

Appendix A
FY 2009 Connecticut Public Employee Only State Plan (CONN-OSHA) Enhanced FAME Report
prepared by Region I
Summary of Findings and Recommendations

	Findings	Recommendations
1	Complaint & Referral Response - CONN-OSHA's FY2009 average of 7.24 days did not meet the five-day standard for average number of days to initiate a complaint inspection.	We recommend that CONN-OSHA continue to improve its performance with respect to SAMM #1 so that it meets the five-day standard.
2	Fatality Case Files/Diary Sheets - Case diary sheets relating to fatality investigations did not contain notes on important discussions that occurred between the compliance officers and the supervisors.	(A): CONN-OSHA must ensure that important discussions between compliance officers and supervisors regarding fatality investigations are documented in the case file diary sheet. (B): In addition to discussions between compliance officers and their supervisors, all information relevant to the fatality investigation must be documented in the case file diary sheet. We direct CONN-OSHA to OSHA's Field Operations Manual (FOM) (Chapter 5, Section X), which states that: "All case files shall contain an activity diary sheet, which is designed to provide a ready record and summary of all actions relating to a case. It will be used to document important events or actions related to the case, especially those not noted elsewhere in the case file"
3	Case file organization - Some case files' documents were not in the order established by Appendix C of ADM 03-01-005. Since the current file folders do not have paper fasteners, documents have a tendency to become shuffled out of order.	(A): CONN-OSHA should use files with paper fasteners. This would help the program organize case file paperwork in chronological order. Since the current file folders do not have paper fasteners, documents have a tendency to become shuffled out of order. (B): All CONN-OSHA staff members should review Appendix C of ADM 03-01-005, which provides detailed information regarding "Inspection Case File Organization." This directive provides detailed instructions on which materials should appear on the left of the case file and which materials should appear on the right side of the file, and the specific order in which these documents should be placed.
4	SAMM# 8 - CONN-OSHA did not meet the standard of 51.2 for percent of programmed inspections with S/W/R violations, with a percentage of 48.39 in FY2009 for health-related inspections.	Although the program has shown marked improvement over its FY2008 percentage for health-related inspections, we recommend that CONN-OSHA continue to strive to meet the national standard. It should also work to ensure that its percentage for safety remains at or above the national standard, as well.
5	Classifying/Grouping Violations - CONN-OSHA's FY2009 percentage for serious violations was too low compared to its percentage for other-than-serious violations. While CONN-OSHA's percentages were 28 for serious and 70 percent for other, Federal OSHA's percentages were 77 percent for serious and 19 percent for other.	(A): All CONN-OSHA compliance officers should review Chapter 4, Section II of the FOM, which discusses the factors that determine whether a violation is to be classified as serious, and also Chapter 4, Section IV of the FOM, which discusses the factors that determine whether violations should be classified as other-than-serious. (B): CONN-OSHA compliance officers should adhere to the guidelines established in the FOM for grouping. Chapter 4, Section X of the FOM lists the situations that normally call for grouping violations, none of which include grouping serious violations (that should stand alone as serious violations) for the purpose of reducing penalties for financially burdened cities and towns. We cannot overlook the fact that this practice is not in accordance with OSHA's official procedures as established in the FOM.

