

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

**State of Minnesota
Occupational Safety and Health Division (MNOSHA)**



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

**Initial Approval Date: May 29, 1973
Program Certification Date: September 28, 1976
Final Approval Date: July 30, 1985**

**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region V
Eau Claire, Wisconsin**



Contents

I. Executive Summary	3
A. State Plan Activities, Themes, and Progress	3
B. State Plan Introduction	4
C. Data and Methodology	4
D. Findings and Observations	5
II. Assessment of State Plan Performance	5
A. Major New Issues	5
B. Assessment of State Plan Progress in Achieving Annual Performance Goals.....	5
C. Highlights from the State Activity Mandated Measures (SAMM)	11
III. Assessment of State Plan Corrective Actions	11

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 follow-up Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's progress towards achieving performance goals established in their federal fiscal year (FY) 2014 Annual Performance Plan and to describe corrections made by the State Plan in response to the FY 2013 FAME Report findings and recommendations. This report assesses the current performance of Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) program and compares the State Plan's effectiveness to that of OSHA.

A detailed explanation of the findings and recommendations of the MNOSHA performance evaluation, and the State Plan's response, is found in Section III, Assessment of State Plan Corrective Actions. The FY 2013 FAME identified six findings and recommendations. MNOSHA responded to all six of the recommendations through retraining staff, conducting internal audits, and updating directives. One of the recommendations is completed and two are awaiting verification. A summary of all the findings and recommendations noted, as the result of OSHA's evaluation, is found in Appendix A, New and Continued Findings and Recommendations.

A thorough assessment of MNOSHA's progress in achieving their annual performance goals has been conducted, and the results are found in Section II, B, Assessment of State Plan Progress in Achieving Annual Performance Goals. Noteworthy in the assessment are the following:

- Performance Goal 1.3.a: Total hazards identified / establishments visited: The FY 2014 target was a projected 2,400 inspections: 2,241 in the private sector and 159 in the public sector. During FY 2014, a total of 2,556 inspections were conducted; 6.5% above the goal. A total of 4,996 hazards were identified and cited.
- Performance Goal 1.3.b: Conduct inspections in targeted emphasis industries: The FY 2014 goal was for 60% of programmed inspections to be conducted within the emphasis industries. MNOSHA exceeded the goal by conducting 86% of all programmed inspections within the emphasis industries.
- Performance Goal 2.1.b: Increase Voluntary Protection Programs (MNSTAR): The FY 2014 target was to add one new participant and accomplish three re-certifications. Six sites were granted initial STAR certification and five sites achieved full re-certification.

Quarterly monitoring team meetings were held during FY 2014, at which time the State Activity Mandated Measures (SAMM) report was reviewed and discussed with MNOSHA compliance staff. The FY 2014 SAMM Report is Appendix D of this report.

OSHA received and investigated two Complaints About State Program Administration (CASPA) during FY 2014. The first CASPA alleged MNOSHA did not conduct a thorough investigation

into an indoor air quality complaint. The second CASPA alleged a whistleblower complaint was not properly investigated when a former management representative was not re-interviewed. After investigating the allegations, OSHA determined MNOSHA followed established policies and procedures with respect to the matters contained in the two complaints.

B. State Plan Introduction

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program became effective on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private and public sectors, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is "to ensure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enables employers to maintain safe and healthful workplaces.

MNOSHA's vision is to be a leader in occupational safety and health and to make Minnesota's workplaces the safest in the nation. MNOSHA is striving for the elimination of workplace injuries, illnesses, and deaths to ensure all of Minnesota's workers can return home safely. MNOSHA believes that to support this vision, the workplace must be characterized by a genuinely shared commitment to workplace safety, by both employers and workers, with necessary training, resources, and support systems devoted to making this happen.

