

FY 2016 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) 2016 FAME Report is a follow-up FAME Report. This report is focused on the North Carolina Department of Labor, Occupational Safety and Health Division (OSHNC) 23(g) program’s progress in making corrections to the FY 2015 FAME Report findings and observations. This report is based on the results of quarterly onsite monitoring visits, the FY 2016 State OSHA Annual Report (SOAR), and the FY 2016 State Activity Mandated Measures (SAMM) Report.

OSHNC has addressed both findings and all seven observations found in the FY 2015 FAME Report. The State Plan completed corrective actions related to the FY 2015 findings. Many of these corrective actions resulted in policy changes in the State Plan’s Field Operations Manual (FOM) and Operational Procedure Notices (OPNs). OSHNC has continued to remain in constant contact with the OSHA Area and Regional Offices regarding policy changes and progress toward completing findings. No new findings or observations were identified during the FY 2016 follow-up FAME.

Staffing issues continue to be reviewed with OSHNC. However, a policy that resulted in pay raises for 80 workers for attaining certain professional certifications in 2015 has shown to be successful, and an additional 60 staff attained certifications in 2016. The staff certifications and credentials strengthened the ratios associated with professionalism in the department and show progress toward the overall goal to retain experienced safety and health professionals.

OSHNC continues its outreach to employers and workers with hazard alerts, industry guides and posters, as well as focused training. The state’s latest injury and illness rate for private industry achieved an all-time low of 2.6 per 100 full-time workers in 2015, based on the U.S. Bureau of Labor Statistics (BLS) injury and illness data. North Carolina continues to be lower than the national average.

Total Recordable Cases (TRC) and Days Away Restricted and Transferred (DART) Rate Comparison*

CY 2015*	North Carolina		National Average		Comparison
TRC Rate	2.6	2.8*	3.0	3.3*	15% Lower than National Average*
DART Rate	1.4	1.4*	1.6	1.7*	18% Lower than National Average*

*All industries, including state and local government.

*CY = Calendar Year

In FY 2016, 46,451 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. The Publications Desk served 5,671 customers, and the Standards Section answered 3,954 standards inquiries. The Bureau of Education, Training and Technical Assistance (ETTA) created and distributed a new brochure for the top ten frequently cited serious standards in 2016.

In addition, two industry guides, four brochures, and four hazard alerts were reviewed and revised. ETTA sent out letters to staffing agencies regarding the responsibilities related to occupational safety and health for temporary workers. These letters were mailed to 3,485 employers in North Carolina.

The ETTA Training Section participated in 230 events, including speaker's bureau requests, OSHA 10- and 30-hour safety and health courses, individual topic workshops, webinars, and public outreach fairs and conferences. Safety and health outreach is provided to the Spanish-speaking population through delivery of individual topic workshops, 10-hour construction industry courses, and participation in events, such as La Fiesta del Pueblo. A total of 461 construction workers were trained in FY 2016. ETTA offered 175 hours of formal training, 119 hours of continuing education, and 57 hours of other job-related training to internal personnel. Courses offered included the following: OSHA 100 (Initial Compliance Course); OSHA 125 (Introduction to Safety Standards for Industrial Hygienists); and OSHA 105 (Introduction to Safety Standards for Safety Officers).

The ETTA Training Section participated in and hosted a booth during the Mexican Consulate Labor Week. ETTA provided several public service announcements related to construction workplace hazards that were broadcasted on Hispanic radio stations across the state. Topics discussed included the following: heat stress; confined space; fall protection; carbon monoxide; electrical safety; personal protective equipment (PPE); struck by/caught between accidents; hazard communication; as well as an introduction to OSHA. In addition, the North Carolina Department of Labor participated with OSHA in the National Fall Prevention Safety Stand-down. The ETTA Training Section also hosted three large training events at construction projects in Greensboro and Raleigh. Labor One, a mobile training facility, was utilized to conduct onsite training and PPE demonstrations.

