



# Overview – Workers’ Compensation and Worker Safety

Presenters:

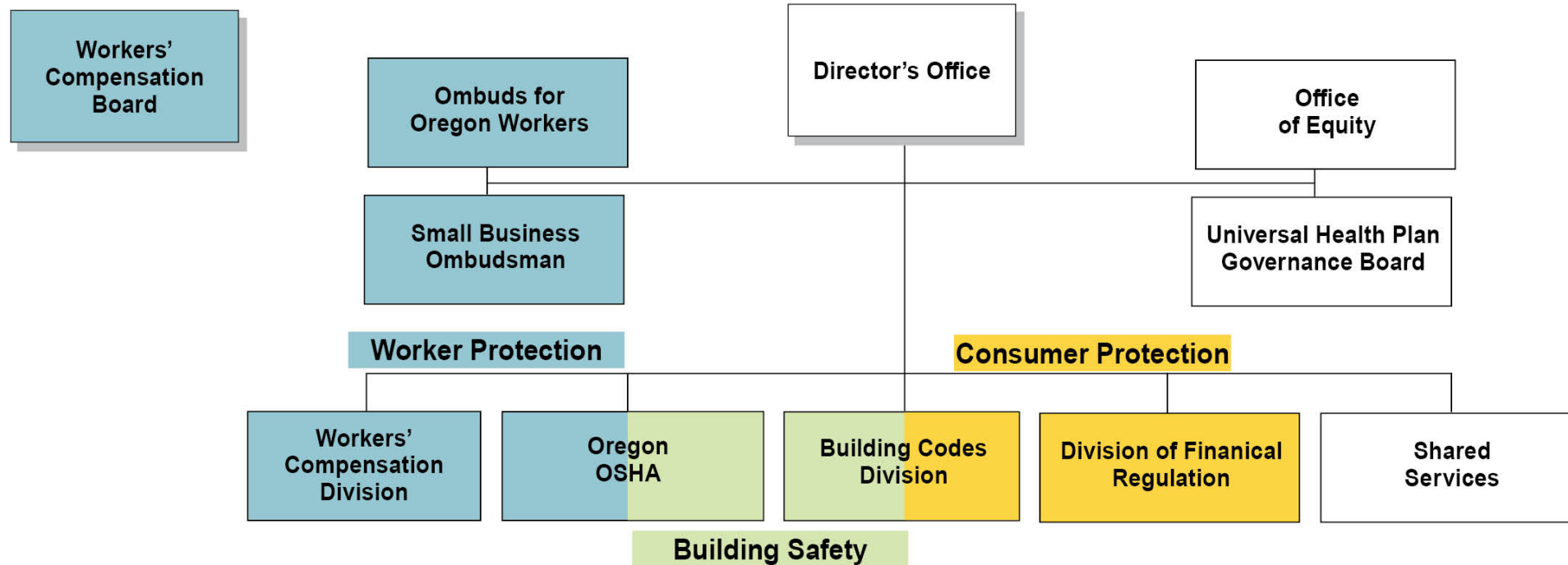
Andrew Stolfi, DCBS Director

Matt West, Interim Administrator, Workers’ Compensation Division

Renee Stapleton, Administrator, Oregon OSHA



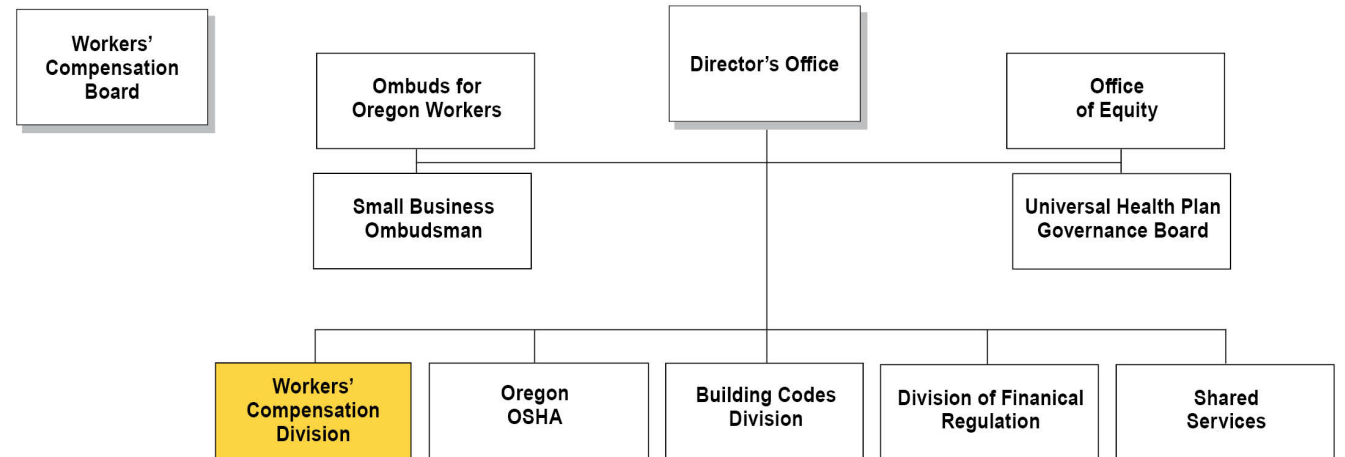
# DCBS organizational chart



Mission: To equitably protect and empower consumers and workers while maintaining a predictable yet innovative regulatory environment for the businesses we regulate.

# Workers' Compensation Division

To ensure an equitable workers' compensation system for all



# Workers' Compensation Division

## Key division statistics

- Two primary customers
  - Subject workers: 1,980,500 (2022)
  - Subject employers: 135,400 (2022)
- 10th lowest workers' compensation costs in U.S. (2022)

# Workers' Compensation Division

**The workers' compensation system is designed to provide:**

- Prompt and complete medical treatment
- Adequate and reasonable income benefits
- A fair and just administrative system
- Self-sufficiency for workers
- A sole and exclusive remedy

# Dual jurisdiction system

## Workers' Compensation Division

- Administers and regulates workers' compensation laws and rules
- Resolves disputes related to:
  - Medical services and fees
  - Claim closure/Permanent Partial Disability (PPD)
  - Vocational assistance

## Workers' Compensation Board

- Resolves disputes related to:
  - Right to compensation
  - Amount of compensation
  - Health and safety citations (ORS Chapter 654)
- Hearings, settlements, appeals, mediation services

