2023, inadequate abatement documentation for serious hazards was found in 7 of 14 (50%) state and local government consultation files reviewed for employers which had serious hazards at their worksite.	OSHA will discuss with Oregon OSHA during quarterly meetings and with the Consultation Program Manager. OSHA will conduct a file review during the next Comprehensive FAME.	Continued

## Appendix C - Status of FY 2023 Findings and Recommendations

FY 2024 Oregon OSHA Follow-up FAME Report

FY 2023-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2023-01	In 100% (76 of 76) retaliation cases, there was no evidence that complainants were advised of their right to dually file with OSHA.	BOLI must use language in their notification letters informing complainants of their right to dually file with OSHA. Oregon OSHA should monitor BOLI to ensure this information is documented and in the retaliation casefile.	BOLI has added dual filing notification to three 11(c) documents: initial complaint intake questionnaire, complainant notification letter after the complaint is perfected (docketed), and in the closing notification letter sent to the complainants at the end of any 11(c) investigation. Additionally, during quarterly audits, Oregon OSHA will verify that each 11(c) BOLI casefile includes evidence of dual file notification. Oregon OSHA is engaged in close discussions with BOLI on implementing these additional dual filing notification mechanisms and anticipates this corrective action plan item being resolved in early FY 2025.	8/5/2024	Awaiting Verification 8/5/2024
FY 2023-02	In 68% (52/76) of retaliation files reviewed, there was inconsistent documentation on	Oregon OSHA should ensure BOLI is following OR OSHA PD A-288 by allowing complainants to rebut	BOLI has modified its closing memo template used for 11(c) investigations to include a specific provision for complainant rebuttal	8/5/2024	Awaiting Verification 8/5/2024



<b>FY 2023-#</b>	<b>Finding</b>	<b>Recommendation</b>	<b>State Plan Corrective Action</b>	<b>Completion Date</b>	<b>Current Status and Date</b>
	allowing complainant to rebut the respondent's information.	the information provided respondents during investigations and that the rebuttal is documented in the case files.	information. Additionally, during quarterly audits, Oregon OSHA will verify that each 11(c) BOLI casefile includes a description of the complainant rebuttal or why a rebuttal opportunity was otherwise unnecessary (e.g. case withdrawn to state/federal court prior to case determination). Oregon OSHA is engaged in close discussions with BOLI on implementing this change to the closing memo template for 11(c) investigations and anticipates this corrective action plan item being resolved in early FY 2025.		

## Appendix D – FY 2024 State Activity Mandated Measures (SAMM) Report

### FY 2024 Oregon OSHA Follow-up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of workdays to initiate complaint inspections (state formula)	5.88	5 days for serious hazards; 30 days for other-than-serious hazards	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of workdays to initiate complaint inspections (federal formula)	3.60	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of workdays to initiate complaint investigations (state formula)	2.71	10	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of workdays to initiate complaint investigations (federal formula)	2.70	N/A	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)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	3	0	The further review level is fixed for all State Plans.
<b>5a</b>	Average number of violations per inspection with violations by violation type (SWRU)	1.26	+/- 20% of 1.74	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.39 to 2.08 for SWRU.

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>5b</b>	Average number of violations per inspection with violations by violation type (other)	1.16	+/- 20% of 0.94	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75 to 1.12 for OTS.
<b>6</b>	Percent of total inspections in state and local government workplaces	3.28%	+/- 5% of Grant 2.86%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 2.71% to 3.00%.
<b>7a</b>	Planned v. actual inspections (safety)	2,376	+/- 5% of Grant 1800	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 1,710 to 1,890 for safety.
<b>7b</b>	Planned v. actual inspections (health)	823	+/- 5% of Grant 650	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 618 to 683 for health.
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,581.75	+/- 25% of \$3,793.81	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,845.36 to \$4,742.27.
<b>8a</b>	Average current serious penalty in private sector (1-25 workers)	\$1,123.00	+/- 25% of \$2,498.51	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,873.88 to \$3,123.14.
<b>8b</b>	Average current serious penalty in private sector (26-100 workers)	\$1,910.45	+/- 25% of \$4,322.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,241.96 to \$5,403.26.
<b>8c</b>	Average current serious penalty in private sector (101-250 workers)	\$2,934.70	+/- 25% of \$6,114.84	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,586.13 to \$7,643.55.

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>8d</b>	Average current serious penalty in private sector (greater than 250 workers)	\$2,298.18	+/- 25% of \$7,533.58	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$5,650.19 to \$9,416.98.
<b>9a</b>	Percent in compliance (safety)	36.32%	+/- 20% of 32.83%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 26.27% to 39.40% for safety.
<b>9b</b>	Percent in compliance (health)	33.48%	+/- 20% of 44.18%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.34% to 53.01% for health.
<b>10</b>	Percent of work-related fatalities responded to in one workday	87.50%	100%	The further review level is fixed for all State Plans.
<b>11a</b>	Average lapse time (safety)	36.74	+/- 20% of 56.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.82 to 67.23 for safety.
<b>11b</b>	Average lapse time (health)	49.88	+/- 20% of 67.21	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 53.77 to 80.65 for health.
<b>12</b>	Percent penalty retained	95.02%	+/- 15% of 70.81%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 60.19% to 81.44%.
<b>13</b>	Percent of initial inspections with worker walk-around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	N/A*	N/A*	This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025.

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>15</b>	Percent of 11(c) complaints that are meritorious	N/A*	N/A*	This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	N/A*	N/A*	This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025.
<b>17</b>	Percent of enforcement presence	3.14%	+/- 25% of 1.00%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75% to 1.25%.

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the SAMM Report in OIS and the State Plan WebIMIS report run on November 12, 2024, as part of OSHA's official end-of-year data run.

\*Due to the transition of 11(c) data from IMIS to OIS, SAMMs 14, 15, and 16 are not being reported for FY 2024.