The Agricultural Safety and Health (ASH) Bureau completed 1,703 preoccupancy housing inspections of migrant farmworker housing and 64 compliance inspections. Housing certificates were issued to 1,605 sites with total occupancy (beds) of 21,527. ASH held their annual Gold Star Recognition Awards Program and hosted 141 Double Gold Stars and 84 Single Star growers. ASH conducted a number of outreach and training sessions for growers and migrant farmworkers on North Carolina farms. All sessions were conducted in both Spanish and English. In June 2016, ASH staff worked with tobacco growers in Nash County to provide onsite training in agricultural safety issues to 200 farmworkers and 40 growers. Christmas tree grower training was also conducted in June, with members of the ASH Bureau staff serving as trainers for the event, which was sponsored by the North Carolina State University (NCSU) Cooperative Extension Service.

The ASH Bureau continues to strengthen partnerships and associations with other groups by supporting a wide variety of meetings and conferences, such as the following: the East Carolina University Agro Medicine Program; the Office of Rural Health; the tobacco grower meetings, which were sponsored by R.J. Reynolds Tobacco; the National Christmas Tree Grower Association Meeting; as well as several other grower organizations meetings conducted during FY 2016. The ASH Bureau's safety and health training model for agricultural workers has been adopted and promoted by tobacco companies for use in many southeastern states throughout the

country. In FY 2016, the on-farm hands-on training model and the safety videos that the ASH Bureau created were used in Tennessee and Kentucky under the auspices of Good Agricultural Practices (GAP) Connections. The current bilingual safety video produced by ASH and NCSU will become part of the GAP Connections program and will be used to educate farmers and farmworkers in twelve states.

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. In FY 2016, Allen McNeely served as Deputy Commissioner and Director of the Occupational Safety and Health Division, and Kevin Beauregard served as Assistant Deputy Commissioner and Assistant Director of the OSH Division. In August 2016, OSHNC Director Allen McNeely retired, and Kevin Beauregard was appointed as the Deputy Commissioner. Scott Mabry was named the new Assistant Deputy Commissioner in December 2016.

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 the ASH Bureau. 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 being 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). 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 workplace retaliation in addition to retaliation 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.

The table below shows OSHNC's funding levels from FY 2012 through FY 2016.

FY 2012-2016 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2016	5,326,000	5,326,000	8,226,808	18,878,808	71.79
2015	5,326,000	5,326,000	7,609,103	18,261,103	70.83
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

C. Data and Methodology

This is OSHA's report on the operation and performance of the OSHNC program. It was compiled using information gained from the FY 2016 SOAR, interviews with the OSHNC staff, OSHA Express Reports, as well as the SAMM Report and State Indicator Report for FY 2016. In addition, information collected during the routine monitoring of the OSHNC program by OSHA's Regional and Raleigh Area Offices was also used as a basis for this evaluation.

OSHA has established a two-year cycle for the FAME process. FY 2016 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 during the FY 2016 Follow-up FAME. The FY 2015 FAME Report identified two findings and seven observations. In FY 2015, OSHA made two recommendations. The first recommendation involved the review of the OSHA-300 logs, and the second recommendation concerned the implementation of the Process Safety Management (PSM) Covered Chemical Facilities National Emphasis Program (NEP) during consultation visits. OSHA has determined that the State Plan completed these two items. Appendix C describes the status of the FY 2015 findings in detail.

All observations were closed during this evaluation period. The observations consisted of case file documentation for enforcement and consultation files, entry of whistleblower cases into the Web Integrated Management Information System (IMIS), and complainants being issued right-to-sue (RTS) letters for merit/litigation cases. Appendix B describes the status of the FY 2015 observations in detail.

II. Assessment of State Plan Performance

A. Major New Issues

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016, and again increased penalties according to the consumer price index (CPI) in January of 2017. As required by law, OSHA will continue to raise maximum penalties each year according to the CPI. State Plans are required to adopt both the catch-up increase and the annual increase.

High vacancy rates and new hires continue to impact compliance activities. In January 2016, the OSHNC Director's Office issued a turnover report that linked an increasingly high turnover rate among safety and health compliance officers in the past several years to low salaries. This information was shared with the Office of State Human Resources (OSHR). OSHR also had an outside contractor perform a salary comparison study. The OSHR study and the OSHNC turnover report had similar findings. A 7% salary increase adjustment was provided to the majority of compliance officers in FY 2016. In addition, a modest across-the-board increase was provided by the legislature. Additional efforts are being made to secure more increases in order to better ensure OSHNC can attract and retain qualified safety and health professionals.