# Management-Labor Advisory Committee (MLAC)

Created by the Oregon Legislature in 1990, the Workers' Compensation Management-Labor Advisory Committee (MLAC) provides a forum for business and labor to explore and resolve issues in the workers' compensation system.

MLAC adheres to a common set of values:

- Balance and fairness
- Adequacy of benefits
- Affordability
- Efficiency
- Stability and flexibility

# Firefighter cancer presumption update

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## ORS 656.802 (4) Occupational diseases

- “Any condition of or impairment of health arising under this subsection shall be presumed to result from a firefighter’s employment.”
- Five or more years of employment
- Lung or respiratory disease
- Hypertension or cardiovascular-renal disease
- Exception to City of Portland nonvolunteer firefighters



# 'Presumptively compensable' condition

## What it is:

- Assumes that “occupational disease” is related to employment of the firefighter
- Shifts the burden of proof from the worker to the employer
- Employer must provide “clear and convincing” medical evidence to deny the claim
- Employer may rebut the presumption by clear and convincing evidence that tobacco is a major contributing factor of the cancer
- Does not apply to volunteer firefighters
- Time limits to file

# Presumption history

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## House Bill 2420 (2009)

- Effective Jan. 1, 2010
- Added brain, colon, stomach, testicular, prostate, throat, mouth, rectal, and breast cancers; multiple myeloma; and leukemia to the existing presumption

ORS 656.802(5) and (6)