During FY 2014, there were no changes to the current administration. Commissioner Ken Peterson is the head of the DLI. Ms. Cindy Valentine is the Workplace Safety Manager reporting directly to the Commissioner. Mr. James Krueger is the Director of the OSH Compliance Division and Ms. Roslyn Robertson is the Director of the WSC Division within Minnesota DLI. The FY 2014 grant included funding totaling \$9,202,273 and full-time equivalent (FTE) staffing of 85.32 positions. The State Plan's required benchmarks are 31 safety investigators and 12 health investigators. MNOSHA allocated 41.9 safety and 17.9 health. At the beginning of FY 2014, there were 42 safety and 17 health investigators on staff. By the end of the fiscal year, nine safety and one health positions had been vacated through attrition.

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 associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME.

MNOSHA's performance was compared to their FY 2014 Performance Plan and Five-Year Strategic Management Plan through a detailed analysis of the FY 2014 State OSHA Annual Report (SOAR) and SAMM report. The State Plan's progress in addressing findings identified in the FY 2013 FAME was tracked and monitored through ongoing discussions and plan supplements.

D. Findings and Observations

This FY 2014 Follow-up FAME Report includes five findings and three observations that are continued from the FY 2013 report. Two of the findings and all three of the observations address concerns within health inspection case files. MNOSHA has emphasized with staff the importance of conducting industrial hygiene sampling and documenting case files in order to evaluate hazards, investigate complaints, and issue citations. MNOSHA is conducting internal audits of the files on a quarterly basis to monitor the implementation of the communicated changes. There are no new findings or observations identified for FY 2014.

A complete summary of the FY 2013 findings and recommendations and observations, and MNOSHA's progress in addressing the findings, are found in Section III, Assessment of State Plan Corrective Actions. A list of the observations is found in Appendix B, Observations Subject to New and Continued Monitoring; and a list of the findings and recommendations is found in Appendix C, Status of FY 2013 Findings and Recommendations.

II. Assessment of State Plan Performance

A. Major New Issues

None.

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

The Minnesota Occupational Safety and Health Strategic Management Plan for FY 2014 to FY 2018 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership; and 3) Strengthen and improve MNOSHA's infrastructure. The FY 2014 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2014.

In the FY 2014 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishment of meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, all but three of the annual performance goals have been met or exceeded.

The following summarizes the activities and accomplishments for each of the FY 2014 performance goals.

Strategic Goal #1

Reduce occupational hazards through compliance inspections.

Performance Goal 1.1: Reduction in total recordable cases (TRC) rate from a five-year average of 3.9.

Results: This goal was not met.

Discussion: The FY 2014 target was a reduction in the calendar year (CY) TRC rate from the previous five-year average for CY 2008 – 2012, which was 3.9 per 100 workers. The CY 2013 TRC rate achieved was 3.9, a 0% reduction. MNOSHA Compliance continues to review new information to redefine targeting to reduce injury and illness rates.

Performance Goal 1.2: Reduction in state fatality rate from a five-year average of 0.642.

Results: This goal was not met.

Discussion: The FY 2014 target was a reduction in the state's fatality rate from the previous five-year average for FY 2009 – 2013, which was 0.642 per 100,000 workers. The FY 2014 fatality rate remained the same, at 0.642, a 0% reduction. FY 2014 is the first year fatalities were counted and compared on a fiscal year basis. There were 17 fatalities in FY 2014 compared to 20 fatalities in CY 2013. MNOSHA Compliance continues to address workplace fatalities in its outreach materials, and during construction seminars.

Performance Goal 1.3.a: Identified hazards totaling 4,718 during 2,400 inspections.

Results: This goal was met.

Discussion: The new FY 2014-2018 Strategic Management Plan does not provide targets for the number of inspections; rather, they are projected in the Annual Performance Plan and may change from year to year. The FY 2014 Performance Plan projected 2,400 inspections: 2,241 in the private sector and 159 in the public sector. During FY 2014, a total of 2,556 inspections were conducted: 2,463 in the private sector and 93 in the public sector. Seventy percent (70%) of the inspections conducted resulted in violations; 70% of the violations were cited serious. During FY 2014, 4,996 hazards were identified and cited, which is 6% more than the baseline five-year average for FY 2008 – 2012 of 4,718 hazards.