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

The FY 2016 SOAR documents activities performed during the fourth year of the current five-year strategic planning cycle, which began on October 1, 2013 and ends on September 30, 2018. The SOAR also addresses overall outcome goals and outcome goals for specific areas of emphasis.

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%. Even with these reductions, the construction industry continues to have a high number of workplace accidents compared to other industries, and this can have a significant impact on the State Plan's overall outcome goals of reducing injury, illness, and fatality rates. Additional data regarding the State Plan's performance in this area is provided in the following table. The State Plan is on track to meet this goal.

Outcome	Baseline	2014	2015	2016
Construction Fatalities	30	17	15	15
Rate	.00089	.0093	.0084	.0078
Hispanic Worker	N/A	9	6	4

Fatalities in the Construction Industry				
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Construction	2014	2015	2016
Inspections	1,255	1,102	1,285
Inspection Goals	1,075	1,075	1,100
Consultation Visits	221	273	252
Consultation Goals	150	150	150
Workers Trained	1,619	2,504	3,069
Training Goals	2,500	2,500	2,500

1.2 Decrease the fatality rate in logging and arboriculture by 2% by the end of FY 2018.

Historically the State Plan has had success in reducing the number of fatalities in logging (Northern American Industry Classification System (NAICS) 11331) and arboriculture (NAICS 56173). The Special Emphasis Program (SEP) for Logging was initiated in FY 1994 in response to 13 logging fatalities in FY 1993, and is still in effect today. From FY 2014 to FY 2016, the number of fatalities for logging and arboriculture increased from 2 to 7; however, the fatality rate in FY 2016 is still more than 2% below than the baseline rate. The State Plan is on track to meet this goal.

Outcome	Baseline	2014	2015	2016
Fatalities	3	2	6	7
Rate	.02644	.0172	.0177	.0221

Logging & Arboriculture	2014	2015	2016
Inspections	61	54	81
Inspection Goals	75	75	60
Consultation Visits	15	15	18
Consultation Goals	15	15	15
Workers Trained	280	232	141
Training Goals	25	150	150

2.1 Reduce the DART rate in grocery and related product wholesalers (NAICS 4244) by 10% by the end of FY 2018.

The State Plan’s strategic planning process includes statistical analysis to determine which industry groups have high injury and illness rates that could affect the State Plan’s goal of reducing the overall injury and illness rate. The baseline rate for grocery and related product wholesalers is 4.1, which was more than twice the overall DART rate of 1.6. For this reason, this industry has been added as an area of emphasis in the current Strategic Plan. The first year of any new addition to the strategic plan is designated as a planning year. FY 2014 was a planning year for grocery and related product wholesalers. A Strategic Management Plan Committee was established to manage the planning process. This includes developing strategies to achieve established goals and determining the appropriate activity level for department intervention, including compliance activity, consultation, and training. In FY 2015, OPN 145 was developed to provide guidance in identifying hazards and completing inspections in the grocery industry. The most recent industry DART rate is less than the baseline, and the State Plan is on track to meet this goal by FY 2018.

Outcome	Baseline	2014	2015	2016
DART	4.1	planning year	3.3	no data

Grocery	2014	2015	2016
Inspections	planning year	47	29
Inspection Goals	planning year	20	20
Consultation Visits	planning year	6	4
Consultation Goals	planning year	4	4
Workers Trained	planning year	2	4
Training Goals	planning year	25	25

2.2 Reduce the DART rate in long-term care (LTC) by 10% by the end of FY 2018.

While progress has been made in this industry group during previous planning cycles, the baseline rate of 4.7 was still more than twice the overall DART rate. For this reason, the LTC (NAICS 623) emphasis area has been carried over from the previous Strategic Plan. The most recent DART rate is below the baseline, and the State Plan appears to be on track to meet this goal.

