

FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

**State of Connecticut
Connecticut Occupational Safety and Health Administration (CONN-OSHA)**



Evaluation Period: October 1, 2013 – September 30, 2014

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Conversion to Public Employee Only: October 2, 1978
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Contents

I. Executive Summary	3
A. State Plan Activities, Themes, and Progress	3
B. State Plan Introduction	4
C. Data and Methodology	7
D. Findings and Observations	7
II. Assessment of State Plan Performance	7
A. Major New Issues	7
B. Assessment of State Plan Progress in Achieving Annual Performance Goals.....	8
C. Highlights from the State Activity Mandated Measures (SAMM)	12
III. Assessment of State Plan Corrective Actions	13

Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations Subject to New and Continued Monitoring.....	B-1
Appendix C – Status of FY 2013 Findings and Recommendations.....	C-1
Appendix D – FY 2014 State Activity Mandated Measures (SAMM) Report....	D-1

I. Executive Summary

A. State Plan Activities, Themes, and Progress

The purpose of this report is to assess the Connecticut Occupational Safety and Health Administration's (CONN-OSHA) activities for the previous year (FY 2014) and its progress in resolving outstanding recommendations from the FY 2013 Federal Annual Monitoring and Evaluation Report (FAME).

Compared to the last few years, FY 2014 was a stable year for CONN-OSHA. From FY 2009 through FY 2012, CONN-OSHA was operating without a full slate of managers, and as a result, the program's performance declined. For example, CONN-OSHA was unable to meet its inspection goals in each of these three years.

In FY 2013, the program had a new manager on board, but he spent part of the year transitioning into his new role.¹ In FY 2014, however, CONN-OSHA was fully staffed and being run by an experienced State Plan manager.² Now that CONN-OSHA's footing is more secure in terms of staffing, improvements have been made in areas where problems were noted in last year's FAME. For example, CONN-OSHA was successful in completing two findings, by having a CSHO complete the third and final course in the Process Safety management (PSM) training series, and by developing a new State Internal Evaluation Plan (SIEP).

Findings from the previous FAME that relate to CONN-OSHA not meeting the further review level in three State Activities Mandated Measures (SAMM) measures remain open. However, CONN-OSHA has made progress on two of these measures (one related to the average lapse time for inspection open-date to issue-date, and the other to timeliness in handling complaint investigations). On the other hand, the State Plan did not make any headway in increasing the average number of serious, willful, or repeat violations per inspection with violations.

In FY 2014, improvements were made in two of the three observations related to the enforcement program. One of these observations related to CONN-OSHA not targeting state work sites for inspections, and the other pertained to the program's high in-compliance rate for health inspections. Although these issues appear to be moving toward closure, OSHA believes that they warrant continued monitoring in FY 2015.

In terms of new issues that arose in FY 2014, no new findings related to either the enforcement program or the discrimination program were made in this report. However, OSHA has made one new observation that relates to a significant decrease in the number of municipal workers trained through CONN-OSHA's compliance assistance training programs. In FY 2015, CONN-OSHA plans to strengthen its efforts to recruit trainees from the municipal sector. Nonetheless, OSHA

¹ The CONN-OSHA program manager who was appointed to this position in August 2012 had been the CONN-OSHA private sector consultation manager.

² A minor exception occurred at the beginning of the fiscal year, when a State Plan program consultant transferred to CONN-OSHA's private sector consultation program, and it took about one month to fill this vacancy.

plans to monitor these efforts to help ensure that municipal participation increases over the course of FY 2015.

With regard to the discrimination program, significant progress has been made in many areas. Five of the six discrimination-related findings in the FY 2013 FAME have been completed, including those related to case file organization, the average lapse time for closed cases, and properly classifying settled cases. In addition, the one observation from the FY 2013 FAME that pertained to the discrimination program was closed in this report.

The Office of Program Policy's (OPP) most significant achievement was decreasing the average lapse time for closed cases from 603 days in FY 2013 to 368 days in FY 2014.³ OPP also demonstrated that it has a better understanding of the Integrated Management Information System (IMIS) and is using it correctly.

In areas other than those related to issues in the previous FAME, the State Plan had notable achievements: CONN-OSHA successfully transitioned from the Integrated Management Information System (IMIS) to the OSHA Information System (OIS); met its goals for inspections and consultation visits; and developed a new five-year strategic plan based on more reliable injury and illness data than had been used in the past.

CONN-OSHA and OPP are optimistic that progress will continue in FY 2015, and based on the overall performance of both programs during the evaluation period, this outlook is indeed justified.

B. State Plan Introduction⁴

Connecticut State Plan Background

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

Plan approved: January 1, 1975

Plan converted to state and local government (SLG) only: October 2, 1978

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

³ OPP is the agency within the Connecticut Department of Labor that is responsible for administering Connecticut's public sector discrimination program. However, OSHA has traditionally referred to CONN-OSHA as the agency responsible for administering both the discrimination and enforcement programs. OSHA has decided that it would be more accurate to refer to the OPP—rather than CONN-OSHA—as the agency responsible for administering the state's discrimination program. Section B (State Plan Introduction) of this report describes the relationship between OSHA and OPP.

