

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

**NORTH CAROLINA DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH DIVISION**



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I. Executive Summary

A. State Plan Activities, Themes, and Progress

The Fiscal Year (FY) 2014 FAME Report is a follow-up FAME Report. This report is focused on State Plan’s progress in making corrections in response to the FY 2013 FAME Report findings and observations by the North Carolina Department of Labor, Occupational Safety and Health Division (OSHNC) 23(g) program. In addition, this report is also based on the results of quarterly onsite monitoring visits, the State OSHA Annual Report (SOAR) for FY 2014, and the State Activity Mandated Measures (SAMM) Report ending September 30, 2014. A review of the SAMM data for FY 2014 indicated OSHNC generally met or exceeded federal activity results.

OSHNC has addressed all three findings and eight observations found in the FY 2013 FAME Report. The State Plan completed action requests relating to the FY 2013 findings. Most of these action requests resulted in policy changes in the State Plan’s Field Operations Manual (FOM). North Carolina has continued to remain in constant contact with the Area and Regional Offices regarding policy changes and progress toward recommendations. The State Plan has taken appropriate corrective action to effectively complete and close all items. No new findings or observations were identified in FY 2014.

As a result of the findings and observations in FY 2013, all compliance personnel received refresher training on State Plan policies and procedures through completion of the Technical Writing Course. The training addressed all the findings and observations included in the FY 2013 FAME. Since the receipt of the first draft of the FY 2013 FAME Report, the State Plan has shared findings and observations with OSHNC workers. This has included presentations at supervisor meetings, articles in the division newsletter, one-on-one discussions between workers and supervisors, and instructive memos from senior management to field staff.

OSHNC continues its outreach to employers and workers with Hazard Alerts, industry guides, and posters, as well as focused training. The State Plan’s latest injury and illness rate for private industry reached an all-time low of 2.7 per 100 full-time workers in 2013. The U.S. Bureau of Labor Statistics (BLS) compiles the injury and illness rate data. Based on the most recent data released by the BLS, North Carolina was one of 12 states with a total recordable case rate statistically lower than the national average of 3.3.

Total Recordable Cases (TRC) and Days Away Restricted and Transferred (DART) Rate Comparison*					
CY 2013*	North Carolina		National Average		Comparison
<i>TRC Rate</i>	2.7	2.9*	3.3	3.5*	<i>17% Lower Than National Average*</i>
<i>DART Rate</i>	1.4	1.4*	1.7	1.8*	<i>22% Lower Than National Average*</i>

*All industries, including state and local government
 **CY = Calendar Year

In FY 2014, 45,947 publications were distributed in support of the division's outreach and regulatory goals to promote a safe and secure work environment across the State of North Carolina. During the FY 2014, two new industry guides were developed: the Fire, Rescue, and EMS Safety and Health Management Program and A Guide to 1-Bromopropane. Eight industry guides were reviewed and revised, including: A Guide to Working With Corrosive Substances; the General Industry Safety and Health Management Program; OSHA Construction Industry Standards Requiring Programs, Inspections, Procedures, Records, and/or Training; A Guide to Eye Wash and Safety Shower Facilities; A Guide to Manual Material Handling and Back Safety; A Guide to OSHA For Small Businesses in North Carolina (Spanish); OSHA General Industry Standards Requiring Programs, Inspections, Procedures, Records, and/or Training; and Occupational Safety and Health Standards for Agriculture. In addition, brochures on the Long-Term Care Special Emphasis Program (SEP), general industry safety briefings, and the top ten most cited violations were revised, along with two Quick Cards on carbon monoxide (English and Spanish). Hazard Alerts were also updated for carbon monoxide, the Health Hazards SEP, and 1-bromopropane.

OSHNC hosted and/or participated in 300 courses and events, with a total of 11,548 personnel trained. These included eight 10-hour and two 30-hour general industry awareness courses, and eight 10-hour and three 30-hour construction industry awareness courses. In addition to the larger courses, OCHNC provided 123 90-minute webinars, nine Spanish outreach events, and 11 training events using the Labor One Mobile Training Unit. The Bureau of Education, Training, and Technical Assistance (ETTA) staff also exhibited at 21 safety and health fairs, industrial conferences, and workshops.