Performance Goal 1.3.b: Conduct 60 % of programmed inspections in targeted emphasis industries.

Results: This goal was met.

Discussion: MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries. The FY 2014 goal was for 60% of programmed inspections to be conducted within the emphasis industries. MNOSHA conducted 86% of all programmed inspections within the emphasis industries. Six inspections of temporary employers were conducted, of which two (33%) resulted in citations being issued to the employer.

Performance Goal 1.3.c: Ongoing support in the areas of ergonomics, workplace violence, and safe patient handling.

Results: This goal was met.

Discussion: The FY 2014 target was ongoing support of Minnesota Workplace Safety Consultation's ergonomics and safe patient handling efforts. MNOSHA conducted 50 programmed inspections in the meat processing and healthcare industries.

Performance Goal 1.4: 86% of inspections designated as programmed inspections.

Results: This goal was not met.

Discussion: The FY 2014 target was for 86% of all inspections to be conducted as programmed inspections. In FY 2014, 85% of MNOSHA's 2,556 inspections were opened as programmed inspections.

Strategic Goal #2

Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership.

Performance Goal 2.1.a: Maintain three Partnerships.

Results: This goal was met.

Discussion: The FY 2014 target was to maintain three Partnerships. In FY 2014, MNOSHA entered into a Partnership with Minnesota Department of Transportation and two contractors relating to the construction of the St. Croix Bridge's superstructure. The agreement was designed to ensure safety and maintain an open line of communication. MNOSHA has maintained Partnerships with the Associated Builders and Contractors

(ABC) and the Associated General Contractors (AGC). Employers in the construction industry are placed in one of three participation levels depending on the extent of their safety and health program.

Performance Goal 2.1.b: Increase Voluntary Protection Programs (MNSTAR) participation through one new and three re-certified participants.

Results: This goal was met.

Discussion: The FY 2014 target was to add one new MNSTAR participant and accomplish three re-certifications. There are currently 41 employers in the MNSTAR program. Six sites were granted initial STAR certification and one achieved merit status during FY 2014. Five sites achieved full re-certification.

Performance Goal 2.1.c: Continue to identify compliance assistance opportunities.

Results: This goal was met.

Discussion: MNOSHA continues to strive to improve communication with immigrant and hard-to-reach employers and workers. MNOSHA employs one investigator who is fluent in both English and Spanish. Six presentations were given in Spanish: three to new employers involving 25 attendees, one regarding discrimination for 30 workers, and two on roofing installation to 127 workers. In addition, MNOSHA provides written materials to immigrant and other hard-to-reach employers in coordination with DLI's community services representative.

Performance Goal 2.2: Maintain the total number of people participating in outreach / training at a five-year average of 4,063.

Results: This goal was met.

Discussion: The FY 2014 target was to maintain the baseline five-year average for FY 2008 – 2012 of 4,063 participants in outreach training sessions. MNOSHA compliance exceeded the goal for FY 2014 by conducting 117 presentations to 4,279 participants, 5% above the baseline. Ninety-nine percent (99%) of the presentations were given in emphasis areas including youth, immigrant employers and workers, emerging businesses, discrimination, public sector, and other strategic plan emphases.

Performance Goal 2.3: Continue the current practice of participating in homeland security efforts at state and national levels.

Results: This goal was met.

Discussion: The FY 2014 target was to continue with the current practice. MNOSHA continued to participate on the State Emergency Response Plan. One MNOSHA director attended three meetings of the Emergency Preparedness and Response Committee, four federal Homeland Security conference calls, and State Emergency Operations Center briefings twice daily for weeks regarding severe storms and high precipitation throughout the state. The Minnesota Emergency Operations Plan was reviewed in February 2014 and one edit was made.