⁴ The data used in the tables in this section are from the FY 2015 grant application as well as previous years' grant applications.

Final Approval/18(e) Determination: N/A for an SLG State Plan

CONN-OSHA became operational on January 1, 1975, and covered both the private and public sectors. It operated effectively in that manner until 1977, when the Connecticut State Labor Council sponsored a bill in the state legislature restricting the enforcement of Connecticut's safety and health program to state and local government only. The bill was subsequently enacted with an effective date of June 30, 1978. The state's previously existing approved 18(b) plan, which covered both the private and the public sectors, was withdrawn on October 2, 1978.

In August 1986, CONN-OSHA was officially recognized by the U.S. Department of Labor as having completed all structural and developmental aspects of its approved state and local government (SLG) State Plan, and has the distinction of being the first SLG plan. CONN-OSHA is administered by the State of Connecticut, Department of Labor, under the leadership of the Commissioner of Labor.

The program does not operate any field offices. All of CONN-OSHA's staff operates out of the program's headquarters at 38 Wolcott Hill Road, Wethersfield, Connecticut. CONN-OSHA enforces safety and health standards in state and local government workplaces, provides consultation services to these workplaces, adopts standards, and provides outreach services to the state and local government workforce. OSHA conducts private sector enforcement in Connecticut. The tables below show CONN-OSHA's funding levels from FY 2011 through FY 2014 and the number of covered workers.

<i>CONN-OSHA's Funding History</i>					
Fiscal Year	Federal Award (\$)	State Match (\$)	100% State Funds (\$)	Total Funding (\$)	% State Contribution
2015	629,700	629,700	1,265,756	2,525,156	75
2014	626,800	626,800	1,186,898	2,440,498	74
2013	623,300	623,300	427,762	1,674,362	63
2012	650,400	650,400	884,283	2,185,083	70
2011	650,400	650,400	846,848	2,147,648	70

<i>FY 2014 Covered Workers</i>			
State Government	Local Government	Volunteer Firefighters	Total
64,500	157,100	10,000	231,600

CONN-OSHA's staff of five occupational safety and health compliance officers (CSHOs) (three safety and two health) conducts the program's enforcement activity. The public sector consultation program consists of three consultants (two health and one safety). CONN-OSHA's management consists of a director and a program manager. Two occupational safety training specialists plan, develop and implement training and education programs for the CONN-OSHA staff as well as the state and local government workforce. In addition to enforcement and outreach activities, the program provides support for OSHA's OIS and performs business management and clerical services.

Throughout most of FY 2014, CONN-OSHA was fully staffed. CONN-OSHA's newest compliance officer began working for the program in September 2012. In November 2013, a

new consultant for the public sector consultation program was hired to replace a consultant who transferred to the private sector consultation project.

The current CONN-OSHA program manager was appointed to this position in August 2012. Prior to this, he was the supervisor of CONN-OSHA’s private sector consultation program. The CONN-OSHA director was appointed in January 2012, and had been the CONN-OSHA program manager for a number of years before taking on this position. The table below provides a snapshot of CONN-OSHA’s staffing level as of August 2014.

<i>Personnel Funding Breakout Table CONN-OSHA Source: FY 2015 Grant Application</i>			
CONN-OSHA’s State Plan Grant Positions	50/50 Funded Full-Time Equivalents (FTE) On Board as of 8/15/14	100% State Funded FTEs On Board as of 8/15/14	TOTAL
Managers/Supervisors (Admin)	0.25	0.25	0.50
First Line Supervisors	0.50	0.50	1.00
Safety Compliance Officers	1.49	1.51	3.00
Health Compliance Officers	0.99	1.01	2.00
Discrimination Investigator	0.00	0.00	0.00
Public Sector Safety Consultants	0.50	0.50	1.00
Public Sector Health Consultants	0.99	1.01	2.00
Compliance Assistance Specialist	0.79	0.81	1.60
Trainers	0.00	0.00	0.00
Clerical/Admin/Data System	0.75	0.75	1.50
Other (all positions not elsewhere counted)	0.37	0.38	0.75
Total FTE	6.63	6.72	13.35

The Connecticut Department of Labor operates a discrimination program pursuant to the Connecticut Occupational Safety and Health Act of 1973 (Chapter 571, Section 31-367 through 31-385). The attorneys who administer the discrimination program are employed by the Office of Program Policy (OPP), which is a separate division within the Connecticut Department of Labor. OPP has jurisdiction over discrimination cases arising from state and local government workers in the State of Connecticut.

C. Data and Methodology

OSHA has established a two-year cycle for the FAME process. This is the follow-up year and as such OSHA did not perform the level of case file review for the enforcement program associated with a comprehensive FAME.

For evaluation of progress made on the three enforcement findings in the FY 2013 FAME that were based on SAMM measures, OSHA used the results from the FY 2014 SAMM which was run on November 9, 2014. OSHA was able to assess CONN-OSHA's progress in resolving two other enforcement findings through quarterly discussions with CONN-OSHA's managers. These findings related to having a CSHO complete PSM training and the development of a new SIEP.