The Agriculture Safety and Health (ASH) Bureau developed a safety and health training model for agriculture workers in the field. It was so successful in North Carolina that ASH was asked to present the training in the State of Tennessee, as well. A color brochure describing the condition known as green tobacco sickness was also distributed to those workers who work in tobacco fields. A total of 167 workers and 60 growers were trained. In addition, the U.S. Department of Labor's Wage and Hour Division participated in the training. The State of Tennessee also attended the training so that they could duplicate the effort at a later date. The training topics included heat stress, tractor and baler safety, green tobacco sickness, and first-aid.

In response to the unique issues facing temporary workers and in support of OSHA's temporary worker initiative policy, two attorneys representing North Carolina's occupational safety and health program attended the Temporary Worker Initiative Seminar in Washington, D.C. on August 16, 2014. The participants learned about OSHA's temporary worker policy, received specific enforcement guidance, and acquired knowledge to properly analyze temporary employment relationships. Knowledge and information received at the seminar was shared with other OSHNC personnel and can be utilized in future training activity. Pursuing the changing working circumstances faced by temporary workers and ensuring that safety and health requirements are met for this segment of the working population are ongoing goals of the State Plan.

B. State Plan Introduction

The North Carolina Occupational Safety and Health State Plan received final approval under Section 18(e) of the OSH Act on December 10, 1996. The official designated as responsible for administering the program under the Occupational Safety and Health Act of North Carolina is the Commissioner of Labor, who, as a constitutional officer, is an elected official. The Commissioner of Labor currently and during the period covered by this evaluation is Cherie K. Berry. Within the North Carolina Department of Labor, the Occupational Safety and Health Division has responsibility for carrying out the requirements of the State Plan. Allen McNeely serves as the Deputy Commissioner/Director of the Occupational Safety and Health Division, and Kevin Beauregard serves as the Assistant Deputy Commissioner/Assistant Director of the Occupational Safety and Health Division.

The Occupational Safety and Health Division is organized into the following operating units: East and West Compliance Bureaus; ETTA; Bureau of Consultative Services; Bureau of Planning, Statistics, and Information Management; and ASH. The main office and a district office are located in Raleigh, with four additional offices located in Asheville, Charlotte, Winston-Salem, and Wilmington. There are a total of 231 positions funded under the 23(g) grant, with 98 of those positions 100% state-funded. This includes 64 safety compliance officers and 47 health compliance officers assigned to district offices throughout the state. Additional safety and health professionals work in ETTA with responsibilities related to training, development of outreach materials and standards, and the Carolina Star Program [Voluntary Protection Program (VPP)]. The worker population in North Carolina consists of approximately 4,279,385 workers, and there are approximately 261,977 establishments.

Worker protection from discrimination related to occupational safety and health is administered by the Employment Discrimination Bureau, which falls under the Deputy Commissioner for Standards and Inspections in the North Carolina Department of Labor. This bureau covers several types of employment-related discrimination, in addition to discrimination that falls under jurisdiction of the State Plan.

Private sector onsite consultative services are provided through a 21(d) grant with the North Carolina Department of Labor. There are 31 positions funded under the 21(d) grant, including consultants, administrative staff, and managerial workers. Three of the 21(d) personnel are 100% state-funded. Public sector 23(g) grant consultative services, enforcement, and compliance assistance activities are carried out by the same staff, following the same procedures as the private sector. North Carolina's Carolina Star Program organizationally falls within ETTA.

The table below shows OSHNC's funding levels from FY 2010 through FY 2014.

FY 2010-2014 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2014	5,302,500	5,302,500	8,043,163	18,648,163	71.57

2013	5,272,000	5,272,000	7,300,194	17,844,194	70.46
2012	5,501,500	5,501,500	6,838,216	17,841,216	69.16
2011	5,501,500	5,501,500	7,008,652	18,011,652	69.46
2010	5,501,500	5,501,500	6,852,571	17,855,571	69.19

The table below shows the number of OSHNC's full-time and part-time staff as of the end of FY 2014.

