

**Connecticut – Public Employees Only  
FY 2009 Enhanced FAME Report  
FINAL Corrective Action Plan**

This is the State of Connecticut Department of Labor, Division of Occupational Safety and Health's (CONN-OSHA), formal response to the Enhanced Federal Annual Monitoring and Evaluation (FAME) Report for Federal Fiscal Year 2009, Appendix A, Summary of Findings and Recommendations. The **Status** of all Action Plan items is subject to further federal review and monitoring. Documentation of completion of training and of any policy changes must be submitted for Regional review.

**Finding #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.

**Recommendation #1:** We recommend that CONN-OSHA continue to improve its performance with respect to SAMM #1 so that it meets the five-day standard.

**Response:** CONN-OSHA continues to strive to improve its performance to meet the five-day standard. During FY2009, one health compliance officer (CSHO) retired at the end of the third quarter and one safety CSHO was reassigned as a safety consultant to fill a vacancy due to retirement. A health CSHO was hired in August 2010 and a safety CSHO was hired in September 2010 to fill existing vacancies. The existing health CSHO began taking maternity leave in August 2010 and is expected to return to work in early December 2010. Once the new CSHOs are trained and the health compliance officer returns from maternity leave, CONN-OSHA will meet the five-day standard for the average number of days to initiate a complaint inspection.

**Action Plan:** CONN-OSHA will run the SAMM monthly to monitor its performance with regard to this measure. As the new CSHOs gain experience conducting inspections, this average should begin to diminish. **CONN-OSHA projects that the SAMM for April 2011 will show that the program has met this standard.**

**Finding # 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.

**Recommendation #2:** (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 ....”

**Response:** There were no fatality investigation reports reviewed for this EFAME report. As the report indicated, the four fatalities reported to CONN-OSHA were adequately investigated by the supervisor and were determined not to be caused by a workplace condition. As expected, the compliance officer does maintain close contact with the supervisor during fatality inspections to apprise the supervisor of the developments during the investigation. CONN-OSHA regards these discussions as *updates* on the developments of the investigation; therefore, the notes on these updates are not required to be recorded in the case file diary. Important actions related to the investigation will continue to be documented in the case file diary. Any event or action related to the case will also continue to be documented in the case file diary including discussions between the supervisor and the compliance officer as long as the discussion is relevant and is deemed an important event or action in accordance with the requirements of the FOM.

**Action Plan:** Since the EFAME was issued, CONN-OSHA has developed a case file review check list to help managers and CSHOs ensure that all case files are properly organized, contain all required documents, and that these documents are properly completed. During the first week of each quarter, the CONN-OSHA program manager will randomly select and review 10 percent of each CSHO’s inspection case files to ensure compliance with the FOM requirements for case file diary sheets. The CONN-OSHA manager will inform CSHOs of any problems with the case files that were identified, and require them to take corrective action immediately. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 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.

**Recommendation #3:** (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.

**Response:** Since many staff members handle the case files, documents have a tendency to become shuffled. Also, after citations are issued, documents relating to abatements, penalty payments, and Petitions for Modification of Abatement (PMAs), etc. are placed in the case file in no set order. The project will also ensure that all staff members will review Appendix C of ADM 03-01-005.

**Action Plan:** Beginning in December 2010, all CSHOs will review Appendix C of ADM 03-01-005, and will have completed this review by December 31, 2010. Each CSHO must initial a check list verifying that he/she has completed this review. CSHOs will also use the case file review check list to make sure that case file documents are properly organized. During the first week of each quarter, the CONN-OSHA program manager will randomly select and review 10 percent of each CSHO's inspection case files to ensure that the case files are properly organized. The CONN-OSHA manager will inform CSHOs of any deficiencies that were identified, and implement corrective action measures immediately. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 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.

**Recommendation #4:** 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.

**Response:** CONN-OSHA continues to strive to meet the reference goal for health related inspections. Safety related inspections were above the reference goal and the project will strive to meet this goal.

**Action Plan:** By January 31, 2011, all CSHOs will have received internal training on Chapter 4 of the FOM, which discusses the proper procedures for citing and classifying violations. CONN-OSHA will run quarterly SAMM reports to monitor its progress toward meeting this standard. If the performance measure is not being met, the manager will meet with CSHOs to analyze the data and take corrective action.