Data from OSHA's IMIS database was used to assess the observation that CONN-OSHA was not targeting state agencies for enforcement inspections, and data from the SAMM was used to evaluate the observation that the State Plan's in-compliance rate for health inspections was outside the further review level.

OSHA conducted a case file review of six discrimination investigations that were closed in FY 2014.⁵ OPP agreed to send copies of all of the cases to the OSHA area office in Providence, Rhode Island, where they were reviewed by a senior investigator on February 26-27, 2015. OSHA did not review any open discrimination case files because they cannot be reviewed for completeness while in open status.

D. Findings and Observations

This report contains four findings. Three of the findings are classified as open, because they relate to enforcement issues cited in the FY 2013 FAME that CONN-OSHA did not resolve during the evaluation period. The other finding relates to the discrimination program, and has been classified as awaiting verification. Two enforcement findings from the FY 2013 FAME have been deemed completed, as well as five discrimination findings.

In addition to the findings, there are four observations related to the enforcement program in this report, including one that is new and three that are continued from the FY 2013 FAME. The one discrimination observation from last year's FAME has been closed.

II. Assessment of State Plan Performance

A. Major New Issues

There were no major new issues during FY 2014.

⁵ Through an IMIS report run on February 11, 2015, OSHA determined that OPP closed six cases in FY 2014.

B. Assessment of State Plan Progress in Achieving Annual Performance Goals

The following is an assessment of CONN-OSHA's progress in meeting each of the FY 2014 annual performance plan goals.⁶ This assessment is based primarily on the State OSHA Annual Report (SOAR) and Bureau of Labor Statistics (BLS) data.

CONN-OSHA did not succeed in meeting either the FY 2014 annual performance plan or the strategic plan goals for reducing the cases with days away, restrictions and transfers (DART) rates in the targeted state and municipal high-hazard industries.⁷

However, CONN-OSHA did meet the FY 2014 goals for inspections and consultation visits in the state and municipal targeted industries. The State Plan also met the fiscal year-end goals for total inspections and total consultation visits, by conducting 236 inspections of 230 projected, and 102 public sector consultation visits of 90 projected.

With the exception of training far fewer municipal workers than projected, CONN-OSHA met all goals related to compliance assistance. The State Plan also strengthened its own capabilities by ensuring that field staff complete all planned training courses.

Strategic Goal #1: Improve workplace safety and health for all workers, as evidenced by reducing hazards, exposures to hazards, injuries, illnesses, and fatalities.

Performance Goal 1.1a: Reduce the BLS cases with days away, restricted or transferred (DART) by two percent from previous year's rate in each of the targeted state government industries. Reduce the DART rate by 10 percent from the baseline rate⁸ in each of the targeted state government industries.

Result: This goal was not met.

Discussion: As shown in the table below, CONN-OSHA did not meet the strategic and annual performance plan goals for reducing DART rates in all of the state's targeted industries. To effect the two percent reduction in DART rates from 2012 to 2013, CONN-OSHA planned to conduct at least five inspections and five consultation visits in the targeted state industries. The State Plan met this goal, by conducting seven inspections and six consultation visits in FY 2014.

⁶ The strategic plan that began in FY 2009 was originally planned to extend through the end of FY 2013. This strategic plan was extended for one year—through the end of FY 2014—because CONN-OSHA needed more time to develop a new strategic plan. In the FY 2015 FAME, OSHA will evaluate CONN-OSHA's progress in achieving the long-term goals that were established in the strategic plan that extended from FY 2009-FY 2014.

⁷ In the CONN-OSHA SOAR and in this report, 2012 DART rates are compared to 2013 DART rates (the most recent DART rates available).

⁸ CONN-OSHA's baseline DART rates are based on each industry's average of DART rates from 2004-2006.

<i>DART Rate Comparison for State Targeted Industries</i>					
	Baseline DART	2012 DART	2013 DART	Percent change from 2012	Percent change from baseline
State hospitals	10.0	9.3	5.7	(38.0)	(43.0)
State nursing & residential care facilities	9.9	11.1	16.0	44.0	61.6
State highway maintenance & repair operations	10.0	7.9	11.1	41.0	11.0

Performance Goal 1.1b: Reduce the (DART) by two percent from the previous year’s rate in each of the targeted municipal government industries. Reduce the DART rate by 10 percent from the baseline rate in each of the targeted state government industries.

Result: This goal was not met.

Discussion: As shown in the table below, CONN-OSHA did not meet the strategic and annual performance plan goals for reducing DART rates in all of the municipal targeted industries.

<i>DART Rate Comparison for Municipal Targeted Industries</i>					
	Baseline DART	2012 DART	2013 DART	Percent change from 2012	Percent change from baseline
Municipal public works – street & highway	10.0	7.9	11.1	41.0	11.0
Municipal water, sewage & other systems	9.3	8.4	8.5	1.0	(9.6)
Municipal waste management & remediation services	22.6	2.5	2.3	(8.0)	(89.8)

The extent to which CONN-OSHA actually impacted any of the DART rate shifts (in either the state or the municipal sector) is difficult to assess, because the number of state and local government industries surveyed by the BLS is typically relatively few. As a result, a small number of injuries can dramatically affect DART rates and cause them to fluctuate significantly over a period of years, or from year to year.