Outcome	Baseline	2014	2015	2016
DART	4.7	4.2	3.5	no data

Long-Term Care	2014	2015	2016
Inspections	93	64	61
Inspection Goals	60	60	60
Consultation Visits	45	67	59
Consultation Goals	25	25	25

Workers Trained	123	45	32
Training Goals	75	50	50

2.3 Conduct emphasis inspections, training, and consultation activity in establishments where workers might be exposed to health hazards, such as lead, silica, asbestos, hexavalent chromium, and isocyanates.

The State Plan has established an SEP to address health hazards in the workplace. The current health hazards include lead, silica, asbestos, hexavalent chromium, and isocyanates. Tracking mechanisms have not been developed to allow for the establishment of specific outcome measures in this area of emphasis. The State Plan will continue to monitor the progress of OSHA in developing reliable outcome measures for health issues. A reduction in illnesses related to the health hazards identified in the SEP could influence the primary outcome goal of reducing the overall injury and illness rate by 10% during the five-year cycle of the Strategic Plan. As indicated below, the State Plan met their FY 2016 inspection, consultation, and training goals related to health hazards.

Health Hazards	2014	2015	2016
Inspections	164	142	100
Inspection Goals	200	180	100
Consultation Visits	139	181	170
Consultation Goals	100	100	100
Workers Trained	441	395	419
Training Goals	700	400	400

Inspections with Detectable Results				
Hazard	Inspections	Samples	Overexposures	Surveys
Silica	13	19	11	55
Lead	9	17	6	44
Asbestos	1	2	0	28
Hexavalent Chromium	5	9	0	29
Isocyanates	0	0	0	25
Totals	28	47	17	181

2.4 Reduce the DART rate in establishments in food manufacturing (NAICS 311) by 10% by the end of FY 2018.

The strategic planning process is intended to allocate resources in those areas of emphasis with above average injury and illness rates in an attempt to impact the overall state injury and illness rate. The food manufacturing (NAICS 311) DART rate in FY 2012 was 2.6, which was more than the overall DART rate of 1.6. For this reason, food manufacturing was carried over to the current five-year Strategic Management Plan. The baseline rate for this industry is 3.3, which is

the five-year average DART rate for the period 2007-2011. OPN 140 was developed to establish the SEP for Food Manufacturing and provide specific inspection guidelines. The most recent DART rate is below the baseline, and the State Plan is on track to meet this goal in FY 2018.

Outcome	Baseline	2014	2015	2016
DART	3.3	2.5	2.8	no data

Food	2014	2015	2016
Inspections	32	78	56
Inspection Goals	50	50	50
Consultation Visits	18	15	22
Consultation Goals	10	10	10
Workers Trained	26	18	13
Training Goals	25	25	25

2.5 Reduce the DART rate for establishments in the accommodation industry by 10% by the end of FY 2018.

A review of injury and illness statistics identified the accommodation industry (NAICS 721) as a candidate to be added to the State Plan’s Strategic Plan for FY 2014-2018. This employment sector not only had a high DART rate of 3.6, but includes over 2,000 active sites. The 2014 DART rate was significantly below the baseline, so for this year, the accommodation industry was placed in a maintenance mode for FY 2016. The most recent DART rate is still slightly below the baseline. The SEP team will evaluate to determine if this emphasis area needs to be taken out of maintenance mode.

Outcome	Baseline	2014	2015	2016	2017	2018
DART	2.3	1.5	2.2	no data		

Accommodation	2014	2015	2016	2017	2018
Inspections	planning year	18	no data		
Inspection Goals	planning year	20	no data		
Consultation Visits	planning year	4	no data		
Consultation Goals	planning year	4	no data		
Workers Trained	planning year	40	no data		
Training Goals	planning year	25	no data		

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

OSHNC's average current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) was \$1,602.08 in FY 2016. The further review level (FRL) is -25% of the national average (\$2,279.03), which equals \$1,709.27. Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies and procedures that are "at least as effective" (ALAE) as those contained in OSHA's Field Operations Manual (FOM), which was revised on August 2, 2016, to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection. OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

Overall, OSHNC does well on its SAMM measures. In FY 2016, the 2,635 inspections conducted by OSHNC resulted in an average of 1.74 violations (serious/willful/repeat/unclassified) per inspections with violations. A total of 4,681 violations were issued. OSHNC routinely places an emphasis on keeping citation lapse times low. According to the SAMM Report, in FY 2016, the average lapse time (in days) from opening conference to citation issuance was 24.12 (safety) and 29.54 (health). These lapse times are well within the further review levels of 54.19 (safety) and 68.74 (health).