**Status:** These SAMM reports will be discussed with the Region during quarterly meetings. CONN-OSHA's SAMM report for the 4<sup>th</sup> quarter of 2011 should reflect that the program has met the standard.

**Finding # 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.

**Recommendation #5:** (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.

**Response:** CONN-OSHA compliance officers are familiar with the requirements of Chapter 4 of the FOM including the factors that determine classification of violations. A review of the FOM regarding guidelines regarding grouping violations and how they are being applied is underway. CONN-OSHA is committed to following requirements set forth in the FOM and in related compliance directives regarding this subject.

Since the EFAME was issued, the CONN-OSHA manager has been ensuring that all penalties are assessed in accordance with the FOM, Chapter 6, Penalties and Debt Collection. Since the EFAME was issued, the CONN-OSHA manager closely reviews assessments of severity and probability before citations are issued.

**Action Plan:** By January 31, 2011, all CSHOs will have completed internal training on Chapter 4 of the FOM, which discusses the proper procedures for classifying and grouping violations. CONN-OSHA will run quarterly Inspection Summary reports to monitor its progress toward bringing its percentages for serious and other-than-serious violations more in line with Federal OSHA's. If the program's performance does not show improvement, the manager will meet with CSHOs to develop and implement corrective measures. CONN-OSHA will make these Inspection Summary reports available to the Region and the results will be discussed during quarterly meetings. The CONN-OSHA manager will continue to review all probability and severity assessments to verify compliance with the FOM. CONN-OSHA's Inspection Summary report for the third quarter of FY2011 will reflect that the program's percentages for violations classified as serious and other-than-serious are comparable to Federal OSHA's.

**Finding # 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.

**Recommendation #6:** (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.

**Response:** CONN-OSHA will, in the future, follow the guidelines established by the National Office for penalty reductions given as part of the informal settlement agreement. A

maximum penalty reduction of 30 percent will be considered based on the employer's good faith efforts to abate hazards. An additional maximum of 20 percent will also be considered if the employer uses the services of a safety and/or health professional, including CONN-OSHA's consultation services.

**Action Plan:** CONN-OSHA is now adhering to the guidelines established by OSHA for penalty reductions given as part of the informal settlement agreement. The Region will use monthly IMIS Enforcement reports to track CONN-OSHA's success in adhering to these guidelines, and discuss the results of these reports with CONN-OSHA during the quarterly meeting. The Enforcement Report for the month of January 2011 will reflect that CONN-OSHA's average penalty reduction is more in keeping with Federal OSHA's average.

**Finding # 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 percentage over the past four years.

**Recommendation #7:** 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.

**Response:** CONN-OSHA will continue to work harder to meet the standard of 100 percent in this area. An emphasis of timely abatement of all violations will be stressed to ensure that workers are protected from injuries and illnesses resulting from cited violations.

**Action Plan:** All CSHOs will have completed internal training on Chapter 7 of the FOM, Post Citation Procedures and Abatement Verification, by January 31, 2011, and will initial a check list verifying that they have completed this training. CONN-OSHA will run monthly SAMM reports to monitor its progress toward meeting this standard. If the performance measure is not being met, the manager will meet with CSHOs to analyze the data and take corrective action. The SAMM report for March 2011 should reflect that CONN-OSHA has met the 100 percent standard.

In addition, CONN-OSHA will implement a system for tracking employer progress in abating violations by January 31, 2011. On a daily basis, the CONN-OSHA manager will assign at least three or four case files with open abatements to at least one CSHO. These CSHOs will contact the employers who have outstanding abatements and remind them of abatement due dates. If the employer indicates that the violations have been abated, the CSHO will also remind them of their obligation to provide CONN-OSHA with proper documentation (if they have not already done so). CONN-OSHA will, as required, also issue a citation to employers who do not provide adequate documentation of abatement under 1903.19(c) (Abatement certification)

**Finding # 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.

**Recommendation #8:** 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.”

**Response:** Compliance officers have been instructed to ensure that each case file must contain all of the documents related to that particular inspection. Where multiple inspections are conducted in the same municipality, each individual case file will now be maintained separately so each case will stand alone.

**Action Plan:** On a quarterly basis, the CONN-OSHA program manager will randomly select 10 percent of each CSHO’s inspection case files to verify that documents related to inspections of municipalities with multiple departments are filed appropriately. If the program manager identifies case files that do not contain the required documents, he will discuss his finding with the CSHOs and require them to take action immediately to correct the problem. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 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 program is satisfied that abatement has occurred.