In the current five-year strategic plan (which spans from FY 2015 through FY 2019), CONN-OSHA is attempting to remedy this problem, by supplementing BLS data with data from its own survey of state and local government workplaces’ injury and illness rates.

To effect the two percent reduction in DART rates from 2012 to 2013, CONN-OSHA planned to conduct 55 inspections and 15 consultation visits in the targeted municipal industries. The State Plan met these goals, by conducting 85 inspections and 39 consultation visits in FY 2014.

Performance Goal 1.1c: Limit the number of fatalities in state and local government to no more than two by focusing resources on the most hazardous industries.

Result: This goal was met.

Discussion: There was only one work-related fatality in FY 2014. To meet this goal, CONN-OSHA planned to conduct 60 inspections and 20 consultation visits in the targeted state and municipal industries. CONN-OSHA ended FY 2014 by conducting 92 inspections and 45 consultation visits in the most hazardous workplaces. A fatality-related article appeared in each issue of the *CONN-OSHA Quarterly*, as planned.

Strategic Goal #2: Promote a safety and health culture through compliance assistance, cooperative programs and strong leadership.

Performance Goal 2.1: Increase safety and health awareness among workers and employers in state and municipal agencies to help promote effective safety and health management systems.

Performance Goal 2.1a: Increase the number of municipal employees that participate in CONN-OSHA’s safety and health training programs by five percent from FY 2013.

Result: This goal was not met.

Discussion: The total number of municipal employees who attended CONN-OSHA’s training programs decreased by 50 percent (from 545 participants in FY 2013 to 273 in FY 2014). The number trained in FY 2013 was the highest in the past five years, and the goal of increasing this total by five percent in FY 2014 may have been unattainable. However, the fact remains that CONN-OSHA’s FY 2014 total was the second lowest in the past five fiscal years. It was also far below the five-year average, as shown in the table below.

<i>Number of Municipal Workers Trained by CONN-OSHA Five-Year History⁹</i>	
Fiscal Year	Number of Trainees
2010	393
2011	253
2012	499
2013	545
2014	273
Five-year average	393

⁹ Source: CONN-OSHA’s SOARs (FY 2010-FY 2014).

The State Plan has acknowledged that it must become more effective in terms of recruiting municipal trainees. Nonetheless, OSHA will monitor these efforts in FY 2015, and the number of municipal workers trained throughout the year. This has been introduced as a new observation, FY 2014-OB-#01.

Annual Performance Goal 2.1b: Increase the number of state workers that participate in CONN-OSHA's safety and health training programs by five percent in FY 2013.

Result: This goal was met.

Discussion: The total number of state workers who participated in CONN-OSHA's training classes increased by 34 percent (from 261 in FY 2013 to 352 in FY 2014).

Annual Performance Goal 2.1c: Maintain or renew current Alliances.

Result: This goal was met.

Discussion: CONN-OSHA renewed all seven Alliances that were due to expire in FY 2014. CONN-OSHA continues to maintain a total of 10 Alliances.

Performance Goal 2.2: Increase safety and health awareness among workers and employers in state and local government agencies to help promote effective safety and health management systems.

Performance Goal 2.2a: CONN-OSHA will include workers in all onsite activities.

Result: This goal was met.

Discussion: Workers were involved in all onsite activities.

Strategic Goal #3: Maximize effectiveness and efficiency by strengthening capabilities and infrastructure.

Performance Goal 3.1a: CONN-OSHA field staff will complete safety and/or health training annually.

Result: This goal was met.

Discussion: Each field staff member completed at least one safety and/or health training course in FY 2014. A list of the training courses completed by each field staff member is provided in the SOAR.

Performance Goal 3.1b CONN-OSHA field staff will complete at least one professional development course or seminar annually.

Result: This goal was met.

Discussion: Each field staff member completed Incident Command System 100 and 200 certifications in FY 2014.

Performance Goal 3.2a: Strengthen the effectiveness of the emergency management plan.

Result: This goal was met.

Discussion: To strengthen the emergency management plan, CONN-OSHA planned to participate in 85 percent of the Connecticut Emergency Management System meetings. In FY 2014, the State Plan participated in 95 percent of the Connecticut Emergency Management System meetings, as discussed in the SOAR.

C. Highlights from the State Activity Mandated Measures (SAMM)

Data from the FY 2014 SAMM Report was reviewed for deficiencies and notable changes. In FY 2014, there were no notable changes in year-over-year trending with regard to CONN-OSHA's results for SAMM measures. At first glance, SAMM #21 (percent of fatalities responded to in one work day) appears to raise a red flag, because the program's percentage is only 66, which is substantially below the further review level of 100 percent.¹⁰ CONN-OSHA's low percentage resulted from the program taking about five days to investigate one fatality case.¹¹ Because CONN-OSHA has a long track record of responding within one work day to all fatalities, OSHA does not believe that this one case is indicative of a trend, and therefore neither a finding nor an observation is warranted.