FY 2014 Staffing							
23(g) Grant Positions	Allocated FTE* Funded 50/50	Allocated FTE 100% State Plan Funded	Allocated FTE 100% Federal Plan Funded	Total	50/50 Funded FTE On Board as of 03/31/14	100% State Plan Funded FTE On Board as of 03/31/14	100% Federal Plan Funded FTE On Board as of 03/31/14
Managers/ Supervisors (Administrative)	3.2	0	0	3.2	3.2	0	0
First-Line Supervisors (Program)	10.4	7.8	.5	18.7	10.4	7.8	.5
Safety Compliance Officers	38	32	0	70	28	28	0
Health Compliance Officers	10	37	1	48	10	33	1
Public Sector Safety Consultants	1.6	.7	0	2.3	1.6	.7	0
Public Sector Health Consultants	.8	.7	0	1.5	.8	.7	0
Compliance Assistance Specialist	0	0	1	1	0	0	1
Clerical	11.6	10	2	23.6	11.4	10	2
Other (all positions not counted elsewhere)	14.1	13.5	4.5	32.1	13.1	12.5	4.5
Total 23(g) FTEs	89.7	101.7	9	200.4	78.5	92.7	9

*FTE=Full-Time Equivalent

C. Data and Methodology

This report was prepared under the direction of Kurt A. Petermeyer, Regional Administrator, Region IV, Atlanta, Georgia, and covers the period of October 1, 2013 through September 30, 2014. The North Carolina Department of Labor, Occupational Safety and Health Division

administers the program under the direction of Cherie K. Berry, Commissioner of Labor, Allen McNeely, Director of the Occupational Safety and Health Division, and Kevin Beauregard, Assistant Director of the Occupational Safety and Health Division.

This is OSHA's report on the operation and performance of the OSHNC program. It was compiled using information gained from North Carolina's SOAR for FY 2014, interviews with the North Carolina staff, Integrated Management Information System (IMIS) reports, as well as the SAMM Report and the State Indicator Report for FY 2014. In addition, information collected during the routine monitoring of OSHNC by OSHA's Regional Office and Raleigh Area Office was also used as a basis for this evaluation.

OSHA has established a two-year cycle for the FAME process. FY 2014 is a 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.

D. Findings and Observations

No new findings or observations were identified in FY 2014. The FY 2013 FAME Report identified three findings and eight observations. The summary of FY 2013 findings and recommendations is found in Appendix A. One FY 2013 finding indicated that the State Plan should adhere to their procedures and, in some cases, add additional procedures to ensure that health hazards covered by complaints or SEPs and National Emphasis Programs were appropriately addressed through air monitoring. A second finding was related to the classification of hazards. While OSHNC's hazard classification process was similar to OSHA's, the FY 2013 review found a number of serious hazards that were classified as non-serious. The third finding involved the Carolina Star Policies and Procedures Manual, which did not completely address enforcement activities at VPP sites. All the findings from FY 2013 are considered completed.

Appendix B details the eight observations identified during the FY 2013 onsite review. An observation is an item that has not proven to impact the effectiveness of the state's program but should continue to be monitored by the Region. OSHA has determined to discontinue further monitoring of all eight observations.

II. Assessment of State Plan Performance

A. Major New Issues

The FY 2014 SOAR documented that the State Plan did not meet its state-initiated activity goal for compliance inspections in FY 2014. Analysis determined that there were a number of underlying reasons for the decline in the number of compliance inspections, including:

- Due to budget uncertainty, the State Plan has had to freeze hiring of compliance safety and health officer (CSHO) positions for various lengths of time during the year.

- The State Plan also lost experienced and productive CSHOs as a result of OSHNC salaries that were not competitive with other safety and health employers.
- Less experienced CSHOs require more time to complete inspections, especially more complicated investigations.

The State Plan took specific action during FY 2014 to try to address the retention issue. A policy was expanded to financially reward OSHNC safety and health professionals who attained work-related certifications and licenses. The designations qualifying for a pay increase have increased significantly and are listed in the program policy document. Since the policy was initiated, over a third of the division’s safety and health professionals have qualified for a salary increase. The pay increases will be distributed as funding becomes available. It is envisioned that these salary adjustments will improve the division’s retention rate. The State Plan is also continuing to pursue additional funding sources at both the state and federal levels.

Fatalities rose in North Carolina from 33 in FY 2013 to 40 in FY 2014. Fatality figures for FY 2014 show 17 construction fatalities, which is 10 more than the same time period last year. Manufacturing had the second highest number of work-related deaths with nine, five more than last year. The Occupational Safety and Health Division has identified four hazards known as “the big four” that have caused 80% of the work-related deaths in North Carolina during the past decade. The leading cause of the work-related fatalities in FY 2014 was struck-by events, which caused 17 fatalities. Ten workers died in falls from elevations, and seven workers died after being caught in between objects. Three were electrocuted. In FY 2014, construction and manufacturing were the two leading industries for fatal incidents. The number of fatalities in agriculture, forestry, and fishing decreased from nine in FY 2013 to three in FY 2014.