One director completed two seminars: G191 Incident Command System/Emergency Operations Center Interface, as part of the governor's annual Homeland Security Conference, and G272, Warning Coordination. One director completed an on-line course, FEMA IS-00775, Emergency Operations Center Management and Operations.

Performance Goal 2.4: Maintain performance in the areas of response time and service level to stakeholders.

Results: This goal was met.

Discussion: The FY 2014 target was to maintain the baseline as an on-going performance. MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and emails. During FY 2014, these two positions responded to 3,904 phone calls and 1,748 written requests for assistance. During FY 2014, 73% of phone calls were received from employers, workers, and consultants. The information requested covers a wide variety of topics, which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

During FY 2014, MNOSHA received 621 workplace safety and health complaints of which 288, or 46%, resulted in an on-site inspection with an average response time of 3.4 days. The remaining complaints were handled through MNOSHA's phone/fax process (nonformal complaint).

MNOSHA provides a variety of safety and health information on its website, including printable handouts and information about its audio visual library, which offers a selection of safety and health videos and DVDs available for a free two-week loan. The MNOSHA website also provides links to other websites where safety and health regulations can be accessed. In total, there were 85,356 hits to the MNOSHA web page; 7% fewer than in FY 2013. The reduction may be attributed to heightened interest in the globally harmonized system during FY 2013.

Strategic Goal #3

Strengthen and improve MNOSHA's infrastructure.

Performance Goal 3.1: Review rules annually for effectiveness: ongoing evaluation,

development of rules, standards, guidelines, and procedures.

Results: This goal was met.

Discussion: During FY 2014, three federal standards were adopted and five Minnesota rules were amended. MNOSHA staff continually monitors OSHA standard and policy activities and coordinates updates accordingly. Current directives are reviewed each year so that 100% have been reviewed and updated during the course of the Five-Year Strategic Management Plan. During FY 2014, 30 existing directives were revised. They included scheduling, noise, scaffolds, traffic controls, records retention, discrimination, severe violators, local emphasis programs, and contests.

Performance Goal 3.2: Evaluate the existing workforce plan.

Results: This goal was met.

Discussion: The FY 2014 target was to evaluate the existing workforce plan. During FY 2014, MNOSHA trained its staff on Right-to-Know, including the Globally Harmonized System, general contractors and multi-employer worksites, temporary traffic controls, confined spaces, discrimination complaints, defensive driving, and residential construction. MNOSHA has been able to retain field staff that have significant safety and health consulting experience and one investigator that speaks fluent Spanish. MNOSHA's staff includes eight industrial hygienists with 15 years of experience (three are CIHs) and 16 safety investigators with over 10 years of experience. Potential retirement of staff in leadership roles during the next few years has been identified as a concern. The training directive is being updated to include soft skills such as organization, interviewing, conflict resolution, and creative training.

Performance Goal 3.3: Evaluate consistency and quality of inspection files and develop workflow analysis of the complaint process to ensure the business needs of MNOSHA, the requirements of OSHA, and the services provided to stakeholders are met.

Results: This goal was met.

Discussion: The FY 2014 target was to evaluate consistency and quality of inspection files and to develop workflow analysis of the complaint process. Beginning in FY 2013, MNOSHA's continuing process improvement actions included reviewing contest, informal conference, and settlement procedures in an attempt to reduce the time involved and the number of files that require issuing a complaint. MNOSHA reported a 43% reduction in the number of issued summonses, compared to FY 2012, due to changes that were implemented. MNOSHA has continued to improve through reductions in the days taken to mail letters to the employer with an informal conference date, to convene the informal conference, and to submit the file to legal services to draft the settlement agreement. Reductions in days achieved were 69%, 33%, and 15% respectively.

MNOSHA discontinued a duplicative complaint processing instruction, and continued to meet their response time goals throughout FY 2014.