In FY 2014, OPP's results for SAMM #13 (percent of 11c investigations completed within 90 calendar days) and SAMM #16 (average number of calendar days to complete an 11c investigation) were far outside the further review levels. This is because OPP uses mediation and hearing processes in all of its docketed cases, unlike OSHA. These processes takes significantly

¹⁰ SAMM #21 measures the number of work days lapsed from the incident report date to the open inspection date.

¹¹ This case involved a victim who succumbed to a heart attack while at work on April 23, 2014. The employer did not notify CONN-OSHA until April 29, 2014—about one week after the incident occurred. As a consequence, the employer received a citation for not reporting the incident within eight hours. CONN-OSHA did not open an inspection of the incident until May 5, 2014, when it determined that the victim's death was not work-related. On one hand, CONN-OSHA should not have waited five days to open the inspection, but on the other, OSHA does not believe that this one case points to a trend in unsatisfactory performance.

more than 90 days to complete, so it is not possible for OPP to meet the further review levels in these two measures.

In Section III of this report, CONN-OSHA's performance on the three findings and one observation from the previous FAME that are related to SAMM measures are discussed in more detail. A complete listing of CONN-OSHA's FY 2014 results for all SAMM measures is in Appendix D of this report.

III. Assessment of State Plan Corrective Actions

CONN-OSHA made significant progress in resolving the 11 findings in the FY 2013 FAME. This report contains only four findings, and the fact that five of the six findings related to the discrimination program have been completed is noteworthy. Three of the four observations in the FY 2013 FAME have been continued in this report, and one has been closed. OSHA made one new observation in this report.

Finding FY 2013-01(FY 2014-01): Complaint response (SAMM #1: average number of days to initiate complaint inspections) – CONN-OSHA's average of 10.04 days is outside the negotiated further review level of 5 days.¹²

Status: Open. Over the past few fiscal years, OSHA has been concerned with CONN-OSHA's performance on SAMM #1 (average number of days to initiate complaint inspections).

<i>SAMM #1 Average Number of Days to Initiate Complaint Inspections (Negotiated Fixed Number: Five Days)</i>	
Fiscal Year	Avg. No. of Days
FY 2014	10.04
FY 2013	10.73
FY 2012	14.12

In response to this finding, CONN-OSHA planned to track complaint and referral response times by running the SAMM monthly and IMIS complaint tracking reports weekly. In FY 2014, CONN-OSHA ended the fiscal year with an overall average of 10.04 days, which is the lowest average the State Plan has had since FY 2012, yet still slightly more than double the further review level.¹³ In FY 2015, CONN-OSHA should continue to track complaint response times

¹² This finding has been revised to reflect CONN-OSHA's FY 2014 result for this SAMM measure.

¹³ CONN-OSHA had an average of 12.78 days in the first quarter of FY 2014. During the second quarter, CONN-OSHA was able to reduce the average to 9.00 days. In the third quarter, CONN-OSHA's average increased to 12.71 days, and in the fourth quarter, the average reached 14.14 days.

and also work to identify the problems that are causing the program to exceed the negotiated further review level for this measure.

Finding FY 2013-02 (FY 2014-02): Violation classification (SAMM #9: average violations per inspections with violations) – CONN-OSHA’s average of 1.28 is below the further review level of 1.99 for serious, willful, or repeat (s/w/r) violations. During the onsite review for the FY 2013 FAME, OSHA determined that 7 of 35 case files that were not in-compliance had at least one serious violation that was classified as other-than-serious. These results may indicate that CONN-OSHA is classifying some serious violations as other-than-serious.¹⁴

Status: Open. Although CONN-OSHA strongly disagreed with this finding, the manager did agree to monitor CSHOs’ worksheets to ensure correct violation classification. However, the program’s average declined even further, from 1.49 in FY 2013 to 1.28 in FY 2014.

<i>SAMM #9</i>				
<i>Average Violations per Inspection with Violations</i>				
	FY 2011	FY 2012	FY 2013	FY 2014
S/W/R	2.08	1.53	1.49	1.28
Other-than-Serious	2.04	1.78	2.21	1.92

Finding FY 2013-03 (FY 2014-03): Citations and Penalties (SAMM #23: average lapse time from inspection open-date to issue-date) – CONN-OSHA’s average lapse time of 83.34 days for health inspections did not meet the further review level of 57.05 days for this measure.¹⁵

Status: Open. To decrease lapse times in FY 2014, CONN-OSHA planned to monitor citations pending reports on a weekly basis. CONN-OSHA’s FY 2014 end-of-year average lapse time of 44.95 days for safety was only slightly above the further review level of 43.4 days, and is a significant improvement over the FY 2013 average lapse time of 74.89 days. Therefore, this part of the finding has been dropped for FY 2014. For health, the program’s average lapse time of 83.34 days also improved over the FY 2013 average lapse time of 108.62 days, but is still much higher than the further review level of 57.05 days.

<i>SAMM #23</i>					
<i>Average Lapse Time for Inspection Open-Date to Issue-Date</i>					
<i>FY 2014</i>					
	Q1 (Avg. Number of Days)	Q2 (Avg. Number of Days)	Q3 (Avg. Number of Days)	Q4 (Avg. Number of Days)	FY 2014 End-of-Year (Avg. Number of Days)
Safety	39.88	45.41	59.77	37.80	44.95
Health	73.40	76.56	89.83	93.44	83.34

¹⁴ This finding has been updated to reflect FY 2014 SAMM data.