# Presumption history

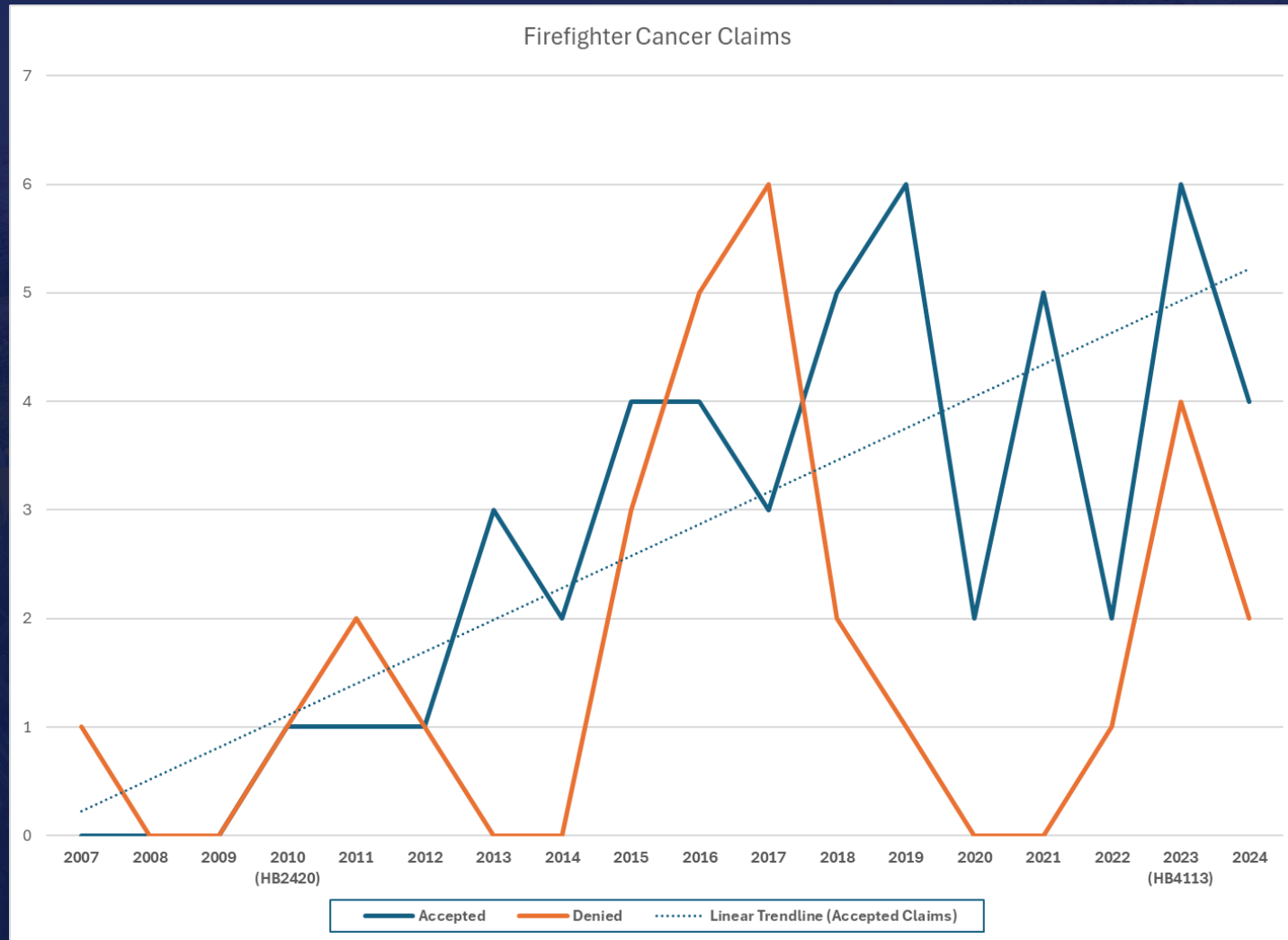
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## House Bill 4113 (2022)

- Effective Jan. 1, 2023
- Added bladder cancer and gynecologic cancer of the uterus, fallopian tubes, ovaries, cervix, vagina, or vulva

ORS 656.790(2)(d) and 656.802(5)(a)(A)