	Findings	Recommendations
6	Penalty Reduction - During our case review, we determined that most of CONN-OSHA's informal settlement agreements resulted in a penalty reduction of approximately 60 percent. According to OSHA's Enforcement Report (of 11/19/2009), CONN-OSHA had an average penalty reduction percentage of 57.1.	(A): CONN-OSHA should reserve penalty reductions in the 60 percent range only for those employers who provide adequate proof that abatement is complete for each cited violation, and that this abatement verification is provided within the dates indicated on the citation. This certification must meet the requirements of OSHA's abatement verification regulation, § 1903.19, as discussed in Chapter 7 of the FOM. Employers who request later abatement dates and present valid grounds for making such a request may also be considered for the 60 percent reduction. (B): The CONN-OSHA supervisor who conducts the informal conference must be sure to document reasons for granting penalty reductions (and extended abatement dates) on the case file diary sheet.
7	SAMM# 6, Abatement Verification - CONN-OSHA's FY2009 percentage of 97.96 for S/W/R violations verified timely came close to meeting the standard of 100 percent, but was the program's lowest over the past four years	CONN-OSHA should work harder to meet this standard. Timely abatement of serious, willful or repeat violations helps ensure that workers are protected from injuries and illnesses from cited violations.
8	Abatement Verification - We found that in some municipalities where multiple departments were inspected, just one of the case files contained all of the other departments' documentation of abatement.	We refer CONN-OSHA to ADM 03-01-005, Appendix C, Section II, which states that: "An inspection case file shall be composed of all essential documents relating to a single inspection of an establishment."
9	Abatement Verification - In some cases, we noted that the case file had been closed without adequate documentation of abatement. CONN-OSHA must ensure that cases remain open until the agency is satisfied that abatement has occurred.	(A): Chapter 7 of the FOM, Section IV (b) also states the "case file remains open throughout the inspection process and is not closed until the Agency is satisfied that abatement has occurred. If abatement was not completed, annotate the circumstances or reasons in the case file and enter the proper code in the IMIS." (B): CONN-OSHA should also review Chapter 7 of the FOM, Section XV, which states: "The closing of a case file without abatement certification(s) must be justified through a statement in the case file by the Area Director or his/her designee, addressing the reason for accepting each uncertified violation as an abated citation."
10	Abatement Verification - Some cases lacked written certification of abatement while others contained abatement letters that did not document abatement for all citations issued. In addition, some case files lacked relevant documents such as written hazard communication programs, evidence of training, and an emergency action plan.	CONN-OSHA should thoroughly review Chapter 7 of OSHA's FOM on Abatement Documentation, particularly Section B, which relates to Adequacy of Abatement Documentation. As stated in that section, examples of documents that demonstrate that abatement is complete include "(a) copy of program documents if the citation was related to a missing or inadequate program, such as a deficiency in the employer's respirator or hazard communication program."
11	Abatement Verification - Some case files did not contain documentation related to Petitions for Modification of Abatement (PMA).	CONN-OSHA must also ensure that all documentation related to Petitions for Modification of Abatement (PMA) are contained in the relevant case files, such as copies of the petition itself, as well as CONN-OSHA's approval (or denial) of the PMA, and any written objections by employees to the PMA. See Chapter 7 of the FOM, Section III for more information on PMAs.
12	Informal Conferences - Several of the case files we reviewed that had informal conferences did not contain documentation that labor organizations were ever notified of the informal conference.	(A): CONN-OSHA must ensure that labor organizations receive adequate and timely notification of informal conferences when they are scheduled, and that each case file contains adequate documentation of labor organization notification. As stated in Chapter 7 of the FOM, Section II (C), "If an informal conference is requested by the employer, an affected employee or his representative shall be afforded the opportunity to participate." (B): In addition, in accordance with Chapter 5 of the

