

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

Connecticut Occupational Safety and Health Administration (CONN-OSHA)



Evaluation Period: October 1, 2012 – September 30, 2013

Initial Approval Date: January 1, 1975
Plan Converted to Public Employee Only: October 2, 1978
Program Certification Date: August 1, 1986

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I. Executive Summary

A. Summary of the Report

The purpose of this report is to assess the Connecticut Occupational Safety and Health Administration's (CONN-OSHA) activities in FY 2013, and also to evaluate the State Plan's progress in resolving outstanding recommendations from the FY 2012 Federal Annual Monitoring and Evaluation Report (FAME).

FY 2013 was the first time in five years that CONN-OSHA had a full complement of managers. In August 2012, the CONN-OSHA 21(d) consultation program manager was appointed as the 23(g) enforcement program manager. Prior to this appointment, the CONN-OSHA director was performing the duties of his own position as well as those of the 23(g) manager. As a consequence, some aspects of CONN-OSHA's performance declined. For example, the State Plan was unable to meet its inspections goals from FY 2009 to FY 2012.

During the first few months of FY 2013, the new 23(g) program manager spent part of his time training the new consultation project manager, and the CONN-OSHA director helped the new 23(g) manager become accustomed to his new responsibilities. Although FY 2013 was a transitional year for CONN-OSHA's new 23(g) manager, the program not only managed to surpass its goal for inspections, but also made progress in correcting some findings in the FY 2012 FAME.

For example, CONN-OSHA corrected one of the two findings related to timeliness in handling complaints, and the other finding will probably be corrected by the end of this fiscal year. A handful of other findings appear to be on course for correction in FY 2014 as well.

More improvement is needed, however, on findings related to high lapse times from opening conference to citation issuance, and also the misclassification of some serious violations as other-than-serious. Region I is also concerned that the State Plan is focusing its programmed inspections on municipal employers only, and not targeting state work sites for inspections; therefore, an observation has been made in this regard.

Regarding the State Plan's discrimination program, Region I could not determine the extent to which most of the findings from the FY 2012 FAME were actually corrected, because CONN-OSHA closed only one discrimination case in FY 2013. Therefore, most of the open discrimination findings in the FY 2012 FAME are awaiting the results of the next on-site case file review.

Overall, it appears that CONN-OSHA is recovering from the difficulties that it experienced over the past few years due to vacancies in managerial positions. Now that a full slate of experienced managers is in place, CONN-OSHA has the potential to resolve the findings discussed in more detail in this report.

B. State Plan Introduction

Connecticut State Plan Background

State Designee: **Sharon Palmer, Commissioner of Labor**
Connecticut Department of Labor
200 Folly Brook Boulevard
Wethersfield, Connecticut 06109

CONN-OSHA Director: **Ken Tucker**

Program Manager: **Jim Pierce**

Plan approved: **January 1, 1975**

Plan converted to Public Employee Only: **October 2, 1978**

Plan Certified (**completion of developmental steps**): **August 1, 1986**

Final Approval/18(e) Determination: **N/A for a Public Employee Only (PEO) State Plan**

The Connecticut State Plan as approved in 1975 was a comprehensive State Plan covering both the private and public sectors. The plan was converted to a public employee-only program in 1978 as a result of legislative action initiated by the State AFL-CIO.

In August 2012, the 21(d) consultation manager was appointed as the manager of the CONN-OSHA 23 (g) program, but during the first quarter of FY 2013, he spent part of his time training the person who succeeded him as the consultation supervisor. For the first few months of FY 2013, the CONN-OSHA director and the new 23(g) manager shared some of the responsibilities for running the 23(g) program, but in January 2013, the new 23(g) manager assumed full duties as the Occupational Safety and Health Program Manager for the 23(g) enforcement program.

At the end of FY 2012, one safety CSHO transferred to the CONN-OSHA 21 (d) consultation project. Fortunately, a new CSHO began working for the program the same day that the other CSHO transferred to the private sector consultation project. Thus, until May 2013, when one CSHO took medical leave, the CONN-OSHA program was fully staffed. However, this CSHO later returned to the program in September 2013. One of CONN-OSHA's 23(g) consultants transferred to the private sector consultation program at the end of the fiscal year. Fortunately, the program was able to fill this vacancy a couple of months later, in November 2013.

<i>Funding History</i>					
Fiscal Year	Federal Award (\$)	State Match (\$)	100% State Funds (\$)	Total Funding (\$)	% State Contribution (\$)
2014	623,300	623,300	1,156,798	2,403,398	74
2013	650,400	950,924	2,251,724	2,251,724	71
2012	650,400	897,354	2,198,154	2,198,154	70
2011	650,400	881,069	2,181,869	2,181,869	70
2010	650,400	986,049	2,286,849	2,286,849	72

<i>FY 2013 Covered Workers</i>				
State Gov. Employees	Local Gov. Employees	Volunteer Firefighters	Private Sector Employees	Total Covered Employees
66,900	134,000	10,000	N/A	210,900

<i>FY 2013 Staffing as of September 30, 2013</i>					
23(g) Grant Positions	Allocated FTE Funded 50/50	Allocated FTE 100% State Funded	Total	50/50 Funded FTE On Board as of 8/15/13	100% State Funded FTE On Board as of 8/15/13
Managers/Supervisors (Admin)	0.26	0.24	0.50	0.26	0.24
First Line Supervisors	0.52	0.48	1.00	0.52	0.48
Safety Compliance Officers	1.56	1.44	3.00	1.56	1.44
Health Compliance Officers	1.04	0.96	2.00	1.04	0.96
Private Sector Safety Consultants (KY, PR, WA)	0.00	0.00	0.00	0.00	0.00
Private Sector Health Consultants (KY, PR, WA)	0.00	0.00	0.00	0.00	0.00
Public Sector Safety Consultants	0.52	0.48	1.00	0.52	0.48
Public Sector Health Consultants	1.04	0.96	2.00	0.52	0.48
Compliance Assistance Specialist	0.83	0.77	1.60	0.83	0.77
Trainers	0.00	0.00	0.00	0.00	0.00
Clerical/Admin/Data System	0.78	0.72	1.50	0.78	0.72
Other (all positions not elsewhere counted)	0.39	0.36	0.75	0.39	0.36
Total 23(g) FTE*	6.94	6.41	13.35	6.42	5.93

*Full-Time Equivalent (FTE)

C. Data and Methodology

The FY 2013 FAME Guidance issued by the Directorate of Cooperative and State Programs (DCSP) in November 2013 requires an “on-site evaluation and case file review.” In keeping with this requirement, Region I conducted two separate on-site reviews at CONN-OSHA’s headquarters in Wethersfield, Connecticut. One of these on-site evaluations focused on evaluating the State Plan’s discrimination program, while the other concentrated primarily on enforcement. Case files were reviewed to assess the overall effectiveness of each program, and also to determine the status of findings from the FY 2012 FAME.

- **Enforcement On-site Evaluation**

From January 6-9, 2014, Region I conducted an on-site evaluation of the CONN-OSHA 23(g) program. The Region I on-site review team consisted of the state plan monitor, the Region’s compliance assistance coordinator, and the Region I Voluntary Protection Programs (VPP) manager. During this evaluation, the team reviewed 54 inspection case files, most of which were closed in FY 2013. Of this total, 3 files were related to fatality inspections, and 51 case files were related to complaints, referrals, and programmed inspections. Case files were randomly selected from a universe of the 209 inspections that CONN-OSHA closed in FY 2013. The closed cases in FY 2013 were listed on an IMIS summary scan which was run by Region I on November 20, 2013. Four of 10 Alliance files were also reviewed.

Region I also conducted interviews with the CONN-OSHA Director; the CONN-OSHA Occupational Safety and Health Program Manager; an associate research analyst for the Connecticut Department of Labor; and the State Plan’s discrimination program attorney to discuss the targeting program, standard adoptions, CONN-OSHA’s FY 2012 Corrective Action Plan (CAP), and several other issues covered in this report.

This report includes a special study of CONN-OSHA’s targeting program, as required by the Directorate of Cooperative and State Program’s FY 2013 guidance. To conduct this study, Region I provided a copy of the questions related to the targeting special study to the CONN-OSHA managers a few weeks before the on-site case file review was conducted. During the on-site review, the state plan monitor met with the CONN-OSHA managers and the associate research analyst to discuss the State Plan’s responses to the questions in the study.

In addition to these interviews and the on-site case file reviews, Region I used the following information sources to evaluate the State Plan’s enforcement and consultation program: the FY 2013 SMM report (Appendix D); the FY 2013 Mandated Activities Report for Consultation (MARC); and the CONN-OSHA FY 2013 State OSHA Annual Report (SOAR). Some data from Integrated Management Information System (IMIS) Inspection and Enforcement Statistics Reports were run by the Region to supplement the FY 2013 SMM data.

- **Whistleblower On-site Evaluation**

On January 27, 2014, Region I conducted an on-site case file review for the discrimination program at the Connecticut Department of Labor offices in Wethersfield, Connecticut. Because CONN-OSHA closed only one case in FY 2013, Region I reviewed that case as well as eight pending cases. However, because the cases were still open they could not be reviewed for completeness, legal sufficiency, and agreement with data contained in the national database. Region I interviewed the principal personnel responsible for the discrimination program.

D. Findings and Recommendations

No new findings were made in FY 2013. Only findings from the FY 2012 FAME that were not corrected or are awaiting verification are listed as findings in FY 2013. For example, CONN-OSHA's citation issuance lapse times have been far too high over the past few years, and remained so in FY 2013 (Finding #13-3). However, it should be noted that a downward trend in citation lapse times for safety inspections has begun to occur. Also, CONN-OSHA continued to fall below the national data average in SAMM #9 (Average Serious/Willful/Repeat (S/W/R) Violations per Inspection with Violations) in FY 2013 (Finding #13-2). CONN-OSHA's results for this measure, coupled with evidence from the case file review, support the Region's concern that the State Plan is misclassifying some serious violations as other-than-serious.

On the other hand, CONN-OSHA did manage to correct a couple of findings that were cited in the previous FAME, such as findings related to State Activities Mandated Measure (SAMM) #2 (Average Number of Days to Initiate Complaint Investigations) (Finding #12-1) and documentation of incident data in fatality cases (Finding #12-2). Three additional findings will probably be corrected by the end of FY 2014, and therefore have been classified as awaiting verification. These findings relate to ensuring that one compliance safety and health officer (CSHO) completes the third and final course in the Process Safety Management (PSM) training program (Finding #13-10); development of a new State Internal Evaluation Program (SIEP) that will help the program monitor its performance in key areas related to enforcement (Finding #13-11); and meeting the 5-day negotiated fixed number in SAMM #1 (Average Number of Days to Initiate Complaint Inspections) (Finding #13-1).¹

In addition to this progress, two observations related to case file documentation in the FY 2012 FAME no longer require monitoring by the Region (OB-12-1 and OB-12-2). Although there are no new findings in this report, Region I made four new observations in FY 2013; three are related to the enforcement program, the most notable of which is based on the fact that CONN-OSHA has not been targeting state employers for inspections (OB-13-4). The other new finding pertained to the discrimination program.