According to the SAMM Report, OSHNC responds timely to complaints. Complaint investigations were initiated within an average of one day, and complaint inspections were initiated within an average of three days, which are both well below the negotiated FRLs of four days and 10 days, respectively.

SAMM 10 indicates that the State Plan responded to fatalities 97.73% (43 out of 44) of the time within one work day. The one outlier did not meet the one work day response goal, but it was due to a reasonable delay.

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

III. Assessment of State Plan Corrective Actions

Findings and Recommendations:

FY 2015-01: Some case files were either missing copies of the OSHA-300 logs, or an analysis of the data found on the OSHA-300 log was not adequately reviewed. In addition, citations were not issued to the employer for OSHA-300 log deficiencies.

Recommendation: OSHNC should ensure that compliance officers request and include copies of the OSHA-300 log in the case file for each inspection for the last three years and review trends and hazards recorded on the logs. OSHNC should also ensure that case files are reviewed to ensure that citations are issued to employers for OSHA-300 log deficiencies.

Status-Completed: Appropriate procedures were already in place at the time of the federal evaluation. On April 14, 2016, the Compliance Bureaus were informed of this preliminary finding, and staff was instructed to ensure compliance safety and health officers (CSHOs) documented their OSHA-300 log analysis in the narrative and adhered to the appropriate sections

of the FOM. This was also added to the technical writing courses. On August 4, 2016, the bureau chiefs covered this information again with all supervisors at a statewide supervisors meeting.

FY 2015-02: Thorough PSM evaluations, as referenced under OSHA's CPL 03-00-014 - PSM Covered Chemical Facilities NEP, were not conducted by Consultative Services.

Recommendation: OSHNC should implement a system to ensure that OSHA's CPL 03-00-014 - PSM Covered Chemical Facilities NEP is utilized.

Status-Completed: OSHNC adopted CPL 03-00-014 on May 21, 2012. The Consultative Services Bureau (CSB) held a meeting with 100% of their staff on April 8, 2016, and conducted training on: PSM, CPL 03-00-014, and the list of dynamic questions, and also reviewed the new Consultation Policies and Procedures Manual. CSB instructed staff to document more clearly what parts of the PSM process were and were not reviewed during a CSB visit. CSB also distributed the May 11, 2016 Recognized and Generally Accepted Good Engineering Practices and July 18, 2016 enforcement policy memos to consultants.

Observations:

A number of observations from FY 2015 have federal monitoring plans that indicate that OSHA would perform a limited case file review as part of this FY 2016 FAME. This case file review was not performed by OSHA, but these observations were able to be closed based on other indications that the underlying issues were addressed and should no longer be subject to close monitoring.

FY 2015-OB-1: In 14.4% (13 of 90) case files reviewed, similar non-serious violations were not grouped as a serious violation, as referenced in Chapter 5 of the OSHNC FOM.

Federal Monitoring Plan: During next year's FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: Training sessions have been completed. 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.

FY 2015-OB-2: Interview statements were not always obtained to document an apparent violation.

Federal Monitoring Plan: During next year's FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: The procedures for maintaining interview statements and field notes are covered in the Technical Writing Course. CSHOs are required to incorporate their field notes into the written inspection file; therefore, it was determined that there was no need to place a copy of the handwritten notes in the inspection file. As a best practice, supervisors were told that they could request that CSHOs submit their handwritten notes with the file when it is forwarded for review so that the supervisor could verify that all information has been incorporated into the inspection file.