# Firefighter cancer claims data

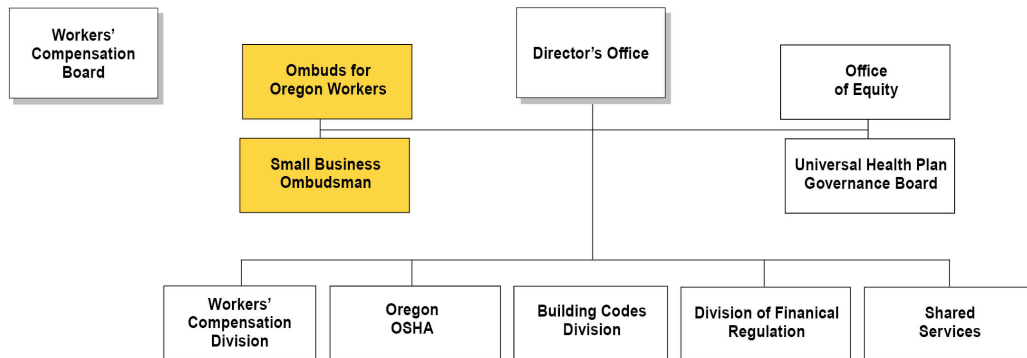


# Ombuds offices - Oregon workers

Helping workers  
in the workers'  
compensation and  
workplace safety  
and health systems

## Ombuds for Oregon Workers (OOW) Services

- Answers questions about:
  - Workers' rights and responsibilities in workers' compensation and workplace safety and health
  - Insurer and employer rights and responsibilities
  - Time-loss benefits
  - Medical benefits
  - Litigation and settlement processes
- Educational seminars in workers' issues related to workers' compensation and workplace safety and health

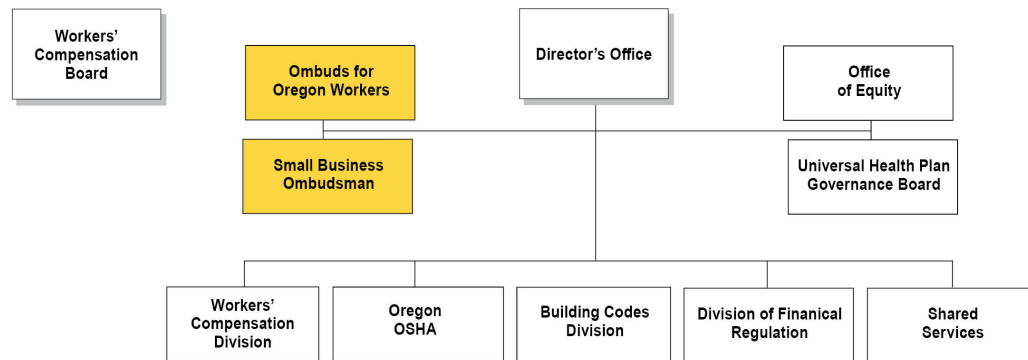


# Ombuds offices – Small business

Helping small business owners in the workers' compensation system

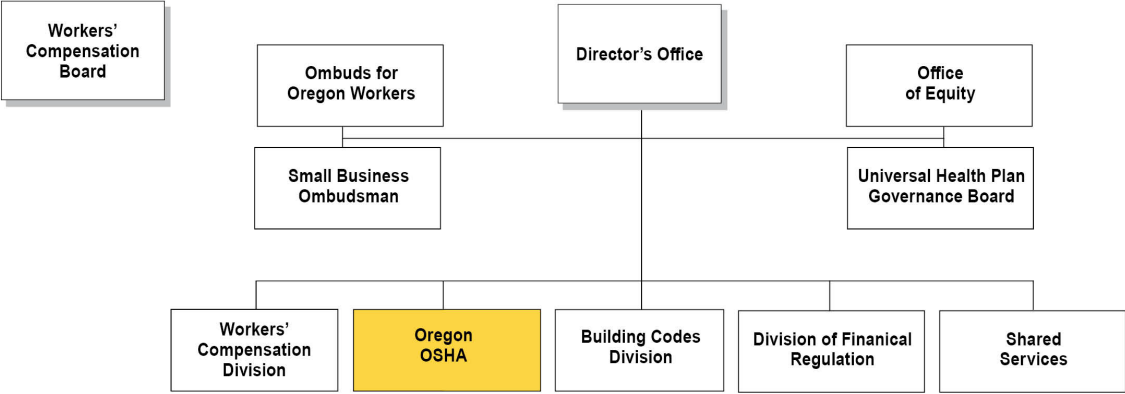
## Small Business Ombudsman (SBO) Services