	Findings	Recommendations
		<p>FOM, Section II (B), compliance officers must be sure to complete the sections of the OSHA Form 1A that relate to labor organizations, such as:</p> <ul style="list-style-type: none"> • names and addresses of all organized employee groups; • names, addresses and phone numbers of authorized representatives of employees; and • employer representatives contacted and the extent of their participation in the inspection.
13	<p>Informal Conferences - Some case files did not contain notes or other documentation related to informal conferences and/or informal settlement agreements.</p>	<p>CONN-OSHA must ensure that documentation of informal conferences and informal settlement agreements is included in all case files where appropriate. If an informal conference was held that pertains to more than one municipal department, then each department's case file should contain notes, diary sheet entries and other documentation related to the informal conference and the informal settlement agreement. Chapter 7, Section II (F) of the FOM, which discusses the conduct of informal conferences in detail, states that a "copy of the summary, together with any other relevant notes of the discussion made by the Area Director, will be placed in the case file."</p>
14	<p>Informal Conferences - Some cases files' diary sheets did not contain entries with regard to the dates, and location, etc. of informal conferences.</p>	<p>CONN-OSHA must ensure that diary sheets record the scheduling information for informal conferences. Chapter 7, Section II (D) of the FOM states that the "Area Director shall document in the case file notification to the parties of the date, time and location of the informal conference. In addition, the Case File Diary Sheet shall indicate the date of the informal conference.</p>
15	<p>Whistleblower Program - In two of the cases we reviewed, the lapse time between the date the case was filed and notification of the employer was up to five weeks.</p>	<p>OPP should notify the employer in a timely manner to accelerate the process of mediation.</p>
16	<p>Whistleblower Program - None of the case files we examined were assembled in the proper format and order in accordance with Chapter 5, Section III.B.1 of OSHA's Discrimination Manual (DIS 0-0.9). The case files had some paperwork contained loosely in the files.</p>	<p>OPP should assemble discrimination case files in an orderly fashion in accordance with OSHA's Discrimination Manual, Chapter 5.III.B.1, which includes a Case Activity Worksheet, or OSHA 87. In addition, an activity/telephone log must be accurately documented with telephone calls and significant events that occur with respect to the case.</p>
17	<p>Whistleblower Program - Only one-third of CONN-OSHA's discrimination cases are completed within 90 days. The SAMM standard is 100 percent.</p>	<p>The State should work harder to ensure that cases are completed within the 90-day guideline.</p>
18	<p>Standards/Program Change Adoptions - CONN-OSHA responded well in advance of the June 1, 2009 deadline established in CPL-02-00-148 2009 332 by notifying Federal OSHA of its intent to adopt the FOM on April 22, 2009. However, during our onsite review, the program director acknowledged that he still had not completed a full review of the FOM to determine which provisions, if any, the program would need to modify, since the FOM pertains chiefly to Federal OSHA <i>private sector enforcement</i>, and CONN-OSHA is a public sector employee only state plan.</p>	<p>CONN-OSHA should complete its review of the FOM. This includes identifying any provisions that may require change, drafting the proposed changes, and forwarding the entire package to Region I for review and approval. Once this process has been completed, implementation of the FOM should begin immediately.</p>
19	<p>Consultation - CONN-OSHA did not meet the 100 percent standard for verifying hazards corrected within a timely manner (14 days within the latest correction due date)</p>	<p>CONN-OSHA must work harder to meet the standard of 100 percent to ensure that workers are protected from identified hazards.</p>

20	<p>Debt Collection Procedures - CONN-OSHA has not established formal debt collection procedures.</p>	<p>CONN-OSHA should adopt formal debt collection procedures based on those set forth in Chapter 6 of the FOM. In addition, State Plan programs must have “an effective debt collection mechanism in place” in accordance with the State Plan grant requirements as established in OSHA Directive 09-02 (CSP-02). This debt collection mechanism must also be documented in the State Plan.</p>
21	<p>CSHO Training - In accordance with TED 01-00-018, the program’s compliance officers still need to complete #2450 (Evaluation of Safety and Health Management Systems) and #1310 (Investigative Interviewing Techniques).</p>	<p>Since the program’s compliance officers have exceeded this time frame, the program manager should ensure that all compliance officers complete these two remaining courses as soon as possible.</p>
22	<p>Average Number of Day Between Consultation Closing Conference and Issuance of Written Report - CONN-OSHA’s FY2009 year-end average of 22.33 days was just a bit higher than the standard of 20 days.</p>	<p>Although CONN-OSHA does a good job monitoring its performance with respect to this measure, we encourage the program to meet the 20-day standard.</p>