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

Data from the FY 2014 State Activity Mandated Measures (SAMM) Report was reviewed for deficiencies and notable changes. The SAMM consists of performance indicators, the expected performance reference or standard, and the State Plan's performance data. The State Plan's performance is compared to the criteria established by regulation, grant agreement, negotiation with OSHA, or national data.

MNOSHA consistently meets or exceeds a majority of the mandated measures. No significant deficiencies were identified during SAMM data review. Noteworthy measures are listed below. The complete FY 2014 SAMM is Appendix D of this report.

Percent of total inspections in the public sector: MNOSHA has a long standing goal of conducting 3% of their inspections in the public sector. In FY 2014, MNOSHA conducted 93 inspections in the public sector - 3.64% of a total of 2,556 inspections.

Percent of 11(c) investigations completed within 90 calendar days: MNOSHA has made progress in this measure by completing 47% of the cases within 90 days; 10% more than in FY 2013.

Average Lapse Time – Safety: With an average lapse time of 13.58 days, MNOSHA exceeds the national average of 43.4 days.

Average Lapse Time – Health: With an average lapse time of 19.25 days, MNOSHA exceeds the national average of 57.05 days.

III. Assessment of State Plan Corrective Actions

OSHA conducted an onsite review of MNOSHA's compliance division on February 3 – 7, 2014. The onsite visit included a review of inspection case files as well as a special study of the State Plan's targeting program. As a result of the onsite review, six findings and three observations were identified and noted in the FY 2013 Comprehensive FAME Report. An update on the State Plan's progress addressing each of the findings and recommendations is included below.

Finding FY 2013-01 (FY 2014-01): MNOSHA does not send a letter to the complainant at the conclusion of the non-formal complaint investigation to inform them of the outcome.

Status: Awaiting Verification. MNOSHA modified the initial letter to the complainant to inform the complainant of the procedure to request a copy of the employer's response after the complaint file is closed and becomes releasable as a public record. The modification has not yet been submitted to OSHA for review.

Finding FY 2013-02 (FY 2014-02): Noise and Respiratory Hazards LEP case files did not contain documentation showing that a comprehensive evaluation of the employer's hearing conservation program and/or noise reduction efforts had been conducted.

Status: Open. MNOSHA held a discussion with the health investigators regarding the evaluation and documentation of respiratory protection and hearing conservation programs. MNOSHA conducts internal audits of the relevant case files and reports the findings during quarterly monitoring meetings. Deviations have been addressed with the staff involved.

Finding FY 2013-03 (FY 2014-03): Documentation of noise exposures was not adequate to support a violation of 29 CFR 1910.95, as described in MNOSHA Instruction CPL 2-2.1A *Noise Measurements and Citations in General Industry*.

Status: Open. MNOSHA held a discussion with the health investigators to emphasize the need to sample for noise in order to identify a violation and support a citation. MNOSHA conducts internal audits of the relevant case files and reports the findings during quarterly monitoring meetings. Deviations have been addressed with the staff involved.

Finding FY 2013-04 (FY 2014-04): Abatement was classified as “Corrected During Inspection” where the workers had stopped working during the inspection and the employer indicated the hazards would be corrected prior to resuming work.

Status: Awaiting Verification. MNOSHA modified Instruction ADM 3.4, *Abatement Verification*, and the Minnesota OSHA Operations System Exchange (MOOSE) manual to clarify that “Corrected During Inspection” is applicable when the abatement is observed and documented in the case file. The modification has not yet been submitted to OSHA for review.

Finding FY 2013-05 (FY 2014-05): Union participation was not documented in accordance with MNOSHA ADM 3.9 *Case File Processing* and Chapter 4 of the MOOSE manual to assure involvement in all necessary aspects of the inspection; i.e., opening conference, walkaround, closing conference, and mailing of the citation.

Status: Open. MNOSHA focused the staff's attention on documenting union participation during inspections and is looking for the documentation during the case file review process. Additionally, MNOSHA conducts internal audits of the relevant case files and reports the findings during quarterly monitoring meetings. Deviations have been addressed with the staff involved.