Public service announcements were launched in October 2014 to combat the increase in construction fatalities. Industry data show that many construction fatalities happen within the first 60 to 90 days on the job and, in some cases, on the first day of work. Public service announcements covered hazards, such as falls and carbon monoxide poisoning. OSHNC also participated in the National Safety Stand Down to Prevent Falls in Construction.

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

The FY 2014 SOAR documents activity during the first year of the current five-year strategic planning cycle, which began on October 1, 2013, and ends on September 30, 2018. As well as overall outcome goals, the plan includes activity and outcome goals for specific areas of emphasis. The new Five-Year Strategic Plan includes two new areas of emphasis: Grocery and Related Product Merchant Wholesalers [North American Industry Classification System (NAICS) 4244], and Accommodation (NAICS 721). In addition to these new areas of emphasis, the plan includes carryovers from the previous Strategic Plan, including Construction, Logging and Arboriculture, Long-Term Care, Health Hazards, and Food Manufacturing.

1.1 Reduce the Construction Industry Fatality Rate Statewide by 2% by the End of FY 2018.

Significant safety and health strides have been made in reducing the fatality rate in the construction industry. During the last strategic planning cycle, the construction fatality rate fell by 60%, and the total number of fatalities fell from 24 in the baseline year to seven in 2013. However, even with these reductions, the construction industry continues to be a leader in workplace deaths. The state experienced an increase in construction fatalities from seven in FY 2013 to 17 in FY 2014. Additional data regarding the State Plan’s performance in this area is provided in the following table.

Outcome	Baseline	2014	2015	2016	2017	2018
Fatalities	30	17				
Rate	.00089	.0093				
Hispanic	N/A	9				

Activity	2014	2015	2016	2017	2018	Total
Inspections	1,255					
Goals	1,075					
Consultation	221					
Goals	150					
Trained	1,619					
Goals	2,500					

1.2 Decrease the Fatality Rate in Logging and Arboriculture by 2% by the End of FY 2018.

In FY 1994, the State Plan initiated an SEP for Logging, and it led to success in reducing the number of fatalities in logging and arboriculture. This is evident by a reduction in logging fatalities from 13 in FY 1993 to two in FY 2014.

Outcome	Baseline	2014	2015	2016	2017	2018
Fatalities	3	2				
Rate	.02644	.0172				

Activity	2014	2015	2016	2017	2018	Total
Inspections	61					
Goals	75					
Consultation	15					
Goals	15					
Trained	280					
Goals	25					

2.1 Reduce the DART Rate in Grocery and Related Product Wholesalers by 10% by the End of FY 2018.

The first year of any new addition to the Strategic Plan is designated as a planning year. FY 2014 was the planning year for Grocery and Related Product Wholesalers. The State Plan review of injury and illness statistics identified Grocery and Related Products Wholesalers as a candidate to be added to the State Plan's Strategic Management Plan for FY 2014 - FY 2018. This employment sector has a high DART rate of 4.1. A strategic management plan committee was established to manage the planning process. The process includes developing strategies to achieve established goals and determining the appropriate activity level for department intervention, including compliance activity, consultation, and training.

Outcome	Baseline	2014	2015	2016	2017	2018
DART	4.1	N/A				

Activity	2014	2015	2016	2017	2018
Inspections	planning year				
Goals	planning year				
Consultation	planning year				
Goals	planning year				
Trained	planning year				
Goals	planning year				

2.2 Reduce the DART Rate in Long-Term Care by 10% by the End of FY 2018.

While North Carolina experienced progress in this industry group during previous planning cycles, the baseline rate of 4.7 is still more than twice the national DART rate. Therefore, the Long-Term Care (NAICS 623) emphasis area has been carried over by North Carolina from the previous Strategic Plan.

Outcome	Baseline	2014	2015	2016	2017	2018
DART	4.7	N/A				

Activity	2014	2015	2016	2017	2018	Total
Inspections	93					
Goals	60					
Consultation	45					
Goals	25					
Trained	123					
Goals	75					

2.3 Conduct Emphasis Inspections, Training, and Consultation Activities in Establishments Where Workers Might Be Exposed to Health Hazards, Such As Lead, Silica, Asbestos, Hexavalent Chromium, and Isocyanates.