- Explaining workers' compensation coverage requirements
- Providing advice on how to shop for workers' compensation insurance
- Helping businesses in dispute with their insurance company and navigating through the available appeal processes
- Educational outreach to businesses and their professional advisers about their rights and responsibilities under the workers' compensation laws



# Oregon OSHA

**Improving  
workplace safety  
and health for all  
Oregon workers**



# Oregon OSHA

## The division:

- Inspects places of employment
- Helps employers identify and eliminate hazards
- Investigates workplace fatalities/accidents/complaints

## **Key division stats**

- Oregon OSHA serves:
  - Workers (2022): 1,950,774
  - Business and government establishments (2022): 183,124
- Third highest inspection rate in the nation (2024)



# Oregon OSHA – Accomplishing the mission

- Focus education, outreach, and enforcement on protecting particularly vulnerable and hard-to-reach worker populations
- Maintain one of the strongest consultation presences in the nation – providing free, voluntary, on-site safety and health program evaluation, training, and resources to employers.
- Continue to maintain one of the highest enforcement presences in the nation
- Target educational, collaborative, and enforcement efforts to high-hazard industries and occupations, and small employers
- Continue to intentionally engage with historically underrepresented communities
- Increase employer and employee access to safety and health training through improved use of technology

# Oregon OSHA – SB 592 implementation

## SB 592 (2023):

- Comprehensive Inspections required when:
  - Violation caused or contributed to work-related fatality
  - Three repeat violations within 12 months
  - Three willful violations within 12 months
  - Non-compliance history, deemed necessary to protect workers

# Oregon OSHA – SB 592 implementation

- Penalties increase:
  - Serious and Death Rated Violations: \$1,116-\$15,625
  - Repeat Violations (including other-than-serious): \$11,162-\$156,259
  - Willful Violations: \$11,162-\$156,259
  - Caused or Contributed to Work-Related Fatality: \$20,000-\$50,000
  - Willful or Repeat: Caused or Contributed to Work-Related Fatality: \$50,000-\$250,000
- Annual Penalty Adjustments:
  - Western CPI annual adjustment

# Oregon OSHA – SB 592 implementation

ORS 654.086(8) requires the director of the Department of Consumer and Business Services to submit a report at least annually to the interim committees of the Legislative Assembly related to business and labor that summarizes the following Oregon OSHA activities:

- a) The total number and total amount of penalties assessed by the department;
- b) The total number of appeals of citations, violations and penalty assessments filed with the department; and
- c) The total number of inspections completed by the department, along with the scope of the inspections and the circumstances that led to the inspections.

Administrative Rules:

- Adopted on Nov. 22, 2023
- Effective on Jan. 1, 2024

Report submitted: Sept. 13, 2024

# Oregon OSHA – SB 592 implementation

June 1, 2023 to August 15, 2024

## Table 1 – Penalty Data

<b>Total number of violations with penalties</b>	3,352
<b>Total amount of penalties assessed</b>	\$8,105,908

## Table 2 – Appeal Data

<b>Total number of appealed citations</b>	352
<b>Total number of violations appealed</b>	1,063
<b>Total penalty of appealed citations</b>	\$3,810,300