¹⁵ This finding has been modified to reflect FY 2014 data for SAMM #23. Also, in the FY 2013 FAME, this finding included a reference to CONN-OSHA not meeting the further review level for safety inspections. Because CONN-OSHA was only slightly above the further review level for safety in FY 2014, this reference has been removed.

CONN-OSHA should continue to monitor the SAMM and other management reports to track citation lapse times, and managers should work with staff (especially with health CSHOs) to identify and eliminate obstacles to issuing citations in a more timely manner.

Finding FY 2013-04: Discrimination Case Files – Case files were not organized in accordance with OSHA’s Whistleblower Investigations Manual.

Status: Completed. During FY 2014 OPP improved its organization of case files. Although each file is not organized exactly as specified in Chapters 3 and 5 of the Whistleblower Investigator’s Manual, all the files contained the major documents and were organized in a way that was easily followed.

Finding FY 2013-05: 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.

Status: Completed. OPP submits its own version of a report in each file. Although OPP’s report is not identical to the report used by OSHA, it analyzes the findings in the same manner as the OSHA report.

Finding FY 2013-06: Discrimination Case Files – In the IMIS system, OPP is classifying cases that are settled without its participation as “settled,” when these cases should be classified as “settled other.”

Status: Completed. OPP is now classifying its case files correctly, including settled and withdrawn cases.

Finding FY 2013-07 (FY 2014-04): Discrimination Case Files – In cases that were classified as “settled other,” there is no indication that OPP reviewed the settlement agreement using the appropriate criteria. The files do not contain any information related to review of settlement agreements.

Status: Awaiting Verification. OPP could not fully comply with this recommendation for cases that were closed in FY 2014, because OSHA and OPP did not reach an agreement on the corrective action until later in the fiscal year. OPP has indicated that the corrective action has been implemented in FY 2015. OSHA will evaluate OPP’s compliance with this recommendation during the next onsite case file review.

Finding FY 2013-#08: Discrimination Case Files – Settlement agreements were not included in the case file per Chapter 5 of the Whistleblower Investigations Manual.

Status: Completed. There was one case that was settled through the mediation process and a settlement agreement and determination letter were in the file.

Finding FY 2013-#09: Discrimination Case Files – The lapse time for the closed cases reviewed was 609 days. The national average for closed cases in FY 2013 is 280 days. Furthermore, OPP’s open cases have been open an average age of 762 days.

Status: Completed. The average lapse time for closed cases in FY 2014 was 368 days, which is down significantly from 609 days in FY 2013.¹⁶ The national average for lapse times of closed cases is currently 305 days. Furthermore, the average number of days that OPP’s cases are open has also decreased, from 762 days in FY 2013 to 649 days in FY 2014.¹⁷ OPP has greatly improved its monitoring of open cases and no longer agrees to requests from parties to prolong the mediation process.

Finding FY 2013-10: Program Administration – CONN-OSHA’s health CSHO has not yet completed the third and final course in OTI’s mandatory PSM training series.

Status: Completed. The CSHO completed this course in March 2015.

Finding FY 2013-#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.

Status: Completed. CONN-OSHA implemented a new SIEP in FY 2015. OIS reports, such as the open inspections report, the uncorrected hazards report, and the task list report, are used to evaluate enforcement activities and are reviewed in regularly scheduled meetings between management and CSHOs.

Observation FY 2013-OB-01 (FY 2014-OB-02): SAMM #20 – CONN-OSHA’s in-compliance rate of 49.18 percent for health inspections was outside the further review level of 34.1 percent.¹⁸

Status: Continued. CONN-OSHA’s FY 2014 end-of-year SAMM shows a rate of 49.18 for health, which was an improvement over the FY 2013 end-of-year rate of 56 percent, but still outside the further review level of 34.1 percent.

Observation FY 2013-OB-#02 (FY 2014-OB-#03): Case File Documentation – Some case files were missing at least one type of documentation required by CONN-OSHA’s FOM (Chapter 5),

¹⁶ Source: Oracle length of investigation report from IMIS database, run on February 26, 2015

¹⁷ Source: Oracle investigation data report from IMIS database, run on February 27, 2015

¹⁸ This observation has been updated to reflect the FY 2014 data for SAMM #20 (b).

such as notes on employee and/or witness interviews, evidence to support employee exposure to hazardous conditions, and notes documenting the informal conference.

Status: Continued. OSHA is awaiting the onsite case file review for the FY 2015 FAME to evaluate case file documentation. This observation is *continued*.

Observation FY 2013-OB-03: 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.

Status: Closed. Of the closed files reviewed, all the notification letters to Complainants and Respondents were in the file.

FY 2013-OB-#04 (FY 2014-OB-#04): Targeting – CONN-OSHA is not targeting state employers for inspections.