**Recommendation #9:** (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.

**Response:** Compliance officers have been instructed to continue existing policy and ensure that adequate abatement documentation for all cited violations has been received before the case file can be closed. The program manager is unaware of any case file that has been closed without adequate abatement information being provided.

**Action Plan:** CSHOs will use the case file review check list to ensure that abatement has occurred and is properly documented before the case files are closed. On a quarterly basis, the CONN-OSHA program manager will randomly select and review 10 percent of each CSHO’s inspection case files to ensure that abatement has occurred and that it was properly documented before the case files are closed. The CONN-OSHA manager will inform CSHOs of any problems with the case files that were identified, and require them to take corrective action immediately. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 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.

**Recommendation #10:** 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.

**Response:** Compliance officers have been instructed to ensure that case files contain written certification of abatement, and that abatement letters document abatement for all citations issued. They have been instructed to ensure that relevant documents such as written programs, plans, and evidence of training are received before citations will be considered abated and prior to closing the case file.

**Action Plan:** All CSHOs will have completed internal training on Chapter 7 of the FOM, Post Citation Procedures and Abatement Verification, by January 31, 2011, and will initial a check list verifying that they have completed this training.

CSHOs will use the case file review check list to ensure that abatement has occurred and is properly documented before the case files are closed. On a quarterly basis, the CONN-OSHA program manager will randomly select and review 10 percent of each CSHO's inspection case files to ensure compliance with the FOM's requirements. The CONN-OSHA manager will inform CSHOs of any problems with the case files that were identified, and require them to take corrective action immediately. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings. CONN-OSHA will also issue a citation to employers who do not provide adequate documentation of abatement under 1903.19(c) (Abatement certification)

In addition, CONN-OSHA will implement a system for tracking employer progress in abating violations by January 31, 2011. On a daily basis, the CONN-OSHA manager will assign at least three or four case files with open abatements to at least one CSHO. These CSHOs will contact the employers who have outstanding abatements and remind them of abatement due dates. If the employer indicates that the violations have been abated, the CSHO will also remind them of their obligation to provide CONN-OSHA with proper documentation (if they have not already done so).

**Finding # 11: Abatement Verification** - Some case files did not contain documentation related to Petitions for Modification of Abatement (PMA).

**Recommendation #11:** 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.

**Response:** Compliance officers have been instructed to ensure that case files will contain adequate documentation related to PMAs. Where multiple inspections are conducted in the same municipality, PMAs requested in multiple establishments will also be maintained in each individual case file so each case will stand alone.

**Action Plan:** For Each PMA, CSHOs will immediately begin using a tracking sheet that ensures that employers follow all procedures when filing and abating violations under PMAs. A copy of this type of tracking sheet is available from Region I Federal OSHA, and can be used by CONN-OSHA, if the program so desires. In addition, by January 31, 2011, the CONN-OSHA manager will work with CSHOs to develop an electronic system for tracking abatement due dates that were granted under PMAs by using Microsoft Outlook reminders.

All CSHOs will have completed internal training on Chapter 7 of the FOM, Post Citation Procedures and Abatement Verification, by January 31, 2011, and will initial a check list verifying that they have completed this training. CSHOs will use the case file review check list to ensure that the case files contain adequate documentation related to PMAs. The CONN-OSHA program manager will randomly select and review 10 percent of each CSHO's inspection case files to ensure that employers submit information as required by 1903.14(b), including the reason the PMA is needed and what actions the employer has taken; the specific amount of additional time needed; what interim protections have been taken; and certification that a copy of the PMA request has been posted. The CONN-OSHA manager will inform CSHOs of any problems with the case files that were identified, and require them to take corrective action immediately. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 12: Informal Conferences** - Several of the case files that had informal conferences did not contain documentation that labor organizations were ever notified of the informal conference.

**Recommendation #12:** (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 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:

- 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.

**Response:** It has always been the practice of CONN-OSHA to ensure that organized labor and/or rank and file employees are notified of their right to participate in the informal conference. Similar to the response provided in findings # 8 and #11, it is felt that proper

documentation may not have been filed in each case file when multiple establishments are inspected in the same municipality. Employers are now instructed to provide a copy of the posted Notice of Informal Conference with the date and time the employer posted the notice prior to the date of the informal conference to ensure that employees have been notified adequately. They are also instructed that failure to provide a copy of the notice will result in cancellation of the conference. In addition, compliance officers are instructed to ensure that relevant portions of the OSHA Form 1A relating to labor organizations are adequately completed.