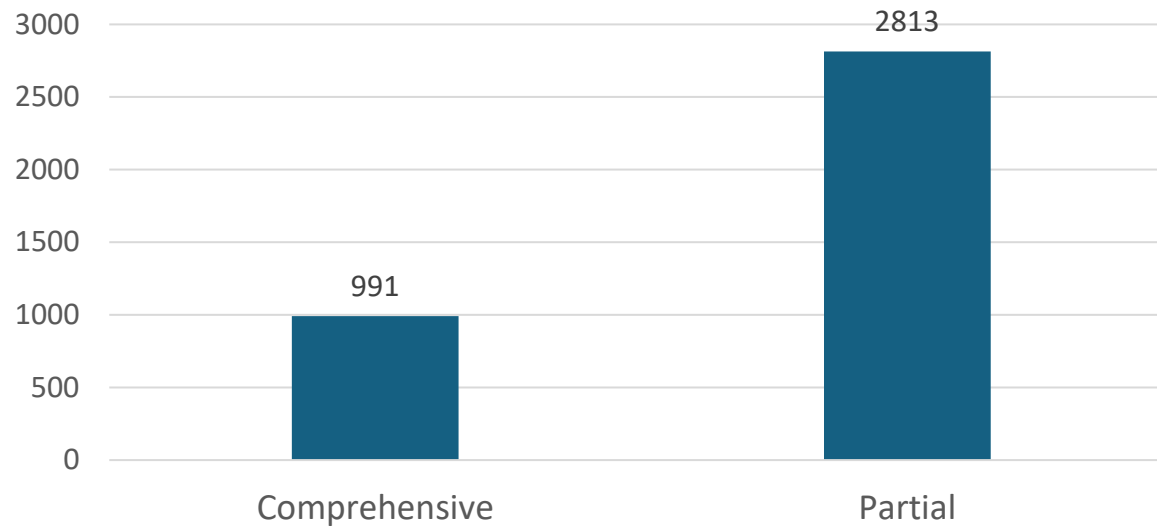
Note: Employers have 30 days to appeal a citation or violation from the date the citation is delivered.