North Carolina has established an SEP to address health hazards in the workplace. The current list of health hazards includes the following: lead, silica, asbestos, hexavalent chromium, and isocyanates. However, tracking mechanisms have not been developed to allow for the establishment of specific outcome measures in this area of emphasis.

Activity	2014	2015	2016	2017	2018	Total
Inspections	165					
Goals	200					
Consultation	139					
Goals	100					
Trained	441					
Goals	700					

Activity for Specific Health Hazards FY 2014				
Hazard	Inspections	Samples	Overexposures	Surveys
Silica	53	35	4	18
Lead	32	7	0	17
Asbestos	56	3	0	1
Cr(VI)	10	8	1	10
Isocyanates	21	19	0	4
Totals	165	72	5	50

2.4 Reduce the DART Rate in Establishments in Food Manufacturing (NAICS 311) by 10% by the End of FY 2018.

The food manufacturing DART rate was 2.6 in FY 2012, which was higher than the national DART rate of 1.6. For this reason, food manufacturing was carried over to the current Five-Year Strategic Plan. Additionally, Operational Procedure Notice 140 was developed to establish the SEP for Food Manufacturing and provide specific inspection guidelines. The baseline rate for this industry is 3.3, which is the five-year average DART rate for the period 2007-2011.

Outcome	Baseline	2014	2015	2016	2017	2018
DART	3.3	N/A				

Activity	2014	2015	2016	2017	2018	Total
Inspections	32					
Goals	50					
Consultation	18					
Goals	10					
Trained	26					
Goals	25					

2.5 Reduce the DART Rate for Establishments in the Accommodation Industry by 10% by the End of FY 2018.

The State Plan review of injury and illness statistics identified the accommodation industry as a candidate to be added to the State Plan’s Strategic Management Plan for FY 2014-FY 2018. This employment sector not only has a high DART rate of 3.6 but includes over 2,000 active sites. The first year of the Strategic Management Plan was designated as a planning year. A strategic management plan committee, representing the entire Occupational Safety and Health Division, was established to manage the planning process.

Outcome	Baseline	2014	2015	2016	2017	2018
DART	2.3	N/A				

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

In FY 2014, the 3,230 inspections conducted by OSHNC resulted in an average of 1.76 violations (serious/willful/repeat) per inspection. A total of 6,767 violations were issued, with 2.10 violations (serious/willful/repeat/non-serious) per inspection.

OSHNC routinely places an emphasis on keeping citation lapse times low. According to the SAMM Report, in FY 2014, the average lapse time (in days) from opening conference to citation issuance is identified as follows:

Average Lapse Time	OSHNC	OSHA
Safety	30.73	43.40
Health	31.85	57.05

According to data obtained from the OSHA Information System and the North Carolina OSHA Express in FY 2014, the average current penalty per serious, repeat, and willful violations for private sector inspections was as follows:

Classification	OSHNC	OSHA
Willful	\$13,090	\$39,385
Repeat	\$3,578	\$6,597
Serious	\$1,240	\$1,969

OSHNC penalties per serious violation for large employers are almost identical to OSHA. In FY 2014, OSHNC issued 10 willful violations, 177 repeat violations, and seven failure-to-abate violations. All willful violations were reviewed by the bureau chief and the attorney general’s office prior to issuance. According to the State Plan IMIS data, OSHNC’s percent serious/willful/repeat/unclassified is 54% in FY 2014, compared to OSHA’s percent serious/willful/repeat/unclassified at 72%.

Percent of Violations Cited Serious/Other-Than-Serious (OTS) or Non-Serious

	OSHNC	OSHA
Serious	54%	72%
OTS	46%	22%

According to the SAMM Report, OSHNC responds timely to complaints. Complaint investigations were initiated within an average of 2.41 days, and complaint inspections were initiated within an average of 4.99 days, well below the negotiated SAMM of four days and 10 days, respectively.

For a complete list of SAMM results, reference Appendix D.

III. Assessment of State Plan Corrective Actions

Findings and Recommendations:

Finding 13-01: Air monitoring, as well as wipe and bulk sampling, was not conducted for several complaint and programmed inspection files.

Recommendation: Review current procedures to ensure that monitoring and sampling are used appropriately as part of an investigation.