Finding FY 2013-06: MNOSHA does not follow the procedures in MNOSHA ADM 2.3B *Local Emphasis Programs (LEPs)* when a new LEP is developed and implemented and to evaluate each LEP's role in meeting goals of MNOSHA's Strategic Management Plan using the identified metrics such as: the number of workers covered by the specific LEP, reduction in the

number of injuries and illnesses relating to a specific LEP, the number of workers removed from hazards, and the number of violations related to specific targeted hazards.

Status: Completed. MNOSHA ADM 2.3 was updated to reflect current practice and procedures. The directive was submitted for OSHA's review in the most recent plan supplement, which was received on January 2, 2015.

Observation FY 2013-OB-01: Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection and where violations were issued under vertical health standards for a failure to monitor.

Status: Continued. OSHA will continue to monitor this issue.

Observation FY 2013-OB-02: Exposure monitoring was not conducted when likely necessary to adequately address concerns brought forth through complaint items.

Status: Continued. OSHA will continue to monitor this issue.

Observation FY 2013-OB-03: An employer's own exposure monitoring data has been relied upon to support a violation.

Status: Continued. OSHA will continue to monitor this issue.

Appendix A – New and Continued Findings and Recommendations

FY 2014 Minnesota State Plan Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 2013-# or FY 2013-OB-#
FY 2014-01	MNOSHA does not send a letter to the complainant at the conclusion of the nonformal complaint investigation to inform them of the outcome.	Send a letter to the complainant at the conclusion of the investigation, including a copy of the employer’s response, to inform them of the outcome and provide an opportunity to request the matter be reviewed. (Corrective action complete, awaiting verification.)	FY 2013-01
FY 2014-02	Noise and Respiratory Hazards LEP case files did not contain documentation showing that a comprehensive evaluation of the employer’s hearing conservation program and/or noise reduction efforts had been conducted.	Ensure that MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> is followed when evaluating the employer’s hearing conservation program and/or noise reduction efforts and the file is documented accordingly.	FY 2013-02
FY 2014-03	Documentation of noise exposures was not adequate to support a violation of 29 CFR 1910.95, as described in MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> .	Ensure that MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> is followed when determining and documenting noise exposures.	FY 2013-03
FY 2014-04	Abatement was classified as “Corrected During Inspection” where the workers had stopped working during the inspection and the employer indicated the hazards would be corrected prior to resuming work.	Ensure that “Corrected During Inspection” is being applied appropriately in that abatement of the hazard is achieved and documented during the inspection. (Corrective action complete, awaiting verification.)	FY 2013-04
FY 2014-05	Union participation was not documented in accordance with MNOSHA ADM 3.9 <i>Case File Processing</i> and Chapter 4 of the MOOSE manual to assure involvement in all necessary aspects of the inspection; i.e., opening conference, walkaround, closing conference, and mailing of the citation.	Ensure that MNOSHA ADM 3.9 <i>Case File Processing</i> and Chapter 4 of the MOOSE manual are followed by documenting union representative involvement for all necessary aspects of the inspection and citation issuance and/or the representative’s declination to be involved.	FY 2013-05

Appendix B – Observations Subject to New and Continued Monitoring

FY 2014 Minnesota State Plan Follow-up FAME Report

Observation # FY 2014-OB-#	Observation# FY 2013-OB-# or FY 2013-#	Observation	Federal Monitoring Plan	Current Status
FY 2014-OB-01	FY 2013-OB-01	Potential opportunities have not been taken to perform worker exposure monitoring for the purpose of documenting worker exposure for the complete evaluation of a condition discovered during the inspection and where violations were issued under vertical health standards for a failure to monitor.	Industrial hygiene sampling will be discussed and evaluated during quarterly monitoring meetings including, but not limited to, sampling and citation data. During next year's FAME, a limited scope review of selected case files will be conducted to determine if improvements have been made.	Continued
FY 2014-OB-02	FY 2013-OB-02	Exposure monitoring was not conducted when likely necessary to adequately address concerns brought forth through complaint items.	Industrial hygiene sampling will be discussed and evaluated during quarterly monitoring meetings including, but not limited to, sampling and citation data. During next year's FAME, a limited scope review of selected case files will be conducted to determine if improvements have been made.	Continued
FY 2014-OB-03	FY 2013-OB-03	An employer's own exposure monitoring data has been relied upon to support a violation.	Industrial hygiene sampling will be discussed and evaluated during quarterly monitoring meetings including, but not limited to, sampling and citation data. During next year's FAME, a limited scope review of selected case files will be conducted to determine if improvements have been made.	Continued

