

Enhanced Federal Annual Monitoring and Evaluation (FAME) Report

STATE OF CONNECTICUT 23(G) PUBLIC SECTOR ONLY ENFORCEMENT PROGRAM (CONN-OSHA)

Federal Fiscal Year 2009
(October 1, 2008 to September 30, 2009)



OSHA REGION I
MAR THE B. KENT, REGIONAL ADMINISTRATOR

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I. EXECUTIVE SUMMARY

a. CONNECTICUT STATE PLAN BACKGROUND

State Designee: **Linda Agnew, Acting Commissioner of Labor**
Connecticut Department of Labor
200 Folly Brook Boulevard
Wethersfield, Connecticut 06109
 Program Manager: **Kenneth Tucker**

Plan approved: **January 1, 1975**

Plan converted to Public Employee Only: **October 2, 1978**

Plan Certified (completion of developmental steps): **August 1, 1986**

Final Approval/18(e) Determination: **Not applicable for a PEO State Plan**

- **FUNDING**

CT FY 2006-2010 Funding History

| | Federal Award | State Match | 100% State Funds | Total Funding | % of State Contribution | Unmatched / Deobligation/One-Time Only |
|-------------|------------------|------------------|--------------------|---------------|-------------------------|--|
| 2010 | \$650,400 | \$650,400 | \$986,049 | \$2,286,849 | 72% | +\$18,200 |
| 2009 | \$603,300 | \$603,300 | \$1,170,783 | \$2,377,383 | 75% | NA |
| 2008 | \$603,300 | \$603,300 | \$1,004,595 | \$2,211,195 | 73% | NA |
| 2007 | \$614,000 | \$614,000 | \$926,240 | \$2,154,240 | 71% | NA |
| 2006 | \$558,000 | \$558,000 | \$869,674 | \$1,985,674 | 72% | NA |

- **COVERED WORKERS**

CONN-OSHA 2009 Covered Workers

| State Gov Employees | Local Gov Employees | Volunteer Firefighters | Student Workers | Total Public Sector Employees | Private Sector Employees | Total Employees Covered |
|---------------------|---------------------|------------------------|-----------------|-------------------------------|--------------------------|-------------------------|
| 68,500 | 143,100 | 10,000 | 4,200 | 225,800 | NA | 225,800 |

- **STAFFING**

CONN-OSHA FY 2009 Staffing
(Full-Time Equivalents [FTEs] as of September 30, 2009)

| 23(g) Compliance and Consultation | Safety | Health |
|--------------------------------------|---|--------|
| Allocated Compliance Staff | 3 | 2 |
| On-Board Compliance Staff | 2 | 1 |
| Compliance Staffing Benchmarks | Not applicable to a PEO State Plan | |
| Allocated Consultation Staff | 1 | 2 |
| On-Board Consultation Staff | 1 | 2 |
| Total Allocated 23g Staff | 13.35 | |

- **SIGNIFICANT HISTORY**

The Connecticut State Plan as approved in 1975 was a comprehensive State plan covering both the private and public sectors. The plan was converted to a public employee only program in 1978 as a result of legislative action initiated by the State AFL-CIO. Although not specifically contemplated by the OSHAct, OSHA agreed to approve such a limited State Plan and developed implementing regulations.

In FY 2009, the Connecticut Department of Labor faced budget cuts and travel restrictions, administered staff retirement incentives, and designated two furlough days with staff on call. In FY 2010, these restrictions have continued with three furlough days, departmental budget cuts, travel restrictions and retirement incentives. Linda Agnew, Deputy Commissioner of Labor is currently Acting Commissioner of Labor and State Plan Designee following the death of Patricia Mayfield in January. In May 2009, Rich Palo, long-time State Program Director died following a prolonged illness, and Kenneth Tucker, Program Manager assumed many of his duties.

Three senior staff accepted the State's early retirement incentives (one safety and health program manager; one compliance officer; and one safety consultant from the public sector consultation program). In addition, one other compliance officer transferred from the CONN-OSHA 23(g) enforcement program to the 23(g) consultation program to fill the vacant safety consultant's position. As of September 30, 2009, the Plan was at approximately 40 percent of its total allocated staffing level.¹

¹ CONN-OSHA anticipates that all compliance officer vacancies will be filled by the end of August 2010.

b. REPORT SUMMARY

Our onsite review uncovered some deficiencies in CONN-OSHA's enforcement operations that require corrective measures. Key areas of concern related to case file documentation; use of the diary sheet; abatement verification; penalty reductions; and informal conferences.

Another significant area of concern was CONN-OSHA's tendency to group serious, standalone violations in order to relieve the burden of penalties on Connecticut's financially strapped cities and towns. Not only is this practice inconsistent with OSHA's FOM requirements for grouping serious violations, it is also largely responsible for the program's citing of far too few serious violations in comparison to other-than-serious violations.

CONN-OSHA adopted OSHA's Field Operations Manual (FOM) that was issued on March 26, 2009 in a timely manner. However, the program manager acknowledged that he had not reviewed the FOM to identify provisions that CONN-OSHA may need to change. Since the FOM pertains chiefly to Federal OSHA's private sector enforcement operations, there are some sections of the FOM that CONN-OSHA would probably want to modify so that it applies more appropriately to CONN-OSHA's public sector employee state plan.

We also found that CONN-OSHA fell short of some of the standards in the State Activity Mandated Measures (SAMM) report; a few deficiencies in terms of the program's administration of the Whistleblower program; and some improperly cited standards (for which we provided the correct citations *based on the information in the case file*).

On the other hand, we found that CONN-OSHA performed satisfactorily in terms of meeting its annual performance goals; responding timely to most Federal Program Changes; IMIS management; targeting high hazard employers; identifying a relatively high number of violations per initial inspection; and concluding the fiscal year with no fatalities and no Complaints Against State Program Administration (CASPs).

CONN-OSHA also received high marks from each of the nine stakeholders we interviewed, and we found that CONN-OSHA benefited from its interaction with these groups, and vice versa. For example, in return for CONN-OSHA's training specialists providing much needed safety and health training, stakeholder agencies and organizations assist the program in marketing its consultation services (through newsletters and other materials disseminated at trade shows and conferences, etc.).

c. METHODOLOGY

The primary purpose of this report is to provide a baseline evaluation of Connecticut's State Plan performance in FY2009, with a special emphasis on the effectiveness of its enforcement program. We also evaluate the state's progress toward achieving their Fiscal Year 2009 Annual Performance Plan goals and objectives, and its performance with regard to voluntary compliance, although these assessments are secondary to the main focus, which is on enforcement.

From January 19-22, 2010, Region I conducted an onsite review of 65 of the program's FY2009 case files, or about one-third of the total number of inspections completed during that reporting period. These case files were randomly chosen from an Integrated Management Information Systems (IMIS) scan report of all CONN-OSHA cases opened in FY2009. We chose cases for review that related to both unprogrammed and programmed inspections, as well as all four of CONN-OSHA's Whistleblower case files that related to Section 11(c) discrimination complaints.²

Since CONN-OSHA is a Public Sector Employee Only State Plan, the program conducts all of its inspections at state and municipal worksites (such as state office buildings, town and city halls, public works buildings, school departments, and police and fire stations). Therefore, only a few of the case files we reviewed related to inspections at construction sites. On average, CONN-OSHA conducts only about 15 percent of its inspections at construction worksites, most of which involve road construction.

At the outset and conclusion of this onsite review, we conducted conferences with the safety and health program manager, who is acting as the CONN-OSHA Director. During the review, we also undertook an extensive review of data from various electronic reports (such as OSHA's Integrated Management Information System (IMIS) reports and CONN-OSHA's local monitoring reports).

Another component of this review included interviews with CONN-OSHA staff, such as the Acting Director, the Research/Management Information Systems Analyst, and all of the program's current compliance officers. As mentioned above, we interviewed nine CONN-OSHA stakeholders (who are identified later in this report) about their relationship and interaction with the program.

The body of this report contains detailed findings and recommendations focusing on the program's enforcement performance in FY2009. At the end of this report, we provide two tables: Appendix A is a table listing each of the report's 22 findings and corresponding recommendations; Appendix B is a table that compares CONN-OSHA's enforcement data to both state plan and federal averages.

² To help ensure that employees are, in fact, free to participate in safety and health activities, [Section 11\(c\) of the OSH Act](#) prohibits any person from discharging or in any manner retaliating against any employee because the employee has exercised rights under the Act. The link to OSHA's Whistleblower web page is: <https://www.osha.gov/dep/oia/whistleblower/index.html>.

d. SUMMARY OF FINDINGS AND RECOMMENDATIONS

In this section, we summarize the findings and recommendations listed in Appendix A of this report by grouping them into major categories.

| Finding | Recommendation |
|--|---|
| <p>Complaint and Referral Response</p> <ul style="list-style-type: none"> • CONN-OSHA’s average of 7.24 days did not meet OSHA’s 5- day standard. (P. 13, #1) | <p>CONN-OSHA needs to meet these standards.</p> |
| <p>Case File Organization/Documentation</p> <ul style="list-style-type: none"> • Documents in the case file were not in their proper order. (P. 22, #3 A & B) • Some inspection case files did not contain: <ul style="list-style-type: none"> ◆ <i>all essential documents relating to the inspection of municipalities where the department inspected multiple departments (P. 34, #8)</i> ◆ <i>adequate documentation that abatement had occurred; (P. 34, #9, #10)</i> ◆ <i>documentation related to Petitions for Modification of Abatement; (P. 34, #11)</i> ◆ <i>documentation that labor organizations had been notified when informal conferences were conducted; (P. 37, #12 A) and</i> ◆ <i>notes or other documentation related to informal conferences and informal settlement agreements. (P. 37, #13)</i> | <p>CONN-OSHA should organize case file paperwork in accordance with Appendix C of ADM 03-01-005, which provides detailed information regarding “Inspection Case File Organization.” CONN-OSHA should also include the documentation and notices cited in these findings.</p> |
| <p>Diary Sheets</p> <ul style="list-style-type: none"> • Some case diary sheets did not contain: <ul style="list-style-type: none"> ◆ <i>notes on important discussions that occurred between compliance officer s and supervisors during fatality investigations; (P. 15, #2 A & B) and</i> ◆ <i>entries with regard to the dates, location and other important details of informal conferences. (P. 37, #14)</i> | <p>Diary sheets must contain the items cited in these findings.</p> |
| <p>Violations</p> <ul style="list-style-type: none"> • CONN-OSHA did not meet the standard of 51.2 percent for programmed health inspections with Serious/Willful/Repeat (S/W/R) violations. (P. 23, #4) • CONN-OSHA’s compliance officers did not properly classify violations, leading to a percentage of 28 for serious violations compared to 70 percent for other-than-serious violations. Federal OSHA achieves 77 percent for serious violations. (P. 27, #5 A) • CONN-OSHA has a tendency to group serious violations (which should stand alone as serious | <p>CONN-OSHA needs to meet or exceed the national standard for S/W/R violations.</p> <p>Compliance officers should review the FOM so they can determine which violations should be classified as serious and those that should be identified as other-than-serious. The FOM also gives guidance on how violations should be grouped for the purpose of reducing penalties.</p> <p>The FOM also gives guidance on how violations should be grouped for the purpose of reducing</p> |

| Finding | Recommendation |
|---|---|
| <p>violations) for the purpose of reducing penalties for financially burdened cities and towns. This practice is not in accordance with OSHA's official procedures as established in the FOM. (P. 28, #5 B)</p> <ul style="list-style-type: none"> CONN-OSHA's percentage of 97.96 fell short of the 100 percent standard for timely verification (abatement) of S/W/R violations. (P. 33, #7) | <p>penalties.</p> <p>CONN-OSHA should meet the 100 percent standard of timely verification of the abatement of S/W/R violations.</p> |
| <p>Penalties</p> <ul style="list-style-type: none"> CONN-OSHA's informal settlement agreements resulted in a penalty reduction of approximately 57-60 percent. (P. 32, 6A) | <p>CONN-OSHA should reserve penalty reductions (at informal conferences) only for those employers who provide timely and adequate proof of abatement for each violation cited. Certification must meet requirements for abatement verification in the FOM.</p> |
| <p>Whistleblower Program</p> <ul style="list-style-type: none"> In two cases reviewed, the time lapsed between the date the case was filed and notification of the employer was up to five weeks. (P. 41, #15) None of the case files were assembled in the proper format and paperwork was not secured. (P. 41, #16) Only one-third of the discrimination case files were completed within the standard 90 days. (P. 42, #17) | <p>Employers must be notified in a timely manner to accelerate the process of mediation.</p> <p>Discrimination case files should be assembled in an orderly fashion.</p> <p>CONN-OSHA should strive to complete cases within the 90-day guideline.</p> |
| <p>FOM</p> <ul style="list-style-type: none"> CONN-OSHA responded will 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. (P. 46, #18) | <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> |
| <p>Debt Collection Procedures</p> <ul style="list-style-type: none"> CONN-OSHA has not established formal debt collection procedures. (P. 55, #20) | <p>CONN-OSHA should adopt debt collection procedures, as required under its yearly grant agreement.</p> |
| <p>Compliance Officer Training</p> <ul style="list-style-type: none"> Some of the program's compliance officers need to complete two basic training requirements: Evaluation of Safety and Health Management Systems and Investigative Interviewing Techniques. (P. 56, #21) | <p>CONN-OSHA compliance officers need to fulfill these training requirements.</p> |

| Finding | Recommendation |
|---|---|
| <p>Consultation Visits (public sector employers)</p> <ul style="list-style-type: none"> CONN-OSHA did not meet the 100 percent standard for verifying hazards corrected in a timely manner. (P. 52, #19) CONN-OSHA averaged 22.33 days between a consultation visit's closing conference and issuing a written report to the employer, with the standard being 20 days. (P. 59, #22) | <p>CONN-OSHA needs to meet these standards.</p> |

II. ASSESSMENT OF STATE PERFORMANCE

Through its annual performance report, CONN-OSHA has provided information that supports positive performance in the accomplishment of meeting their new five-year strategic plan. Through effective resource utilization, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded. Challenges arose primarily due to staffing vacancies, which prevented the 23(g) program from achieving its goals for total inspections and consultation visits.

CONN-OSHA is working to fill these vacancies, but it may take at least another couple of years before the program achieves the level of productivity it had demonstrated in previous fiscal years. The staff members who are no longer with the CONN-OSHA 23(g) enforcement program were seasoned veterans and the new hires will undoubtedly face somewhat of a "learning curve."

Information provided by CONN-OSHA has been reviewed and analyzed to assess its accuracy in meeting Annual Performance Plan goals for FY2009, the first year of the program's new five-year strategic plan.

a. ASSESSMENT OF PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

In FY2009, the current public sector worker public population covered under the CONN-OSHA Act was 215,800 employees and approximately 10,000 volunteer firefighters. This included 68,500 regular payroll state employees, 4,300 student state workers and 143,000 municipal government employees.

CONN-OSHA identified six public sector operations as having a higher than average DART rate compared to all other public sector operations in the State of Connecticut. CONN-OSHA's selection of these six public sector operations was based on Bureau of Labor Statistics (BLS) data from calendar year 2006, the most recent BLS data available at the time the program developed its FY2009 Annual Performance Plan.

The table below lists the six identified operations and compares CONN-OSHA’s baseline data to calendar year 2008 results (the latest year for which the BLS has published statistics).

| FY2009 TARGETED STATE AND MUNICIPAL OPERATIONS | | | | | | |
|---|---|---------------------|--------------------------------|---|--------------------|---|
| NAICS | State Agency | No. of Units | No. of Employees (2006) | FY2004-2006 Avg. DART (baseline) | FY2008 DART | Pct. Change (from baseline to 2008 DART) |
| 622000 | Hospitals | 6 | 4,000 | 10.0 | 10.4 | 4.0 |
| 623000 | Nursing & Residential Care facilities | 154 | 5,000 | 9.9 | 10.3 | 4.0 |
| 237000 | Highway Maintenance & Repair Operations | 64 | 2,000 | 10.0 | 15.2 | 52 |
| NAICS | Municipal Agency | No. of Units | No. of Employees (2006) | FY2004-2006 Avg. DART (baseline) | FY2008 DART | Pct. Change (from baseline to 2008 DART) |
| 221300 | Water, Sewage & Other Systems | 81 | 1,900 | 9.3 | 11.5 | 23.7 |
| 237000 | Public Works—Street & Highway | 173 | 4,300 | 10.0 | 15.2 | 52.0 |
| 562000 | Waste Mgt. & Remediation Services | 80 | 900 | 22.6 | 18.1 | (19.9) |

Although the DART rate has increased from the baseline rate for most of the targeted industries (with the exception of waste management and remediation services), CONN-OSHA will be working over the next four years to reduce these rates by 10 percent.