The finding that the State Plan was exceeding the six-month timeframe for adopting OSHA's standards (Finding #12-17) was administratively closed in FY 2013. This is because the adoption of OSHA's standards is contingent on the actions of the Connecticut Legislature, and is not directly controlled by CONN-OSHA. Nonetheless, the State Plan is urged to meet the six-month deadline for adoption of OSHA's standards.

One discrimination finding—which related to the activity log being handwritten and mostly illegible—was determined to be completed during the most recent on-site case file review (Finding #12-4). But because that the lapse time for the one closed case that was reviewed was extremely high (609 days), the finding from the FY 2012 FAME pertaining to high average lapse times is still open (Finding #13-9). The finding that CONN-OSHA's discrimination program has

¹ CONN-OSHA's average for this measure appears to be trending downward. In FY 2013, the program's average of 10.73 days was the lowest since FY 2010.

been without a supervisor for a number of years (Finding #12-2) has been administratively closed. This is because the hiring of supervisors for CONN-OSHA’s discrimination program is controlled by the state’s Commissioner of Labor, and not CONN-OSHA,

II. MAJOR NEW ISSUES

In FY 2013, CONN-OSHA had no major new issues.

III. ASSESSMENT OF STATE PLAN PERFORMANCE

1. Enforcement

a. Complaints

SAMM measures 1-4 assess the program’s efficiency in handling complaint inspections.

SAMM#1 measures the average number of days it takes the program to initiate complaint inspections. The further review level for this measure is five days. In FY 2013, the program’s average of 10.73 days was the lowest since FY 2010, but still higher than 5 days. To lower this average, CONN-OSHA developed a tracking system to monitor the time it takes the program to initiate complaint inspections. Although this corrective action has been implemented, the program’s average was more than double five days in FY 2013.

Of 11 complaint case files reviewed during the on-site, there were only 2 where the response was timely. In the 9 cases where the number of days from the receipt of the complaint to opening conference date exceeded 5 days, the number of days ranged from 136 to 7.² As shown in the table below, however, CONN-OSHA’s average has decreased significantly since FY 2011. If this trend continues, CONN-OSHA could meet—or at least come close to meeting—the negotiated further review level by the end of FY 2014. Therefore, Finding #13-1 is awaiting verification.

<i>Average Number of Days to Initiate Complaint Inspections</i>					
<i>SAMM #1</i>					
	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Average No. of Days	7.24	8.92	19.04	14.12	10.73

Finding #13-1 (#12-10): Complaint Response (SAMM #1)—CONN-OSHA’s average of 10.73 days is below the negotiated fixed number of 5 days.

Recommendation #13-1: CONN-OSHA should review the policies and processes it has in

² These 9 cases averaged 26 days.

place to identify and eliminate the problems that are causing the program to exceed the negotiated fixed number of 5 days in SAMM #1.

SAMM #2 measures the average number of days to initiate complaint investigations. In FY 2013, Region I found that CONN-OSHA met the negotiated further review level of one day for responding to complaint investigations. The measure indicates that CONN-OSHA had only two complaints that were investigated, and the State Plan initiated investigations for each of these complaints within one day. The table below shows that CONN-OSHA has steadily improved on this measure since FY 2011, and in FY 2013, had the lowest average for this measure since at least FY 2009. Therefore, Finding #12-1 is completed.

SAMM #3 measures the percent of complaints where complainants were notified on time. In FY 2013, CONN-OSHA notified all 44 complainants (100 percent) in a timely manner, and initiated inspections for all of the complaints filed.

SAMM #4 measures the percent of imminent danger complaints and referrals responded to in one day. In FY 2013, CONN- OSHA met the 100 percent reference standard by responding within one day to the one imminent danger complaint that was received all year.

Fiscal Year	SAMM #2 <i>Avg. No. of Days to Initiate Complaint Investigations</i>		SAMM #3 <i>Percent of Complains where Complainants were Notified on Time</i>		SAMM #4 <i>Percent of Complaints and Referrals Responded to within 1 Day-Imminent danger</i>	
	CONN-OSHA	Standard	CONN-OSHA	Standard	CONN-OSHA	Standard
2013	1.00	1.00	100	100	100	100
2012	4.60	1.00	100	100	100	100
2011	9.83	1.00	100	100	100	100
2010	5.50	1.00	100	100	No Complaints	100
2009	7.24	1.00	100	100	No Complaints	100

b. Fatalities

An IMIS fatality/Catastrophe Report for FY 2013 indicates that CONN-OSHA investigated one of the three fatality events involving public sector workers that occurred in FY 2013. During the first quarter, CONN-OSHA investigated one fatality which involved a fire fighter who was struck and killed by a falling tree during Hurricane Sandy. One fatality occurred in each of the second and fourth quarters, but these were not investigated by the program because they were not work-related. In FY 2013, CONN-OSHA met the 100 percent further review level in SAMM #21 (Percent of Fatalities Responded to in One Work Day).

In the FY 2011 FAME, Region I found that during one fatality investigation, the CSHO did not follow the procedures in Chapter 11 of the OSHA FOM for adequately documenting incident data (by making sketches of the worksite and taking measurements, etc.). Although CONN-OSHA disagreed with this finding, the State Plan agreed to a corrective measure which called for the new CONN-OSHA manager to “review all fatality case files to ensure that they include documentation required by the FOM.” This finding (#12-2) was classified as awaiting verification in the FY 2012 FAME, because it was pending the results of the FY 2013 on-site review. The FY 2012 FAME also contained one observation related to a fatality case not containing field notes (Observation #12-1). Based on the case file review, Region I did not identify substantial issues related to fatality case file documentation. No field notes were missing from the case files reviewed. Therefore, Finding #12-2 is completed, and Observation #12-1 no longer requires monitoring by the Region.

c. Targeting and Programmed Inspections

In this section, Region I analyzes CONN-OSHA’s effectiveness in targeting high-hazard employers for inspections using statistical data, such as SAMM #20 (Percent In-compliance); and SAMM #9 (Average Violations per Inspection with Violations); and data from IMIS Enforcement Statistics and Inspection Reports. Under the section entitled, “Special Study—State Plan Targeting Programs,” Region I takes a closer look at CONN-OSHA’s targeting methodology.

SAMM #20 (Percent In-Compliance) is an indicator of targeting effectiveness, because it measures the percentage of inspections that are in-compliance. High in-compliance rates may indicate that enforcement programs are not effectively targeting worksites that are highly hazardous and typically prone to violations. SAMM #20 shows that for safety, CONN-OSHA had an in-compliance rate of 23.08 (which is below—or better than—the further review level of 29.1 percent), and an in-compliance rate of 56.00 percent for health, which did not meet the further review level of 34.2 percent.³

An IMIS database report run on February 24, 2014 shows that in FY 2013, CONN-OSHA opened 56 health-related inspections. The breakdown of these inspections is shown in the table below. This data shows that 31 percent of CONN-OSHA’s complaint inspections related to health had violations cited; therefore, in most of the State Plan’s complaint-related inspections for health, violations were not identified. CONN-OSHA should consider handling non-formal complaints related to mold via phone fax rather than sending a CSHO on-site to open a formal inspection.⁴

³ The standards for the safety and health in-compliance rates in SAMM #20 are based on a three-year average of both State Plan and federal data.

⁴ According to the FOM (Chapter 9), an “inquiry” or (phone-fax) is a “process conducted in response to a complaint or a referral that ...does not involve an on-site inspection of the workplace, but rather the employer is notified of the alleged hazard (s) or violation(s) by telephone, fax, email, or by letter if necessary. The employer is then requested to provide a response, and OSHA will notify the complainant of that response via appropriate means.”

<i>FY 2013 Health Inspections by Type</i>			
Type of Inspection	Number of Inspections	Number of Inspections with Violations Cited	Percent Not-in-Compliance (NIC)
Complaints	32	10	31
Programmed	18	11	61
Referral	3	2	67
Monitoring	3	---	---
Follow-Up	1	---	---

In FY 2013, one of CONN-OSHA's two health CSHOs was absent from the program for about four months, and this may have impacted the State Plan's in-compliance rate for health inspections. Nonetheless, Region I will monitor CONN-OSHA's in-compliance rate for health inspections throughout FY 2014.

Observation #13-1: In FY 2013, CONN-OSHA's in-compliance rate of 56.00 percent for health inspections was 64 percent above the further review level of 34.2 percent in SAMM #20.

SAMM #9 can also be used to evaluate targeting. If the State Plan did not meet the national data average for percent of programmed inspections with S/W/R violations, it may indicate that the program is not targeting the workplaces most prone to having serious hazards. However, not meeting the further review level for S/W/R violations in SAMM #9 may also indicate that the State Plan is misclassifying some serious violations as other-than-serious.

In FY 2012, CONN-OSHA dropped well below the further review level for S/W/R violations in SAMM #9. As a result, the Region made a finding (#12-16), and stated that CONN-OSHA's low average for S/W/R violations may indicate that the State Plan is misclassifying some serious violations as other-than-serious. In FY 2013, CONN-OSHA's average for S/W/R violations in SAMM #9 fell even further below the further review level, as shown in the table below.

<i>SAMM #9</i>								
<i>Average Violations per Inspection with Violations</i>								
	FY 2010		FY 2011		FY 2012		FY 2013	
	CONN-OSHA	National Data						
S/W/R	1.05	2.1	2.08	2.1	1.53	2.1	1.49	2.0
Other-than-Serious	2.23	1.2	2.04	1.2	1.78	1.2	2.21	1.3

From the case files reviewed during the most recent on-site, it appears that CONN-OSHA is in fact misclassifying some serious violations as other-than-serious. For example, there were violations involving confined spaces, bloodborne pathogens, hazard communication and electrical hazards that the Region believes should have been cited as serious, rather than other-than-serious. In all, 7 of 35 case files reviewed that were not in-compliance had at least one serious violation that was misclassified as other-than-serious. This is not overwhelming evidence of violation misclassification, but in light of CONN-OSHA's FY 2013 results for SAMM #9, it does appear that some misclassification of serious violations is occurring.

In the FY 2011 FAME, Region I was concerned that CONN-OSHA went for at least a five years without citing any violations as willful. In FY 2012, CONN-OSHA appeared to have reversed this trend, by citing four violations as willful. So that the program does not revert to its previous practice of not citing any violations as willful, Region I suggests that the programs managers periodically meet with CSHOs to explain the reasoning behind the use of willful violations.