Status-Completed: Procedures have been reviewed, and revisions made to the NC FOM IH Chapter XV to address sampling issues. The chapter revisions have been submitted as plan changes. The case files in question were reviewed, and sampling issues were discussed with supervisors and CSHOs. The State Plan will continue to work with the Area Director to address issues relating to IH protocol and specifically monitoring and the collection of samples. This has included participation in Region IV’s quarterly IH seminars.

Finding 13-02: Though OSHNC’s procedures for determining classification of violations are identical to OSHA, OSHNC classifies a lower percentage of violations as serious.

Recommendation: Review classification of health and safety hazard violations in both construction and general industry to ensure consistency with the OSHNC Field Operations Manual.

Status-Completed: The State Plan will continue to take whatever action is necessary to ensure that each violation cited is classified properly. The State Plan has provided ongoing training for compliance personnel and continues to review the classification of safety and health hazard violations in both construction and general industry to ensure compliance with the FOM. All compliance personnel have attended the Technical Writing Course as a refresher. Four training sessions were held in November and December 2014. An area of emphasis in this course is violation classification. Violation classification is also included in the Initial Compliance Course, which is attended by all new CSHOs. FAME findings will also continue to be shared with compliance personnel.

OSHNC case files receive extensive review. This includes review by the district supervisor, bureau chief, and for high profile cases, review by the Citation Review Committee, including the director, assistant director, and legal staff. The Citation Review Committee review includes fatalities, willful violations, high penalty, and media involved inspections. The mechanism for the review process was simplified with the implementation of the data management system

OSHA Express. Management personnel now have easy access to all elements of the inspection process, including violation classification.

Beginning on July 1, 2014, an additional level of case file review was initiated. Two standards officers previously assigned exclusively to Education, Training, and Technical Assistance will now spend time in the director's office reviewing certain high profile case files. One of these workers has had over 30 years of experience with federal and state OSHA monitoring program activity, and the other has an industrial hygiene background and field experience. As part of the process, the workers will also conduct annual quality audits of case files. If they discover any trends relating to violation classification, appropriate corrective action can be taken. This could include remedial training or policy revision. The workers will also analyze and evaluate program data. If there are any inappropriate changes in the percent serious or classification of violations, the possible cause can be pursued through the State Plan's quality procedures. This includes a mechanism for initiating policy revision.

Finding 13-03: The Carolina Star Policies and Procedures Manual does not address all enforcement activities at VPP sites.

Recommendation: Ensure that CSP 03-01-003 (VPP Policies and Procedures Manual), Chapter VIII or similar language be incorporated into the Carolina Star Policies and Procedures Manual.

Status- Completed: The State Plan has submitted as a plan change a revision to the Star Program Policies and Procedures Manual that addresses enforcement activities at Star sites consistent with CSP 03-01-003.

Observations:

FY13-OB-1: A few case files were identified where the Personal Protective Assessment Standard usage was not appropriate.

Status-Closed: OSHNC will continue to work with CSHOs individually and during collective training sessions to ensure that the appropriate standards are used to address specific hazards in the workplace.

FY13-OB-2: Case files were identified where the justification for good faith reduction was not documented or was inconsistent with the safety and health program review.

Status-Closed: FOM Chapter VI B.9.a.ii.A. requires that the CSHO documents in the case file provide the reason for giving an employer a good faith reduction. The good faith reduction is given based on an evaluation of the employer's safety and health program. Certain reduction amounts, either 10%, 25%, or 40%, are given for developmental, basic, or superior programs. To help make sure that all files include adequate justification for good faith, each CSHO now completes a safety and health program evaluation checklist that is included in the OSHA Express case file management system.

FY13-OB-3: When appropriate, consider including interview statements and field notes in the file.

Status-Closed: The NC FOM requires that all facts pertinent to an apparent violation be recorded on the violation worksheet. All notes, observations, analyses, and other information are either recorded on the violation worksheet or attached to it, or the location of this information is

noted on the worksheet (FOM Chapter III, D.7.a.v.). The procedures for maintaining interview statements and field notes are included in the Technical Writing Course that all compliance field personnel attended in FY 2015.

FY13-OB-4: In several case files, use of the confirmation of abatement form did not always provide sufficient evidence that corrective action was taken. Also, violations corrected during inspection were not always documented in the case file.