As shown in the next table, Connecticut met or exceeded most of its FY2009 Annual Performance Plan goals, as detailed in Appendix C, the CONN-OSHA FY2009 State OSHA Annual Report (SOAR).

| STRATEGIC GOAL 1: IMPROVE WORKPLACE SAFETY AND HEALTH FOR ALL WORKERS, BY REDUCING HAZARDS, EXPOSURES, INJURIES, ILLNESSES AND FATALITIES. | | | |
|--|---|---|--|
| Annual Performance Goal | Outcome Measures | Results | Discussion |
| <p>1.1a,1b: Reduce the average incidence rate for cases with Days Away, Restricted or transferred (DART) by 10 percent in six state and municipal operations identified by CONN-OSHA as having higher than average DART rates (compared to all other public sector operations).</p> | <p>Intermediate outcome Measure: Perform 25 percent of all inspections and consultation visits in these targeted state and municipal industries.</p> <p>Primary Outcome Measure: CONN-OSHA will effect a 10 percent reduction in the DART rate (to be evaluated at the conclusion of the five-year strategic plan).</p> | <p>GOAL ACHIEVED (for intermediate outcome measures)</p> | <p>Total inspections: 194 Total inspections in targeted agencies: 90 Percent of inspections in targeted agencies: 46</p> <p>Total consultation visits: 103 Total consultation visits in targeted agencies: 29 Percent of consultation visits in targeted agencies: 28</p> <p>CONN-OSHA's baseline was established by averaging the targeted groups' DART rates for FY2004 through FY2006.</p> <p>The extent to which CONN-OSHA is successful in effecting a 10 percent reduction in DART rates for the targeted groups will be assessed at the conclusion of the five-year strategic plan.</p> |
| <p>1.1c: Goal: Focus resources on the most hazardous industries to reduce fatalities.</p> <p>Strategy: Investigate fatalities within one workday of notification. Each issue of the <i>CONN-OSHA Quarterly</i> will discuss fatality prevention.</p> | <p>The baseline for investigating fatalities in 0.34 days, which is based on a three-year average of lapse time from date reported to inspection. Each issue of the <i>CONN-OSHA Quarterly</i> will include discuss prevention.</p> | <p>GOAL ACHIEVED (for CONN-OSHA Quarterly)</p> | <p>There were no fatalities reported in FY2009 that required an investigation.</p> <p>Each issue of the <i>CONN-OSHA Quarterly</i> discussed fatality prevention.</p> |

| STRATEGIC GOAL 2: PROMOTE A SAFETY AND HEALTH CULTURE THROUGH COMPLIANCE ASSISTANCE, COOPERATIVE PROGRAMS AND STRONG LEADERSHIP | | | |
|---|-------------------------------------|-----------------------------|--|
| PERFORMANCE GOAL/STRATEGY | OUTCOME MEASURES | RESULTS | DISCUSSION |
| <p>2.1a: Goal: Improve safety and health awareness in municipal governmental agencies</p> <p>Strategy: Conduct a minimum of seven training programs that focus on the most hazardous municipal operations, such as: confined space entry; lockout/tagout; material handling and ergonomics; safe driving; trenching and excavation; work zones; and workplace violence.</p> | <p>Post- seminar questionnaires</p> | <p>GOAL ACHIEVED</p> | <p>CONN-OSHA planned to complete seven training programs for municipal workers on specific topics. These seven training sessions were completed as well as 32 additional training programs on various topics (i.e., bloodborne pathogens, recordkeeping and powered industrial trucks).</p> <p>All completed questionnaires reported that the training programs would help improve safety and health awareness.</p> |
| <p>2.1b: GOAL: Improve safety and health awareness in state governmental agencies.</p> <p>Strategy: Conduct a minimum of seven training programs that focus on the most hazardous municipal operations, such as: confined space entry; lockout/tagout; material handling and ergonomics; safe driving; trenching and excavation; work zones; and workplace violence.</p> | <p>Post- seminar questionnaires</p> | <p>GOAL ACHIEVED</p> | <p>CONN-OSHA planned to complete seven training programs for municipal workers on specific topics. These seven training sessions were completed as well as 24 additional training programs on various topics (i.e., machine guarding, general safety awareness, and citations and penalties).</p> <p>All completed questionnaires reported that the training programs would help improve safety and health awareness.</p> |
| <p>2.1c: Increase public sector awareness of workplace safety and health by providing training, outreach, and seminars based on needs and requests.</p> | <p>Post- seminar questionnaires</p> | <p>GOAL ACHIEVED</p> | <p>CONN-OSHA fulfilled all 36 requests for training from municipalities and state agencies.</p> <p>All completed questionnaires reported that the training programs would help improve safety and health awareness.</p> |
| | | | |

| STRATEGIC GOAL 2: PROMOTE A SAFETY AND HEALTH CULTURE THROUGH COMPLIANCE ASSISTANCE, COOPERATIVE PROGRAMS AND STRONG LEADERSHIP | | | |
|--|---|----------------------|---|
| PERFORMANCE GOAL/STRATEGY | OUTCOME MEASURES | RESULTS | DISCUSSION |
| <p>2.1d: Goal: Maintain current Alliances and solicit additional Alliances that support CONN-OSHA's strategic goals.</p> <p>Strategy: Participate in training and outreach activities with existing Alliances so that they will remain active.</p> | <p>Renew Alliances that expire in FY2009.</p> <p>Participate in training and outreach with Alliance partners in order to improve their safety and health awareness.</p> | GOAL ACHIEVED | <p>CONN-OSHA renewed the Prevent Blindness Tri-State Alliance on 4/21/2009 and signed one new Alliance with the Connecticut Department of Transportation on 3/4/09.</p> <p>CONN-OSHA provided OSHA 10-hour training in general industry for the State Department of Environmental Protection and participated in the Technology Transfer Expo with the University of Connecticut and the Connecticut Highway and Street Supervisor Association.</p> |
| <p>2.2a: CONN-OSHA will include workers in 100 percent of its onsite activities</p> | <p>Outcome measure: Mandated Activities Report for Consultation (MARC) (measure #3).</p> | GOAL ACHIEVED | <p>The FY2009 MARC indicates that CONN-OSHA met its goal by having workers participate in 100-percent of all public sector consultation visits.</p> |

| STRATEGIC GOAL 3: MAXIMIZE CONN-OSHA EFFECTIVENESS AND EFFICIENCY BY STRENGTHENING ITS CAPABILITIES AND INFRASTRUCTURE | | | |
|---|--|----------------------|--|
| PERFORMANCE GOAL | OUTCOME MEASURES | RESULTS | DISCUSSION |
| <p>3.1a: CONN-OSHA staff members will complete at least one safety and/or health training course each year.</p> | <p>Outcome measure: Percentage of CONN-OSHA staff completing at least one training course.</p> | GOAL ACHIEVED | <p>CONN-OSHA met its goal of having 100 percent of its staff complete at least one training course.</p> <p>However, due to state budgetary constraints, most of the training was accomplished via webinar.</p> |
| <p>3.1b: All CONN-OSHA staff members will complete at least one professional development course/seminar per year.</p> | <p>Outcome measure: Percentage of staff that has completed at least one professional development course or seminar.</p> | GOAL ACHIEVED | <p>CONN-OSHA met its goal of having 100 percent of its staff complete at least one training course or seminar.</p> <p>CONN-OSHA staff joined the two OSHA Area Offices in Connecticut in holding a tri-office meeting in October 2008 to discuss such topics as combustible dust, recordkeeping and cranes. In addition, <i>all</i> staff attended diversity training and one training officer attended a "Get Motivated" seminar.</p> |

| STRATEGIC GOAL 3: MAXIMIZE CONN-OSHA EFFECTIVENESS AND EFFICIENCY BY STRENGTHENING ITS CAPABILITIES AND INFRASTRUCTURE | | | |
|---|--|-----------------------------|---|
| PERFORMANCE GOAL | OUTCOME MEASURES | RESULTS | DISCUSSION |
| <p>3.2a: CONN-OSHA will maintain and revise as necessary its Local Emergency Management Plan</p> | <p>CONN-OSHA planned to participate as a team member; schedule training sessions; coordinate the development and implementation of plan changes with state and local agencies; and monitor development and implementation of the plan.</p> | <p>GOAL ACHIEVED</p> | <p>CONN-OSHA monitors its Emergency Operations Plan continuously.</p> <p>No incidents arose that required CONN-OSHA to revise its plan.</p> <p>CONN-OSHA staff attended local emergency planning committee monthly meetings.</p> <p>CONN-OSHA staff participated in a chlorine drill on October 15, 2008.</p> <p>Several CONN-OSHA staff members completed ICS 400 training.</p> <p>CONN-OSHA is now a designated member of the state's Emergency Support Function for oil and hazardous material response.</p> |

b. ASSESSMENT OF STATE PERFORMANCE OF MANDATED ACTIVITIES

The following analysis was based primarily on information and data obtained from various sources, including the following: the State Internal Evaluation Program (SIEP) progress reports submitted by the State; the State Activity Mandated Measures (SAMM) report; the Mandated Activities Report for Consultation (MARC); previous evaluation reports; quarterly meetings; confirmation regarding the State’s adoption of OSHA directives; CONN-OSHA’s Annual Performance Plan for FY2009; and a week-long study of the CONN-OSHA program conducted onsite which entailed a detailed review and analysis of 65 inspection case files (including four Whistleblower case files), interviews with staff, and analysis of various OSHA Integrated Management Information System (IMIS) reports.

I. ENFORCEMENT

1. COMPLAINT AND REFERRAL RESPONSE

- **Average Number of Days to Initiate a Complaint Inspection (SAMM #1)**

As shown in the table below, the average number of days to initiate a complaint inspection has decreased considerably (by more than 86 percent) since FY2005. **#1:** However, we strongly recommend that CONN-OSHA continue to improve its performance with respect to SAMM #1 so that it meets the five-day standard.

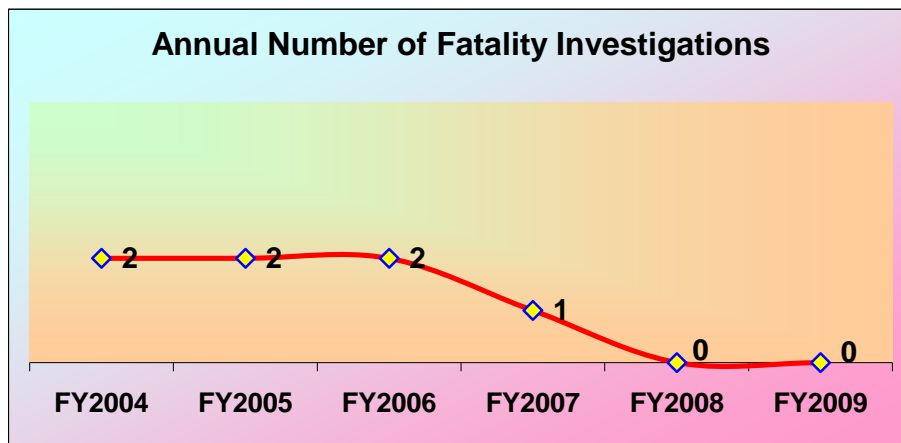
| <i>Average Number of Days to Initiate Complaint Inspections (SAMM 1)</i> | | | | | | |
|--|----------------|----------------|----------------|----------------|----------------|---------------|
| | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY2009 |
| Avg. No. of Days | 34.54 | 53.37 | 21.40 | 9.47 | 9.94 | 7.24 |

- **Average number of days to initiate complaint investigations/Percent of complaints where complainants were notified on time (SAMM #2/SAMM #3)**

During the reporting period, CONN-OSHA met the standard of one day for responding to complaint investigations (**SAMM #2**). According to **SAMM #3**, CONN-OSHA notified 100 percent of all 33 complainants in a timely manner, and initiated inspections in all of the complaints filed.

2. FATALITIES

Fatalities that were caused by public sector workplace conditions have tapered off since FY2006, as shown in the chart below.



As shown in the table below, there were four fatality events reported that occurred while the employees were on the job. However, CONN-OSHA determined that none of these fatalities fell under the program’s jurisdiction. In other words, the fatalities were not related to public sector workplace conditions.

| FATALITY/CATASTROPHE TRACKING REPORT (FY2009) | | |
|---|--|---|
| Number of: | | |
| 3. Events Reported | | 4 |
| 4. Fatality Injuries | | 4 |
| 5. Workers Hospitalized | | 0 |
| 6. Inspections Conducted | | 0 |
| 7. Event Related Violations | | 0 |
| 8. Violations Reported | | 0 |
| Average Lapse Time for: | | |
| • Date Reported to Inspection | | 0 |
| • Inspection to Citation Issuance | | 0 |

CONN-OSHA thoroughly investigated each of these events and completed a Fatality/Catastrophe Report Form (OSHA-36) in accordance with standard practice as established in the FOM (see page 11-6). Each investigation was initiated as soon as possible after the fatality occurred to determine whether or not a workplace condition caused the event.

The CONN-OSHA supervisor assigns compliance officers to conduct fatality investigations and inspections based on his/her area of specialty, workload and availability. In accordance with the FOM, the compliance officer is responsible for sending the standard information letter to the individual(s) listed as the emergency contact on the victim’s employment records within five working days of the incident. Compliance officers are also responsible for interviewing the victim’s family members and taking their statements, and maintaining contact with key family members so that these parties can be kept up-to-date on the status of the investigation.

Before CONN-OSHA’s compliance officers are permitted to conduct fatality investigations on their own, they must successfully complete the Inspection Techniques and Legal Aspects and Accident Investigation courses at the OSHA Training Institute (OTI). They must also accompany senior compliance officers on one or more fatality investigations. We verified that each compliance officer had taken the required courses at OTI.

During fatality investigations, the compliance officer maintains “close contact” with the CONN-OSHA supervisor, keeping the supervisor apprised of all developments regarding the investigation. However, the CONN-OSHA supervisor acknowledged that these discussions are not usually documented in the case file. **#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.

#2(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. INSPECTIONS

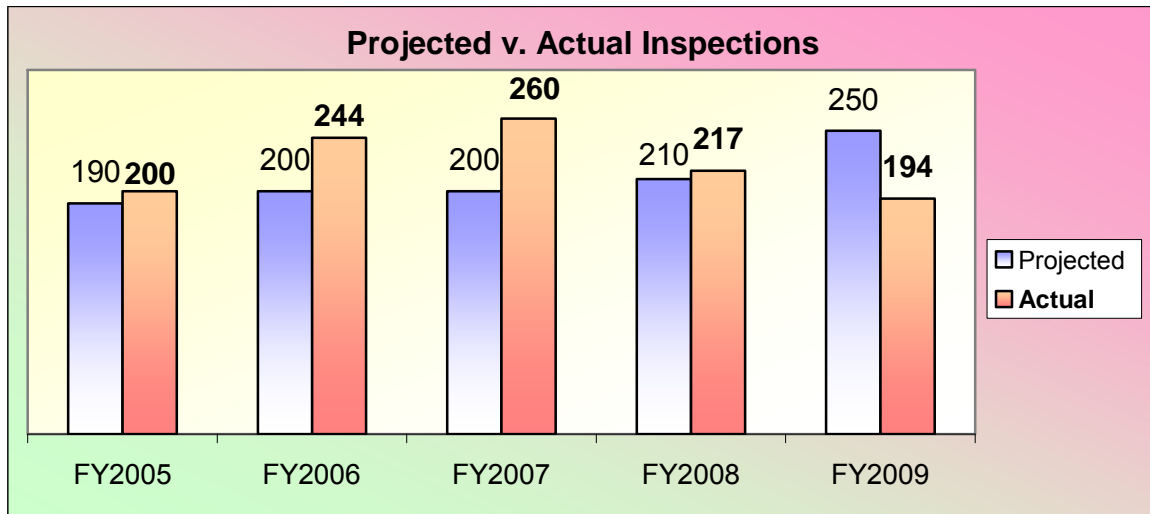
- **Projected v. Actual**

During the reporting period, CONN-OSHA completed a total of 194 inspections out of 250 projected. The table below breaks out of the number of inspections projected and completed by safety and health.

| FY2009 INSPECTIONS | | | |
|--------------------|------------|------------|---------------------------------------|
| | Projected | Actual | Actual as Percent of Number Projected |
| Safety | 170 | 131 | 77 |
| Health | 80 | 63 | 79 |
| TOTAL | 250 | 194 | 78 |

As discussed earlier on in this report, the fact that CONN-OSHA lost one veteran compliance officer three quarters of the way through the fiscal year (and another in early FY2010) played a role in the program falling short of its inspection goals.

In FY2008, CONN-OSHA fared much better in terms of achieving its goal for inspections, completing a total of 217 (141 safety and 76 health) out of 210 projected, or 103 percent of its original goal. As shown in the chart below, FY2009 was the first year over the past four fiscal years that CONN-OSHA did not meet its goal for inspections completed.



- **INSPECTIONS BY CATEGORY**³

The table below breaks out the number of inspections that CONN-OSHA has completed over each of the five past fiscal years by safety and health. FY2009 was a fairly typical year for CONN-OSHA in terms of the program’s ratio of safety to health inspections completed.

| | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | 5-YEAR AVERAGE |
|-----------------------|--------|--------|--------|--------|--------|----------------|
| Safety | 147 | 162 | 177 | 141 | 131 | 152 |
| Health | 53 | 82 | 89 | 76 | 63 | 73 |
| TOTAL | 200 | 244 | 266 | 217 | 194 | 224 |
| Percent Safety | 74 | 66 | 67 | 65 | 68 | 68 |
| Percent Health | 26 | 34 | 33 | 35 | 32 | 32 |

Compared to all state plans programs nationwide and to Federal OSHA, CONN-OSHA had a high percentage of health inspections (and a lower percentage of safety), as shown below. This relates to the fact that CONN-OSHA receives a relatively high number of health-related complaints.

³ FY2009 data based on the Enforcement Report of 11/19/2009.

| FY2009 Percentages⁴ | | |
|---------------------------------------|---------------------------|---------------------------|
| | Safety Inspections | Health Inspections |
| Federal OSHA | 85 | 15 |
| State Plans | 79 | 21 |
| CONN-OSHA | 68 | 32 |

- **INSPECTIONS BY INDUSTRY⁵**

As a public sector employee only enforcement program, CONN-OSHA usually codes less than 20 percent of its inspections under construction-related Standard Industrial Classification (SIC) codes on the OSHA 1. Most of CONN-OSHA’s construction inspections are conducted at sites where public works department employees are performing road work. However, the vast majority of the program’s inspections fall under the category of “other,” as shown in the next table.

| | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | 5-YEAR AVERAGE |
|-----------------------------|---------------|---------------|---------------|---------------|---------------|-----------------------|
| Construction | 27 | 37 | 51 | 34 | 22 | 34 |
| Maritime | 0 | 0 | 0 | 0 | 0 | 0 |
| Manufacturing | 1 | 0 | 0 | 0 | 0 | .2 |
| Other | 171 | 207 | 215 | 183 | 172 | 190 |
| TOTAL | 200 | 244 | 266 | 217 | 194 | 224 |
| Percent Construction | 14 | 15 | 19 | 16 | 11 | 15 |
| Percent Other | 86 | 85 | 81 | 84 | 89 | 85 |

- **TARGETED OPERATIONS**

As discussed earlier on in this report, CONN-OSHA targeted six public sector operations (three state and three municipal) for enforcement, consultation and training and education activities in FY2009. CONN-OSHA selected these six operations based on the fact that their average DART rates for fiscal years 2004 through 2006 were higher than those of other public sector operations.