<i>Enforcement Statistics Report of February 19, 2014 (FY 2013 Data for All Programmed Inspections)</i>							
	Number of Programmed Inspections	Number of Inspections with Violations Cited (Not-In-Compliance)	NIC Inspections as a Percent of Number of Programmed Inspections	Average Violations Cited per Initial Inspection	Percent of NIC Inspections with Serious Violations	Percent of NIC Inspections with Willful Violations	Percent of NIC Inspections with Repeat Violations
CONN-OSHA	160	126	79%	4.0	60%	---	---
State Plan Total	27,998	19,108	68%	3.5	72%	0.1%	5.2%

As shown in the table above, the State Plan had a relatively high number of programmed inspections that were NIC, and also had a higher average for violations cited per initial inspection than the State Plan total. However, CONN-OSHA’s results for SAMM #9 with respect to S/W/R violations, the fact that the program’s percent of NIC Inspections with serious violations is much lower that the State Plan total, and also evidence from the on-site review, indicate that CONN-OSHA is misclassifying some serious violations as other-than-serious.

Finding #13-2 (#12-16): Average Violations per Inspections with Violations (SAMM #9) Classification—With an average of 1.49, CONN-OSHA is below the further review level of 2.0 for S/W/R violations. This data, coupled with the fact that 7 of 35 case files reviewed that were not in-compliance had at least one serious violation that was misclassified as other-than-serious, indicates that CONN-OSHA is misclassifying some serious violations as other-than-serious.

Recommendation #13-2: CONN-OSHA should meet the further review level in SAMM #9 for S/W/R violations and focus on ensuring that violations are properly classified as serious and other-than-serious.

d. Citations and Penalties

Region I found that in FY 2012, CONN-OSHA did not meet the time national data average for safety and health inspections in SAMM #7 (Average Number of Calendar Days from Opening Conference to Citation Issue) (Finding #12-11). CONN-OSHA has closely monitored its performance with regard to this measure over the past several years, because lapse time has been a long-standing concern for the program. In its FY 2012 CAP, CONN-OSHA planned to reduce its lapse times by having the program manager hold weekly meetings with CSHOs to track report

times, establish report deadlines, and prioritize inspections, etc. The table below shows CONN-OSHA’s fiscal year-end averages for SAMM #7 from FY 2010 to FY 2012.

<i>SAMM #7</i>						
<i>Average Number of Lapse Days from Opening Conference to Citation Issue</i>						
	FY 2010		FY 2011		FY 2012	
	CONN-OSHA	National Data	CONN-OSHA	National Data	CONN-OSHA	National Data
Safety	138.65	47.3	119.28	51.9	144.35	55.9
Health	84.95	61.9	48.88	64.8	150.10	67.9

Beginning in FY 2013, SAMM #7 was replaced by SAMM #23 (Average Lapse Time from Inspection Open Date to Issue-Date). For this new measure, CONN-OSHA exceeded the further review levels for both safety and health. However, there is definitely a downward trend in the average lapse time for safety inspections. With respect to health inspections, one of the program’s two health CSHOs was away from the program on extended medical leave for about four months, and this absence probably contributed to the program’s high lapse time. Nonetheless, CONN-OSHA still needs to improve its lapse times for both safety and health.

<i>SAMM #23</i>			
<i>Average Lapse Time from Inspection Open-Date to Issue-Date</i>			
Safety		Health	
CONN-OSHA	National Data	CONN-OSHA	National Data
74.89	43.4	108.62	53.1

Finding #13-3 (#12-11): Citations and Penalties—CONN-OSHA did not meet the further review levels for safety and health in SAMM #23 (Average Lapse Time from Inspection Open-Date to Issue-Date).

Recommendation #13-3: In FY 2014, CONN-OSHA should review the policies and processes it has in place to identify and eliminate the problems that are causing the program to have high lapse times.

In 13 case files (of which 10 had citations issued), Region I identified documentation inadequacies. For example, some of these case files did not contain documentation that workers and/or witnesses had been interviewed. In one particular case file (that was not contested), the reviewer could not determine whether the inspection was being conducted in a building or on the roadside, and in two of the case files there was not enough evidence to support worker exposure to the hazardous condition(s).

To adequately support violations, CONN-OSHA should ensure that CSHOs follow OSHA’s FOM, Chapter 5, which discusses the documentation that should be included in case files to

“establish the specific elements of each violation.” Specifically, CSHOs should be sure to document any and all facts which establish that the employer actually knew of the hazardous condition, etc. CONN-OSHA should also be mindful that “All official forms and notes constituting the basic documentation of a case must be part of the case file.” See Observation #13-2.

CONN-OSHA’s penalty structure is contained in the State’s Occupational Safety and Health Act, Sec. 31-382, and is based on the penalty structure in OSHA’s FOM dated December 31, 1990. CONN-OSHA did not adopt the federal changes proposed in 2010 and 2012. Willful violations may incur a penalty of up to \$10,000 for each violation; and serious and other-than-serious violations may incur a penalty of not more than \$1,000 for each violation. In FY 2009, Region I was concerned that CONN-OSHA’s percent penalty reduced was higher than the State Plan average, but since that time, the program’s percent has never exceeded 50. Data from the IMIS Enforcement Report of February 24, 2014, shows that CONN-OSHA’s percent for penalty reduced was 44.1 in FY 2013, which compared favorably to the State Plan total of 47.

e. Abatement

Looking back to FY 2009, CONN-OSHA had a good track record of meeting the 100 percent standard for SAMM #6 (Percent of S/W/R Violations Verified).

<i>SAMM #6</i>				
<i>Percent of S/W/R Violations Verified Timely</i>				
	FY 2009	FY 2010	FY 2011	FY2012
Percent S/W/R Violations Verified Timely	97.96	100	100	100

However, SAMM #6 was discontinued in FY 2013. In place of SAMM #6, SAMM #22 (Open, Non-Contested Cases with Abatement Incomplete > 60 Days) is now being used, but in the FY 2013 SAMM report, no data was available for this measure.⁵ Region I did not identify a substantial number of issues with abatement during the on-site case file review.

f. Worker and Union Involvement

Of 41 case files reviewed that related to inspections where the union was on-site, there were 6 case files that did not contain documentation that the union participated in the inspection and also the informal conference. Although Region I did not identify a large number of case files where documentation related to union involvement was an issue, CONN-OSHA should ensure that unions receive adequate and timely notification of informal conferences when they are scheduled, and that each case file contains adequate documentation of union notification. As stated in Chapter 7 of the FOM, Section II (C), “If an informal conference is requested by the employer, an affected worker or his representative shall be afforded the opportunity to participate.

⁵ During FY 2013, Region I and CONN-OSHA negotiated a standard of zero for this measure.

In FY 2013, CONN-OSHA met the standard of 100 percent for SAMM #25 (Percent of initial Inspections with Employee Walk-Around Representation or Employee Interview).

2. Review Procedures

a. Informal Conferences

CONN-OSHA's Occupational Safety and Health Act mirrors Chapter 7 of the FOM with respect to contesting citations, and notifications of penalty or abatement dates. During the on-site case file review, Region I did not identify any significant issues related to informal conferences not being filed timely, and that in those cases where informal conference documentation was adequate, all penalty changes were appropriate.

However, in 24 case files that had informal conferences, 7 did not contain any notes on the informal conference. Chapter 7, Section II (F) of the FOM, which discusses the conduct of informal conferences in detail, states that "At the conclusion of the conference, all main issues and potential courses of action will be summarized and documented. A copy of the summary, together with any relevant notes of the discussion made by the Area Director, will be placed in the case file."

Observation #13-2: Case File Documentation— Some case files were missing at least one type of documentation required by OSHA's FOM (Chapter 5), such as notes on worker and/or witness interviews, evidence to support worker exposure to hazardous conditions, and notes documenting the informal conference.

b. Formal Review of Citations

The State of Connecticut's Occupational Safety and Health Review Commission consists of five members appointed by the governor "from among persons who by reason of training, education or experienced are qualified to carry out the functions of the commission...."⁶ In FY 2013, no decisions were issued by the Review Board. As a matter of fact, the last decision issued by the Review Board was several years ago. CONN-OSHA has a long-standing tradition of having very few contested cases, and in keeping with this tradition, CONN-OSHA completed FY 2013 with no cases contested. There are two cases currently on the Review Board's docket: one of these cases involves citations that were issued in January 2011 for a fatality involving a firefighter; the other case is for an inspection where citations were issued in April 2012. According to the CONN-OSHA director, both cases are moving toward settlement.

3. Standards and Federal Program Changes (FPC)

As of the end of FY 2013, CONN-OSHA was up-to-date in responding to and adopting all federal program changes (FPC).

⁶ Sec. 31-376

CONN-OSHA Federal Program Change Log								
Directive	Date	Response Due Date	Date State E-mailed Response	Adoption Required	Intent Required	Intent to Adopt	Adopt Identical	Adoption Date
CPL-02-01-055— Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification	9/30/2013	12/30/2013	11/6/2013	NO	YES	YES	YES	11/15/2013
CPL-02-00-155— Inspection Scheduling for Construction	9/6/2013	11/5/2013	10/15/2013	NO	YES	NO	N/A	N/A
CPL-03-00-017 NEP— Occupational Exposure to Isocyanates	6/20/2013	8/20/201	8/20/2013	YES	YES	YES	NO	10/1/2013
Site-Specific Targeting 2012 (SST-12)	1/4/2013	3/9/2013	3/8/2013	NO	YES	NO	N/A	N/A
CPL-002-03-004 Section 11 (c) Appeals Program	9/12/2012	11/12/2012	11/6/2012	NO	YES	YES	NO	3/1/2013
CPL-02-01-054 Inspection and Citation Guidance for Roadway and Highway Construction Work Zones	10/16/2012	12/17/2012	12/11/2012	NO	YES	YES	YES	4/11/2013

CONN-OSHA has adopted three of the National Emphasis Programs (NEP) currently in effect: Exposure to Isocyanates (CPL 03-00-017); Nursing and Residential Care Facilities (CPL 03-00-016); and Process Safety Management (PSM) Covered Facilities (CPL 03-00-014).

For the Isocyanates NEP, CONN-OSHA will conduct only one programmed inspection per year, compared to the three programmed inspections that are required under the federal program. According to the State Plan, exposure to Isocyanates in the public sector is not as prevalent as in the private sector. Region I approved CONN-OSHA's alternative approach to adopting this NEP, after receiving assurances from the State Plan that it would conduct inspections in response to complaints and referrals involving Isocyanates, where appropriate.

In FY 2013, CONN-OSHA conducted one inspection under the Nursing Home NEP. Although six inspections were required, there is only one public sector nursing home in Connecticut that meets the criteria for inspection under this NEP. During the on-site case file review, Region I reviewed the case file for this inspection, and found it to be satisfactory. CONN-OSHA does not yet have a CSHO who has completed the training required to conduct PSM inspections, and therefore has not conducted any PSM inspections under the PSM directive. The State Plan anticipates that this CSHO will complete the training in FY 2014.

As shown in the table below, CONN-OSHA completed the adoption of both the standards related to head protection and the cranes and derricks final rule, but did not do so within the six-month timeframe.