Status: Continued. In FY 2014, CONN-OSHA conducted 24 inspections in state workplaces. Of this total, 12 were complaints, 8 were programmed, 3 were referrals and 1 was unprogrammed- related.¹⁹ However, these eight programmed inspections were conducted in only five state agencies (three inspections were conducted in one residential group home; one inspection was conducted in a state park; one inspection was conducted in each of two technical high schools; and one was conducted in a highway department). As of January 30, 2015, OIS data shows that no programmed inspections had been conducted in state agencies in FY 2015.

Progress has been made by CONN-OSHA in FY 2014 in conducting targeted inspections in state agencies. CONN-OSHA's new five-year strategic plan also includes a program for targeting state employers in high-hazard industries—which OSHA intended to ensure in the FY 2014 federal monitoring plan for this observation.

However, OSHA is concerned that no targeted inspections in state agencies were conducted for at least the first four months of FY 2015. Also, although one-third of the inspections conducted in state agencies in FY 2014 were targeted, only a handful of state agencies actually received programmed inspections.

¹⁹ This data is based on IMIS database data as of February 2, 2015.

Appendix A – New and Continued Findings and Recommendations

FY 2014 CONN-OSHA Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2014-01	CONN-OSHA’s average number of days to initiate complaint inspections (SAMM #1) is 10.04 days, which is outside the negotiated further review level of 5 days.	Review policies and processes to identify and eliminate the problems that are causing the program to exceed the negotiated further review level of five days in SAMM #1.	FY 2013-01
FY 2014-02	CONN-OSHA’s average number of violations per inspections with violations (SAMM #9) is 1.28, which is below the further review level of 1.99 for serious/willful/repeat (s/w/r) violations. During the onsite review for the FY 2013 FAME, OSHA determined that 7 of 35 case files that were not in-compliance had at least one serious violation that was classified as other-than-serious. These results may indicate that CONN-OSHA is classifying some serious violations as other-than-serious.	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.	FY 2013-02
FY 2014-03	CONN-OSHA’s average lapse time of 83.34 days for health inspections (SAMM #23) did not meet the further review level of 57.05 days for this measure.	Review policies and processes to identify and eliminate the problems that are causing the program to have high lapse times.	FY 2013-03
FY 2014-04	Discrimination Case Files – In cases that were classified as “settled other,” there is no indication that OPP reviewed the settlement agreement using the appropriate criteria. The files do not contain any information related to review of settlement agreements.	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. <i>(Corrective complete; awaiting verification)</i>	FY 2013-07

Appendix B – Observations Subject to New and Continued Monitoring

FY 2014 CONN-OSHA Follow-up FAME Report

Observation # FY 2014-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2014-OB-01		Annual Performance Plan – In FY 2014, the number of municipal workers trained through CONN-OSHA’s compliance assistance program decreased significantly.	On a quarterly basis, OSHA will monitor CONN-OSHA’s efforts to increase the number of municipal workers who participate in its training programs.	New
FY 2014-OB-02	FY 2013-OB-#01	SAMM #20 – CONN-OSHA’s in-compliance rate of 49.18 percent for health inspections was outside the further review level of 34.1 percent.	OSHA will monitor CONN-OSHA’s in-compliance rates for both safety and health on a quarterly basis.	Continued
FY 2014-OB-03	FY 2013-OB-#02	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 employee and/or witness interviews, evidence to support employee exposure to hazardous conditions, and notes documenting the informal conference.	OSHA 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.	Continued
	FY 2013-OB-#03	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.	OSHA will evaluate OPP’s discrimination files during the next on-site review to determine whether the state is adhering to the requirements for case file documentation in the Whistleblower Investigations Manual.	Closed
FY 2014-OB-04	FY 2013-OB-#04	Targeting – CONN-OSHA is not targeting state employers for inspections.	OSHA will monitor CONN-OSHA’s progress in targeting state agencies during all quarterly meetings.	Continued

Appendix C - Status of FY 2013 Findings and Recommendations

FY 2014 CONN-OSHA Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	Complaint Response (SAMM #1) – CONN-OSHA’s average of 10.73 days is above the negotiated further review level of 5 days.	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.	The CONN-OSHA manager is tracking complaint and referral response times by running the SAMM monthly and running IMIS/OIS complaint tracking reports weekly.	Not completed	Open September 30, 2014
FY 2013-02	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 serious/willful/repeat (s/w/r) violations. During the onsite review for the FY 2013 FAME, OSHA determined that 7 of 35 case files that were not in-compliance had at least serious violation that was classified as other-than-serious. These results may indicate that CONN-OSHA is classifying some serious violations as other-than-serious.	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.	The manager is reviewing all CSHOs’ worksheets to ensure that violations are classified correctly.	Not completed	Open September 30, 2014
FY 2013-03	Citations and Penalties – CONN-OSHA did not meet the further review	Review the policies and processes it has in place to identify and eliminate	The manager will continue to meet with each CSHO to reinforce compliance with this measure. Citations pending reports are run	Not completed	Open September 30, 2014