The injury/illness incidence rates for Connecticut’s public sector employees continue to be higher than those experienced by the state’s private sector employees, as has been the case over the past few fiscal years (see table below).

4 Data based on the US Department of Labor (OSHA) Enforcement Report of 11/19/2009.

5 FY2009 data based on the US Department of Labor (OSHA) Inspection Report of 11/19/2009.

| <i>Injury and Illness Rates (Connecticut Public and Private Sectors)⁶</i> <i>Three-year comparison</i> | | | | |
|--|-----------------------------------|-------------|-----------------------|-------------|
| Year | State and Local Government | | Private Sector | |
| | TRC | DART | TRC | DART |
| 2006 | 7.9 | 3.9 | 4.8 | 2.5 |
| 2007 | 8.7 | 4.4 | 4.8 | 2.6 |
| 2008 | 8.4 | 4.3 | 4.6 | 2.5 |

• ***INSPECTIONS BY TYPE⁷***

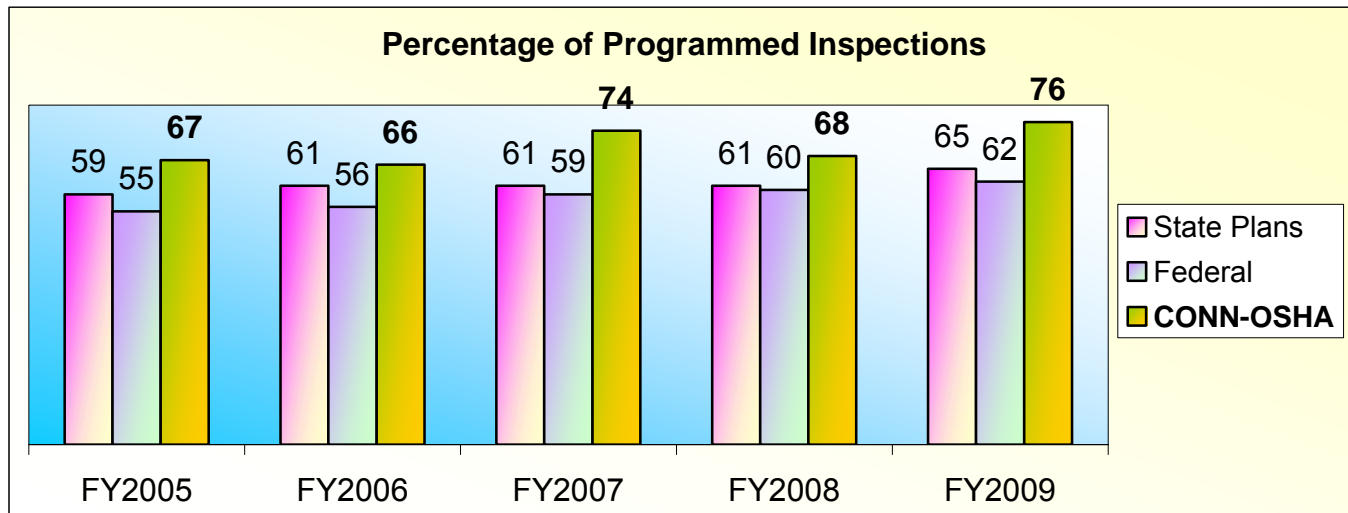
Since at least FY2005, CONN-OSHA has done a good job targeting high hazard worksites (that fall within the above mentioned targeted operations) for enforcement activities. The table below compares the number of programmed inspections to unprogrammed inspections conducted by CONN-OSHA over the past five fiscal years. On average, 70 percent of the annual number of inspections CONN-OSHA has completed over the past five years have been programmed. In FY2009, 76 percent of CONN-OSHA's inspections were programmed, which is the program's highest percentage for programmed inspections completed over the past five fiscal years.

| | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | 5-YEAR AVERAGE |
|----------------------|---------------|---------------|---------------|---------------|---------------|-----------------------|
| Programmed | 131 | 162 | 196 | 148 | 148 | 157 |
| Unprogrammed | 69 | 82 | 70 | 69 | 46 | 67 |
| TOTAL | 200 | 244 | 266 | 217 | 194 | 224 |
| Percent Programmed | 67 | 66 | 74 | 68 | 76 | 70 |
| Percent Unprogrammed | 33 | 34 | 26 | 32 | 24 | 30 |

CONN-OSHA's FY2009 percentage for programmed inspections exceeded the Federal percentage of 65 and has consistently exceeded the Federal percentage (as well as the combined average for all state plans) since at least FY2005 (see below). This is a good indication that CONN-OSHA is directing its resources to those worksites with the highest injury and illness rates.

⁶ Source: Bureau of Labor Statistics Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types (CT State Data)

⁷ FY2009 data based on the US Department of Labor (OSHA) Enforcement Report of 11/19/2009.



- **PERCENT IN-COMPLIANCE⁸**

Another indicator that CONN-OSHA was highly effective in FY2009 in terms of targeting high hazard employers for enforcement was its relatively low in-compliance rate. In FY2009, CONN-OSHA had 147 out of 194 total inspections with violations cited. This translates into an in-compliance rate of 24 percent, and compares favorably to Federal OSHA’s in-compliance rate of 30 percent, and the in-compliance rate for all State Plans nationwide (combining public sector and private sector enforcement) of 38 percent.

| FY2009 | | | | | | | | |
|-----------------------|------------------------------------|-----------------|--|------------------------------------|-----------------|-----------------------|------------------------------------|-----------------|
| Federal OSHA | | | All State Plans (public and private sector enforcement) | | | CONN-OSHA | | |
| No of insp. Completed | No. of insp. With violations cited | % in-compliance | No of insp. Completed | No. of insp. With violations cited | % in-compliance | No of insp. Completed | No. of insp. With violations cited | % in-compliance |
| 39,004 | 27,165 | 30 | 61,016 | 37,978 | 38 | 194 | 147 | 24 |

⁸ FY2009 CONN-OSHA in compliance rate based on data from US Department of Labor Enforcement Report of 1/14/2010; FY2009 in compliance rates for Federal OSHA and all State Plan enforcement nationwide (private sector and public sector combined) was based on data from the US Department of Labor (OSHA) Enforcement Report of 11/19/2009.

According to the table below, CONN-OSHA’s in-compliance rate has remained fairly consistent over the past three fiscal years.

| CONN-OSHA | | | | | | | | |
|-----------------------|------------------------------------|-----------------------|-----------------------|------------------------------------|-----------------------|-----------------------|------------------------------------|-----------------------|
| FY2007 | | | FY2008 | | | FY2009 | | |
| No of insp. Completed | No. of insp. With violations cited | Percent in-compliance | No of insp. Completed | No. of insp. With violations cited | Percent in-compliance | No of insp. Completed | No. of insp. With violations cited | Percent in-compliance |
| 266 | 200 | 25 | 217 | 168 | 23 | 194 | 147 | 24 |

- **OSHA’s FIELD OPERATIONS MANUAL (FOM), CHAPTER 3**

We determined through our interviews with CONN-OSHA staff that the program performs satisfactorily in terms of adhering to the FOM’s requirements with respect to the inspection procedures discussed in Chapter 3.

In light of OSHA’s emphasis on recordkeeping, we verified that during opening conferences, compliance officers request copies of the OSHA 300 Logs from the past three years. The compliance officers review these logs to identify any trends in injuries and/or illnesses at the worksite, and most place copies of the logs in the case file. Compliance officers also request and review written safety and health management programs. With regard to IMMLANG inspections, CONN-OSHA compliance officers said that they have never inspected workplaces that have predominantly non-English speaking employees, and have never needed to use the code, but are knowledgeable of its application.

- ***AVERAGE NUMBER OF CALENDAR DAYS FROM THE OPENING CONFERENCE TO CITATION ISSUE (SAMM #7)***

In FY2009, CONN-OSHA’s average of 37.11 days for safety inspections was below the national standard of 43.8 by a healthy measure. For health inspections, CONN-OSHA performed even better, with an average of 35.37 days, which compares favorably to the national average of 57.4 days.

The average number of lapse days from opening conference date to citation issue has been a long-standing concern for CONN-OSHA. In order to reduce its averages so that they are more in line with the national data, CONN-OSHA has closely monitored its performance with regard to SAMM #7 for many years. The tables below show CONN-OSHA’s quarterly results for SAMM #7 for FY2008 and FY2009.

| FY2008 Quarterly Results for SMM #7 (Avg. no. of lapse days from opening conference to citation issue) | | | | | | | |
|---|--------|--------|--------|--------|-------|--------------|----------------------|
| | FY2007 | Qtr. 1 | Qtr. 2 | Qtr. 3 | Qtr.4 | FY2008 (YTD) | FY2008 National Data |
| Safety | 35.02 | 54.96 | 60.13 | 28.67 | 39.05 | 43.60 | 45.5 |
| Health | 35.89 | 40.62 | 36.38 | 20.88 | 33.00 | 32.91 | 58.7 |

| FY2009 Quarterly Results for SMM #7 (Avg. number of lapse days from opening conference to citation issue) | | | | | | | |
|--|--------|--------|--------|--------|-------|--------------|----------------------|
| | FY2008 | Qtr. 1 | Qtr. 2 | Qtr. 3 | Qtr.4 | FY2009 (YTD) | FY2009 National Data |
| Safety | 43.60 | 40.94 | 33.00 | 30.26 | 39.68 | 37.11 | 43.8 |
| Health | 32.91 | 23.47 | 33.50 | 36.00 | 52.75 | 35.37 | 57.4 |

There is no question that CONN-OSHA has drastically improved its performance with regard to safety inspections over the five fiscal years. In FY2005 and FY2006, CONN-OSHA’s average number of days lapsed for safety was 62.43 and 53.42, respectively. For health inspections, CONN-OSHA has been able to keep its average well below the national standard over the past five fiscal years. In FY2005 and FY2006, the program averaged 32.85 days and 14.04 days, respectively.

However, the FY2009 fourth quarter average was much higher than expected, and spiked to 52.75. Unfortunately, the veteran health compliance officer retired around the beginning of the fourth quarter and this probably had an impact on that quarter’s average for this measure.

- **CASE FILES**

Similar to inspection procedures, CONN-OSHA attempts to adhere to the requirements established in the FOM (Chapter 5) for case file preparation and documentation. During our case file review, we determined that many of the case files we reviewed were in conformance with the FOM. However, we did find some case files with one or more deficiencies.

These case file deficiencies included such things as lacking notes on the informal conference and settlement agreement; inadequate documentation of abatement verification; and not including documentation of labor organization notification of the informal conference.

We also found that in many of the case files we reviewed, the compliance officers are not meeting the FOM requirements with respect to the diary sheet. According to the FOM, the diary sheet is used to document important events or actions related to the case, especially those not noted elsewhere in the case file. The FOM also notes that diary sheet entries should be clear and concise and dated in chronological order to reflect a timeline of the case development. In

some of the case files we reviewed, we noted the following deficiencies with respect to diary sheets:

- No mention of a final abatement letter from the employer was found on the diary sheet
- Informal conference conducted but not noted on diary sheet
- No diary sheet mention of informal settlement agreement

In some cases where CONN-OSHA inspected several departments of one municipality (such as public works, the school department, fire department and town hall) we found that copies of the informal settlement agreement (as well as the notes on the informal conference) were kept in only one case file, although case files were created for each department that was inspected. For example, the town hall's case file was the only one that contained a copy of the informal settlement agreement, although it pertained to several of the other departments as well.

We also found that some case files' documents were not in the order established by Appendix C of ADM 03-01-005, OSHA Compliance Records. **#3(A):** Therefore, we recommend that CONN-OSHA 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.

#3(B): We also recommend that all CONN-OSHA staff members 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.

Although we have cited a fair number of deficiencies, we would also like to point out some positive items with reference to the case files:

- several case files had well documented OSHA 1B, Inspection Summary Sheets;
- many compliance officers displayed a good knowledge of the 1910 standards; and
- some case files did in fact contain completed diary sheets and excellent documentation, such as photos and useful descriptions of violations and hazards.

4. VIOLATIONS

- **PERCENT OF PROGRAMMED INSPECTIONS WITH SERIOUS/WILLFUL/REPEAT (S/W/R) VIOLATIONS (SMM #8)**

The table below shows CONN-OSHA's results for **SMM #8** (percent of programmed inspections with S/W/R violations) over the past three fiscal years. This measure evaluates the effectiveness of the program's targeting program.

| SAMM #8 | | | | | | |
|----------------|------------------|----------------------|------------------|----------------------|------------------|----------------------|
| | FY2007 | | FY2008 | | FY2009 | |
| | <i>CONN-OSHA</i> | <i>National Data</i> | <i>CONN-OSHA</i> | <i>National Data</i> | <i>CONN-OSHA</i> | <i>National Data</i> |
| Safety | 56.96 | 58.9 | 56.68 | 59 | 61.95 | 58.6 |
| Health | 41.03 | 51.6 | 37.5 | 51.4 | 48.39 | 51.2 |

In FY2007 and FY2008, CONN-OSHA came much closer to meeting the standard for safety inspections than for health inspections. The FY2009 percentage for safety improved over the two previous fiscal years, with CONN-OSHA posting a percentage of almost 62, thereby exceeding the national standard of 58.6 percent. Although CONN-OSHA’s FY2009 percentage for health-related inspections was the highest over the past three fiscal years, it still did not meet the FY2009 standard of 51.2 percent.

#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.

While SAMM #8 measured the percentage of S/W/R violations cited during programmed inspections, the data in the table below is based on programmed as well as unprogrammed inspections. Given the high hazard nature of the work performed by Connecticut’s public sector employees, we were surprised that CONN-OSHA cited such a small percentage (28) of serious violations in FY2009.

| FY2009 VIOALTIONS | | | |
|---|------------------|------------------------|---------------------|
| | CONN-OSHA | All State Plans | Federal OSHA |
| TOTAL | 696 | 129,363 | 87,663 |
| Serious | 195 | 55,309 | 67,668 |
| <i>Percent Serious</i> | 28 | 43 | 77 |
| Willful | --- | 171 | 401 |
| Repeat | --- | 2,040 | 2,762 |
| Serious/Willful/Repeat (S/W/R) | 195 | 57,520 | 70,831 |
| <i>Percent Serious/Willful Repeat (S/W/R)</i> | 28 | 44 | 81 |
| Failure to Abate | 17 | 494 | 207 |
| Other-than-Serious | 484 | 71,336 | 16,615 |
| <i>Percent Other</i> | 70 | 55 | 19 |
| <i>AVG. Number of Violations/Initial Inspection</i> | 4.8 | 3.3 | 3.1 |

CONN-OSHA also had a much higher percentage of other-than-serious violations than we would normally expect, even though each of CONN-OSHA's state and local government targeted operations had DART rates that far exceeded the average DART rates for all Connecticut State Operations and for all Local Government Operations (see table below).

| DART RATES (2008)⁹ | | |
|---|------|---|
| State Targeted Operations | | All CT State Government Operations |
| Hospitals | 10.4 | 3.7 |
| Nursing & residential Care Facilities | 10.3 | |
| State Highway Maint. & Repair Operations | 15.3 | |
| Local Government Targeted Operations | | All CT Local Government Operations |
| Public Works | 15.2 | 4.6 |
| Water, Sewage & Other Systems | 11.5 | |
| Waste Mgt. & Remediation | 18.1 | |

As shown in the next table,¹⁰ CONN-OSHA’s percentages of serious violations have varied somewhat, but not significantly, from year to year over the past five fiscal years.

| FISCAL YEAR | TOTAL VIOLATIONS | NUMBER OF SERIOUS | PERCENT SERIOUS | NUMBER OF OTHER-THAN-SERIOUS | PERCENT OTHER-THAN-SERIOUS |
|--------------------|-------------------------|--------------------------|------------------------|-------------------------------------|-----------------------------------|
| FY2005 | 509 | 176 | 35 | 333 | 65 |
| FY2006 | 762 | 204 | 27 | 558 | 73 |
| FY2007 | 843 | 262 | 31 | 581 | 69 |
| FY2008 | 703 | 198 | 28 | 505 | 72 |
| FY2009 | 696 | 195 | 28 | 484 | 70 |

Our onsite case file review revealed that out of 374 violations cited by CONN-OSHA, 30 percent (114) were classified as serious and 70 were classified as other than serious (260). This data is more or less in keeping with the enforcement data shown in the table above entitled “FY2009 Violations.”

⁹ Source: Bureau of Labor Statistics Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types (CT State Data)

¹⁰ Data based on IMIS Enforcement Statistics Report (10/1/2008-9/30/2009).

- **AVERAGE NUMBER OF VIOLATIONS PER INSPECTION (SAMM #9)¹¹**

CONN-OSHA's performance with respect to **SAMM #9** (average number of violations per inspection with violations) also indicates that the program is classifying too many violations in the category of other-than-serious, and not enough as S/W/R.

According to SAMM #9, the program finished the fiscal year with 145 inspections that had violations cited. These 145 inspections yielded 195 S/W/R violations, or an average of 1.34 S/W/R violations per inspection with violations cited. This average is lower than the national average of 2.1. For other-than-serious violations, CONN-OSHA had an average of 3.33, which was significantly above the national average of 1.00.

Although CONN-OSHA fell short of the national average for S/W/R in FY2009 for SAMM #9, the program has steadily increased this particular average over the past few years. In FY2008, the program's year-end average was 1.17 and the national average was 2.1 violations. In FY2004, the year end average for S/W/R violations was as low as .89.

On the other hand, CONN-OSHA has not been successful in reducing its average for other-than-serious violations for SAMM #9. Over the past few years, the other-than-serious average increased from 2.0 in FY2004 to 3.0 in FY2008.

Since at least FY2005, CONN-OSHA has not cited any willful or repeat violations. However, during our interviews with CONN-OSHA compliance officers, we noted that they have had adequate training in identifying these types of violations, and will cite them when appropriate.