<i>CONN-OSHA Standards Log</i>							
Standard	Federal Register Date	Response Due Date	Date State E-mailed Response	Adoption Required	Intent Required	Adoption Due Date	Effective Date
'1926 Direct Final Rule—Cranes and Derricks in Construction; Underground Construction and Demolition	4/25/2013	6/24/2013	4/30/2013	YES	YES	11/23/2013	12/13/2013
,1910,15,17,18 & 26 Updating OSHA Standards Based on National Consensus Standards; Head Protection	11/16/2012	2/2/2013	1/8/2013	NO	YES	7/16/2013	12/13/2013

In the FY 2012 FAME (Finding #12-17), Region I found that that CONN-OSHA had far exceeded the six-month timeframe for adopting OSHA’s standards that were issued in FY 2012. Because adoption of OSHA’s standards is controlled by the state’s Legislative Regulation Review Committee (LRRC), and not by CONN-OSHA, this finding was administratively closed this year. CONN-OSHA has assured Region I that standard adoption documentation will continue to be submitted to the LRRC in a timely manner.

4. Variances

CONN-OSHA had no activity with respect to variances in FY 2013.

5. Public Employee Program

CONN-OSHA is a public-sector only State Plan.

6. Discrimination Program

The Connecticut Department of Labor operates its discrimination program pursuant to the Connecticut Occupational Safety and Health Act of 1973 (Chapter 571, Section 31-367 through

31-385). CONN-OSHA has jurisdiction over discrimination cases arising from public sector workers in the State of Connecticut.

As noted earlier, Finding #12-4 (which pertained to the Activity Log being handwritten and mostly illegible) is completed, and Finding #12-12, which related to the discrimination program operating without a supervisor for the last few years, was administratively closed.

Because CONN-OSHA closed only one discrimination case in FY 2013, the Region reviewed eight cases that were open at the time of the on-site review. However, the status of the findings relating to lack of settlement agreements in the file; case file disorganization; no investigative reports or memos for closed cases; and lengthy lapse times could not be ascertained from reviewing these open cases, let alone only one closed case. Therefore, the following findings (#13-4; #13-5; #13-6; #13-7; and #13-8) are awaiting verification. The extent to which these findings have been resolved will be determined during the next on-site case file review.

Finding # 13-4 (#12-3) Discrimination Case Files –Case files were not organized in accordance with OSHA’s Whistleblower Investigations Manual.⁷

Recommendation # 13-4: CONN-OSHA should adopt the case file organization standards outlined in the Federal Whistleblower Investigations Manual (Chapters 3 and 5).

Finding # 13-5 (12-5) Discrimination Case Files – Investigators do not submit an Investigative Report. As discussed in Chapter 5 of the Whistleblower Investigations Manual, this report is required to support the agency’s findings.

Recommendation # 13-5: CONN-OSHA should write a Memo-to-File for each case to be retained in the case file, explaining the complainant’s allegations, the respondent’s defense, and the determination and reasoning for all settlements and dismissals.

Finding # 13-6 (12-6) Discrimination Case Files – In the IMIS system, CONN-OSHA is classifying cases that are settled without its participation as “settled,” when these cases should be classified as “settled other.”

Recommendation # 13-6: CONN-OSHA should adopt the same criteria for classifying settlement agreements in IMIS as OSHA.

⁷ CONN-OSHA adopted OSHA’s Whistleblower Investigations manual on November 30, 2011. Although the state adopted the manual in a form identical to the Federal Whistleblower Investigations Manual, the state noted the following: Connecticut administers a Public-Sector Only State Plan, with procedures that are at least as effective as the Federal procedures. Connecticut's "11(c)" program is established pursuant to CGS section 31-379 et seq., and the statutes' interpretive regulations. Connecticut's program is similar to the federal program in many ways. For example, Connecticut does provide for the right to appeal, an award of reasonable attorney's fees is available, and Connecticut utilizes similar causation and burden of proof analyses. However, Connecticut's Plan differs in certain ways: for example, since Connecticut is a Public - Sector Only State, dual filing is not an option for Complainants filing pursuant to Connecticut's statute since Connecticut's Plan does not have jurisdiction over private sector workers.

In the FY 2012 FAME, Region I determined that “in cases that were classified as ‘settled other,’ there is no indication that CONN-OSHA reviewed the settlement agreement using the appropriate criteria.”⁸ The files do not contain any information related to review of settlement agreements.” As a remedy, Region I recommended that CONN-OSHA “document that it has reviewed ‘settled other’ determinations to ensure that there is nothing repugnant to the Act.

In its FY 2012 CAP, CONN-OSHA noted that even in “settled” cases (i.e., when the settlements derive out of settlement and/or hearing) CONN-OSHA is not a party to the agreement. Therefore, where possible, Connecticut is reviewing agreements to ensure that the contracts do not contain information contrary to OSHA, but Connecticut does not have the authority to require parties to supply a copy of the agreement for the file.”

Region I does not agree that CONN-OSHA has no control of this process, and believes that the State Plan must make a concerted effort to obtain settlement agreements and make Region I aware of any difficulties it encounters in its attempts to obtain “settled other” settlement agreements. CONN-OSHA should make the parties aware of the language in Chapter 6, Section IV (D-E) pages (6-9 – 6-13) of the Whistleblower Investigations Manual as early as possible in the settlement procedure.

Finding # 13-7 (12-7) Discrimination Case Files – In cases that were classified as “settled other,” there is no indication that CONN-OSHA reviewed the settlement agreement using the appropriate criteria. The files do not contain any information related to review of

⁸ The mediation of a CONN-OSHA retaliation claim filed pursuant to Section 31-379 of the Connecticut General Statutes is a non-binding process mandated by Section 31-1-3 of the Connecticut State Agencies Regulations.

The procedure consists of the Complainant filing an initial claim with the Connecticut Labor Commissioner within the time limit prescribed by Conn. Gen. Stat. § 31-379. Upon receipt of a timely claim, the Labor Commissioner appoints an agency attorney to act as a mediator in accordance with the agency’s contested case regulations. Prior to the mediation conference, the mediator’s role consists of soliciting informal written position statements from each party in an effort to obtain a basic understanding of the underlying claim. After filing an initial claim or answer, each party to the proceeding is permitted one additional opportunity for the submission of written rebuttal argument. Generally speaking, each party is expected to reply promptly at each filing juncture (within 14 days of receiving the CTDOL mailing). No formal pleadings are required.

Upon the receipt of the final position statement, a mediation conference is scheduled for the earliest date of mutual convenience to the parties. Parties are permitted to participate at the mediation with or without legal counsel. The mediation requires the parties and/or witnesses to appear in person with authority to settle the matter, and there are no formal findings of fact. The mediation conference commences with opposing parties discussing baseline facts and legal issues with the mediator in a joint session, which is followed by a series of private meetings between the mediator and the individual parties for as long as necessary to bring the matter to resolution. In total, the mediation session generally lasts between two and three hours.

In the event of a settlement, the mediator may help facilitate the drafting of the settlement agreement so as to ensure that such agreements are in the public interest. The Department is not a party to the agreement, however. If the matter is unable to be resolved, a short, cooling-off period is permitted before the Labor Commissioner appoints a separate agency attorney to act in the capacity of hearing officer. With the exception of the original position and rebuttal statements filed by the parties, the hearing officer receives no information from the mediator concerning the mediation conference.

settlement agreements.

Recommendation # 13-7: CONN-OSHA should review “settled other” determinations to ensure that there is nothing repugnant to the Act. The State Plan should also document its review of the “settled other” determinations, as prescribed in Chapter 6 of the Whistleblower Investigations Manual.

Finding #13-8 (12-8) Discrimination Case Files – Settlement agreements were not included in the case file per Chapter 5 of the Whistleblower Investigations Manual.

Recommendation # 13-8: Settlement agreements and determination letters must be retained in the case file.

Finding # 13-9 (12-9) Discrimination Case Files – The lapse time for the closed case reviewed was 609 days. The national average for closed cases in FY 2013 is 280 days. Furthermore, CONN-OSHA’s open cases have been open an average age of 762 days.

Recommendation # 13-9: CONN-OSHA should monitor pending open cases more closely to ensure that the cases are not neglected.

From reviewing the one closed case in FY 2013 and also the eight cases that were open at the time of the on-site review, there was strong evidence that CONN-OSHA was not including all required notification letters in its case files. Therefore, the Region has made the following the observation. During the next on-site review, Region I will review discrimination files to ensure that they contain notification letters and all other required documentation.

Observation #13-3: Discrimination Case Files – Not all of the discrimination case files include Notification Letters to Complainants and Respondents as required in Chapter 5 of the Whistleblower Investigations Manual.

Because CONN-OSHA only completed one case in FY 2013, OSHA could not draw any conclusions about the program from its statistical performance measures. As a result, Region I will not evaluate CONN-OSHA using OSHA’s FY 2013 SAMM.

During the on-site review, Region I did find that CONN-OSHA is not correctly entering data into IMIS. Five open cases had been entered into IMIS but not docketed and therefore did not show up in reports of open cases. In FY 2014, OSHA will provide training to CONN-OSHA and the database entries will be corrected. At the same time OSHA will also provide training on how to enter settled and settled other cases in IMIS and assist CONN-OSHA in correcting errors that were noted in previous audits.

7. SPECIAL STUDY—STATE PLAN TARGETING

CONN-OSHA targeted six public operations (three state and three municipal) for enforcement, consultation and training and education activities in each year of its current five-year strategic plan. CONN-OSHA selected these six operations based on the fact that their average Days

Away/Restricted/Transferred (DART) rates for fiscal years 2004 through 2006 were higher than those of other public sector operations. In FY 2013, CONN-OSHA exceeded its goals for inspections and public sector inspections in the targeted high-hazard industries, as shown in the table below.

<i>Strategic Plan Inspection Goals Projected v. Actual</i>				
	State		Municipal	
	Projected	Actual	Projected	Actual
Inspections	5	11	55	83
Consultation Visits	5	19	15	33

In each year of the five-year plan, CONN-OSHA plans to effect at least a two percent reduction in each industry’s DART rate from the previous year, so that by the end of the plan period, a total reduction of at least 10 percent over each industry’s baseline DART rate will have been achieved. For two of the three targeted state industries, the DART increased from 2011 to 2012, but in all three targeted municipal industries, the DART rates decreased by far more than 2 percent from 2011 to 2012.

<i>Strategic Plan Targeted Industries Change in DART Rates (2011-2012)</i>				
	Baseline average	2011 DART	2012 DART	Percent change from 2011 to 2012
State hospitals	10.0	5.3	9.3	75
State nursing and residential care facilities	9.9	7.4	11.1	50
State highway maintenance & repair	10.0	9.9	7.9	(20)
Municipal public works (street and highway)	10.0	9.9	7.9	(20)
Municipal water, sewage and other systems	9.3	13.9	8.4	(40)
Municipal waste management and remediation services	22.6	15.0	2.5	(83)

CONN-OSHA’s current strategic plan began in FY 2009 and was scheduled to end in FY 2013. But due to the changes in management that occurred in FY 2013, CONN-OSHA was not able to develop a new five-year strategic plan before the current one expired. Therefore, CONN-OSHA’s strategic plan was extended for one more year—to the end of FY 2014.