Appendix C - Status of FY 2013 Findings and Recommendations

FY 2014 Minnesota State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	MNOSHA does not send a letter to the complainant at the conclusion of the nonformal complaint investigation to inform them of the outcome.	Send a letter to the complainant at the conclusion of the investigation, including a copy of the employer's response, to inform them of the outcome and provide an opportunity to request the matter be reviewed.	<p>Minn. Rules 5210.0420, subp. 2, requires employers to post a copy of the letter from MNOSHA and the employer's response in the workplace for 15 days and to provide copies to the union representative.</p> <p>Employees have access to the MNOSHA letter and employer's response in the workplace. If the information is not posted or the items are not corrected, MNOSHA would do an on-site enforcement inspection. Upon request, MNOSHA provides a copy of the letter in accordance with Minn. Stat. 13.02, subd 7, and MNOSHA Instruction ADM 3.7. Once proceedings are complete, the file is public.</p> <p>The initial letter to the complainant will be modified to inform the complainant of the procedure to request a copy of the employer's response.</p>	12/29/2014	Awaiting verification 02/19/2015
FY 2013-02	Noise and Respiratory Hazards LEP case files did not contain documentation showing that a comprehensive evaluation of the employer's hearing conservation program and/or noise reduction efforts had been conducted.	Ensure that MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> is followed when evaluating the employer's hearing conservation program and/or noise reduction efforts and the file is documented accordingly.	<p>Discussion was held at the IH staff meeting, focusing on evaluation and documentation of respiratory protection and hearing conservation programs when doing RESPNOISE inspections.</p> <p>Twenty-five percent of RESPNOISE LEP case files will be audited by MNOSHA for four consecutive quarters, ending with FY2015 quarter three data.</p>	By 09/30/2015	Open 02/19/2015
FY 2013-03	Documentation of noise exposures was not adequate to support a violation of 29	Ensure that MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and</i>	Discussion at an IH staff meeting addressed the need to sample for noise, to identify a violation and support a citation, unless unable to do so and	By 09/30/2015	Open 02/19/2015