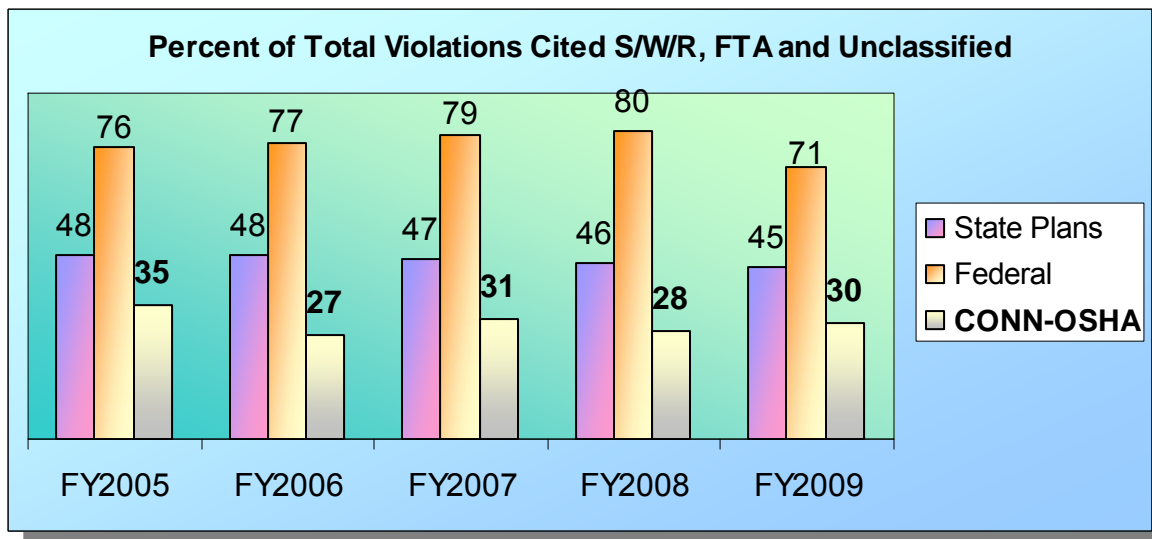
- **PERCENT OF TOTAL VIOLATIONS CITED S/W/R, FTA AND UNCLASSIFIED¹²**

FY2009 marked the first time in the last five fiscal years that CONN-OSHA cited employers for failure to abate (FTA) violations. Out of a total of 696 violations cited in FY2009, 17, or 2.4 percent, were cited by the program as FTA. We encourage the program to continue this practice of citing employers for failure to abate hazards, when appropriate. During this five-year period, CONN-OSHA had no violations that were unclassified.

The chart below compares CONN-OSHA's percentages from FY2005 through FY2009 for total violations cited as S/W/R, FTA and unclassified to those of Federal OSHA and all state plans combined. The data in this chart shows that CONN-OSHA has at least a five-year history of falling below all state plans combined, and far below Federal OSHA, for citing these types of violations.

11 With regard to in-compliance rates, we acknowledge the discrepancy between the number of inspections with violations cited in SAMM #9 (145) and the Enforcement Report discussed earlier on in this report. The Enforcement Report was run at a much later date than the SAMM, and showed a total of 147 inspections with violations cited.

12 Data based on US Department of Labor (OSHA) Enforcement Report of 11/19/2009.



- **GROUPING SERIOUS VIOLATIONS**

During our onsite review, we learned that CONN-OSHA is inclined to keep penalties relatively low for its public sector clientele. CONN-OSHA’s reasoning is that in these tough economic times, public sector entities that are already strapped financially can spare little in the way of funds to pay for penalties.

Consequently, compliance officers will group serious violations that should otherwise stand-alone, thus reducing the number of serious violations cited, which in turn reduces penalties. Our onsite case file review showed that out of 114 serious violations cited, 30 were grouped as serious, or 26 percent.

We acknowledge that public sector entities in the state are under tight financial constraints. However, grouping serious violations to purposely reduce penalties is not a practice that we find acceptable. As discussed in the next section of this report under penalties, CONN-OSHA tends to reduce penalties substantially during informal conference proceedings. This practice, coupled with grouping serious, standalone violations to reduce penalties, is going a bit too far to give public sector employers a break, and it certainly weakens the deterrent effect CONN-OSHA is seeking.

We have determined that there are two reasons why CONN-OSHA’s percentage of serious violations is so much lower than Federal OSHA’s (and why CONN-OSHA’s percentage for other-than-serious violations is so much higher than Federal OSHA’s). First, in some cases, the compliance officer simply classified the violation as other-than-serious when it should have been classified as serious. **#5(A):** Therefore, we recommend that all CONN-OSHA compliance officers 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,

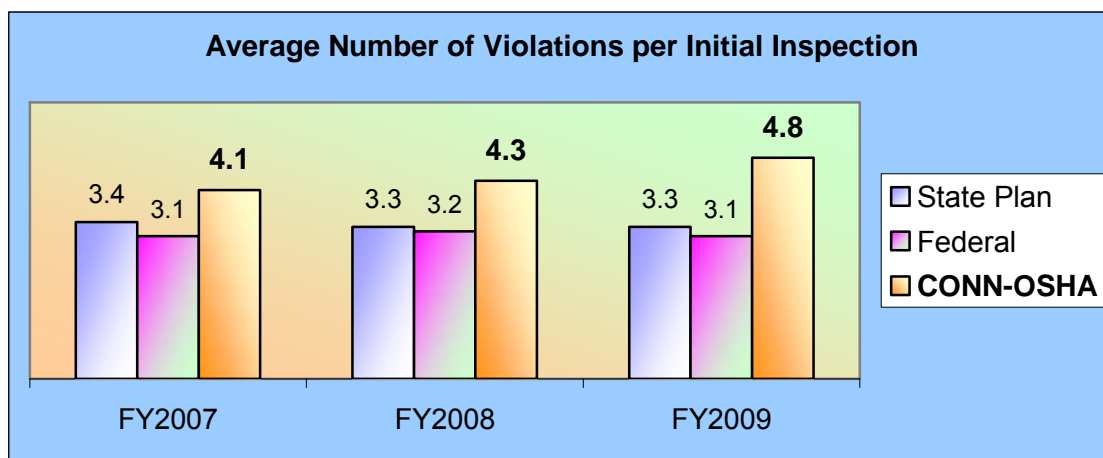
[which discusses the factors that determine whether violations should be classified as other-than-serious.](#)

The second reason—and probably the most significant—is CONN-OSHA’s inclination to group serious violations that normally should stand alone in order to reduce penalty amounts. **#5(B):** [Therefore, we recommend that CONN-OSHA compliance officers 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.](#)

- **AVERAGE NUMBER OF VIOLATIONS PER INITIAL INSPECTION**¹³

This is one measurement in which CONN-OSHA fared better than Federal OSHA. CONN-OSHA’s FY2009 year-end average was 4.8 compared to Federal OSHA’s average of 3.1. This is a good indication that the CONN-OSHA compliance staff has a high degree of expertise in recognizing hazards and citing violations that place workers at risk for injuries and illnesses.

As shown in the chart below, CONN-OSHA has consistently exceeded the Federal average as well as the average for all state plan programs over the past three fiscal years.



13 Data based on US Department of Labor (OSHA) Enforcement Report of 11/19/2009.

5. INITIAL CITATIONS AND PENALTIES

The table below summarizes the results of our onsite case review with respect to initial citations and penalties.

| Case File Review Results for Initial Citations and Penalties | | | |
|---|----------------|------------------|------------------------|
| | CORRECT | INCORRECT | PERCENT CORRECT |
| Standards Citations | 54 | 6 | 90 |
| Violation Classification | 46 | 8 | 85 |
| Penalty Classification | 59 | 5 | 92 |

As shown in the table below, we found some cases in which the compliance officer cited the incorrect standard. With regard to violation classification, we determined that most of the violations that were incorrectly classified were violations that were classified as “other” rather than “serious.” Similarly, in the cases we examined with penalties that were not classified correctly, we determined that the compliance officer did not correctly assess the gravity of the violation, erring on the side of assessing lower probability and severity rather than what the violation(s) actually warranted.

In the following two tables, we list detailed comments on findings pertaining to initial citations and penalties.

| Case File Review Comments for Initial Citations and Penalties (Safety Inspections) | |
|---|---|
| Case File | Comments |
| 1. | <i>All of the eight other-than-serious items were properly classified.</i> |
| 2. | <i>The compliance officer cited the employer for the lack of a load rating on a portable jack using 1910.244(a)(2)(vii)(a), which addresses semi-annual inspections. The compliance officer should have cited 1910.244(a)(1)(ii) which requires legible load ratings.</i> |
| 3. | <i>The compliance officer cited 1910.132(d)(1)(I) for failure to provide PPE for employees required to use a chain saw. The compliance officer should also have cited 1910.132(d) for the employer’s failure to conduct a hazard assessment.</i> |
| 4. | <i>The compliance officer cited 1910.132 (d)(1) for failure to wear reflective clothing when working around traffic but failed to cite the employer for 1910.134(d) for failing to conduct a hazard assessment.</i> |
| 5. | <i>The compliance officer missed two serious hazards when citing the lack of a hood guard on a table saw. The picture taken by the compliance officer clearly showed that the table saw was not equipped with either a spreader or anti-kickback fingers. Both of these items are stand-alone serious violations.</i> |
| 6. | <i>The compliance officer cited the employer for the lack of a work rest in a bench grinder. From the compliance officer’s photograph, it is apparent that the compliance officer failed to cite the employer for lack of tongue guards on the same machine.</i> |

Case File Review Comments for Initial Citations and Penalties (Safety Inspections)

| Case File | Comments |
|-----------|--|
| 7. | <i>In a few of the case files reviewed, the compliance officers cited the employer for using plastic flammable liquids containers, using 1910.106(d)(2)(i). In fact, OSHA Directive STD 03-04-001 allows their use so long as they are approved by a nationally recognized testing laboratory or a Federal agency.</i> |

Case File Review Comments for Initial Citations and Penalties (Health Inspections)

| Case File | Comments |
|-----------|--|
| 1. | <i>Based on information contained in the case file, the compliance officer should have cited the electrical hazards described in citation 2, items 5-7 (1910.303 (g)(1)(ii); 1910.305(b)(1); and 1910.305 (b)(2) as serious.</i> |
| 2. | <i>The two electrical violations noted in citation 1, items 3 and 4 (1910.305 (g)(1)(iv)(A) and 1910.305 (g)(1)(iv)(D)) should have been cited as serious.</i> |
| 3. | <i>No violation was issued regarding the debris surrounding the building that was blocking access to the disconnect, as depicted in the compliance officer's photographs contained in the case file.</i> |
| 4. | <i>Citation 1, item 1 for a machine guarding hazard (1910.213(h)(4)), should have been cited as serious.</i> |
| 5. | <i>The electrical violations in citation 2, item 3 (1910.303(b)(1)(ii);1910.303(g)(1)(ii); and 1910.305(b)(1)(ii) should have been classified as serious.</i> |
| 7. | <i>The hazard communication violations issued in citation 2, items 4 and 5 for 1910.1200(e)(1) and 1910.1200(h)(2)(iii) should be classified as serious.</i> |
| 8. | <i>If the chemicals referenced in other than serious citation 2, items 3,4,and 5 for 1900.1200(e)(1); 1900.1200 (f)(5)(i); and 1200(f)(5)(i) posed serious health hazards, the violations should have been grouped as one serious item. There was no information in the file regarding the specific hazard of the solvent referenced in citation 2, items 4 and 5.</i> |
| 9 | <i>Photographs of tractors used for mowing were attached to the blue violation worksheet in the file associated with citation 2, item 1 for 1910.95(d)(1). One photo shows what appears to be a concrete block in a plywood case on the left side of the tractor. This is probably a counterweight used to offset the weight of the cutting head on the opposite side of the tractor, because the tractor is used on uneven surfaces. The compliance officer should have determined if this concrete block addition was approved by the manufacturer of the tractor. Rollover potential is an issue. The tractor had no rollover protection system. The use of an unapproved counterweight and the lack of rollover protection are serious hazards and were not cited.</i> |

• **CONN-OSHA Penalty Structure**

In FY2009, CONN-OSHA's average penalty per serious violation was \$82.30, which was the highest of all five public sector only state plan states. The second highest average penalty per serious violation was \$30.00. Some public sector only state plan states do not issue penalties.

[CONN-OSHA's Occupational Safety and Health Act \(Chapter 571, Sec. 31-382\)](#) establishes the maximum penalties per violation, and has been on the books since the mid-1970s. The table below summarizes these maximum penalties before any permissible reductions are taken.

| TYPE OF VIOLATION | PENALTY MAXIMUM |
|--|--|
| Willful | \$10,000 per violation |
| Serious | \$1,000 per violation |
| Other than Serious | \$1,000 per violation |
| Failure to abate | \$1,000 per violation per day unabated beyond the abatement date |
| Willful resulting in death | Fine of ≤ \$10,000 or imprisonment not more than six months, or both; if the conviction is for a violation committed after a first conviction, then a fine of ≤ \$20,000 or imprisonment for one year, or both |
| Giving advance notice of an inspection | Fine of ≤ \$1,000 or imprisoned not more than six months, or both |
| Knowingly making false statements | Fine of ≤ \$10,000 or imprisonment not more than six months, or both |
| Posting requirements | \$1,000 per violation |
| Refusal of entry | Fine of ≤ \$1,000 or imprisoned not more than six months, or both |
| Willful bodily harm to inspector | Fine of ≤ \$10,000 or imprisonment not more than one year, or both |

As shown in the table below, the Federal maximum penalties are seven times higher than CONN-OSHA's, which have remained the same for at least 30 years.

| TYPE OF VIOLATION | PENALTY MAXIMUM PER VIOLATION (\$) CONN-OSHA | PENALTY MAXIMUM PER VIOLATION (\$) FEDERAL OSHA |
|----------------------|--|---|
| Serious | 1,000 | 7,000 |
| Other-than-Serious | 1,000 | 7,000 |
| Willful or Repeat | 10,000 | 70,000 |
| Posting Requirements | 1,000 | 7,000 |
| Failure to Abate | 1,000 per day unabated beyond the abatement date | 7,000 per day unabated beyond the abatement date (generally limited to 30 days maximum) |

- **Penalty Reductions**

According to CONN-OSHA's State Plan, the program can "adjust the gravity based penalty downward as much as 80% based upon the employer's good faith, size of business, and history of previous violations." During our case file review, we determined that most of CONN-OSHA's informal settlement agreements resulted in a penalty reduction of approximately 60 percent. According to the FY2009 OSHA's Enforcement Report (of 11/19/2009), CONN-OSHA had an average penalty reduction percentage of 57.1.

When calculating penalty reductions, CONN-OSHA considers such things as whether or not the employer has provided adequate certification of abatement of all (or most) violations at the informal conference, and the employer's willingness to engage consultation's services for hazard assessment/and or training.

We did find a few cases where the employer failed to abate the hazard and, as a result, CONN-OSHA had to conduct follow-up visits to verify abatement. However, CONN-OSHA contends that most of its public sector clientele abate hazards within the specified timeframe.

#6(A): *Nonetheless, we recommend that CONN-OSHA 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.*

#6(B): *In addition, 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.*

Strict adherence to a practice of granting such high penalty reductions only to those employers who provide timely and adequate abatement verification would show that CONN-OSHA is serious about protecting workers from the ill effects of unabated hazards. It would also convey the message to employers that CONN-OSHA's practice of granting high penalty reductions is not routine, or a "given."

- **Contests**

Employers who choose to contest citations must notify CONN-OSHA within 15 working days after receipt of the citation and notification of the penalty. The CONN-OSHA supervisor contacts employers who contest to thoroughly familiarize them with the procedures involved in the informal conference. Employers who contest must withdraw their Notice of Intent to Contest in order to participate in the informal conference. Contested cases are typically handled by the state's attorney general.

In FY2009, CONN-OSHA had no contested citations or penalties. According to the program manager, when employers become aware that informal conference proceedings have the

potential to result in penalty reductions, they are more inclined to hold off on contesting penalties pending the outcome of the informal conference.

6. ABATEMENT VERIFICATION

The data in **SAMM #6** shows that CONN-OSHA fell shy of the goal of 100 percent for verifying S/W/R violations abated in a timely manner, with a year-end percentage of 97.96. Looking back to FY2006, CONN-OSHA has a fairly good track record of meeting the 100 percent standard. Although CONN-OSHA’s FY2009 percentage was close to the standard, it was the program’s lowest over the past four years.

| SAMM #6 | | | | | | | | | | | |
|----------------------|------------------------------------|--|----------------------|------------------------------------|--|----------------------|------------------------------------|--|----------------------|------------------------------------|--|
| FY2006 | | | FY2007 | | | FY2008 | | | FY2009 | | |
| No. S/W/R violations | No. S/W/R violations abated timely | Percent S/W/R violations verified timely | No. S/W/R violations | No. S/W/R Violations abated timely | Percent S/W/R violations verified timely | No. S/W/R violations | No. S/W/R Violations abated timely | Percent S/W/R violations verified timely | No. S/W/R violations | No. S/W/R Violations abated timely | Percent S/W/R violations verified timely |
| 199 | 189 | 99.5 | 264 | 264 | 100 | 187 | 187 | 100 | 196 | 192 | 97.96 |

#7: Therefore, we recommend that CONN-OSHA 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.

During the closing conference, the compliance officers provide the employer with a package of information entitled “An Overview of Abatement Verification Regulation.” This package explains important terms and concepts relating to abatement, including the employer’s specific responsibilities. The package also contains a sample of a written abatement certification document for the employer’s use in certifying that abatement is complete for each cited violation.

In accordance with the FOM, CONN-OSHA requires the employer to provide evidence such as purchase orders, photographic or video evidence of abatement or other written records verifying correction of the violation, although we discovered some case files during our review that clearly lacked proper evidence of abatement. All abatement documentation received by CONN-OSHA is reviewed by the compliance officer and the supervisor.

• DOCUMENTATION OF ABATEMENT

In terms of our case file review, we found that 51 out of the 65 cases we reviewed contained adequate documentation of abatement, or 78 percent. However, we found that in some municipalities where multiple departments were inspected, just one of the case files contained all of the other departments’ certification of abatement. For example, the written letter from the employer verifying that cited conditions were abated in all the departments that were inspected was contained in just one case file.