Status-Closed: FOM Chapter III. E.2.4. designates the CSHO as having the responsibility for determining if abatement has been accomplished. If the employer does not provide notification of abatement by submitting the 2D Form, a follow-up inspection is conducted. FOM Chapter III.D.8.b.vii. requires that the completed 2D Form explain the specific action taken relating to each citation.

FY13-OB-5: In several case files, informal conference notes were missing when penalties were reduced.

Status-Closed: A form has been developed to document informal conference activity and provide ease in maintaining the information in the case file. The completed form must be maintained in the case file per FOM Chapter XIII. A.3. All interaction during the informal conference must also be documented on the case file summary sheet, FOM Chapter XIII. A.3.d.

FY13-OB-6: All OSH discrimination cases in which complainants request a “Right to Sue” letter prior to a determination being issued should be recorded in IMIS as “withdrawn.”

Status-Closed: The 4/29/14 update of the OSH Discrimination Manual addressed Observations 6-8 in the FAME Report. These areas for improvement were shared by the discrimination monitoring staff during the onsite monitoring process. The corrective action was taken before the FAME Report was released. A change on Page 53 in Chapter 9 of the manual addresses the designation as withdrawn status in all cases in which the complainant requests a “Right to Sue” letter. The revised manual was submitted as a plan change on April 30, 2014, and the change noted the specific revisions to the manual that addressed FAME observations.

FY13-OB-7: Table of contents in OSH discrimination case files should be as detailed as possible and contain sections, such as “Complainant Statement,” “Complainant’s Rebuttal,” “Respondent Position Statement,” “Investigator Notes,” “Memorandum of Interview,” “OSHA Inspection,” “Report of Investigation,” (not just sections “Complainant Information” and “Respondent Information.”) Also, tabulation should clearly mark each item identified in the table of contents.

Status-Closed: The 4/29/14 update of the OSH Discrimination Manual addressed Observations 6-8 in the FAME Report. These areas for improvement were shared by the discrimination monitoring staff during the onsite monitoring process. The corrective action was taken before the FAME Report was released. The response to the table of contents observation is included in Chapter 5. III., Page 33 of the OSH Discrimination Manual. The revised manual was submitted as a plan change on April 30, 2014, and the change noted the specific revisions to the manual that addressed FAME observations.

FY13-OB-8: In all OSH discrimination cases, respondent should be asked to provide information concerning “similar situated workers.” If the information is not obtained, the

investigator should document their efforts to do so and explain why it was not provided (i.e. respondent refused, it did not exist, etc.).

Status-Closed: The 4/29/14 update of the OSH Discrimination Manual addressed Observations 6-8 in the FAME Report. These areas for improvement were shared by the discrimination monitoring staff during the onsite monitoring process. The corrective action was taken before the FAME Report was released. Chapter 5.V., Page 34 requires that the respondent provide information concerning “similar situated workers”. If this information is not obtained, the case file should be documented as to why the information was not provided and what efforts were made to secure the information.

Appendix A – New and Continued Findings and Recommendations

FY 2014 North Carolina Follow-Up FAME Report

FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#

NONE

Appendix B – Observations Subject to New and Continued Monitoring

FY 2014 North Carolina Follow-Up FAME Report

Observation # FY 2014-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
	FY13-OB-1	A few case files were identified where the Personal Protective Assessment standard usage was not appropriate.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-2	Case files were identified where the justification for good faith reduction was not documented or was inconsistent with the safety and health program review.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-3	When appropriate consider including interview statements and field notes in the file.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-4	In several case files, use of the confirmation of abatement form did not always provide sufficient evidence that corrective action was taken. Also, corrected during inspection violations were not always documented in the case file.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-5	Informal conference notes were missing in a few instances when penalties were reduced.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-6	All OSH Discrimination cases in which complainants request a “Right to Sue” letter prior to a determination being issued should be recorded in IMIS as “withdrawn.”	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-7	Table of contents in OSH Discrimination case files should be as detailed as possible and contain sections such as “Complainant Statement,” “Complainant’s Rebuttal,” “Respondent Position Statement,” “Investigator Notes,” “Memorandum of Interview,” “OSHA Inspection” “Report of Investigation,” (not just sections “Complainant Information” and “Respondent information.”) Also, tabulation should clearly mark each item identified in the table of contents.	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed
	FY13-OB-8	In all OSH Discrimination cases, respondent should be asked to provide information concerning “similar situated workers.” If the information is not obtained, the investigator should document their efforts to do so and explain why it was not provided (i.e. Respondent refused, it did not exist, etc.).	The OSHA Area Office will continue to effectively monitor the State’s performance in this area during quarterly meetings throughout FY 2014.	Closed