FY 2015-OB-3: When abatements were classified as “corrected during inspection” for serious hazards identified, the compliance officer did not document in the case file the specific corrective actions taken by the employer to abate the hazard.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: FOM Chapter III. E.2.4. designates the CSHO as having the responsibility for determining if abatement has been accomplished. CSHOs were provided training in their district, or they were scheduled by their supervisors to take the Technical Writing Course for a review of documenting how hazards were abated if they were marked “corrected during inspection”. The Technical Writing Course also instructs CSHOs on how to document how hazards that were not corrected during the inspection can be abated. CSHOs are now documenting abatement in the case files.

FY 2015-OB-4: Notes documenting informal conferences did not include the rationale to support or explain the reason changes were made to the violations and penalties in some case files.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: Supervisors and CSHO IIs (experienced CSHOs) were provided retraining on informal conference notes documentation. OSHNC now requires supervisors and CSHO IIs to utilize a standardized informal conference notes document to record their notes from an informal conference. Supervisors’ and CSHO IIs’ notes must include a rationale that supports or explains the reasons citations and/or penalties have been modified.

FY 2015-OB-5: Cases were not docketed in Web IMIS when notification letters were sent to the parties. When complainants requested an RTS letter prior to a determination being issued, the cases were not recorded in IMIS as “withdrawn”.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: Upon review of Web IMIS data, it is evident that cases are now docketed in Web IMIS when notification letters are sent. Upon the initiation and closure of a Retaliatory Employment Discrimination Act (REDA) investigation pertaining to safety and health issues, third-party settlements are now recorded in IMIS as “settled—other”. Ninety-day RTS and uncooperative RTS closures are recorded in IMIS as “agency withdrawn.” Merit RTS closures are entered as “non-merit” in IMIS, with a note explaining that the case resulted in a merit RTS letter being issued.

FY 2015-OB-6: Three cases determined as “merit/litigation” resulted in complainants being provided a merit RTS letter for North Carolina courts, but litigation did not occur.

Federal Monitoring Plan: During next year’s FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: The North Carolina REDA allows a worker to bring an individual action after receipt of an RTS letter. The North Carolina court may award the plaintiff attorney fees and damages, to include treble damages. The North Carolina Department of Labor Discrimination Manual provides for early involvement of the Legal Affairs Division and procedures for

litigation review to determine which cases conclude with RTS letters and which are referred for litigation.

FY 2015-OB-7: Field notes in some of the state and local government consultation files did not provide detailed descriptions of hazards observed or evidence that workers were interviewed.

Federal Monitoring Plan: During next year's FAME, a limited scope review of selected case files will be reviewed to determine if this reflects a trend.

Status-Closed: The CSB held a meeting with 100% of their staff on April 8, 2016, and conducted training on expanding the detailed description of hazards observed in the field notes.

Appendix A – New and Continued Findings and Recommendations

FY 2016 North Carolina Follow-up FAME Report

FY 2016-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
	NONE		

Appendix B – Observations Subject to New and Continued Monitoring

FY 2016 North Carolina Follow-up FAME Report

Observation # FY 2016-OB-#	Observation# FY 2015-OB-# or FY 2015-#	Observation	Federal Monitoring Plan	Current Status
	FY 2015-OB-1	In 14.4% (13 of 90) case files reviewed, similar non-serious violations were not grouped as a serious violation, as referenced in Chapter 5 of the OSHNC Field Operations Manual.		Closed
	FY 2015-OB-2	Interview statements were not always obtained to document an apparent violation.		Closed
	FY 2015-OB-3	When abatements were classified as “corrected during inspection” for serious hazards identified, the compliance officer did not document in the case file the specific corrective actions taken by the employer to abate the hazard.		Closed
	FY 2015-OB-4	Notes documenting informal conferences did not include the rationale to support or explain the reason changes were made to the violations and penalties in some case files.		Closed
	FY 2015-OB-5	Cases were not docketed in IMIS when notification letters were sent to the parties. When complainants requested a right-to-sue (RTS) letter prior to a determination being issued, the cases were not recorded in IMIS as “withdrawn”.		Closed
	FY 2015-OB-6	Three cases determined as “merit/litigation” resulted in complainants being provided a merit RTS letter for North Carolina courts, but litigation did not occur.		Closed
	FY 2015-OB-7	Field notes in some of the state and local government consultation files did not provide detailed descriptions of hazards observed or evidence that workers were interviewed.		Closed