This filing method creates confusion, since one department's certification of abatement may very well be contained in another case file. **#8:** Therefore, 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." In terms of a municipality that has undergone an inspection of more than one department, we interpret this section of ADM 03-01-005 to mean that all documents related to a particular department's inspection should be contained in that department's corresponding case file. Similarly, when conducting inspections of one or more municipal departments, CONN-OSHA should not select one department's case file as a "central repository" for documents that pertain to other departments' inspections.

We also found that some case files had been closed without any documentation of adequate proof of abatement. CONN-OSHA must ensure that cases remain open until the agency is satisfied that abatement has occurred.

#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."

#9 (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." In the case files we reviewed, no such documentation by the supervisor was present.

In addition to providing written verification of hazard abatement, employers must also provide relevant "documents, plans and progress reports." In some cases, we noted that the file did not contain some documents, such as written hazard communication programs, evidence of training, and an emergency action plan, that were required to be provided by the employer.

#10: We recommend that CONN-OSHA 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: 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.

Although we found some case files that clearly had deficiencies with respect to abatement verification, there were several that we examined that were well organized and contained all required documentation and diary sheet entries.

In the next two tables, we list detailed comments on findings pertaining to abatement verification during our onsite review.

| Case File Review Comments for Abatements (Safety Inspections) | |
|--|---|
| Case File | Comments |
| 1. | <i>The three serious and three other-than-serious violations were abated according to the informal conference notes. However, a copy of the written hazard communication program was not included in the case file.</i> |
| 2. | <i>The employer provided a letter to CONN-OSHA certifying that all cited violations had been properly abated. However, a copy of the emergency action plan (EAP) was not included in the case file. While the employer's letter did indicate that the EAP was sent to the fire marshal for approval, it should also have been sent to CONN-OSHA and included in the case file.</i> |
| 3. | <i>The compliance officer cited the employer for lack of a written hazard communication program. However, no copy of a written hazard communication program was included in the case file as evidence that it was ever satisfactorily completed.</i> |
| 4. | <i>The employer's abatement letter failed to address serious citation 1, items 2a and 2b (for failure to establish a written hazard communication program and failure to list chemicals) for which the employer was penalized \$100. All of the other violations from citation 1 and citation 2 were addressed and the case was closed upon receipt of the employer's abatement letter. The compliance officer should have required the employer to submit a copy of the written hazard communication program for review.</i> |
| 5. | <i>The compliance officer closed the case file even though the employer failed to send an abatement letter. A Petition for Modification of Abatement (PMA) was granted for Serious items 4a and 4b. However, justification and/or an employer request was not in the case file and the diary sheet did not contain any information on when and why the PMA was granted.</i> |
| 6. | <i>The case file did not contain an abatement letter from the employer. A written note appeared on a copy of the citation indicating the date that the items were completed. However, the diary sheet did not contain notes as to why the case was closed without an abatement letter.</i> |
| 7. | <i>A handful of the case files included abatement letters with pictures of corrections.</i> |
| 8. | <i>The town's selectperson telephoned the compliance officer and informed him that the abatement was completed. However, the town never provided CONN-OSHA with written certification of abatement. This prompted the compliance officer to call the selectperson regarding the fact that the letter certifying abatement had not yet been received. The selectperson failed to return the compliance officer's call. Consequently, the compliance officer conducted a follow-up inspection which showed that in one of the departments, serious citation 1, items 2a, 2b and 2c had not been corrected. In another department, a follow-up inspection revealed that serious citation 1, items 1a and 1c, and other citation 2 items 1, 2 and 7 were not completed. The town was cited for failure to abate. The compliance officer was correct in conducting the follow-up visit, which resulted in another citation for failure to abate.</i> |
| 9. | <i>The employer was cited for lack of forklift training. The employer requested, and was granted,</i> |

| Case File Review Comments for Abatements (Safety Inspections) | |
|--|--|
| Case File | Comments |
| | <i>a 30-day extension. At a later date, CONN-OSHA contacted the employer to ask if the employees had ever received the forklift training. The employer did not respond to this phone call. Subsequently, CONN-OSHA notified the employer that they were late with providing the forklift training. There was no further correspondence from the employer in the case file and the case was closed. The compliance officer informed us that the training was in fact conducted by a CONN-OSHA training specialist before the petition for modification of abatement expired. The CONN-OSHA training specialist also confirmed that the training was conducted but also acknowledged that he/she failed to place this information in the case file. The compliance officer updated the diary sheet and documentation of the training was added to the case file.</i> |
| 10. | <i>The case file's diary sheet did not contain information on violations that were approved for abatement date modifications.</i> |
| 11. | <i>The employer's abatement letter clearly stated the corrective actions that were taken to abate the cited items.</i> |
| 12. | <i>The case file contained copies of the town's confined space program and previous permits. However, the town was cited for failure to evaluate an outside responder's ability to handle a confined space rescue. Although the case was closed, we could not locate any information in the case file on the responder's ability to handle a confined space incident. Also, the name of the responder was unclear.</i> |

| Case File Review Comments for Abatements (Health Inspections) | |
|--|--|
| Case File | Comments |
| 1. | <i>In a couple of case files there was no abatement information.</i> |

7. INFORMAL CONFERENCES

The supervisor conducts the informal conference with the compliance officer assigned to the particular case in attendance. All compliance officers have received on-the-job training on the program's informal conference procedures. The supervisor makes the final decision on penalty reductions. According to the supervisor, CONN-OSHA does not usually change violations that have been assessed as serious to other-than-serious.

Out of the 65 case files we reviewed during our onsite, 37 had informal conferences. In 35 out of the 37 case files with informal settlement agreements, the penalties were changed, or 95 percent. None of the cases had violations that were changed, and none of the cases had penalties that were dropped.

- **CASE FILE DOCUMENTATION**

Through our case file review, we uncovered some deficiencies that CONN-OSHA must address with regard to informal conferences and informal settlement agreements:

- First, 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.

#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."

#12 (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.
- Second, some case files did not contain notes or other documentation related to informal conferences and/or informal settlement agreements.

#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."

- Third, supervisors should also ensure that dates of informal conferences are noted on each case file's diary sheet.

#14: 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."

In the next two tables, we list detailed comments on findings pertaining to informal conferences during our onsite review.

| Case File Review Comments for Informal Conferences (Safety Inspections) | |
|--|---|
| Case File | Comments |
| 1. | <i>The informal conference was conducted with labor organization notification.</i> |
| 2. | <i>There was nothing in the case file indicating that the labor organization was notified of the informal conference.</i> |
| 3. | <i>The employer requested an informal conference but there is no documentation in the case file indicating when the informal conference was held, or where it was held, and who participated. Also, this file contained no evidence that the labor organization(s) was notified of the informal conference, and the compliance officer failed to complete the labor organization information on the OSHA 1A.</i> |
| 4. | <i>The informal conference was well documented in the case file. However, there was no documentation that the employer notified the labor organization of the informal conference.</i> |
| 5. | <i>The case file did not contain evidence that the labor organization was notified of the informal conference.</i> |
| 6. | <i>The case file did not contain documentation that the labor organization was notified of the informal conference.</i> |
| 7. | <i>The case file did not contain documentation that the labor organization was notified of the informal conference.</i> |
| 8. | <i>The case file was very well organized, and labor organization notification of the informal conference was included in the case file.</i> |
| 9. | <i>The case file was very well organized, but labor organization notification of the informal conference was not included.</i> |
| 10. | <i>The case file was very well organized, but labor organization notification of the informal conference was not included.</i> |
| 11. | <i>The case file did not contain documentation that the labor organization was notified of the informal conference.</i> |
| 12. | <i>This case was one of several heard at the informal conference stage, but copies of the informal conference notes, etc. were not included in this particular case file. The case did not contain information on the informal conference that was conducted. This case is linked to five other inspections conducted within this municipality.</i> |
| 13. | <i>The case file was well organized. This particular case file pertained to one particular town department out of seven that were inspected. On the case file diary sheet, the compliance officer indicated that an informal conference was held. However, the informal conference did not apply to this particular town department. We determined this because there were no penalties issued against this particular department and the abatement dates were unchanged. Although this particular case may have been mentioned during the informal conference, it probably was not included in the negotiations. Therefore, the compliance officer should NOT have made a notation on the case file diary sheet regarding the informal conference.</i> |
| 14. | <i>This particular case file did not contain any information from the informal conference, although this city department participated in the informal conference negotiations as one of several other city departments that were inspected. Copies of the notes and the settlement agreement</i> |

Case File Review Comments for Informal Conferences (Safety Inspections)

| Case File | Comments |
|-----------|--|
| | <i>should be in the case file of each city department that was affected by the informal conference. Details should include penalty reductions and abatement date modifications for each item as appropriate, and this information should have been entered on the diary sheet by the supervisor.</i> |

Case File Review Comments for Informal Conferences (Health Inspections)

| Case File | Comments |
|-----------|---|
| 1. | <i>An informal conference was held but there was nothing in the case file indicating that the labor organization was notified of the informal conference.</i> |
| 2. | <i>An informal conference was held but there was nothing in the case file indicating that the labor organization was notified of the informal conference.</i> |
| 3. | <i>An informal conference was held but there was no documentation that the labor organization had been notified. Additionally, the case file did not contain a copy of the informal settlement agreement.</i> |

8. REVIEW OF CONN-OSHA’S WHISTLEBLOWER INVESTIGATION PROGRAM (AND FY2009 RELATED CASE FILES)

Monitoring of state 11(c) discrimination programs is mandated under [29 CFR 1977.23](#), which provides that state’s 11(c) discrimination programs must be “as effective” as [Section 11\(c\) of the Occupational Safety and Health Act](#). Also, in accordance with 29 CFR 1977.23, “a state which is implementing its own occupational safety and health enforcement program pursuant to Section 18 of the Act...must have provisions as effective as those of Section 11(c) to protect employees from discharge or discrimination.”

The State of Connecticut discrimination program is operated and administered by the Connecticut Office of Program Policy under Public Act No. 99-146, [Section 31-379 of the Connecticut General Statutes](#), which prohibits reprisals, in any form, against public sector employees who exercise rights under the Connecticut Occupational Safety and Health Act of 1973 (Public Act 73-379).

We have determined that the State of Connecticut’s CONN-OSHA Whistleblower Program and its regulations are as effective as the Federal program. However, we did find some areas of concern which are listed below and discussed in more detail later in this report.

- Lapse of time between filing of complaint and mediation
- Lapse of time between filing and case determination
- Inconsistency in case file organization and presentation
- IMIS was not updated in a timely manner

In contrast to the items listed above, we also found areas in which the state's performance was superior. These included:

- The fact that CONN-OSHA allows 180 days to file a discrimination complaint (whereas Federal OSHA only allows 30 days).
- A high percentage of cases with settlements: 66.67 in FY2009 and 80 percent in the last three years.

This evaluation covers four cases that were either filed, or had a determination date recorded in FY2009. We discussed each of these with CONN-OSHA's primary Principal Attorney and the Acting Director.

Prior to the study, we ran three IMIS reports: one for "pending cases," which included five that were listed as pending as of 2/1/2010 (one of the cases listed was settled in June 2009); the second was for "length of investigation" for all cases with a determination date in FY2009, which yielded four cases with determinations during this period; and the third was a case listing "for all cases filed since FY2004," which indicated that 21 cases were filed within this time period.

A review of the "pending cases" report of 2/1/2010 found that one case had 1,635 days pending. A "length of investigation" report, run on 4/6/2010, reflects this case as "settled other" on 6/18/2009. We brought this finding to the attention of Connecticut's Office of Program Policy (OPP), which subsequently corrected this problem in the IMIS.

Overall, we found the outcomes of all four of CONN-OSHA's 11(c) cases we reviewed to be appropriate, and we believe Federal OSHA would have reached the same conclusion. In fact, it appears that CONN-OSHA successfully mediates cases which Federal OSHA would probably have dismissed. This report notes just a few areas of the state's performance that require improvement.

[Chapter 571 of the Connecticut Occupational Safety and Health Act, Section 31-379](#), prohibits discriminatory practices against a state employee for engaging in protected safety and health activity. Any protected employee who believes they have been discriminated against in accordance with this chapter may, not later than 180 days after such violation occurs, file a complaint with the commissioner alleging such violation. Upon receipt of the complaint, the commissioner holds a hearing in accordance with the provisions of chapter 54. The commissioner may award an aggrieved employee all appropriate relief. Any party aggrieved by the commissioner's decision may appeal the decision to the Superior Court in accordance with the provisions of chapter 54.

Discrimination complaints are received by telephone or mail in the CONN-OSHA Office and/or the OPP. When CONN-OSHA receives a complaint, they immediately refer it to OPP. OPP screens the complaint for jurisdiction and timeliness. If the complaint meets the threshold requirement (timeliness and protected activity), it is assigned to an attorney for mediation in an attempt to settle the matter. At this point, cases are not dismissed for non-

merit. If the case settles, the complainant withdraws the complaint, and the matter is closed. If the case does not settle, it is assigned to a hearing officer for a formal hearing. The hearing officer issues a proposed decision which is reviewed by the commissioner for a final decision of merit or dismissal. 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. After the final appeal level is concluded through settlement or dismissal, or if an appeal is not requested, the case becomes a final determination.

- **Complaint Processing**

Discrimination complaints should receive high priority for assignment to the attorney. In the cases we reviewed, we found that all complaints were promptly (within a few days) assigned to the principal attorney. Overall, the quality of the investigation and written documentation were satisfactory. In all of the cases we reviewed, the process prior to mediation was thorough, but in some, it was too lengthy. In two of the cases, the lapse time between the date the case was filed and notification of the employer was up to five weeks.

#15: Therefore, we recommend that the OPP should notify the employer in a timely manner to accelerate the process of mediation.

- **Case File Organization**

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.

All the case files contained detailed phone logs. However, there were additional calls noted on Post-it-Notes on the inside and outside of some files. All calls and events of significance to the case should be documented on an activity/telephone log with the appropriate details in accordance with Chapter 3, IV.B.1.

The OSHA Form 87 (or the IMIS Case Activity Worksheet) was not found in some of the files. One discrimination case was found in two separate files. The mediation file was kept separate from the original 11(c) case file.

#16: We recommend that OPP 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.

- **IMIS Review**

The timeliness and accuracy of data entry by all Whistleblower IMIS users is required to produce accurate Whistleblower IMIS statistics, and to ensure effective monitoring and evaluation. This review noted the following:

1. The average number of days (505) to complete a case is lengthy, and well above the 90-day guideline.

2. The timeliness rate for determination of cases filed in FY2009 is only 25 percent, with only one out of the four cases we reviewed completed within the 90-day guideline.
3. In one of the cases, there was a significant delay in updating the IMIS. This particular case had a determination date of 6/8/2009, but was not updated until after the special study.
4. The settlement rate of 76 percent (based on 13 settlements out of 17 cases with determination dates between 10/2003 and 4/2010), was excellent.

Chapter 4 of OSHA's Discrimination Manual states that, "A successful investigation is one that reveals the truth of the situation in a timely manner and correctly applies the law to arrive at the proper case disposition. This should result in appropriate remedy to employees whose rights were violated and no remedy to those whose rights were not violated."

While CONN-OSHA's percent of discrimination cases completed within 90 days is only 33.33 in FY2009 (the standard is 100 percent), it is noteworthy that all of CONN-OSHA's discrimination cases are mediated, resulting in a much higher settlement rate. In FY2009 the State's settlement rate is 100 percent, which compares favorably to the three-year national average of 86.2 percent.

#17: Nonetheless, we recommend that the State work harder to ensure that cases are completed within the 90-day guideline.

During this review of CONN-OSHA's Whistleblower Protection Program we found that it has adequate policies and procedures in place, and that these policies and procedures are, in fact, being followed. In order to improve the program, however, the State should work on assembling and maintaining case files in an orderly fashion and reduce the lapse time from the date of complaint filing to the date of employer notification.

It is also worth mentioning that the extensive time period that the State allows a complainant to file a complaint (180 days), is well beyond the 30-day time limit for filing 11(c) complaints within Federal OSHA. In addition, we are highly impressed with CONN-OSHA's settlement rate. Obviously the lapse time between the filing and determination is not affecting the outcome of the cases. However, we still believe that a thorough review of the above sections of the DIS Manual will enhance the overall performance of the program.

9. STATE ACTIVITY MANDATED MEASURES (FY 2009 SAMM)

Although we have already provided a detailed discussion of CONN-OSHA’s performance with regard to many of the SAMM measures, the table below recaps CONN-OSHA’s performance with respect to the entire FY2009 SAMM.

| Measure | | State Data | Reference Data | Comment |
|---|---------|------------|----------------|--|
| 1. Average number of days to initiate complaint inspections | | 7.24 | 5 | CONN-OSHA did not meet this standard. However, CONN-OSHA’s FY2009 average was the lowest over the past six fiscal years. |
| 2. Average number of days to initiate complaint investigations. | | 1.00 | 1.00 | CONN-OSHA met this standard. |
| 3. Percent of complaints where complainants were notified on time. | | 100 | 100 | CONN-OSHA met this standard |
| 4. Percent of complaints and referrals responded to within 1 day. | | 0 | 100 | N/A (CONN-OSHA had no inspections related to imminent danger complaints or referral inspections) |
| 5. Number of denials where entry was not obtained. | | 0 | 0 | N/A |
| 6. Percent of S/W/R violations verified. | Private | N/A | 100 | CONN-OSHA did not meet this standard. However, in FY2007 and FY2008, CONN-OSHA <i>did</i> meet the standard. |
| | Public | 97.96 | | |
| 7. Average number of calendar days from opening conference to citation issue. | Safety | 37.11 | 43.8 | CONN-OSHA performed better than the standard. Since this measure has been cause for concern, CONN-OSHA monitors its performance closely. |
| | Health | 35.37 | 57.4 | CONN-OSHA performed better than the standard. |
| 8. Percent of programmed inspections with S/W/R violations. | Safety | 61.95 | 58.6 | CONN-OSHA performed better than the standard in FY2009 and fared better than in the previous fiscal year, when it fell a few points below the standard. |
| | Health | 48.39 | 51.2 | CONN-OSHA did not meet this standard. Although CONN-OSHA’s percentage increased from FY2008 to FY2009, the program continues to lag behind this particular standard. |

| Measure | | State Data | Reference Data | Comment |
|--|-------|------------|----------------|---|
| 9. Average violations per inspection with violations. | S/W/R | 1.34 | 2.1 | CONN-OSHA did not meet (fell below) this standard. This is an area which definitely requires improvement. |
| | Other | 3.33 | 1.00 | CONN-OSHA posted a higher average than the standard, and therefore did not meet this standard. |
| 10. Average initial penalty per serious violation – private sector only. | | N/A | N/A | |
| 11. Percent of total inspections in public sector. | | 100 | 100 | |
| 12. Average lapse time from receipt of contest to first level of decision. | | N/A | N/A | CONN-OSHA had no contested cases. |
| 13. Percent of 11(c) investigations completed within 90 days. | | 33.33 | 100 | CONN-OSHA did not meet the standard. |
| 14. Percent of 11(c) complaints that are meritorious. | | 66.67 | 20.8 | CONN-OSHA far exceeded the standard. |
| 15. Percent of meritorious 11(c) complaints that are settled. | | 100 | 86.2 | CONN-OSHA far exceeded the standard. |

ii. STANDARDS ADOPTION AND FEDERAL PROGRAM CHANGES

[The Connecticut Occupational Safety and Health Act](#) requires the Labor Commissioner to adopt all Federal occupational safety and health standards adopted or recognized by the United States Secretary of Labor. Routine changes in the State plan, such as adoption of new Federally initiated standards, or corrections or amendments to standards, are adopted in accordance with the Connecticut State Uniform Administrative Procedures Act (Public Act 80-471), as amended, which is part of the State plan. They are processed so as to be adopted within six months or as soon as practicable thereafter.