# Oregon OSHA – SB 592 implementation

June 1, 2023 to August 15, 2024

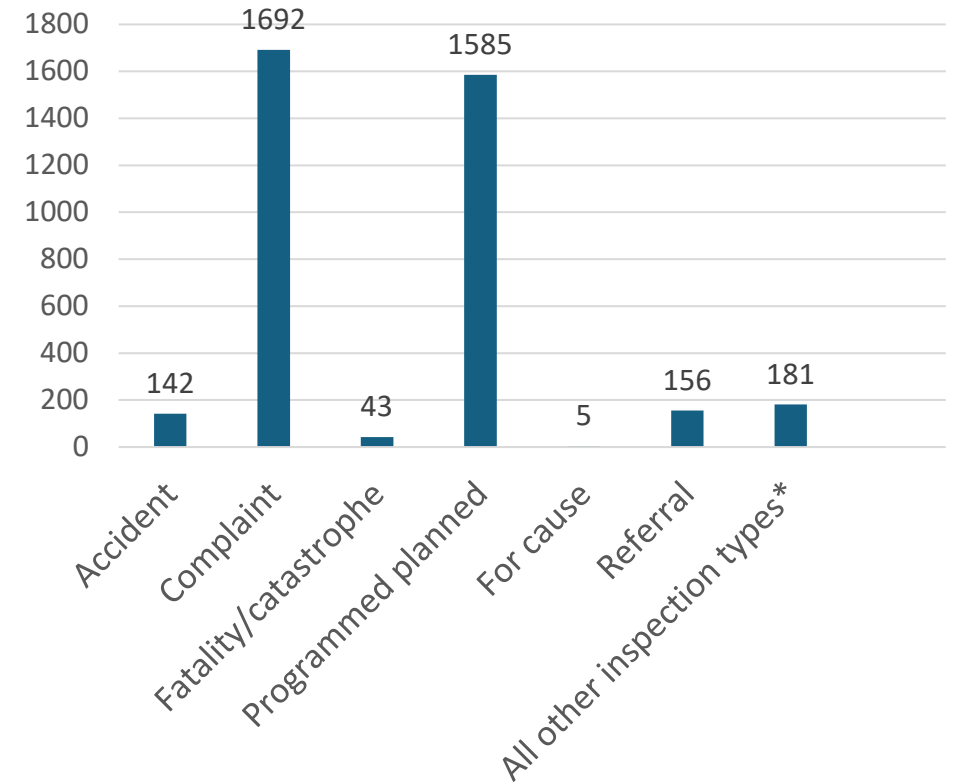
### Scope of Inspections

Total = 3804



### Inspection Type

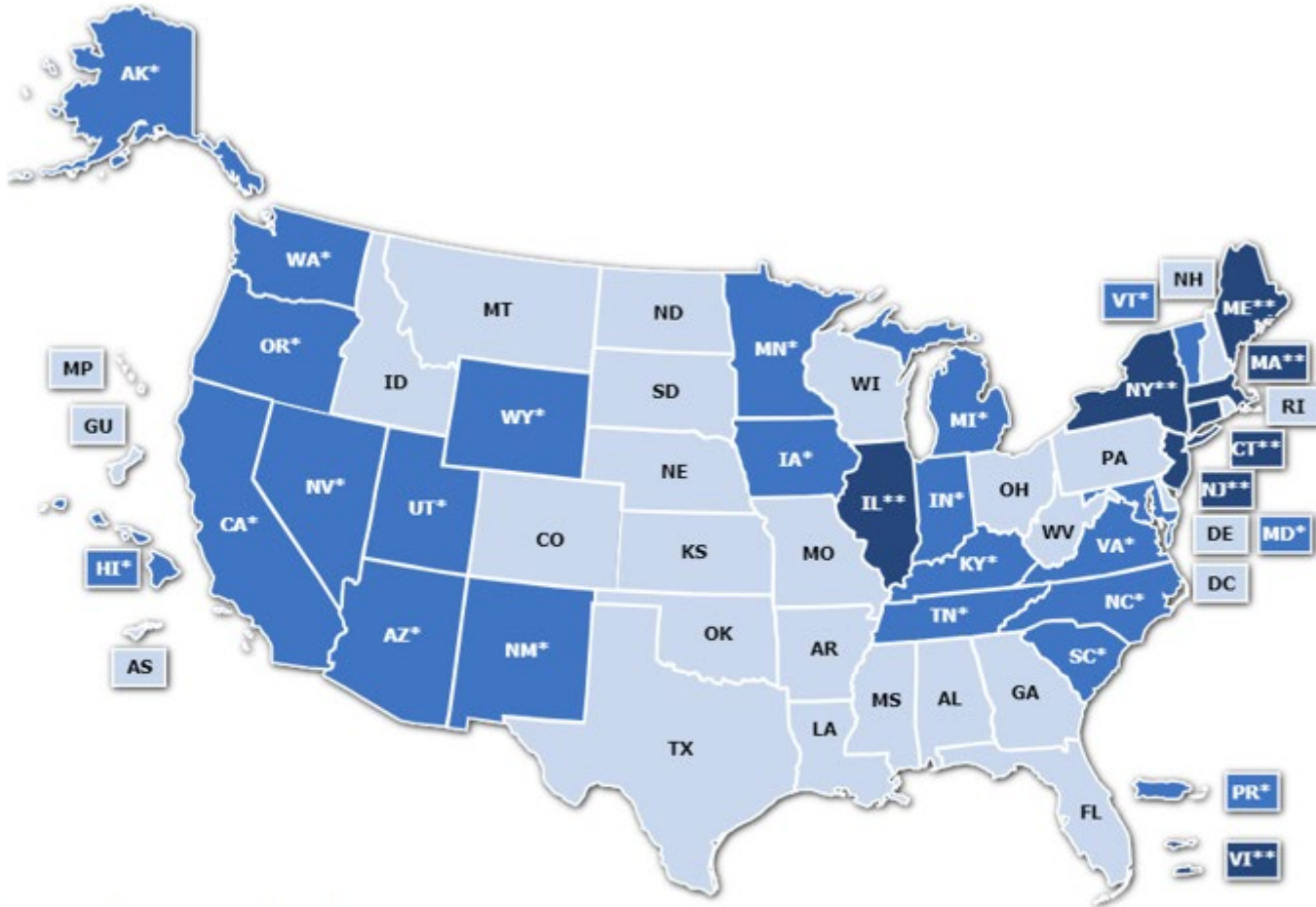
Total = 3804



# Federal OSHA's emergency services rule proposal

- Oregon OSHA is a state plan (29 state plans)
- Oregon has had specific rules for the fire service since 1993
- Federal OSHA's current rules – 1910.156 Fire Brigade (~1980s)
- Rule proposal expands to fire service, technical search and rescue, and EMS