Appendix C - Status of FY 2013 Findings and Recommendations

FY 2014 North Carolina Follow-Up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
Finding 13-01	Air monitoring, as well as wipe and bulk sampling was not conducted for several complaint and programmed inspection files.	Review current procedures to ensure that monitoring and sampling are used appropriately as part of an investigation.	Procedures have been reviewed, and revisions made to the NC FOM IH Chapter XV to address sampling issues. The chapter revisions have been submitted as plan changes. The case files in question were reviewed and sampling issues were discussed with supervisors and CSHOs. The State will continue to work with the Area Director to address issues relating to IH protocol and specifically monitoring and the collection of samples. This included participation in Region IV's quarterly IH seminars.	May 2014	Completed - 9/17/2014
Finding 13-02	Though OSHNC's procedures for determining classification of violations are identical to OSHA, OSHNC classifies a lower percentage of violations as serious	Review classification of health and safety hazard violations in both Construction and General Industry to ensure consistency with the OSHNC Field Operations Manual.	The classification review process has been enhanced and simplified as a result of the implementation of OSHA Express and expanded through the use of standards officers to assist in the review process. Any classification inconsistent with the FOM has, and will continue to be addressed through individual CSHO coaching. By February 2015, all compliance personnel will attend the Technical Writing course which will serve as a refresher on FOM procedures relating to violation classification. The Area Director will share individual case files that reflect proper classification. All case files, identified during the audit as having classification issues, were reviewed. The State did not agree with all	February 2015	Completed - 2/19/2015

			conclusions included in the FAME relating to violation classification. Specific items of disagreement were shared in writing with Federal OSHA .		
Finding 13-03	The Carolina Star policies and procedures manual did not address all enforcement activities at VPP sites.	Ensure that CSP 03-01-003 (VPP Policies and Procedures Manual), chapter VIII or similar language be incorporated into the Carolina Star Policies and Procedures Manual.	The State has submitted as a plan change a revision to the Star Program Policies and Procedures Manual that addresses enforcement activities at Star sites consistent with CSP 03-01-003.	June 2014	Completed - 9/17/2014

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

FY 2014 North Carolina 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. North Carolina opened 3,224 enforcement inspections in FY 2014. Of those, 3,224 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.
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U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: North Carolina

FY 2014

SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	4.99	10 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	2.41	4 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)	NA	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	1.76	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	1.45	Other: 1.22	
11	Percent of total inspections in the public sector	6.11%	5.00%	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.
				State Plan data taken directly from SAMP Report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
13	Percent of 11c Investigations completed within 90 calendar days	36%	100%	State Plan data taken directly from SAMP Report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
14	Percent of 11c complaints that are meritorious	19.1	24.8% meritorious	State Plan data taken directly from SAMP Report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014. State Plan data taken directly from SAMP 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	126.2	90 Days	State Plan data taken from SAMP 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.
17	Planned vs. actual inspections - safety/health	1878/1346	2974/1407	State Plan data taken directly from SAMP Report generated through IMIS.
18a	Average current serious penalty - 1 -25 Employees	1196.26		State Plan data taken directly from SAMP Report generated through IMIS. 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.
18b	Average current serious penalty - 26-100 Employees	1223.72		
18c	Average current serious penalty - 101-250 Employees	1869.95		

18d	Average current serious penalty - 251+ Employees	2415.78		
18e	Average current serious penalty - Total 1 - 250+ Employees	1196.26		
19	Percent of enforcement presence	1.86%	National Average 1.44%	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. 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.
20a	20a) Percent In Compliance – Safety	31.07	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. State Plan data is manually pulled directly from IMIS for FY 2013.
20b	20b) Percent In Compliance – Health	35.35	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	97%	100%	State Plan data is manually pulled directly from IMIS for FY 2013. Data not available.
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		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.

23a	Average Lapse Time - Safety	30.73	43.4	<p>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.</p> <p>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.</p>
23b	Average Lapse Time - Health	31.85	57.05	
24	Percent penalty retained	77.21	66	<p>State Plan data taken from SAMM Report generated through IMIS and the Inspection where Workers Involved report generated in OIS.</p>
25	Percent of initial inspections with employee walk around representation or employee interview	100	100%	