Appendix C - Status of FY 2013 Findings and Recommendations

FY 2014 Minnesota State Plan Follow-up FAME Report

	CFR 1910.95, as described in MNOSHA Instruction CPL 2-2.1A <i>Noise Measurements and Citations in General Industry</i> .	<i>Citations in General Industry</i> is followed when determining and documenting noise exposures.	approved by the supervisor. Twenty-five percent of case files with citations for 29 CFR 1910.95 will be audited by MNOSHA for four consecutive quarters, ending with FY2015 quarter three data.		
FY 2013-04	Abatement was classified as “Corrected During Inspection” where the workers had stopped working during the inspection and the employer indicated the hazards would be corrected prior to resuming work.	Ensure that “Corrected During Inspection” is being applied appropriately in that abatement of the hazard is achieved and documented during the inspection.	ADM 3.4, Abatement Verification, and the MOOSE manual are being updated to clarify CDI application through observed abatement and corresponding abatement documentation.	12/04/2014	Awaiting verification 02/19/2015
FY 2013-05	Union participation was not documented in accordance with MNOSHA ADM 3.9 <i>Case File Processing</i> and Chapter 4 of the MOOSE manual to assure involvement in all necessary aspects of the inspection; i.e., opening conference, walkaround, closing conference, and mailing of the citation.	Ensure that MNOSHA ADM 3.9 <i>Case File Processing</i> and Chapter 4 of the MOOSE manual are followed by documenting union representative involvement for all necessary aspects of the inspection and citation issuance and/or the representative’s declination to be involved.	ADM 3.9, Case File Processing, was amended 5/7/2013 to include mailing of citations to unions, and the process was discussed with Administrative Support staff, both prior to the FY2013 audit and again on March 20, 2014. Inconsistent documentation of union involvement during the inspections was noted by the MNOSHA quality control group, and the need for documentation was discussed with all MNOSHA staff on 10/23/2013; a checklist was also developed for staff. An email was sent to all staff on 3/27/2014 focusing their attention on documenting union participation during inspections. The case file review process will also ensure documentation is present in case files. To ensure that the two items are documented in case files, 10% of case files that have union representation will be audited by MNOSHA for four consecutive quarters, ending with FY2015 quarter three data.	By 09/30/2015	Open 02/19/2015
FY 2013-06	MNOSHA does not follow the procedures in MNOSHA ADM 2.3B	Ensure that MNOSHA ADM 2.3B <i>Local Emphasis Programs</i>	MNOSHA ADM 2.3 Local Emphasis Programs (LEPs) was updated to reflect current practice and procedures. The directive was submitted in	04/29/2014	Completed 02/19/2015

Appendix C - Status of FY 2013 Findings and Recommendations

FY 2014 Minnesota State Plan Follow-up FAME Report

	<p><i>Local Emphasis Programs (LEPs)</i> when a new LEP is developed and implemented and to evaluate each LEP's role in meeting goals of MNOSHA's Strategic Management Plan using the identified metrics such as: the number of employees covered by the specific LEP, reduction in the number of injuries and illnesses relating to a specific LEP, the number of workers removed from hazards, and the number of violations related to specific targeted hazards.</p>	<p>(LEPs) is followed in the development, implementation, and evaluation of each LEP.</p>	<p>the most recent plan supplement.</p>		
--	---	---	---	--	--

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

FY 2014 Minnesota State Plan 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. Minnesota opened 2,556 enforcement inspections in FY 2014. Of those, 2,556 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 FY 2014 we will use a format very similar to the one used for FY 2013. 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 FY 2014 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 FY 2014 as captured in NCR and compared to the historical FY 2011 national average (FY 2009-2011). 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 FY 2014 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 FY 2012-2014.
- e. Measures 18a-e will use State Plan data for FY 2014 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY 2013, 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 2014 as captured in NCR.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Minnesota			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	3.7	9 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.

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

FY 2014 Minnesota State Plan Follow-up FAME Report

2	Average number of work days to initiate complaint investigations	1.9	2 days	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)	88.9%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	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	1.98	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	0.78	Other: 1.22	
11	Percent of total inspections in the public sector	3.65%	6.63%	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	47%	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	9.09	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	207.78	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.

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

FY 2014 Minnesota State Plan Follow-up FAME Report

17	Planned vs. actual inspections - safety/health	1953/603	1900/500	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	541.65		State Plan data taken directly from SAMM report generated through IMIS.
18b	Average current serious penalty - 26-100 Employees	719.11		
18c	Average current serious penalty - 101-250 Employees	1047.53		
18d	Average current serious penalty - 251+ Employees	1684.5		
18e	Average current serious penalty - Total 1 - 250+ Employees	747.05		
19	Percent of enforcement presence	2.23%	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	26.79	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	37.95	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	100%	100%	State Plan data is manually pulled directly from IMIS for FY 2013.

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

FY 2014 Minnesota State Plan Follow-up FAME Report

22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
23a	Average Lapse Time - Safety	13.58	43.4	State Plan 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	19.25	57.05	
24	Percent penalty retained	88.12	66	State Plan 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.
25	Percent of initial inspections with employee walk around representation or employee interview	100	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.