# Federal OSHA's emergency services rule proposal



## Federal OSHA jurisdiction:

- Private, federal, and tribal

## 27 full states or territories (light blue):

- No coverage for state, and local government
- No coverage for volunteers

## 7 partial states (dark blue)

- Federal state for private employers
- State plan covers:
  - State and local government
  - Many states cover volunteers

## All states in light blue

- NO coverage for state and local government

• This state's OSHA-approved State Plan covers private and state/local government workplaces.

\*\* This state's OSHA-approved State Plan covers state/local government workers only.

■ This state (with no asterisk \*) is a federal OSHA state.



# Federal OSHA's emergency services rule proposal

2007 – Published a “Request For Information,” ~85 responses

2014 – Held two stakeholder meetings, ~50 participants

2015 – Convened a NACOSH Subcommittee

Subcommittee met in six meetings for 12 days, in one year, with several small group teleconferences between full group meetings

2021 – Small Business Regulatory Enforcement Fairness Act Panel (SBREFA)

Note: Information is from slides provided by federal OSHA.

# Federal OSHA's emergency services rule proposal

## 2015-2016 – National Advisory Committee on Occupational Safety and Health

- International Brotherhood of Teamsters (NACOSH member, Co-chair)
- British Petroleum (NACOSH member, Co-chair)
- International Association of Fire Fighters
- International Association of Fire Chiefs
- National Volunteer Fire Council
- National Fire Protection Association
- National Association of State EMS Officials
- U.S. Fire Administration
- National Fallen Firefighters Foundation
- International Union of Operating Engineers
- North America's Building Trade Unions
- National Institute for Occupational Safety and Health
- Arizona Division of Occupational Safety and Health (State Plan)
- Virginia Department of Labor and Industry (State Plan)

# Federal OSHA's emergency services rule proposal

## Timelines:

- 12/21/2023 – Unofficial public release of Notice of Proposed Rulemaking
- 2/5/2024 – Published in the Federal Register
- 5/6/2024 – Original public comment deadline
- 6/4/2024 – Congressional Subcommittee on Emergency Management & Technology
- 7/22/2024 – New public comment deadline extended on OSHA's webpage
- 9/27/2024 – Register to appear in public hearing in November
- 11/12/2024 – 6:30 am PST, public hearing
- TBD – Post-hearing written comments
- TBD – Post-hearing legal briefs

# Federal OSHA's emergency services rule proposal

- Establishment of  
Emergency Response Plan
- Risk Management Plan
- Training
- Emergency Service Org.  
Facility Preparedness
- Workplace Employer Pre-  
Incident Planning
- Incident Management  
System Development
- Standard Operating  
Procedures
- Program Evaluation
- Employee Participation
- Medical and Physical  
Requirements
- Workplace Employer Facility  
Preparedness
- Equipment and PPE
- Emergency Service Organization  
Pre-Incident Planning
- Emergency Incident Operations
- Post-Incident Analysis

# Federal OSHA's emergency services rule proposal

## Resources:

- Initial rule proposal, Federal Register link (2/05/24):

[https://www.federalregister.gov/documents/2024/02/05/2023-28203/emergency-response-standard?utm\\_campaign=subscription+mailing+list&utm\\_medium=email&utm\\_source=federalregister.gov](https://www.federalregister.gov/documents/2024/02/05/2023-28203/emergency-response-standard?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov)

- Register to participate in hearing in November by September 27, 2024:

<https://forms.office.com/pages/responsepage.aspx?id=GpBvzoA6h0mmhZ1NlvHxgKOaggO3AFpDjJxNgPHiXopUMEpOMDIWjFSMVRGNEIKRzZTTIixOVFBTiQIQCN0PWcu>

- Current Oregon OSHA Rules:

<https://osha.oregon.gov/OSHARules/div2/div2L.pdf#0182>



Questions?