	levels for safety and health in SAMM #23 (Average Lapse Time from Inspection Open-Date to Issue-Date).	the problems that are causing the program to have high lapse times.	and monitored weekly.		
FY 2013-04	Discrimination Case Files – Case files were not organized in accordance with OSHA’s Whistleblower Investigations Manual.	Adopt the case file organization standards outlined in the Federal Whistleblower Investigations Manual (Chapters 3 and 5).	OPP is following the format outlined in the federal Whistleblower Investigations Manual. The senior attorneys who conduct the majority of the mediations and hearings for OPP’s whistleblower cases have been advised regarding this.	September 30, 2014	Completed
FY 2013-05	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.	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.	OPP has been making memos in its files prior to first quarter 2014 and continues to do so.	September 30, 2014	Completed
FY 2013-06	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.”	Adopt OSHA’s criteria for classifying settlement agreements in IMIS as OSHA.	OPP will address this in future cases when inputting information into IMIS and use the same criteria for classifying settlement agreements in IMIS as OSHA.	September 30, 2014	Completed
FY 2013-07	Discrimination Case Files – In cases that were classified as “settled other,” there is no indication that OPP reviewed the settlement agreement using the appropriate criteria. The files do not contain any	Review “settled other” determinations to ensure that there is nothing repugnant to the Act. OPP should also document its review of the “settled other” determinations, as prescribed in Chapter 6	OPP will notify parties in advance of settlement efforts that they must review any third party agreements. Upon receipt of these agreements, OPP will ascertain that there is nothing abhorrent to the Act in the agreement. OPP will also provide the parties with the language in the Whistleblower Investigations Manual beginning on page 6-9. OPP will memorialize its efforts in the closing memo.	September 30, 2014	Awaiting Verification

	information related to review of settlement agreements.	of the Whistleblower Investigations Manual.			
FY 2013-08	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.	OPP will notify parties in advance of settlement efforts that they must review any third party agreements. Upon receipt of these agreements, OPP will ascertain that there is nothing abhorrent to the Act in the agreement. OPP will also provide the parties with the language in the Whistleblower Investigations Manual beginning on page 6-9. OPP will memorialize its efforts in the closing memo.	September 30, 2014	Completed
FY 2013-09	Discrimination Case Files – The lapse time for the closed cases reviewed was 609 days. The national average for closed cases in FY 2013 is 280 days. Furthermore, OPP’s open cases have been open an average age of 762 days.	Monitor pending open cases more closely to ensure that the cases are not neglected.	OPP is implementing steps to tighten parameters around mediation and hearing processes to reduce lapse time. For example, if a party requests an indefinite extension, OPP provides a deadline, and does not permit it to be continued indefinitely.	September 30, 2014	Completed
FY 2013-10	Program Administration – CONN-OSHA’s health CSHO has not yet completed the third and final course in OTI’s mandatory PSM training series.	Ensure that the CSHO completes the third and final course in the PSM training series.	The CSHO is scheduled to complete-the last PSM Course #3430 in December 2014.	March 2015	Completed
FY 2013-11	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-	Develop a SIEP that adequately evaluates the operations of the State Plan’s public sector enforcement program.	As the FAME indicates, CONN-OSHA meets the SIEP requirement outlined in the SPPPM. CONN-OSHA is using weekly and monthly IMIS/OIS reports to conduct weekly and monthly meetings to address the metrics. CONN-OSHA will incorporate these current practices into the SIEP.	September 30, 2014	Completed

	related operations.				
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Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 CONN-OSHA Follow-up FAME Report

OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Connecticut opened 236 enforcement inspections in FY 2014. Of those, 236 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data. For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
- d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
- e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
- f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
- g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Connecticut			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	10.04	5 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.

2	Average number of work days to initiate complaint investigations	1.28	1 day	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100.0%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	2	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
9a	Average number of violations per inspection with violations by violation type	1.28	SWR: 1.99	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.
9b	Average number of violations per inspection with violations by violation type	1.92	Other: 1.22	
11	Percent of total inspections in the public sector	100.00%	100.00%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.
13	Percent of 11c Investigations completed within 90 calendar days	33%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
14	Percent of 11c complaints that are meritorious	33.33	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.

16	Average number of calendar days to complete an 11c investigation	548	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
17	Planned vs. actual inspections - safety/health	155/81	150/80	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
18a	Average current serious penalty - 1 - 25 Employees	0		State Plan data taken directly from SAMM report generated through IMIS.
18b	Average current serious penalty - 26-100 Employees	0		
18c	Average current serious penalty - 101-250 Employees	0		
18d	Average current serious penalty - 251+ Employees	0		
18e	Average current serious penalty - Total 1 - 250+ Employees	0		
19	Percent of enforcement presence	n/a	National Average 1.51%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	13.53	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	49.18	Health - 34.1	

21	Percent of fatalities responded to in 1 work day	66%	100%	State Plan data is manually pulled directly from IMIS for FY 2013.
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
23a	Average Lapse Time - Safety	44.95	43.4	State Plan data taken directly from SAMP 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	83.34	57.05	
24	Percent penalty retained	0	66	State Plan data taken directly from SAMP 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.
25	Percent of initial inspections with employee walk around representation or employee interview	100	100%	State Plan data taken from SAMP report generated through IMIS and the Inspection where Workers Involved report generated in OIS.