Because CONN-OSHA is a public sector-only State Plan, it does not adopt OSHA's Site-Specific Targeting Plan.⁹ Instead, CONN-OSHA has developed an alternative targeting plan that essentially targets employers in the high hazard industries that have been identified in its five-year strategic plan. Most of CONN-OSHA's inspections are conducted at non-construction work sites. For example, in FY 2014, only 34 of 224 (15 percent) inspections conducted were in construction, and only 19 of 160 (12 percent) programmed inspections were in construction.

To determine the industries that will be targeted in the new five-year strategic plan, CONN-OSHA will analyze data from the BLS Survey of Occupational Injuries and Illnesses. However, for some public sector industries, the BLS surveys a relatively small number of public sector units. As a result, a relatively small number of injuries can dramatically affect DART rates and causes them to fluctuate significantly from year to year. Therefore, CONN-OSHA will augment data from the BLS survey with data from its own survey of public sector workplaces.¹⁰

For municipalities, programmed inspections are currently assigned to CSHOs based on a list of the 169 cities and towns in the State of Connecticut. Essentially, CONN-OSHA cycles through this list, so that the next city or town assigned for inspection is the one where the most time has elapsed since the last time it had a programmed inspection. According to the CONN-OSHA director, each municipality has at least one department (such as public works, water, municipal wastewater, etc.) that falls under one of the program's targeted high hazard industries, and CSHOs focus at least part of their inspections on inspecting these targeted industries.

However, CONN-OSHA appears to be doing very little in terms of targeting state worksites for programmed inspections. For example, in FY 2013, CONN-OSHA conducted 24 inspections of state worksites, or 11 percent of 224—the total number of inspections conducted in FY 2013. Of these 24 inspections at state worksites, only 1 was programmed; 3 were referrals, and 20 were complaints.

As shown in the table below, FY 2013 was not an anomaly. In developing the new five-year strategic plan, the director said that CONN-OSHA will develop a targeting system for state worksites. Region I will ensure that CONN-OSHA's new five-year strategic plan includes a program for targeting state employers in high-hazard industries.

⁹ OSHA's Site-Specific Targeting (SST) program is OSHA's main programmed inspection plan for non-construction work sites (in the private sector) that have 20 or more workers. State Plans that do not adopt OSHA's SST program must provide documentation of their own targeting program to OSHA.

¹⁰ So that the state can more accurately identify the most high hazardous public sector industries, CONN-OSHA will survey approximately 770 municipal units and 488 state units. The number of units was selected to provide data with a confidence interval of 95% to 99% by industry, according to the Connecticut Department of Labor analyst who has developed this survey. Municipalities will be mailed a form, which can be returned by mail, email, or fax. State data will be collected from the Connecticut Department of Administrative Services or through the state's human resource management system.

<i>Number of State Agency Inspections and Breakdown by Type FY 2011-FY 2013</i>						
	No. of Inspections	Programmed	Unprogrammed Related	Accidents	Referrals	Complaints
FY 2011	21	---	1	1	2	17
FY 2012	34	1	---	2	2	29
FY 2013	23	1	---	---	3	20

Observation #13-4: Of 24 inspections conducted at state worksites in FY 2013, only 1 was programmed. In FY 2012, only 1 of 29 inspections at state worksites was programmed, and in FY 2011, there were no programmed inspections at state worksites. Therefore, it appears that CONN-OSHA is not targeting state employers for inspections.

CONN-OSHA does not develop local emphasis programs and currently does not have plans to do so. As discussed earlier, the State Plan has adopted three of the NEPs that are currently in effect.¹¹

The table below compares CONN-OSHA’s alternative approach to adopting these NEPs to the federal program.

<i>CONN-OSHA’s Alternative Approach Compared to the Federal Program for Current NEPs</i>								
CPL 03-00-017: Occupational Exposure to Isocyanates			CPL 03-00-016: Nursing and Residential Care Facilities			CPL 03-00-014: PSM Covered Facilities		
	Inspection Program	Number of Inspections/year		Inspection Program	Number of Inspections/year		Inspection Program	Number of Inspections/year
CONN-OSHA	CONN-OSHA does not have a list of sites at risk for Isocyanates hazards. However, these hazards will be evaluated under the NEP when identified during inspections.	Not specified	CONN-OSHA	Only one facility in the public sector has been identified	1	CONN-OSHA	List of facilities that have 1-ton containers of chlorine	1
OSHA	List based	3	OSHA	List based	6	OSHA	List based	3-5

With regard to outreach, the State Plan has two compliance assistance specialists (CAS) who conduct training for state and municipal workers on a variety of safety and health topics that cover hazards commonly found in the targeted high hazard industries. Under the current strategic

¹¹ For private sector enforcement programs, OSHA’s Office of Statistical Analysis produces lists of employers eligible for inspection under NEPs such as PSM, Nursing and Residential Care, Isocyanates and others.

plan, the CONN-OSHA plans to increase overall attendance in state and municipal training sessions by five percent from the previous year.

CONN-OSHA tracks programmed inspections in targeted high-hazard industries by North American Industry Classification System (NAICS) codes, and NEP inspections are tracked using the code prescribed by the directive. For each training session conducted, the CAS completes IMIS and/or OIS intervention forms.

The means by which CONN-OSHA will evaluate the effectiveness of its new targeting plan have yet to be determined. Currently, CONN-OSHA bases its targeting effectiveness on the extent to which the DART rates in each of the six targeted industries have been reduced from year to year. But because DART rates in CONN-OSHA's targeted industries fluctuate dramatically from year (because they are based on the BLS' survey of so few public sector employers), it has been difficult for the program to determine the extent to which it has really impacted these rates. The fact that CONN-OSHA is undertaking its own survey of injury and illness rates to supplement BLS data is a sign that the State Plan is moving toward developing a more effective targeting system beginning in FY 2015.

8. CASPAs

CONN-OSHA had no Complaints Against State Plan Administration (CASPA) in FY 2013.

9. Voluntary Compliance

Alliances

In compliance with CSP 04-01-001, OSHA's Alliance Programs directive, CONN-OSHA's Alliances conduct the following core activities: training and education; outreach and communication; and promoting the national dialogue on workplace safety and health. As discussed in more detail in the FY 2013 SOAR, CONN-OSHA met its goal of maintaining 10 Alliances in FY2013. All five of the Alliances that expired in FY 2013 were renewed.

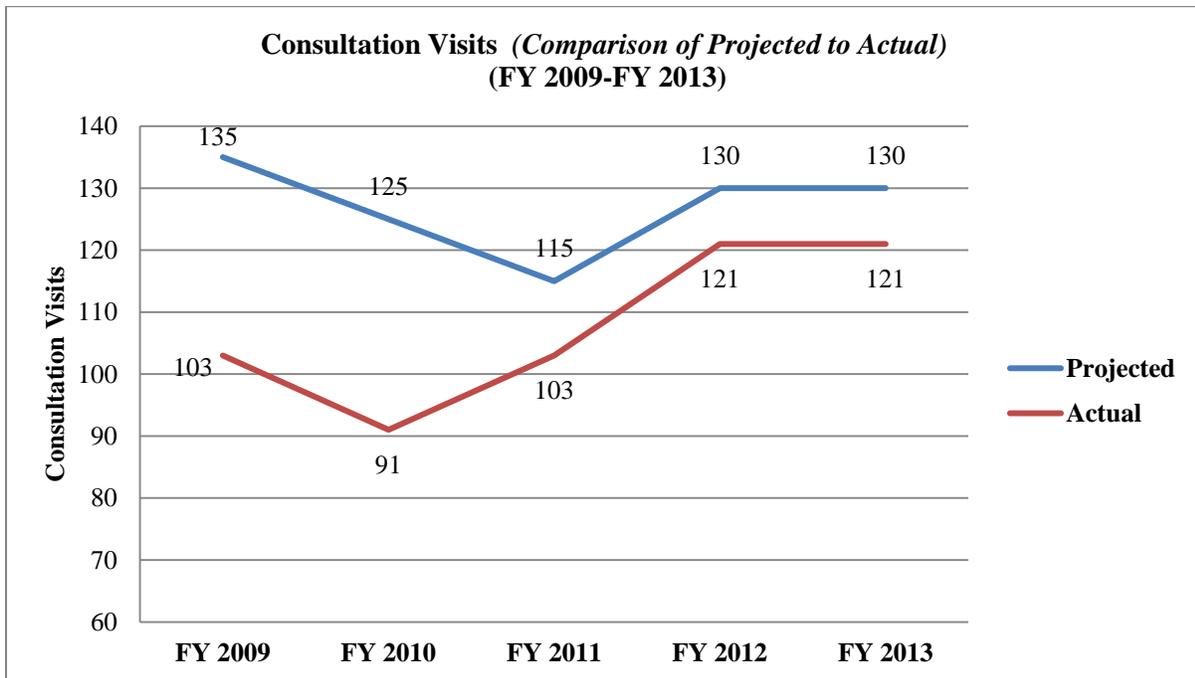
In the FY 2011 FAME, Region I found that CONN-OSHA's Alliance documentation did not comply with the requirements of OSHA's Alliance Directive of June 10, 2004, specifically Section XII, Program Requirements. To remedy this finding, CONN-OSHA planned to ensure compliance with OSHA's requirements for Alliance documentation. Because this finding was relatively minor, and also because the program's CASs could easily implement the corrective actions, Region I converted this finding to an observation in the FY 2012 FAME (OB-12-1). During the most recent on-site visit, Region I determined that all required documents were contained in the program's Alliance files. Therefore, no further monitoring of this observation is required.

10. Public Sector On-site Consultation

The CONN-OSHA public sector consultation program is normally staffed by three consultants (two health and one safety). In the past years, CONN-OSHA experienced turnovers in some of

its consultant positions, but in FY 2012 and FY 2013, all consultation program positions were filled.

In FY 2013, CONN-OSHA projected a total of 130 consultation visits and conducted a total of 121 visits (93 percent of its goal). The table below provides a comparison of projected consultation visits to the actual number completed by the program over the past five fiscal years. Because the program has been fully staffed over the past two fiscal years, consultation visits are no longer trending downward.



According to the program’s FY 2013 SOAR, one factor that contributed to CONN-OSHA not meeting its goal for consultation visits was the time spent by the safety consultant on planning and coordinating Occupational Safety and Health State Plan Association’s summer conference, which was hosted by CONN-OSHA in Mystic, Connecticut. At the end of FY 2013, one of the program’s health consultants transferred to CONN-OSHA’s private sector consultation project. However, this vacancy was filled soon after this transfer became effective.

According to the Mandated Activities Report for Consultation (MARC), 100 percent of the visits conducted in FY 2013 included participation by worksite workers. Consultants identified 340 serious hazards, compared to 253 serious hazards identified in FY 2012. All serious hazards identified in FY 2013 were verified timely, with 251 (74 percent) verified on-site or within the original timeframe. This percentage far exceeded the standard of 65 percent for this measure. The CONN-OSHA public sector consultation project did not refer any employers to enforcement in FY 2013. For percent of initial visits in high hazard establishments (MARC #1), however, CONN-OSHA had a percentage of 74, and did not meet the 10 percent standard.