**Action Plan:** All CSHOs will have completed internal training on Chapter 7 of the FOM, Post Citation Procedures and Abatement Verification, by January 31, 2011, and will initial a check list verifying that they have completed this training.

CSHOs will use the case file review check list to ensure that union notification is contained in the case files. The CONN-OSHA program manager will review randomly select and review 10 percent of each CSHO's inspection case files to ensure compliance. The CONN-OSHA program manager will document his findings and discuss them with the Region during the quarterly meetings.

**Finding # 13: Informal Conferences** - Some case files did not contain notes or other documentation related to informal conferences and/or informal settlement agreements.

**Recommendation #13:** 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."

**Response:** Notes and documentation related to informal conferences and informal settlement agreements will be included in each case file. If multiple establishments in the same municipality are inspected and an informal conference is held, each case file will contain the related notes and documentation.

**Action Plan:** The CONN-OSHA program manager will immediately ensure that documentation and notes related to informal conferences are contained in the file of every case for which an informal conference is held. Region I will verify that the manager is fulfilling his responsibility to provide informal conference notes and documentation in all appropriate case files during the next onsite review.

**Finding # 14: Informal Conferences** - Some cases files' diary sheets did not contain entries with regard to the dates, and location, etc. of informal conferences.

**Recommendation #14:** 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.

**Response:** Case file diary sheets will contain entries regarding dates, time, and location of the informal conference. The diary will also contain entries indicating results of the informal conference.

**Action Plan:** Similar to the previous action plan in #13, the CONN-OSHA program manager will immediately ensure that the case file diary sheets contain entries indicating the results of the informal conferences. Region I will verify that the manager is fulfilling his responsibility during the next onsite review.

**Finding # 15: 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.

**Recommendation #15:** OPP should notify the employer in a timely manner to accelerate the process of mediation.

**Response:** The Office of Program Policy (OPP) will strive to reduce the length of time between the date the case was filed and when the employer is notified.

**Action Plan:** By December 1, 2010, the CONN-OSHA program manager will formally notify OPP that it should work to reduce the length of time between the date the case was filed and when the employer is notified. All Whistleblower case files will be monitored by the CONN-OSHA program manager to monitor lapse time. If lapse time is found to be excessive, the CONN-OSHA program manager will discuss this finding with OPP and also notify Region I. The CONN-OSHA program manager will document his findings with respect to lapse time and discuss them with the Region during quarterly meetings.

**Finding # 16: 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.

**Recommendation #16:** 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.

**Response:** This finding is currently being evaluated by the OPP. It is expected that a final resolution of this finding will be completed by the end of calendar year 2010.

**Action Plan:** The principal attorney will ensure that all Whistleblower case files will conform with the Discrimination Manuals' requirements for format by December 31, 2010. Region I will review all Whistleblower case files quarterly to ensure compliance.

**Finding # 17: Whistleblower Program** - Only one-third of CONN-OSHA's discrimination cases are completed within 90 days. The SAMM standard is 100 percent.

**Recommendation #17:** The State should work harder to ensure that cases are completed within the 90-day guideline.

**Response:** The OPP will strive to reduce this time frame. However, in its Plan Change No. 27, filed in February of 2000, CONN-OSHA explained that the 11(c) process involves mediation, and a full, formal hearing under Connecticut's Uniform Administrative Procedure Act (UAPA), CGS 4-166 et seq. The process for a formal hearing under the UAPA is minimally ninety days. These are the steps involved in resolving an 11(c) case:

- The supervisor receives the complaint.
- The complaint is screened for jurisdiction – timeliness, subject matter.
- If the complaint passes the screening process, it is assigned to an attorney to contact the employer and subsequently mediate and attempt to settle the case.
- If the case settles, the Complainant withdraws his/her complaint, and the matter is closed.
- If the case does not settle, it is assigned to a hearing officer.
- The hearing officer conducts a formal hearing.
- The hearing officer issues a proposed decision to the Commissioner.
- The aggrieved party has the right to file exceptions, and request an oral argument before the Commissioner
- The Commissioner issues a final decision.
- The aggrieved party may appeal the Commissioner's decision to Superior Court.
- An aggrieved party may appeal the Superior Court decision to the Appellate and Supreme Court.
- The outcome after the final appeal level or if settled or if an appeal is not requested is a final determination.