• **CONNECTICUT STATE UNIFORM ADMINISTRATIVE PROCEDURES**

In accordance with the Connecticut Uniform Administrative Procedures Act, formal adoption of newly promulgated Federal standards begins with publication in the [Connecticut Law Journal](#) of the notice of intent to adopt, which allows interested parties 30 days to submit data, views or arguments, orally or in writing, concerning a proposed standard or fiscal impact statement. Copies of the regulation proposed for adoption and/or adoption procedures are furnished upon request.

At times, CONN-OSHA conducts State specific research prior to developing the fiscal impact statement. By executive policy, copies of proposed regulations are forwarded to the governor’s office and the Office of Policy and Management prior to publication in the [Connecticut Law Journal](#).

In accordance with Public Act 90-124, a copy of the notice of intent to adopt is mailed to the State General Assembly Committee on Labor and Public Employees. Following the 30-day period, a copy of the proposed standard(s) action is submitted to the State Attorney General for approval as to legal sufficiency. The attorney general has 30 days from receipt to approve or disapprove the submission. Failure to do so within 30 days is deemed approval.

Upon receipt of approval by the attorney general, the original of the proposed standards action, together with 18 copies, are submitted to the Legislative Regulation Review Committee. In accordance with Public Act 90-124, a copy of the proposed standard(s) action is mailed to the General Assembly on Labor and Public Employees. The committee has 65 days in which to review the proposed standards, and may approve, disapprove, or reject them without prejudice, in whole or in part. Failure of the committee to act within the 65-day period is deemed approval.

Upon receiving approval of the Legislative Regulation Review Committee, two certified copies are filed with the Secretary of State, and the standards or the amendments become effective at the time of filing, unless otherwise specified. The secretary of state then forwards one certified copy to the Commission of Official Legal Publications for the second and final publication in the Connecticut Law Journal. (Note: Emergency temporary standards can be adopted within 30 days of the effective date of the Federal standard.)

Following this, the Commission on Official Legal Publications also publishes the standards adopted as a supplement to the multi-volume Regulations of Connecticut State Agencies, which has wide distribution throughout the State.

An e-mail is then sent to the OSHA Regional Administrator informing her of the State's intent to adopt the standards so that the automated tracking system can be updated. A copy of the promulgated regulations is then submitted to the Regional Administrator as a plan change and incorporated into the State plan upon meeting with his/her approval.

• **FEDERAL PROGRAM CHANGES**

The table below shows the list of Federal Program Change (FPC) Directives that were issued in FY2009, and CONN-OSHA's responses.

| FEDERAL PROGRAM CHANGES | | | | | |
|-------------------------|---------------------------|---|-----------------------------|-----------------------------|---|
| Date of Directive | Directive Number | Title | Intent to Adopt (yes or no) | Adopt Identical (yes or no) | Comments |
| 09/30/2009 | CPL-02-09-08 2010 355 | Injury and Illness Recordkeeping National Emphasis Program | Yes | No | CONN-OSHA will participate in this emphasis program, but will be implementing an alternative targeting plan, since it is a Public Sector Only Plan. |
| 09/30/2009 | CPL-02-01-046 2010 354 | Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors | No | | No Comment |
| 08/18/2009 | CPL-03-00-010 2009 353 | NEP Petroleum Refineries — Extension of Time | No | | CT did not participate in the NEP, and does not have refineries within its jurisdiction. |
| 07/27/2009 | CPL-02(09-06) 2009 334 | NEP — PSM Covered Chemical Facilities | No | | No Comment |
| 07/20/2009 | CPL-2(09-05) 2009 333 | Site-Specific Targeting 2009 (SST-09) | No | | CT is a Public-Employer Only state; therefore, it will not be adopting this directive for its State Plan. |
| 03/26/2009 | CPL-02-00-148 2009 332 | Field Operations Manual | Yes | No | CT acknowledges receipt of this Federal program change and will utilize it to the extent it applies to its Public Sector Only State Plan, with the exception of the penalty structure—CONN-OSHA will maintain its current penalty structure, as stated in its State Plan. |

- **FOM Adoption**

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 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.

#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.

- **Recordkeeping NEP**

As shown in the table below, CONN-OSHA was successful in responding timely to all of the six FPCs that were issued in FY2009, with the exception of the Recordkeeping National Emphasis Program (NEP). For this directive, CONN-OSHA’s original response was timely, but the program indicated that it was not going to adopt this FPC. After further discussion with the Region, CONN-OSHA decided to adopt this FPC, but by then the e-mailed response due date had already passed.

According to the directive, states that choose to participate in the OSHA Data Initiative (ODI) could receive a list of private sector establishments to be inspected from OSHA’s Office of Statistical Analysis. However, since CONN-OSHA inspects only public sector workplaces, the program thought it would have difficulty developing a targeting list on its own. Consequently, CONN-OSHA originally declined adoption of this NEP.

Further discussions took place between CONN-OSHA, Region I and Federal OSHA, and as a result of these discussions, Federal OSHA provided guidance to CONN-OSHA in developing a targeting list. Subsequently, CONN-OSHA agreed to adopt the Recordkeeping NEP, but noted that it would not be adopting an NEP identical to that of Federal OSHA, since it would be implementing an “alternative targeting plan.”

| TITLE | DATE OF DIRECTIVE | RESPONSE DUE DATE | DATE STATE E-MAILED RESPONSE |
|---|-------------------|-------------------|------------------------------|
| Injury and Illness Recordkeeping National Emphasis Program | 09/30/2009 | 11/30/2009 | 12/23/2009 |
| Rescission of OSHA’s de minimis policies relating to floors/nets and shear connectors | 09/30/2009 | 11/30/2009 | 11/17/2009 |
| NEP Petroleum Refineries — Extension of Time | 08/18/2009 | 10/30/2009 | 10/21/2009 |
| NEP — PSM Covered Chemical Facilities | 07/27/2009 | 9/28/2009 | 9/17/2009 |
| Site-Specific Targeting 2009 (SST-09) | 07/20/2009 | 9/21/2009 | 9/17/2009 |
| Field Operations Manual | 03/26/2009 | 6/1/2009 | 4/22/2009 |

| FEDERAL STANDARD ACTIONS | | | | | | |
|--------------------------------|---|---------------------|-----------------------------|--|-------------------|----------------|
| Federal Register Standard Date | Title | Adopted (yes or no) | Adopt Identical (yes or no) | Comments | Adoption Due Date | Effective Date |
| 10/29/2008 | Electrical Installation Standard 1910 Subpart S; Clarifications and Corrections (<i>see Final Rule in FY2007</i>) | Yes | Yes | CT will strive to adopt the standard within the specified time. However, Connecticut's adoption process—due to five levels of approval—one internal and four external—and the public hearing requirement—often requires additional time. | 8/14/2007 | 10/31/2007 |
| 12/10/2008 | Longshoring and Marine Terminals; Vertical Tandem Lifts | Yes | Yes | | 6/10/2009 | 6/30/2009 |
| 12/12/2008 | Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee | Yes | Yes | | 6/12/2009 | 6/30/2009 |
| 09/21/2009 | Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment | Yes | Yes | | 3/9/2010 | 4/30/2010 |

• **FEDERAL STANDARD ACTIONS**

As discussed at the beginning of this section on Standards Adoption and Federal Program Changes, the State of Connecticut has a lengthy standards adoption process. As shown in the table below, this may cause the effective date to extend several weeks beyond the adoption due date. While we would prefer that this gap between CONN-OSHA's effective dates and OSHA's standard adoption due dates be narrowed, we understand that this process, for the most part, is not under CONN-OSHA's control.

The next table shows that CONN-OSHA e-mailed its response to all Federal Standard actions in a timely manner.

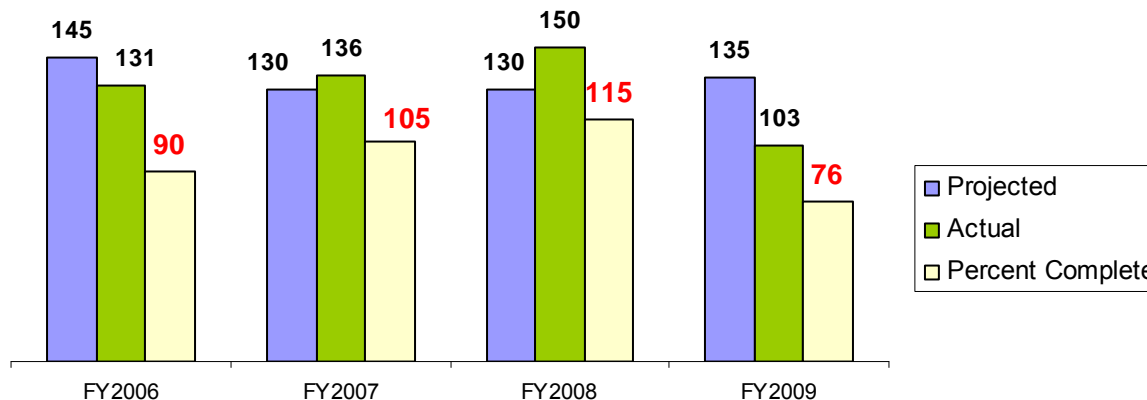
| TITLE | FEDERAL REGISTER STANDARD DATE | RESPONSE DUE DATE | DATE STATE E-MAILED RESPONSE |
|--|--------------------------------|-------------------|------------------------------|
| Electrical Installation Standard 1910 Subpart S; Clarifications and Corrections <i>(see Final Rule in FY2007)</i> | 10/29/2008 | 4/23/2007 | 4/16/2007 |
| Longshoring and Marine Terminals; Vertical Tandem Lifts | 12/10/2008 | 2/17/2009 | 1/02/2009 |
| Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee | 12/12/2008 | 2/17/2009 | 1/02/2009 |
| Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment | 09/21/2009 | 11/20/2009 | 11/17/2009 |

iii. VOLUNTARY COMPLIANCE

As discussed earlier, the CONN-OSHA public sector consultation program lost one of its consultants to retirement at the beginning of the fourth quarter of the fiscal year. The consultation program manager also began functioning as the acting manager of the entire CONN-OSHA program in the wake of the loss of the director and the manager of the 23(g) enforcement program, who retired in June. Although one of the compliance officers moved over to the consultation program to fill this vacancy, it appears that these personnel changes affected the consultation program’s ability to meet its goals for total visits.

For example, in FY2009, CONN-OSHA conducted a total of only 103 public sector consultation visits, or 76 percent of its goal of 135. In FY2009, CONN-OSHA’s posted its lowest percentage of visits completed over the past four fiscal years, as shown in the table below. As discussed later, the CONN-OSHA consultation program also identified significantly fewer serious hazards in FY2009 than in previous years.

FY2006-FY2009 Consultation Visits



Out of the 103 consultation visits completed (81 health and 22 safety), CONN-OSHA conducted a total of 29 consultation visits in targeted agencies. This amounts to 28 percent of the total number of consultation visits completed. Therefore, CONN-OSHA exceeded its goal of conducting 25 percent of all consultation visits in targeted agencies.

The analysis below is based on the project’s performance in those areas which have been assigned in the Mandated Activities Report for Consultation (MARC). The MARC used in this report was run by Region I on December 10, 2009 for FY2009 (Appendix C).

The analysis provides a comparison of CONN-OSHA’s performance with regard to the MARC measures over the past three fiscal years. *However, it is important to note that MARC measures 1 and 2 are not applicable for public sector only consultation programs, such as CONN-OSHA. Therefore, we begin our analysis with MARC measure 3.*

• MANDATED ACTIVITIES REPORT FOR CONSULTATION (MARC)

3. Employee Participation (MARC 3)

The data for MARC 3, as shown below, indicates that CONN-OSHA has met the goal of 100 percent for visits where consultants conferred with employees during initial, follow-up, and training and assistance visits (with compliance assistance only).

| Percent of Initial Visits with Affected Workers Consulted (MARC 3) | | | |
|--|-----------|-----------|-----------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | Not < 100 | Not < 100 | Not < 100 |
| Actual | 100 | 100 | 100 |

| Percent of Follow-Up Visits with Affected Workers Consulted (MARC 3) | | | |
|---|-----------|-----------|---------------------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | Not < 100 | Not < 100 | Not < 100 |
| Actual | 100 | 100 | 100 |

| Percent of Training and Assistance Visits (w/ Compliance Assistance Only) with Affected Workers Consulted (MARC 3) | | | |
|---|-----------|-----------|---------------------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | Not < 100 | Not < 100 | Not < 100 |
| Actual | 100 | 100 | 100 |

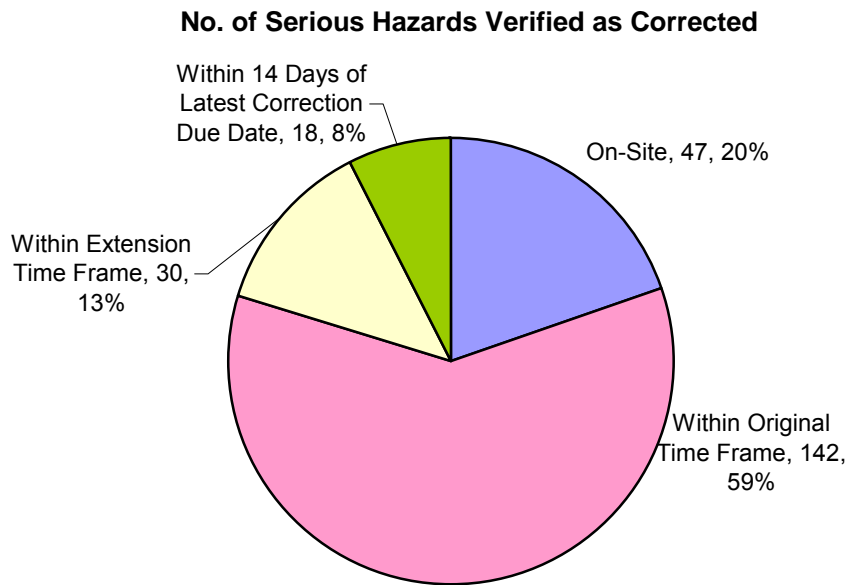
CONN-OSHA has a solid track record of ensuring that all visits include some form of employee participation.

4A. Serious Hazards Verified Corrected in a Timely Manner (MARC 4A)

For the first time over the past three fiscal years, CONN-OSHA did not meet the goal of 100 percent for obtaining timely verification of the correction of serious hazards within 14 days from the latest correction due date, as shown in the table below.

| Percent of Serious Hazards Verified Corrected in a Timely Manner (within 14 days from the latest correction sue date) (MARC 4A) | | | |
|--|-----------|-----------|---------------------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | Not < 100 | Not < 100 | Not < 100 |
| Actual | 100 | 100 | 91.51 |

In FY2009, CONN-OSHA verified as corrected 237 out of 259 serious hazards identified in a timely manner (or within 14 days of the latest correction due date). The chart below provides a breakdown of the results of CONN-OSHA's performance with respect to MARC measure 4A.



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

Compared to the two previous fiscal years, CONN-OSHA also identified fewer serious hazards in FY2009, as shown below.

| | <i>FY2007</i> | <i>FY2008</i> | <i>FY2009</i> |
|--|---------------|---------------|---------------|
| No. of Serious Hazards Identified | 469 | 452 | 259 |

4B. Serious Hazards NOT Verified Corrected in a Timely Manner (MARC 4-B)

| Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (MARC 4B) | | | |
|---|---------|---------|-------------------|
| Fiscal Year | FY2007 | FY2008 | FY2009 |
| Goal | Not > 0 | Not > 0 | Not > 0 |
| Actual | .00 | .00 | 8.49 |

4C. Serious Hazards Referred to Enforcement (MARC 4-C)

The CONN-OSHA 23 (g) consultation program typically does not refer employers to enforcement.

4D. Serious Hazards Verified Onsite and/or Within the Original Time frame (MARC 4-D)

As shown below, CONN-OSHA far exceeded the standard of 65 percent, with a year end percentage of **72.97**.

| Percent of Serious Hazards Verified On-Site and/or Within Original Time Frame (MARC 4D) | | | |
|--|----------|----------|--------------------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | Not < 65 | Not < 65 | Not < 65 |
| Actual | 83.15 | 87.17 | 72.97 |

Although CONN-OSHA’s FY2009 percentage was the lowest over the past three fiscal years, CONN-OSHA has consistently exceeded this standard over the same time period. In FY2009, CONN-OSHA verified as corrected 189 out of 259 serious hazards in the original time frame or onsite.