11. Private Sector On-site Consultation Program: Not Applicable

12. State Plan Administration

a. Training

Two CSHOs who began working for the program in late FY 2010 and in early FY 2011 are on track to complete the eight courses in the initial compliance training within the three-year time frame prescribed by OSHA's training directive. Each of these CSHOs completed two courses in FY 2011, FY 2012 and in FY 2013, and is scheduled to take the final two courses in FY 2014.

The program's newest CSHO, who was hired in September 2012, completed two of the courses in FY 2013 and is scheduled to complete two more in FY 2014. In recent years, CONN-OSHA has done a good job in ensuring that newly hired CSHOs complete the initial training requirements within the required three-year timeframe.

In the FY 2010 FAME, Region I found that none of the program's CSHOs had completed the three courses at OTI on Process Safety Management (PSM). As a corrective action, CONN-OSHA planned to have one CSHO complete all three PSM courses by the end of FY 2012. One CSHO completed Safety and Health in the Chemical Processing Industries (OTI Course # 3300) in FY 2012 and completed the second course in the series in February 2013. As discussed earlier, CONN-OSHA must ensure that this CSHO completes the third and final course in the PSM series by no later than July 31, 2014. At the present time, this finding is awaiting verification.

Finding #13-10 (12-13): Program Administration— CONN-OSHA's health CSHO has not yet completed the third and final course in OTI's mandatory PSM training series.

Recommendation #13-10: CONN-OSHA must ensure that the CSHO completes the third and final course in the PSM training series.

b. Staffing

In FY 2013 CONN-OSHA public sector enforcement and consultation programs were fully staffed. As discussed above, CONN-OSHA's newest CSHO has already completed two of the basic training track courses and was able to manage a full workload of inspections in FY 2013. One veteran health CSHO was away from the program for about four months on medical leave but returned to work in September 2013. In October 2013, one of the two 23(g) health consultants transferred to the 21 (d) consultation program, but a new health consultant was hired shortly after this occurred to fill this vacancy.

FY 2013 was a transitional year for the 23(g) enforcement program manager, in that he spent most of the first quarter learning his new duties while also helping the new 21(d) manager become accustomed to his new role. Nonetheless, the fact that CONN-OSHA was fully staffed at all levels during FY 2013 had a positive impact on the program.

c. IMIS Management

CONN-OSHA continues to use IMIS and OIS reports to track performance in both the 23(g) enforcement and consultation programs. Each month, CONN-OSHA runs the SAMM and provides a copy to the Region. For tracking purposes, CONN-OSHA runs the following IMIS reports on a weekly basis for the enforcement program: Open Inspection; Complaint Tracking; Cases with Citations Pending; and the Inspection Summary Report. For the public sector consultation program, CONN-OSHA runs the Written Reports Pending, Uncorrected Hazards Report and the Task List Report weekly; the Consultation Evaluation Report—which shows the number of visits conducted and hazards identified by each CSHO—is run monthly.

In addition to the IMIS reports that the program uses to monitor the enforcement program, CONN-OSHA has developed its own internal reports for tracking serious hazards and violations that are not corrected. These reports are run weekly for all CSHOs. For example, the Alert for Abatements Due Report shows all serious hazards that have abatement due within 1-10 days.

d. State Internal Evaluation Plan (SIEP)

On a quarterly basis, CONN-OSHA provides the Region with a written analysis of its performance with regard to Citation Processing; Public Sector Consultation Turnaround Time; and Assurance of Hazards in Public Sector Consultations.

As noted in the FY 2011 FAME, CONN-OSHA has been using these three items in its SIEP for several years, and only one of them relates to enforcement. Region I has recommended that CONN-OSHA develop a SIEP that evaluates more elements of its enforcement program. For example, in addition to citation lapse times, the program should more closely examine its performance with regard to complaint and referral response times, violation classification, and fatality investigations.

In Finding #12-14 Region I recommended that CONN-OSHA develop a new SIEP by the end of FY 2013. In its FY 2013 CAP, CONN-OSHA planned to network with other State Plan programs to revise its SIEP, and anticipated drafting a new SIEP by the end of the first quarter of FY 2014. Therefore, this finding is awaiting verification.

Finding #13-11 (12-14): Program Administration—Two of the three elements evaluated in CONN-OSHA’s SIEP relate to the State Plan’s public sector consultation program. CONN-OSHA’s SIEP does not adequately evaluate enforcement-related operations.

Recommendation #13-11: CONN-OSHA must develop a SIEP that adequately evaluates the operations of the State Plan’s public sector enforcement program.

IV. STATE PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

During FY 2013, CONN-OSHA completed a total of 224 inspections of 230 projected. The tables below break out the number of inspections projected and completed by safety and health for FY 2010 through FY 2013.

<i>FY 2010 Inspections</i>			
	Projected	Actual	Actual as Percent of Number Projected
Safety	100	51	51
Health	40	27	68
TOTAL	140	78	56

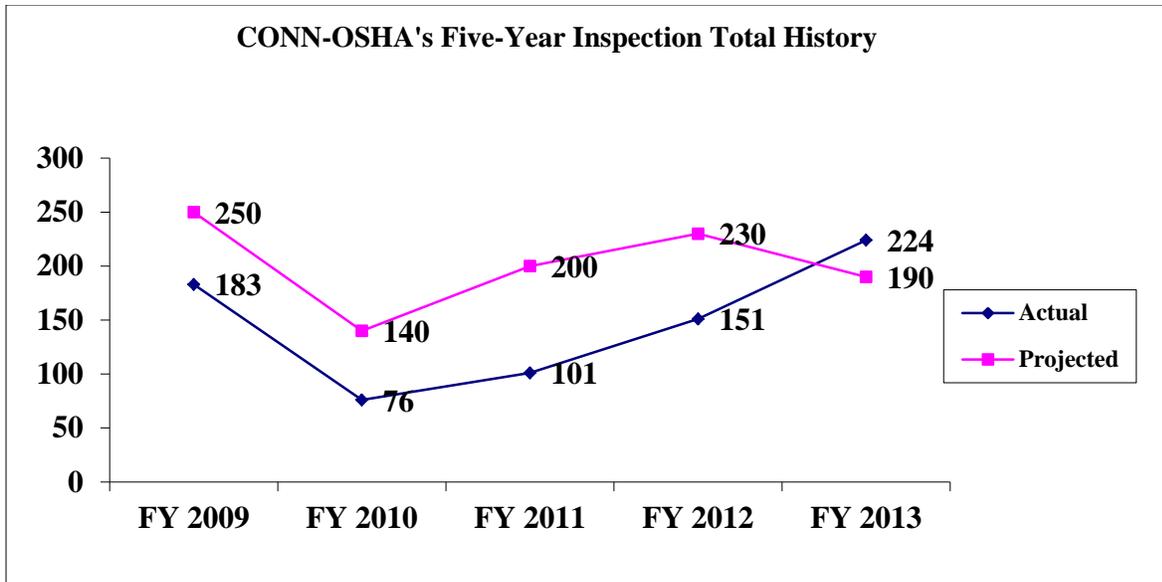
<i>FY 2011 Inspections</i>			
	Projected	Actual	Actual as Percent of Number Projected
Safety	135	61	45
Health	65	40	62
TOTAL	200	101	51

<i>FY 2012 Inspections</i>			
	Projected	Actual	Actual as Percent of Number Projected
Safety	150	92	61
Health	80	59	74
TOTAL	230	151	66

<i>FY 2013 Inspections</i>			
	Projected	Actual	Actual as Percent of Number Projected
Safety	110	162	147
Health	80	62	78
TOTAL	190	224	118

Compared to the previous three fiscal years, CONN-OSHA not only conducted more inspections, but also exceeded its goal. In FY 2013, CONN-OSHA claims that it fell behind in meeting its goals for health inspections because one of the two health CSHOs was on medical leave for about four months. Nonetheless, Finding #12-15, which recommended that CONN-OSHA meet its FY 2013 Annual Performance Plan goal for inspections, is completed.

As shown in the chart below, CONN-OSHA's inspection totals plummeted from FY 2009 to FY 2010 due to personnel losses that began affecting the program in the middle of 2009. As new staff members were hired and gained experience, inspection totals began to trend upward—especially over the past two fiscal years.



The table below shows the number of inspections conducted in each quarter in FY 2013. During the fourth quarter, CONN-OSHA conducted 111 inspections. This fourth quarter total is far greater than the total number of inspections conducted in any of the other three quarters in FY 2013. It is also more than half the number of inspections that the State Plan projected to complete by the end of the fiscal year. Region I suggests that CONN-OSHA come closer to meeting its quarterly inspections goals throughout the fiscal year—rather than conducting more than 50 percent of the total number of inspections projected all in one quarter. This will result in a more manageable quarterly workload—not only in terms of conducting inspections, but also in terms of completing case file paperwork.

<i>FY 2013</i>					
<i>Comparison of Quarterly Inspection Projections to Actual Totals</i>					
23(g) Inspections	1 st Qtr.	2 nd Qtr.	3 rd Qtr.	4 th Qtr.	Total
Projected	47.5	47.5	47.5	47.5	190
Actual	39	32	42	111	224
Percent Complete	83	65	82	234	118

In FY 2013, CONN-OSHA conducted 121 public sector consultation visits, but fell short of its goal of 130 visits. CONN-OSHA did not meet its goal for public sector visits in either of the two preceding fiscal years, but achieved its highest percentage of year-end goal for consultation visits in FY 2013.

CONN-OSHA provides a detailed analysis of its progress in meeting its FY 2013 Annual Performance Plan goals in its SOAR (see Appendix E).

In FY 2013, the State Plan did not meet its goal for training state workers. According to the SOAR, the number of trainees dropped by 9 percent from FY 2012 due in part to restrictions imposed on state workers by “the economic downturn.” The State Plan also renewed all 5

Alliances that expired in FY 2013, and managed to maintain a total of 10 active Alliances during the fiscal year. Goals for training municipal workers, field staff professional development, and ensuring that workers participate in 100 percent of all inspections and consultation visits were met. CONN-OSHA's progress in meeting its strategic plan goals was discussed earlier in this report.

V. OTHER SPECIAL MEASURES OF EFFECTIVENESS AND AREAS OF NOTE

Region I has not identified any other areas of note in FY 2013.