Appendix C - Status of FY 2015 Findings and Recommendations

FY 2016 North Carolina Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2015-01	Some case files were either missing copies of the OSHA-300 logs, or an analysis of the data found on the OSHA-300 log was not adequately reviewed. In addition, citations were not issued to the employer for OSHA-300 log deficiencies.	OSHNC should ensure that compliance officers request and include copies of the OSHA-300 log in the case file for each inspection for the last three years and review trends and hazards recorded on the logs. OSHNC should also ensure that case files are reviewed to ensure that citations are issued to employers for OSHA-300 log deficiencies.	<p>Appropriate procedures were already in place at the time of the federal evaluation. On April 14, 2016, the Compliance Bureaus were informed of this preliminary finding, and staff was instructed to ensure compliance safety and health specialists (CSHOs) documented their OSHA-300 log analysis in the narrative and adhered to the appropriate sections of the Field Operations Manual (FOM). This was also added to the technical writing courses.</p> <p>On August 4, 2016, the bureau chiefs covered this information again with all supervisors at a statewide supervisors meeting.</p>	August 2016	Completed January 18, 2017
FY 2015-02	Thorough process safety management (PSM) evaluations, as referenced under OSHA's CPL 03-00-014- PSM Covered	OSHNC should implement a system to ensure that OSHA's CPL 03-00-014- PSM Covered Chemical Facilities NEP is utilized.	OSHNC adopted CPL 03-00-014 on May 21, 2012. The Consultative Services Bureau (CSB) held a meeting with 100% of their staff on April 8, 2016, and conducted training on: PSM, CPL 03-00-014, and the list of dynamic questions, and also reviewed the new Consultation Policies and Procedures Manual. CSB instructed staff to	July 2016	Completed January 18, 2017

	Chemical Facilities National Emphasis Program (NEP), were not conducted by Consultative Services.		document more clearly what parts of the PSM process were and were not reviewed during a CSB visit. CSB also distributed the May 11, 2016 Recognized and Generally Accepted Good Engineering Practices and July 18, 2016 enforcement policy memos to consultants.		
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Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report

FY 2016 North Carolina Follow-up FAME Report

Fiscal Year 2016 is the first year since the transition from the NCR (OSHA's legacy data system) began that all State Plan enforcement data has been captured in OSHA's Information System (OIS). All State Plan and federal whistleblower data continues to be captured in OSHA's WebIMIS System. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report and State Plan WebIMIS report run on November 14, 2016, as part of OSHA's official end-of-year data runs. The further review levels for SAMMs 5, 8, 9, 11, 12, 15, and 17 have been negotiated to rely on a three-year national average. However, due to the recent transition to OIS, the further review levels for these SAMMs will rely on a one-year national average for one more year.

U.S. Department of Labor

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

State Plan: North Carolina – OSHNC			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	4.22	10	Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.13	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.91	4	Further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.76	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2016. Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	Further review level is fixed for all State Plans.
5	Average number of violations per inspection	SWRU: 1.74	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.

	with violations by violation type	Other: 1.30	+/- 20% of Other: .99	
6	Percent of total inspections in state and local government workplaces	6.19%	+/- 5% of 5.03%	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 1,673	+/- 5% of S: 1,994	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 962	+/- 5% of H: 1,446	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,602.08	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	a. Average current serious penalty in private sector (1-25 workers)	\$1,133.05	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,511.50	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	c. Average current serious penalty in private sector (101-250 workers)	\$2,529.19	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,573.41	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
9	Percent in compliance	S: 39.79%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 42.44%	+/- 20% of H: 35.68%	

10	Percent of work-related fatalities responded to in one workday	97.73%	100%	Further review level is fixed for all State Plans.
11	Average lapse time	S: 24.12	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 29.54	+/- 20% of H: 57.28	
12	Percent penalty retained	84.58%	+/- 15% of 69.86%	Further review level is based on a one-year national rate.
13	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	23%	100%	Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	34%	+/- 20% of 24%	Further review level is based on a three-year national average.
16	Average number of calendar days to complete an 11(c) investigation	158	90	Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.50%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.