5. Uncorrected Serious Hazards (MARC 5)

CONN-OSHA ended the fiscal year with no serious hazards that remained uncorrected more than 90 days past the latest correction due date.

| Number of Uncorrected Serious Hazards with Correction Date >90 Days Past Due (MARC 5) | | | |
|---|------|------|-------------|
| Fiscal Year | 2007 | 2008 | 2009 |
| Goal | 0 | 0 | 0 |
| Actual | 0 | 0 | 0 |

c. PROGRAM ADMINISTRATION

i. IMIS MANAGEMENT

Overall, we found CONN-OSHA’s use of IMIS reports for program management satisfactory. In the table below, we list our findings related to CONN-OSHA’s IMIS management.

| IMIS Management | FINDINGS |
|--|---|
| Draft Forms | CONN-OSHA had no forms in draft from prior years. This indicates that CONN-OSHA is timely in terms of IMIS data entry. |
| Host Rejects | We found none. This is closely monitored by CONN-OSHA's Research/Management Information Systems Analyst. |
| End of Day (EOD)/Start of Day (SOD) Transmissions | CONN-OSHA consistently follows standard practice by performing EOD transmissions on Fridays and SOD transmissions on Mondays. |
| Data Backup | CONN-OSHA follows standard practice by performing the daily backup each day, Monday through Friday; the weekly backup is performed every Friday and the monthly is performed the first Friday of each month. |
| Programmed Inspection List | CONN-OSHA has developed its own IMIS report ("ACE" report) to track all inspection types (programmed, and unprogrammed). |
| Informal conferences | Despite the fact that the program enters each informal conference into the IMIS system, the Inspection Report shows that no informal conferences were conducted in FY2009. Our investigation into this discrepancy revealed that CONN-OSHA was not entering the informal conference data into the system properly. We instructed CONN-OSHA on the proper method for entering the informal conference data so that it is reported on the Inspection Report. |
| Open Inspection Report | We found only one employer with an open (unpaid) penalty. |
| Unsatisfied Activity Report 14 | We found that several inspections from as far back as the early 1990s were unsatisfied. CONN-OSHA researched the inspection files and updated the IMIS system appropriately. As a result of this finding, CONN-OSHA will run an unsatisfied activity report on a quarterly basis to ensure that the inspection data is current and accurate. |
| Industrial Hygiene Sampling Forms 91 and 93 | CONN-OSHA compliance officers and consultants must be sure to complete two forms—Form 93 (Direct Reading Report) and Form 91 (Air Sampling Report)—and enter the data from these forms into the IMIS system. The information on these forms, combined with other enforcement information in the IMIS, provides exposure and citation information by industry and occupation categories. The procedures for submitting the OSHA 91 and 93 can be found in the IMIS Enforcement Data Processing Manual (ADM1-1.31). Prior to our onsite review, CONN-OSHA was not entering their sampling data from Forms 91 and 93 into the IMIS system. The program has since corrected this matter. The "Health Sampling Results by Inspection" report now shows that CONN-OSHA is entering their sampling data from Forms 91 and 93 into the IMIS system. |

14 This report alerts supervisors to those activities where a decision was made to conduct an inspection but such inspection was never initiated. This report will also list those cases where, although an inspection had commenced, the OSHA inspection form (OSHA 1) was entered into the IMIS but the operator failed to link the inspection record to the originating record.

During our quarterly meetings with CONN-OSHA, they typically provide Region I with the following IMIS reports, and these are typically up to date and accurate: Inspection Summary Report; Fatality/ Catastrophe Tracking Report; SAMP; and the public sector MARC.

Overall, CONN-OSHA does a good job in terms of IMIS management. The program has a highly qualified Research/Management Information Systems Analyst who runs timely and accurate IMIS reports, and performs expert data analyses. We typically find that the MARC and the inspection summary reports run by CONN-OSHA completely agree with the corresponding reports run by the Region. This indicates that CONN-OSHA staff does a good job entering accurate information and data into the IMIS on a timely basis. It also shows that program management realizes that having accurate and timely data is a valuable tool in tracking the program's performance toward meeting its projected goals.

During our discussion of IMIS management, we asked how CONN-OSHA develops its programmed inspection list each year. Evidently, the former safety and health program manager had developed his own method of assigning inspections to compliance officers. The current safety and health program manager will develop the annual programmed inspection list for the next fiscal year, utilizing data on public sector workplace injuries, illnesses, and fatalities from the Connecticut Department of Labor's Health and Statistics Unit.

Our IMIS management review disclosed that there was only one employer with an "open" or unpaid penalty. When we conducted the onsite review, CONN-OSHA was in the process of having legal counsel issue a demand letter to this employer for payment of this delinquent debt. Although CONN-OSHA was pursuing payment of this open penalty, the program does not have any formal debt collection procedures. On the other hand, unpaid penalties are uncommon, and this particular employer with an unpaid debt is the first in recent memory.

#20: *Nonetheless, we recommend that CONN-OSHA 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.*

ii. FURLoughS

Due to budgetary constraints, all CONN-OSHA staff members were assigned two furlough days during FY2009. In the event someone needed to report an injury, accident or fatality, they could call the CONN-OSHA main number to report the incident. This would trigger a phone call to the director (or a CONN-OSHA compliance officer who was designated as a back-up in the event the director did not respond to the phone call). No accidents, injuries or fatalities at public sector worksites were reported during the two furlough days.

iii. EVALUATION OF CSHO TRAINING

Initial Training Program for OSHA Compliance Personnel, TED 01-00-018, issued in August 2008, provides the direction and guidance for the policies and procedures for training compliance officers. The next table lists the training requirements for the three compliance officer career paths (safety, health and construction) as set forth in this directive. This directive supersedes TED 1.12A, which was issued in July 1992.

Although the table below reflects five compliance officers, two of the five are no longer employed by the State Plan program. However, we have included these two compliance officers in our analysis, since they did conduct some of the inspections we reviewed before their departure from the program.

As shown in the table below, all remaining compliance officers have completed all of the requisite courses, with the exception of #2450 (Evaluation of Safety and Health Management Systems) and #1310 (Investigative Interviewing Techniques). According to the current training directive, compliance officers should complete these courses within three years of the date when they were hired. **#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.

Although we acknowledge that all Connecticut state agencies have been severely restricted in their ability to use out of state travel due to budgetary issues, it is also important that compliance officers have the **basic** knowledge and skills necessary to carry out OSHA's core mission.

| OSHA TRAINING INSTITUTE COURSES (TED 01-00-018) | SAFETY CSHO HIRED: 2004 | SAFETY CSHO HIRED: 1998 | SAFETY CSHO HIRED: 1996 | HEALTH CSHO HIRED: 2004 | HEALTH CSHO HIRED: 1992 (RETIRED 6/09) |
|--|--|--|--|--|---|
| <i>MUST BE COMPLETED WITHIN FIRST YEAR OF A CSHO'S CAREER</i> | | | | | |
| #1000 Initial Compliance | 7/2004 | 12/1995 | 4/1997 | 7/2004 | 11/1992 |
| <i>ONE OF THESE COURSES MUST BE COMPLETED DURING THE 1ST YEAR</i> | | | | | |
| #1050 Intro. to Safety Standards for Safety Officers | 1/2005 | 2/1997 | | | |
| #1250 Intro. to Health Standards for Industrial Hygienists | | | | 8/2000 | |
| #2000 Construction Standards | | 9/2000 | 5/2001 | | |
| <i>COMPLETE EACH OF THE FOLLOWING</i> | | | | | |
| #1310 Investigative Interviewing Techniques | X | X | X | X | |
| #1410 Inspection Techniques and Legal Aspects | 9/2004 | 9/1995 | 4/1997 | 9/2004 | 7/1993 |
| #2450 Evaluation of Safety and Health Management Systems | X | X | X | X | |
| #1230 Accident Investigation | 7/2006 | 4/1999 | 4/1997 | 7/2006 | 11/1992 |
| <i>SAFETY CSHOS WILL TAKE ONE OF THE FOLLOWING DURING THEIR INITIAL 3-YEAR PERIOD</i> | | | | | |
| #1080 Health Hazard Awareness for Safety Officers | 1/2008 | | 1/2008 | | 8/1995 |
| #1250 Intro. to Health Hazard Awareness for Industrial Hygienists | | | | | |
| #2000 Construction Standards | | 9/2000 | 5/2001 | | |
| <i>HEALTH CSHOS WILL TAKE ONE OF THE FOLLOWING DURING THEIR INITIAL 3-YEAR PERIOD</i> | | | | | |
| #1280 Safety Hazard Awareness for Industrial Hygienists | | | | 5/2007 | |
| #1050 Intro to Safety Standards for Safety Officers | | | | | 3/1993 |
| #2000 Construction Standards | | | | | |
| <i>CONSTRUCTION CSHOS WILL TAKE AT LEAST ONE OF THE FOLLOWING</i> | | | | | |
| #1280 Safety Hazard Awareness for Industrial Hygienists | | | | | |
| #1050 Intro. to Safety Standards for Safety Officers | | | | | |
| #1080 Health Hazard Awareness for Safety Officers | | | | | |
| #1250 Intro. to Health Standards for Industrial Hygienists | | | | | |

| | | | | | |
|--|---|--|--|--|---|
| OSHA TRAINING INSTITUTE COURSES (TED 01-00-018) | SAFETY CSHO HIRED: 2004 | SAFETY CSHO HIRED: 1998 | SAFETY CSHO HIRED: 1996 | HEALTH CSHO HIRED: 2004 | HEALTH CSHO HIRED: 1992 (RETIRED 6/09) |
| #8200 ICS-200 must be taken during the initial 3 years of training | All CONN-OSHA CSHOs have completed ICS -200 or higher | | | | |

iv. BENCHMARKS

As shown in the table below, CONN-OSHA’s allocation for compliance officers exceeds its benchmark for both safety and health, and has done so for many years. As discussed earlier on in this report, CONN-OSHA lost one industrial hygienist to retirement in FY2009 but is in the process of filling that vacancy.

| | Safety | | | Health | | |
|-----------|-----------|-----------|------------------------|-----------|-----------|------------------------|
| CONN-OSHA | Allocated | Benchmark | On board as of 9/30/09 | Allocated | Benchmark | On board as of 9/30/09 |
| | 3 | 1 | 2 | 2 | 1 | 1 |

v. STATE INTERNAL EVALUATION PLAN (SIEP)

In accordance with State Plan grant requirements under OSHA Directive 09-02 (CSP-02), State Plans must maintain a State Internal Evaluation Program (SIEP) for monitoring purposes. CONN-OSHA does a good job in terms of complying with this requirement, submitting an updated SIEP to the Regional Office on a quarterly and annual basis.

In each SIEP, CONN-OSHA monitors its own performance with respect to citation processing (SAMM #7); public sector consultation turnaround time; and assurance of abatement of hazards in public sector consultation on a quarterly basis. CONN-OSHA uses data from IMIS reports such as the SAMM, MARC, and Inspection Summary reports to measure its performance in these three areas.

In addition, CONN-OSHA runs local ACE reports and queries, micro reports, and host reports, and uses state logs, on-the-job evaluations, and staff interviews to obtain further data and information for monitoring purposes.

• **CITATION PROCESSING**

As previously discussed in this report, CONN-OSHA performed well in FY2009 for SAMM #7, which measures the average number of *calendar days* from the opening conference date to citation issue. In FY2009, CONN-OSHA’s average of 37.11 days for safety inspections was

below the national standard of 43.8 by a healthy measure. For health inspections, CONN-OSHA performed even better, with an average of 35.37 days, which compares to the national average of 57.4 days.

However, the program's fourth quarter average for health (52.75 days), which was much higher than the averages of the other three quarters, was an area of concern. CONN-OSHA attributed this spike in averages to the retirement of one of the program's veteran health compliance officers. The program will continue to closely monitor this measure to ensure that the quarterly averages do not continue to exceed the national standard.

• **PUBLIC SECTOR CONSULTATION TURNAROUND TIME**

Public sector consultation turn around time (or the average number of days between closing conference and issuance of the written report) has been a long-standing area of concern for CONN-OSHA. To measure the program's performance on this item, CONN-OSHA has developed an ACE report.

CONN-OSHA concluded FY2009 with a year-end average of 20.22 days for safety, which is a vast improvement over its FY2007 year-end average of 58.11 days. For health, the program's FY2009 year-end average was 22.33 days, compared to 26.24 days in FY2007.

According to the *Consultation Policies and Procedures Manual (CPPM)*, the standard for both safety and health is 20 days. **#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.** CONN-OSHA has indicated in its SIEP that it is committed to meeting the 20 day standard for health, although the FY2009 year-end result of 22.33 days was just a bit high.

• **TIMELY HAZARD ABATEMENT**

CONN-OSHA uses data from MARC measure 4A to monitor its performance with respect to verifying that hazards have been abated in a timely manner (within 14 days of the latest correction due date). After ending fiscal years 2007 and 2008 with 100 percent of hazards verified abated timely, CONN-OSHA was disappointed with its FY2009 year-end percentage of 91.51.

According to the SIEP, one safety consultant (who has since retired) did not work effectively with one particular employer to ensure timely hazard abatement. However, CONN-OSHA remains committed to achieving "perfect results" for this measure and will continue to monitor consultants' performance with respect to working with employers to ensure timely hazard abatement.

d. OTHER

i. BLS RATES¹⁵

As shown in the tables below, the injury/illness incidence rates for Connecticut’s public sector employees continue to be higher than those experienced by the state’s private sector employees, as has historically been the case. While Connecticut’s private sector rates for total recordable cases (TRC) and days away from work, job transfer, or restriction (DART) declined slightly from FY2004 to FY2008, the TRC and DART rates for Connecticut State and Local Government showed an increase.

With the exception of the Connecticut Local Government DART rate, all of the state’s public sector injury and illness rates declined from 2007 to 2008. The most significant decline was the change in the 2008 DART rate for Connecticut State Government, which went from 4.6 in 2007 to 3.7 in 2008. Private industry’s TRC and DART rates also declined slightly from 2007 to 2008.

While this decline in injury and illness rates from 2007 to 2008 is a positive sign for CONN-OSHA, it should also be noted that in all but one of the program’s targeted industry categories, there was an increase from the baseline average rates to the 2008 rates. As discussed earlier in this report, CONN-OSHA intends to reduce the 2008 DART rates for its targeted industries over the course of its five-year strategic plan.

| Year | State Plan States State & Local Gov’t | | CT State & Local Gov’t | | CT State Gov’t | | CT Local Gov’t | | CT Private Industry | |
|------|---------------------------------------|------|------------------------|------|----------------|------|----------------|------|---------------------|------|
| | TRC | DART | TRC | DART | TRC | DART | TRC | DART | TRC | DART |
| 2004 | 6.9 | 3.5 | 7.0 | 4.1 | 9.0 | 4.6 | 7.0 | 4.1 | 4.8 | 2.6 |
| 2005 | 6.9 | 3.5 | 7.1 | 3.0 | 10.1 | 4.2 | 7.1 | 3.0 | 5.0 | 2.8 |
| 2006 | 6.9 | 3.2 | 7.9 | 3.9 | 8.7 | 4.1 | 7.9 | 3.9 | 4.8 | 2.5 |
| 2007 | 6.4 | 3.0 | 8.7 | 4.4 | 6.9 | 4.6 | 9.8 | 4.3 | 4.8 | 2.6 |
| 2008 | 6.3 | 3.1 | 8.4 | 4.3 | 6.4 | 3.7 | 9.5 | 4.6 | 4.6 | 2.5 |

ii. COMPLIANCE ASSISTANCE

• **Alliances**

By the end of FY2009, CONN-OSHA had a total of 11 Alliance partners. Under the new five-year strategic plan, which began in FY2009, CONN-OSHA planned to maintain the Alliances it had signed in previous years and sign new Alliances that share and support the goal of reducing workplace injuries and illnesses.

¹⁵ Source: Bureau of Labor Statistics Incidence Rates of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types (CT State Data); State Plan States (State and Local Government Data) provided by OSHA (Enhanced FAME Resources)

The following is a listing of CONN-OSHA's Alliances as of September 30, 2009:

1. UCONN/Connecticut Transportation Institute Technology Transfer Center (originally signed on 3/29/04; renewed 3/29/06)
2. Connecticut Highway Street Supervisors Association (CHSSA) (originally signed 5/25/04; renewed 5/22/06)
3. CT Tree Protective Association (originally signed 7/21/05; renewed 7/19/07)
4. Prevent Blindness Tri-State (PBTS) (originally signed 4/19/05; renewed 4/18/07; renewed 4/21/09)
5. CT Business & Industry Association (CBIA) (originally signed 4/25/03; renewed 4/25/09)
6. CT Department of Environmental Protection (CT DEP) (originally signed on 10/19/05; renewed 9/12/07)
7. CT Inter-local Risk Management Agency (CIRMA) (signed on 12/07/06—approximately 140 out of the 169 municipalities in Connecticut subscribe to CIRMA)
8. Atlantic States Rural Water and Wastewater Association (ASRWVA) (originally signed on 9/7/2007)
9. CASHO (CT Association of Street and Highway Officials) (originally signed on 10/5/07)
10. CT Office of Apprenticeship Training (originally signed on 9/11/08)
11. Connecticut Department of Transportation (originally signed on 3/4/09)

In FY2009, CONN-OSHA renewed one Alliance (Prevent Blindness Tri-State) and maintained solid working relationships with the other ten. For example, in FY2009, CONN-OSHA provided 29 training seminars and participated in seven outreach events with its Alliance partners.