Appendix A – New and Continued Findings and Recommendations
FY 2013 Connecticut State Plan Comprehensive FAME Report

Rec #	Findings	Recommendations	FY 2012
13-1	Complaint Response (SAMM #1)—CONN-OSHA’s average of 10.73 days is below the negotiated further review level of 5 days.	CONN-OSHA should review the policies and processes it has in place to identify and eliminate the problems that are causing the program to exceed the negotiated further review level of 5 days in SAMM #1. <i>(Corrective action complete; awaiting verification)</i>	12-10
13-2	Average Violations per Inspections with Violations (SAMM #9) Classification—with an average of 1.49, CONN-OSHA is below the further review level of 2.0 for S/W/R violations. This data, coupled with the fact that 7 of 35 case files reviewed that were not in-compliance had at least one serious violation that was misclassified as other-than-serious, may indicate that CONN-OSHA is misclassifying some serious violations as other-than-serious.	CONN-OSHA should meet the further review level in SAMM #9 for S/W/R violations and focus on ensuring that violations are properly classified as serious and other-than-serious.	12-16
13-3	Citations and Penalties—CONN-OSHA did not meet the further review levels for safety and health in SAMM #23 (Average Lapse Time from Inspection Open-Date to Issue-Date).	In FY 2014, CONN-OSHA should review the policies and processes it has in place to identify and eliminate the problems that are causing the program to have high lapse times.	12-11
13-4	Discrimination Case Files – Case files were not organized in accordance with OSHA’s Whistleblower Investigations Manual.	CONN-OSHA should adopt the case file organization standards outlined in the Federal Whistleblower Investigations Manual (Chapters 3 and 5). <i>(Corrective action complete; awaiting verification)</i>	12-3
13-5	Discrimination Case Files – Investigators do not submit an Investigative Report. As discussed in Chapter 5 of the Whistleblower Investigations Manual, this report is required to support the agency’s findings.	CONN-OSHA should write a memo-to-file for each case to be retained in the case file, explaining the complainant’s allegations, the respondent’s defense, and the determination and reasoning for all settlements and dismissals. <i>(Corrective action complete; awaiting verification)</i>	12-5
13-6	Discrimination Case Files –In the IMIS system, CONN-OSHA is classifying cases that are settled without its participation as “settled,” when these cases should be classified as “settled other.”	CONN-OSHA should adopt the same criteria for classifying settlement agreements in IMIS as OSHA. <i>(Corrective action complete; awaiting verification)</i>	12-6
13-7	Discrimination Case Files – In cases that were classified as “settled other,” there is no indication that CONN-OSHA	CONN-OSHA should review “settled other” determinations to ensure that there is nothing repugnant to the Act. The State Plan	12-7

	reviewed the settlement agreement using the appropriate criteria. The files do not contain any information related to review of settlement agreements.	should also document its review of the “settled other” determinations, as prescribed in Chapter 6 of the Whistleblower Investigations Manual. <i>(Corrective action complete; awaiting verification)</i>	
13-8	Discrimination Case Files – Settlement agreements were not included in the case file per Chapter 5 of the Whistleblower Investigations Manual.	Settlement agreements and determination letters must be retained in the case file. <i>(Corrective action complete; awaiting verification)</i>	12-8
13-9	Discrimination Case Files – The lapse time for the closed case reviewed was 609 days. The national average for closed cases in FY 2013 is 280 days. Furthermore, CONN-OSHA’s open cases have been open an average age of 762 days.	CONN-OSHA should monitor pending open cases more closely to ensure that the cases are not neglected.	12-9
13-10	Program Administration—CONN-OSHA’s health CSHO has not yet completed the third and final course in OTI’s mandatory PSM training series.	CONN-OSHA must ensure that the CSHO completes the third and final course in the PSM training series. <i>(Corrective action complete; awaiting verification)</i>	12-13
13-11	Program Administration—Two of the three elements evaluated in CONN-OSHA’s SIEP relate to the State Plan’s public sector consultation program. CONN-OSHA’s SIEP does not adequately evaluate enforcement-related operations.	CONN-OSHA must develop a SIEP that adequately evaluates the operations of the State Plan’s public sector enforcement program. <i>(Corrective action complete; awaiting verification)</i>	12-14

Appendix B – Observations Subject to Continued Monitoring
FY 2013 Connecticut State Plan Comprehensive FAME Report

Observation # [FY13-OB-1]	Observation# [FY12-OB-1]	Observation	Federal Monitoring Plan	Current Status
	OB-12-1	Fatality Investigation-In the FY 2011 FAME, Region I identified one fatality investigation case file that did not contain field notes. Because this finding was based on only one case file, Region I has converted this finding to an observation.	Region I will monitor the State Plan's performance in terms of ensuring that all fatality case files contain all required documentation during the next comprehensive on-site case file review for the FY 2013 FAME.	Closed
	OB-12-2	Voluntary Compliance-The finding that some of CONN-OSHA's Alliance files did not contain all required documentation is relatively minor and easy to correct.	Region I will monitor the State Plan's compliance with OSHA's requirements for maintaining Alliance files during the next comprehensive on-site case file review for the FY 2013 FAME.	Closed
OB-13-1		SAMM #20—CONN-OSHA's in-compliance rate of 56.00 percent for health inspections was 64 percent above the further review level of 34.2 percent.	Region I will monitor CONN-OSHA's in-compliance rates for both safety and health on a quarterly basis.	New
OB-13-2		Case File Documentation— Some case files were missing at least one type of documentation required by CONN- OSHA's FOM (Chapter 5), such as notes on workers and/or witness interviews, evidence to support workers exposure to hazardous conditions, and notes documenting the informal conference.	Region I will evaluate case file documentation during the next on-site case file review to determine if these are isolated instances or are representative of a trend of incomplete case file documentation.	New
OB-13-3		Discrimination Case Files – Not all of the case files include Notification Letters to Complainants and Respondents as required in Chapter 5 of the Whistleblower Investigations Manual.	Region I will evaluate CONN-OSHA's discrimination files during the next on-site review to determine whether the State Plan is adhering to the requirements for case file documentation in the Whistleblower Investigations Manual.	New
OB-13		Targeting— Of 24 inspections conducted at state worksites in FY 2013, only 1 was programmed. In FY 2012, only 1 of 29 inspections at state worksites was programmed, and in FY 2011, there were no programmed inspections at state worksites. Therefore, it appears that CONN-OSHA is not targeting state employers for inspections.	Region I will ensure that CONN-OSHA's new five-year strategic plan includes a program for targeting state employers in high-hazard industries.	New

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FY 2013 Connecticut Occupational Safety and Health Administration (CONN-OSHA) State Plan Comprehensive FAME Report					
FY 12 Rec #	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status
12-1 (11-2)	Average Number of Days to Initiate Complaint Investigations (SAMM #2)- CONN-OSHA's average of 4.60 days did not meet the one-day standard for this measure.	In FY 2013, CONN-OSHA should reduce the number of days to initiate complaint investigations and meet the one-day standard for SAMM #2.	This corrective action was developed in response to finding 11-2 in the FY 2011 FAME. The program manager will ensure that complaint investigations remain a top priority and will initiate an investigation more timely. A tracking/tickler system using Microsoft Outlook has been instituted on the manager's Outlook Calendar to track the employer response to these complaint investigations.	Implemented and Ongoing	Completed
12-2 (11-3)	Fatality Investigation— CONN-OSHA did not adequately document incident data (such as the physical layout of the worksite, and sketches/drawings and measurements, etc.), and did not adequately document equipment or process involved (i.e., personal protective equipment that the victim was using at the time the incident occurred).in accordance with Chapter 11 of the FOM, Section II, E.	CONN-OSHA should adhere to the requirements in Chapter 11 of the FOM for fatality investigations, and ensure that fatality case files include all required documentation (such as incident data and descriptions of equipment and processes, etc.).	This corrective action was developed in response to finding 11-3 in the FY 2011 FAME. CONN-OSHA has not had an occupationally-related fatality so far this fiscal year. Although CONN-OSHA disagrees with this finding, the Program Manager will continue to review all fatality related case files to ensure that they contain documentation required by the FOM.	Completed	Completed

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12-3 (11-13)	Discrimination Case Files —Case files were not organized in any consistent fashion.	CONN-OSHA should adopt the case file organization standards as outlined in the Federal Whistleblower Investigations Manual (Chapters 3 and 5). All investigators need to follow this format and investigators should be trained to adhere to these new standards. This will also facilitate oversight of CONN-OSHA’s program in the future.	This corrective action was developed in response to finding 11-13 in the FY 2011 FAME. Because of the mediation and hearing aspects of Connecticut’s procedures, there may be two files per Complainant. Connecticut is following the format outlined in the Federal Whistleblower Investigations Manual. The senior attorneys who conduct the majority of the mediations and hearings for CONN-OSHA’s discrimination cases have been advised regarding this and, should other attorneys within the office be assigned a hearing on a discrimination case, Program Policy will ensure that proper training is conducted.	Completed	Corrective action complete; Awaiting verification
12-4 (11-14)	Discrimination Case Files —The Activity Log is handwritten and mostly illegible. This is problematic because CONN-OSHA does not conduct an investigation, nor does it submit an investigative report. Therefore, the only reference to what actually occurred in the case is the Activity Log.	For all discrimination cases open in FY 2012 and going forward, CONN-OSHA must ensure that investigators’ notes are legible. The activity log should be placed in a separate tab. This will aid in the organization of the case file, and make any FOIA requests more manageable.	This corrective action was developed in response to finding 11-14 in the FY 2011 FAME. Agency staff has been advised and are now typing case notes.	Completed	Completed
12-5 (11-15)	Discrimination Case Files —Investigators do not submit an Investigative Report. Because there is no summation of what occurred during the course of the mediation and/or hearing, it	For all discrimination cases opened in FY 2012 and going forward, CONN-OSHA should write a Memo to File for each case to be retained in the case file, explaining the Complainant’s allegations,	This corrective action was developed in response to finding 11-15 in the FY 2011 FAME. Connecticut will draft a memo to the file upon completion of mediation proceedings, and, if applicable, a	Completed	Corrective action complete; Awaiting verification

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	is difficult for a reviewer to evaluate the process and the outcome. None of the case files included determination letters.	the Respondent's defense, and the determination and reasoning for all settlements and/or dismissals.	separate memo upon completion of administrative hearing procedures.		
12-6 (11-16)	Discrimination Case Files —CONN-OSHA's classification of settled cases in IMIS is incorrect. Currently, CONN-OSHA considers cases that are settled without its participation as "settled" when in fact these cases should be classified as "settled other." Conversely, CONN-OSHA designates cases that are settled during its mediation and/or hearing process as "settled other" when they should be classified as "settled."	For all discrimination cases opened in FY 2012 and going forward, CONN-OSHA must adopt the same criteria for classifying settlement agreements in IMIS as OSHA. Cases that are settled during the mediation and/or hearing process should be classified as "settled," while cases that are settled between the parties without CONN-OSHA's participation (i.e. during a grievance process, other agency process, private attorney), should be classified as "settled other."	This corrective action was developed in response to finding 11-16 in the FY 2011 FAME. Only one staff person enters information into the IMIS System. When entering settlement information, the staff person is taking care to only indicate "settled" when the cases are actually settled during the mediation and/or hearing process. Otherwise, cases are designated as "settled other."	Completed	Corrective action complete; Awaiting verification
12-7 (11-17)	Discrimination Case Files —In cases that were classified as "settled other," there is no indication that CONN-OSHA reviewed the settlement agreement using the appropriate criteria. The files do not contain any information related to review of settlement agreements.	For all discrimination cases opened in FY 2012 and going forward, CONN-OSHA should document that it has reviewed "settled other" determinations to ensure that there is nothing repugnant to the Act.	This corrective action was developed in response to finding 11-17 in the FY 2011 FAME. The State Plan would like to clarify that even in "settled" cases - i.e. when the settlements derive out of settlement and/or hearing - CTDOL/CONN-OSHA is not a party to the agreement. Therefore, where possible, Connecticut is reviewing agreements to ensure that the contracts do not contain information contrary to OSHA, but	Implemented and Ongoing August 2011	Corrective action complete; Awaiting verification