**Action Plan:** Realizing that the 90-day deadline is not realistic under the lengthy process prescribed by Connecticut's Uniform Administrative Procedure Act, the principal attorney will ensure that all Whistleblower case files are completed as close to the 90-day deadline as possible. Region I will review all Whistleblower case files quarterly to ensure compliance.

**Status:** Pending further discussion. Connecticut should explore procedural, regulatory, and statutory changes to its system for handling discrimination cases to reduce its complexity and resolve issues more expeditiously.

**Finding # 18: 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 *private sector enforcement*, and CONN-OSHA is a public sector employee only state plan.

**Recommendation #18:** 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.

**Response:** Since the EFAME was issued, the CONN-OSHA program manager has reviewed the FOM as directed.

**Action Plan:** CONN-OSHA will have completed its review of the FOM and submitted a comparison document to the Region by June 1, 2011. For all future Standards and Federal Program Changes that CONN-OSHA does not adopt in identical form, the program will submit a plan change supplement to the Region within 60 days of adoption. CONN-OSHA will also provide the Region with a comparison document detailing the differences and how each is at least as effective as the Federal. On a quarterly basis, the Region will review CONN-OSHA's timeliness and performance with regard to following all federally mandated procedures for responding to, and adopting, FPCs and Federal Standard Actions. Region I will discuss its review with CONN-OSHA during the quarterly meetings.

**Status:** The State should establish a target date for adoption and implementation of the revised State FOM.

**Finding # 19: 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)

**Recommendation #19:** CONN-OSHA must work harder to meet the standard of 100 percent to ensure that workers are protected from identified hazards.

**Response:** CONN-OSHA continues to strive to meet the referenced standard to verify hazards corrected within the referenced time frame.

**Action Plan:** CONN-OSHA will run a Mandated Activities Report for Consultation (MARC) quarterly, as well as a local report for Uncorrected Hazards, to monitor the program's performance with regard to this measure. If the performance measure is not being met, the manager will meet with consultants to analyze and correct problems that are causing deficiencies. CONN-OSHA anticipates that the MARC for the second quarter of FY 2011 will reflect that this standard has been met.

**Finding # 20: Debt Collection Procedures** - CONN-OSHA has not established formal debt collection procedures.

**Recommendation #20:** 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.

**Response:** As the EFAME referenced, there has only been one case in recent memory where an employer delayed paying the penalty on a timely basis. This particular case was handled appropriately and has been resolved. The project recognizes that a formal debt collection procedure needs to be established.

**Action Plan:** CONN-OSHA will have implemented a formal debt collection procedure by January 31, 2011, which Region I will review during the second quarterly meeting.

**Finding # 21: CSHO Training** - In accordance with TED 01-00-018, the program’s compliance officers still need to complete course #2450 (Evaluation of Safety and Health Management Systems) and #1310 (Investigative Interviewing Techniques).

**Recommendation #21:** 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.

**Response:** The three compliance officers identified as requiring completion of the Evaluation of Safety and Health Management Systems and Investigative Interviewing Techniques have been scheduled to take the course through the Office of Training and Education. These employees have been waitlisted for these courses, as shown in the table below.

	Course #1310 Investigating Interviewing Techniques	Course #2450 Evaluation of Safety and Health Management Systems
CSHO I	March 22-25, 2011	September 20-23, 2011
CSHO II	May 10-13, 2011	April 19-22, 2011
CSHO III	May 17-20, 2011	June 21-24, 2011
<i>All courses are scheduled to be conducted at the OSHA Training Institute in Arlington Heights, IL</i>		

**Finding # 22: Average Number of Days 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.

**Recommendation #22:** 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.

**Response:** CONN-OSHA will continue to strive to meet the referenced 20-day standard.

**Action Plan:** On a quarterly basis, CONN-OSHA will run the ACE report to monitor the program's performance with regard to this measure. If the performance measure is not being met, the manager will meet with consultants to analyze and correct problems that are causing deficiencies. CONN-OSHA anticipates that the ACE report for the second quarter of FY2011 will reflect that this standard has been met.