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			<p>Connecticut does not have the authority to require parties to provide a copy of the agreement for the file.</p> <p>Note: Because requiring copies of settlement agreements is out of the direct control of CONN-OSHA, this finding will be administratively closed contingent upon continued efforts to review agreements when possible.</p>		
12-8 (11-18)	<p>Discrimination Case Files—Settlement agreements were not included in the case file.</p>	<p>For all discrimination cases opened in FY 2012 and going forward, settlement agreements and determination letters must be retained in the case file.</p>	<p>This corrective action was developed in response to finding 11-18 in the FY 2011 FAME.</p> <p>The State Plan would like to clarify that even in "settled" cases - i.e. when the settlements derive out of settlement and/or hearing - CTDOL/CONN-OSHA is not a party to the agreement. Therefore, where possible, Connecticut is reviewing agreements to ensure that the contracts do not contain information contrary to OSHA, but Connecticut does not have the authority to require parties to provide a copy of the agreement for the file.</p> <p>Note: Because requiring copies of settlement agreements is out of the direct control of CONN-OSHA, this finding will be administratively closed contingent upon continued efforts to review agreements when possible.</p>	<p>Implemented and Ongoing, August 2011</p>	<p>Corrective action complete; Awaiting verification</p>

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<p>12-9 (11-19)</p>	<p>Discrimination Case Files—The average lapse time for the three cases reviewed is 371 days, compared to the national average of 185 days for the same time period.</p>	<p>For all discrimination cases opened in FY 2012 and going forward, investigators should monitor pending open cases more closely to ensure that the cases are not neglected. CONN-OSHA explained that its two currently pending cases remain open at the request of the complainants, who are awaiting results of other agency investigations or the grievance processes. CONN-OSHA explained that hearings will be scheduled soon for each case.</p>	<p>This corrective action was developed in response to finding 11-19 in the FY 2011 FAME.</p> <p>Connecticut continues its current practice of monitoring cases to ensure the cases are not neglected. Cases have been postponed for lengthy periods of time at the request of the Complainant to facilitate global settlements when Complainants have parallel processes in other agencies, however Connecticut will strive to reduce the continued, lengthy requests and refer to hearing more expeditiously. It should be noted however that each case must be reviewed and a request for postponement must be evaluated on an individual basis. Both of the above-referenced cases have been scheduled for hearing in October and November of this year (2013).</p> <p>Note: Because the length of the settlement process is out of the direct control of CONN-OSHA, this finding will be administratively closed.</p>	<p>Implemented August 2011 and Ongoing</p>	<p>Open</p>
<p>12-10 (11-1)</p>	<p>Complaint and Referral Response (SAMM #1)- CONN-OSHA's average of 14.12 days did not meet the five-day standard.</p>	<p>CONN-OSHA must work to reduce the number of days it takes the program to initiate complaint inspections and meet the five-day standard for SAMM #1 by the end of FY 2013.</p>	<p>This corrective action was developed in response to finding 11-1 in the FY 2011 FAME.</p> <p>The program manager uses a tracking/tickler system in Microsoft Outlook to track these complaint inspections.</p>	<p>Completed</p>	<p>Corrective action complete; Awaiting Verification</p>

Appendix C - Status of FY 2012 Findings and Recommendations

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<p>12-11 (11-8)</p>	<p>Citations and Penalties-For SAMM #7, CONN-OSHA concluded FY 2012 with an average of 144.35 days for safety inspections and 150.10 days for health inspections. These averages were more than double the national data standards for these measures.</p>	<p>In FY 2013, CONN-OSHA should reduce the time it takes to issue citations. Because the State Plan's lapse time averages have increasing since FY 2011, additional corrective actions should be developed and implemented by the State Plan as soon as possible. SAMM #7 is included in the FY 2013 SAMM for information purposes only. In FY 2013, CONN-OSHA should align more closely with the standards in SAMM #23 (Average Lapse Time from Last Date On-Site—for safety and health).</p>	<p>This corrective action was developed in response to finding 11-18 in the FY 2011 FAME.</p> <p>The program manager meets weekly with each CSHO to track report times, establish report deadlines, prioritize inspections, and to schedule pending inspections.</p>	<p>Implemented and Ongoing</p>	<p>Open</p>
<p>12-12 (11-20)</p>	<p>Discrimination Case Files—CONN-OSHA's discrimination program has been without a supervisor for three years.</p>	<p>CONN-OSHA should include a supervisory position for its Whistleblower Protection Program. Program oversight would alleviate many of the issues raised in this review.</p>	<p>CONN-OSHA's discrimination program is administered through the Connecticut Labor Department's Office of Program Policy. While the unit has been without a director for several years, senior attorneys involved with the process prior to the director's retirement remain involved in the program at the current time. During this interim period, Connecticut has availed itself of the assistance of OSHA's Regional Office and greatly appreciates its valued suggestions. The State of Connecticut Commissioner of Labor is the individual that decides if the Director of Program Policy vacant position will be filled. Note: Because the hiring of a Director is</p>	<p>N/A</p>	<p>Administratively Closed</p>

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			out of the direct control of CONN-OSHA, this finding will be administratively closed in FY 2013.		
12-13 (11-24)	Program Administration- OSHA's PSM directive (CPL-03-00-014) requires CSHOs who conduct PSM inspections independently or as a PSM inspection team leader to complete OTI's Course #3300, Safety and Health in the Chemical Processing Industries, Course #3400, Hazard Analysis in the Chemical Processing Industries, and either Course #3430, Advanced PSM in the Chemical Industries or Course# 3410, Advanced Process Safety Management. CONN-OSHA planned to have one health CSHO complete all three courses in the PSM training series by the end of FY 2012. But as of February 2013, this CSHO had completed only two of the three PSM courses required by the directive, and is not scheduled to take the third and final course until FY 2014.	CONN-OSHA must ensure that the CSHO who has been designated by the program to conduct PSM inspections completes the mandatory three-course training series on PSM as soon as possible or by no later than March 31, 2014.	The CSHO has been scheduled for July 2014 for the OSHA #3430 course. Sequestration has affected the availability of this course.	July 2014	Corrective action complete; Awaiting Verification
12-14 (11-25)	Program Administration— Two of the three elements evaluated in CONN-OSHA's SIEP relate to the State	CONN-OSHA must develop a SIEP by the end of FY 2013 that adequately evaluates the operations of	The manager is networking with OSHSPA members to revise the SIEP to adequately evaluate enforcement related operations.	Ongoing (The SIEP will be revised by the end of the first	Corrective action complete; Awaiting Verification

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	Plan's public sector consultation program. CONN-OSHA's SIEP does not adequately evaluate enforcement-related operations.	the State Plan's public sector enforcement program.		quarter of FY 2014.)	
12-15 (11-26)	Annual Performance Plan- CONN-OSHA achieved only 66 percent of its goal for inspections in FY 2012.	CONN-OSHA should meet its goal of 190 inspections in FY 2013.	This corrective action was developed in response to finding 11-26 in the FY 2011 FAME. The manager meets weekly with CSHOs to track their progress in meeting inspection goals. Meeting with the CSHOs on a weekly basis places an emphasis on the importance on completing inspections and issuing reports on a timely basis allowing the program to meet inspections goals established in the annual performance plan.	Completed (CONN-OSHA conducted 224 inspections in FY 2013)	Completed
12-16	Average Violations per Inspections with Violations (SAMM #9) —With an average of 1.53, CONN-OSHA did not meet the standard average of 2.1 for S/W/R violations, which may be an indication that CONN-OSHA is misclassifying some serious violations as other-than-serious.	CONN-OSHA should meet the standard in SAMM #9 for S/W/R violations and focus on ensuring that violations are properly classified as serious and other-than-serious.	CONN-OSHA does not agree that CSHOs may be misclassifying some serious violations as other-than-serious. However, CONN-OSHA will strive to meet the standards in SAMM #9 by using the most current data available to determine the most highly hazardous industries, and targeting employers for inspections in those industries. CONN-OSHA. By updating its targeting program, CONN-OSHA will more effectively target employers with the most S/W/R violations, and this will yield more citations for S/W/R violations.	August 2014	Open

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12-17	Standard Adoption — CONN-OSHA has far exceeded the six-month timeframe for adopting OSHA's standards that were issued in FY 2012.	Region I recognizes that Connecticut's regulatory review process makes it difficult for the State Plan to meet the six-month time frame in adopting OSHA's standards. However, the State Plan is urged to strive to meet the six-month deadline for adoption of OSHA's standards.	The adoption of OSHA standards is contingent on the Connecticut Legislature. Program Policy will continue to ensure that Standard Adoption documentation is submitted to the Legislative Regulation Review Committee in a timely basis. Note: Because the length of the standard adoption process is out of the direct control of CONN-OSHA, this finding is administratively closed.	Implemented and Ongoing	Administratively Closed

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 Connecticut State Plan Comprehensive FAME Report

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

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Connecticut			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	10.73	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	1	(Negotiated fixed number for each state) - 1	State data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100%	100%	State data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State data taken directly from SAMM report generated through IMIS.
9a	Average number of violations per inspection with violations by violation type	1.49	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

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9b	Average number of violations per inspection with violations by violation type	2.21	Other: .88	from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
11	Percent of total inspections in the public sector	100	100%	State data taken directly from SAMM report generated through IMIS.
13	Percent of 11c Investigations completed within 90 calendar days	0	100%	State data taken directly from SAMM report generated through IMIS.
14	Percent of 11c complaints that are meritorious	0	24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
16	Average number of calendar days to complete an 11c investigation	0	90 Days	State data taken directly from SAMM report generated through IMIS.
17	Planned vs. actual inspections - safety/health	170/54	110/80	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
18a	Average current serious penalty - 1-25 Employees	a.		Not applicable to state and local government only State Plans.
18b	Average current serious penalty - 26-100 Employees	b.		
18c	Average current serious penalty - 101-250 Employees	c.		
18d	Average current serious penalty - 251+ Employees	d.		
18e	Average current serious penalty - Total 1 - 250+ Employees	e.		
19	Percent of enforcement presence			Not applicable to state and local government only State Plans.

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 Connecticut State Plan Comprehensive FAME Report

20a	20a) Percent In Compliance – Safety	Safety - 23.08	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	Health - 56.00	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	100%	100%	State data is manually pulled directly from IMIS for FY 2013
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
23a	Average Lapse Time - Safety	74.89	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	108.62	57.05	
24	Percent penalty retained			Not applicable to state and local government only State Plans.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.