- **Outreach**

CONN-OSHA's training and outreach efforts have been consistently strong and effective over the past few years, and FY2009 was no exception. In FY2009, CONN-OSHA planned to conduct seven training sessions for state agencies and seven for municipalities. By fiscal year end, the project had far surpassed this goal by conducting 39 training sessions for municipal employees and 31 for state employees. These training sessions focused on a variety of topics relating to workplace safety and health, including: confined space entry; lockout/tagout; material handling and ergonomics; safe driving; trenching and excavation; work zone safety; workplace violence; bloodborne pathogens; machine guarding; general hazard recognition; construction site safety; and recordkeeping.

iii. STAKEHOLDER INTERVIEWS

We conducted interviews with nine CONN-OSHA stakeholders as another measure for gauging the program's overall effectiveness. The table below provides a breakdown of the types of organizations and agencies that were represented in these interviews.

| TYPE OF INTERVIEW | STATE AGENCY | ORGANIZATION (TRADE, NON-PROFIT) | LABOR ORGANIZATION | MUNICIPALITY |
|--------------------------|---|--|--|--|
| TOTAL | 4 | 3 | 1 | 1 |
| | <p>Connecticut Department of Transportation Connecticut</p> <p>Connecticut Fire Academy (Commission on Fire Prevention and Control)</p> <p>Connecticut Office of Apprenticeship and Training</p> <p>University of Connecticut Transportation Institute Technology Transfer Center</p> | <p>Connecticut Association of Street and Highway Officials</p> <p>Connecticut Interlocal Risk Management Agency</p> <p>Hartford Job Corps Academy</p> | <p>American Federation of State, County and Municipal Employees (CT Council 15)</p> | <p>Town of Branford (Water Pollution Control)</p> |

Overall, the comments we received were highly complimentary of the CONN-OSHA program. Here is a list of the key comments we received:

1. In this day and age of tight budgets and restricted travel, many of the stakeholders commented that the safety and health training CONN-OSHA provides free of charge is invaluable.
2. A few of the stakeholders benefited from CONN-OSHA's consultation services. The workplace hazard assessment CONN-OSHA's consultation program provides free of charge is helpful to stakeholders feeling the effects of budgetary belt-tightening.
3. In addition to providing training programs (including OSHA 10- and 30-hour training), most of the stakeholders said that they could easily contact CONN-OSHA over the phone and receive prompt responses to their questions and inquiries.

We asked the stakeholders to rate CONN-OSHA on a scale of 1(lowest) to 10 (highest) in three areas. The table below shows CONN-OSHA's average scores.

| CATEGORY | AVERAGE SCORE (SCALE OF 1-10) |
|-----------------|----------------------------------|
| Professionalism | 9.6 |
| Competence | 9.6 |
| Helpfulness | 9.7 |

The size of the stakeholders in terms of number of employees and also the number of clientele serviced by the stakeholder varied over a wide range. For example, one stakeholder employed had as many as 3,500 employees at 80 facilities.

The stakeholders' interaction with CONN-OSHA included a wide range of activities. A few received enforcement inspections as well as benefited from some type of training activity provided by the program. Five of the nine stakeholders were Alliance partners, and for the most part, they participated in, hosted, or received some type of training from CONN-OSHA (including everything from the OSHA 10- and 30-hour courses to more focused training programs on such topics as lockout/tagout, bloodborne pathogens and workplace violence, etc.). In exchange for providing training and exhibiting at stakeholders' trade shows, many of these Alliance partners promote CONN-OSHA's consultation services.

The only area of concern that was mentioned by a couple of the stakeholders was that the expertise of one of the training specialists did not quite meet their expectations. However, they also commented that this particular training specialist would probably improve over time. Many of the stakeholders also commented that they receive prompt responses to their inquiries when they call or email CONN-OSHA staff.

iv. CONN-OSHA QUARTERLY NEWSLETTER AND CONN-OSHA WEBSITE

[The CONN-OSHA Quarterly](#) newsletter features articles on workplace safety and health at public sector worksites, but has a significant private sector audience as well. As of the end of FY2009, this publication was distributed to approximately 1,400 electronic and mail subscribers.

The Quarterly features articles on new OSHA standards, the program's upcoming training activities, and hazard prevention. It is also used to market the services of CONN-OSHA's 21 (d) Consultation Project and highlights Alliance-related activities.

The CONN-OSHA website (<http://www.ctdol.state.ct.us/osha/osha.htm>) highlights the CONN-OSHA 21 (d) and 23 (g) Consultation Programs; the SHARP Program; *The CONN-OSHA Quarterly*; and training and education activities. It also contains several links related to CONN-OSHA's public sector enforcement program.

For example, the Compliance and Enforcement page contains links to the following topics:

- Public employee complaints
- What to expect during an inspection
- Helpful hints for employers
- Employee options after an inspection
- Informal conference
- Informal conference preparation
- Distinction between compliance and consulting

The CONN-OSHA web page also has links to the Connecticut Occupational Safety and Health Act; CONN-OSHA's Occupational Safety and Health Standards; a public employee complaint form; monthly CONN-OSHA Alerts; employee rights; OSHA Quick Cards; statistical information on injuries and fatalities; and contact information.

In January and February 2010, the CONN-OSHA Alerts page featured information on tandem dump trucks (piston failures) and hazards associated with the unintended double cycling of mechanical power presses, respectively. This page also contains links to previous years' monthly alerts.

The CONN-OSHA website is also an excellent resource and is updated regularly so that information is current.

III. CONCLUSION

Looking back on the list of 22 findings and recommendations, it appears that most of the deficiencies we cited in this report can be remedied by following the practices set forth in the FOM. Therefore, a comprehensive review of the FOM would benefit all staff members, and should be conducted as soon as possible. This review would serve as a much needed refresher course on OSHA policies and procedures.

Although our case file review identified some standards that were incorrectly cited, we did not find that CONN-OSHA's compliance officers were acutely lacking in terms of knowledge of standards and their proper application. However, we do feel that some type of refresher training in OSHA standards would be beneficial to the compliance staff. A good source of this training would be OSHA Training Institute (OTI) courses. Realizing, however, that CONN-OSHA is operating under tight budgetary constraints, OSHA Compliance Assistance Specialists should be considered as a low cost alternative to OTI.

As already mentioned, CONN-OSHA's policy of grouping serious, standalone violations is highly inconsistent with the FOM, and is one practice that CONN-OSHA must correct immediately. We think it would also prove beneficial for CONN-OSHA to seek some refresher training in properly grouping violations and how to effectively differentiate between other-than-serious and serious hazards and violations.

While a good portion of this review focused on areas requiring improvement, there were definitely areas in which CONN-OSHA's performance was top quality. For example, CONN-OSHA has been successful in maintaining 10 or more active Alliances. Participation in these Alliances yields many benefits, including increasing the program's visibility and facilitating much needed training for the state's workforce. There is no question that CONN-OSHA has been affected by the personnel changes that occurred during the fiscal year; but even with these staffing problems, the program managed to meet or exceed most of its FY2009 Annual Performance goals.

We wish to thank CONN-OSHA staff members for their undivided cooperation in this endeavor, and trust that the program will utilize the findings we made in this report as tools to strengthen its overall performance.

Appendix A

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 | (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 |

| | Findings | Recommendations |
|---|--|---|
| | percent for other. | 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. |
| 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 |

| | Findings | Recommendations |
|----|---|---|
| | | 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 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: <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 | Informal Conferences - Some case files did not contain notes or other documentation related to informal conferences and/or informal settlement agreements. | 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 |

| | Findings | Recommendations |
|----|---|---|
| | | the discussion made by the Area Director, will be placed in the case file.” |
| 14 | Informal Conferences - Some cases files’ diary sheets did not contain entries with regard to the dates, and location, etc. of informal conferences. | 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. |
| 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. | OPP should notify the employer in a timely manner to accelerate the process of mediation. |
| 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. | 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. |
| 17 | Whistleblower Program - Only one-third of CONN-OSHA’s discrimination cases are completed within 90 days. The SAMM standard is 100 percent. | The State should work harder to ensure that cases are completed within the 90-day guideline. |
| 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 <i>private sector enforcement</i> , and CONN-OSHA is a public sector employee only state plan. | 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. |
| 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) | CONN-OSHA must work harder to meet the standard of 100 percent to ensure that workers are protected from identified hazards. |
| 20 | Debt Collection Procedures - CONN-OSHA has not established formal debt collection procedures. | 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. |
| 21 | CSHO Training - In accordance with TED 01-00-018, the program’s compliance officers still need to complete #2450 (Evaluation of Safety and Health | Since the program’s compliance officers have exceeded this time frame, the program manager should ensure that all compliance officers complete |

| | Findings | Recommendations |
|----|---|---|
| | Management Systems) and #1310 (Investigative Interviewing Techniques). | these two remaining courses as soon as possible. |
| 22 | 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. | 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. |

Appendix B

CONN-OSHA Public Sector Employee Only State Plan FY 2009 Enforcement Activity

| | Connecticut (PEO) | State Plan Total | Federal OSHA |
|--|----------------------|----------------------|----------------------|
| Total Inspections | 194 | 61,016 | 39,004 |
| Safety | 131 | 48,002 | 33,221 |
| <i>% Safety</i> | 68% | 79% | 85% |
| Health | 63 | 13,014 | 5,783 |
| <i>% Health</i> | 32% | 21% | 15% |
| Construction | 22 | 26,103 | 23,935 |
| <i>% Construction</i> | 11% | 43% | 61% |
| Public Sector | 194 | 7,749 | N/A |
| <i>% Public Sector</i> | 100% | 13% | N/A |
| Programmed | 148 | 39,538 | 24,316 |
| <i>% Programmed</i> | 76% | 65% | 62% |
| Complaint | 33 | 8,573 | 6,661 |
| <i>% Complaint</i> | 17% | 14% | 17% |
| Accident | - | 3,098 | 836 |
| Insp w/ Viols Cited | 136 | 37,978 | 27,165 |
| <i>% Insp w/ Viols Cited (NIC)</i> | 70% | 62% | 70% |
| <i>% NIC w/ Serious Violations</i> | 63% | 62% | 87% |
| Total Violations | 696 | 129,363 | 87,663 |
| Serious | 195 | 55,309 | 67,668 |
| <i>% Serious</i> | 28% | 43% | 77% |
| Willful | - | 171 | 401 |
| Repeat | - | 2,040 | 2,762 |
| Serious/Willful/Repeat | 195 | 57,520 | 70,831 |
| <i>% S/W/R</i> | 28% | 44% | 81% |
| Failure to Abate | 17 | 494 | 207 |
| Other than Serious | 484 | 71,336 | 16,615 |
| <i>% Other</i> | 70% | 55% | 19% |
| Avg # Violations/ Initial Inspection | 4.8 | 3.3 | 3.1 |
| Total Penalties | \$ 16,525 | \$ 60,556,670 | \$ 96,254,766 |
| Avg Current Penalty / Serious Violation | \$ 82.30 | \$ 800.40 | \$ 970.20 |
| Avg Current Penalty / Serious Viol- Private Sector Only | - | \$ 934.70 | \$ 977.50 |
| <i>% Penalty Reduced</i> | 57.1% | 51.9% | 43.7% |
| % Insp w/ Contested Viols | 0.0% | 13.0% | 7.0% |
| Avg Case Hrs/Insp- Safety | 28.9 | 15.7 | 17.7 |
| Avg Case Hrs/Insp- Health | 28.1 | 26.6 | 33.1 |
| Lapse Days Insp to Citation Issued- Safety | 26.8 | 31.6 | 34.3 |
| Lapse Days Insp to Citation Issued- Health | 25.9 | 40.3 | 46.7 |
| Open, Non-Contested Cases w/ Incomplete Abatement >60 days | 0 | 2,010 | 2,234 |

Appendix C

FY 2009 State OSHA Annual Report (SOAR)

[Available separately]

Appendix D

FY 2009 State Activity Mandated Measures (SAMM)

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

OCT 23, 2009
PAGE 1 OF 2

State: CONNECTICUT

RID: 0150900

| MEASURE | From: 10/01/2008 | | CURRENT | REFERENCE/STANDARD |
|---|----------------------|--|--------------------|--|
| | To: 09/30/2009 | | FY-TO-DATE | |
| 1. Average number of days to initiate Complaint Inspections | 239 7.24 33 | | 0 | Negotiated fixed number for each State |
| 2. Average number of days to initiate Complaint Investigations | 1 1.00 1 | | 0 | Negotiated fixed number for each State |
| 3. Percent of Complaints where Complainants were notified on time | 33 100.00 33 | | 0 | 100% |
| 4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger | 0 0 | | 0 | 100% |
| 5. Number of Denials where entry not obtained | 0 | | 0 | 0 |
| 6. Percent of S/W/R Violations verified | | | | |
| Private | 0 0 | | 0 | 100% |
| Public | 192 97.96 196 | | 19 100.00 19 | 100% |
| 7. Average number of calendar days from Opening Conference to Citation Issue | | | | |
| Safety | 3786 37.11 102 | | 0 | 2489573 43.8 56880 |
| Health | 1521 35.37 | | 59 59.00 | 692926 57.4 National Data (1 year) |

CONN-OSHA ENHANCED FAME
FY2009

OSHA REGION I

| | | | | | | |
|--|----|--|--|---|--|-------|
| | 43 | | | 1 | | 12071 |
| | | | | | | |

*FY09CT

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R
O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N
S T A T E A C T I V I T Y M A N D A T E D M E A S U R E S (S A M M S)

OCT 23, 2009
PAGE 2 OF 2

State: CONNECTICUT

RID: 0150900

| MEASURE | From: 10/01/2008 | | CURRENT | | REFERENCE/STANDARD |
|---|------------------|--|------------|-----------|-------------------------------|
| | To: 09/30/2009 | | FY-TO-DATE | | |
| 8. Percent of Programmed Inspections with S/W/R Violations | | | | | |
| | 70 | | 0 | 92328 | |
| Safety | 61.95 | | .00 | 58.6 | National Data (3 years) |
| | 113 | | 1 | 157566 | |
| | 15 | | 0 | 11007 | |
| Health | 48.39 | | | 51.2 | National Data (3 years) |
| | 31 | | 0 | 21510 | |
| 9. Average Violations per Inspection with Vioations | | | | | |
| | 195 | | 0 | 420601 | |
| S/W/R | 1.34 | | .00 | 2.1 | National Data (3 years) |
| | 145 | | 1 | 201241 | |
| | 484 | | 1 | 243346 | |
| Other | 3.33 | | 1.00 | 1.2 | National Data (3 years) |
| | 145 | | 1 | 201241 | |
| 10. Average Initial Penalty per Serious Violation (Private Sector Only) | | | | | |
| | 0 | | 0 | 492362261 | |
| | | | | 1335.2 | National Data (3 years) |
| | 0 | | 0 | 368756 | |
| 11. Percent of Total Inspections in Public Sector | | | | | |
| | 183 | | 1 | 666 | |
| | 100.00 | | 100.00 | 100.0 | Data for this State (3 years) |
| | 183 | | 1 | 666 | |
| 12. Average lapse time from receipt of Contest to first level decision | | | | | |
| | 0 | | 0 | 4382038 | |
| | | | | 246.1 | National Data (3 years) |
| | 0 | | 0 | 17807 | |
| 13. Percent of 11c Investigations Completed within 90 days | | | | | |
| | 1 | | 0 | 100% | |
| | 33.33 | | | | |
| | 3 | | 0 | | |
| 14. Percent of 11c Complaints that are Meritorious | | | | | |
| | 2 | | 0 | 1466 | |
| | 66.67 | | | 20.8 | National Data (3 years) |
| | 3 | | 0 | 7052 | |

CONN-OSHA ENHANCED FAME
FY2009

OSHA REGION I

| | | | | |
|---|--------|---|------|-------------------------|
| 15. Percent of Meritorious 11c Complaints that are Settled | 2 | 0 | 1263 | |
| | 100.00 | | 86.2 | National Data (3 years) |
| | 2 | 0 | 1466 | |

*FY09CT

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E

FY 2009 Mandated Activities Report for Consultation (MARC) – Public Sector –

CCNOMARC
DOL-OSHA-OMDS
(RSCCOVER)

U. S. D E P A R T M E N T O F L A B O R
O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N
C O N S U L T A T I O N R E P O R T

12/10/09

KEEP THIS PAGE WITH THIS REPORT.
IT CONTAINS IMPORTANT INFORMATION ABOUT
THE WAY CASES WERE SELECTED

TYPE OF REPORT: MANDATE ACTIVITIES

USER SELECTION NAME: MARCCT23

REQUESTOR: OSH20104

***** SELECTION CRITERIA *****

FISCAL YEAR: 2009

QUARTER: 4

OWNERSHIP: PUBLIC

REGION: 01 AREA: 909 DISTRICT:

PRINT OPTION: Y

PROJECT NAME: Connecticut PUBLIC SECTOR

| MEASURE | QUARTER | FY-TO-DATE | REFERENCE/STANDARD |
|--|---------|------------|--------------------|
| TOTAL VISITS | 19 | 103 | |
| 1. Percent of Initial Visits in High Hazard Establishments | | | Not Less than 90% |
| Number High Hazard Visits | 12 | 53 | |
| Percent | 70.59 | 58.89 | |
| Number of Initial Visits | 17 | 90 | |
| 2. Percent of Initial Visits to Smaller Businesses | | | Not Less than 90% |
| Initial Visits | 17 | 90 | |
| Visits <= 250 Employees in Estab | 13 | 82 | |
| Percent | 76.47 | 91.11 | |
| Visits <= 500 Employees CB by Empr | 13 | 65 | |
| Percent | 76.47 | 72.22 | |
| 3. Percent of Visits where Consultant Conferred with Employees | | | 100% |
| Initial | | | |
| Number with Empe Conferences | 17 | 90 | |
| Percent | 100.00 | 100.00 | |
| Number of Initial Visits | 17 | 90 | |
| Follow-Up | 1 | 8 | |
| Number with Empe Conferences | 100.00 | 100.00 | |
| Percent | 1 | 8 | |
| Number of Follow-Up Visits | | | |
| Training & Assistance Visits with Compliance Assistance ONLY | | | |
| Number with Empe Conferences | 0 | 1 | |
| Percent | | 100.00 | |
| Number of T&A Visits | 0 | 1 | |

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

PROJECT NAME: Connecticut PUBLIC SECTOR

| MEASURE | QUARTER | FY-TO-DATE | REFERENCE/STANDARD |
|---|---------|------------|--------------------|
| 4A Thru 4D based on Closed Cases ONLY | | | |
| 4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date) | | | 100% |
| Number Verified Timely | 64 | 237 | |
| Percent | 76.19 | 91.51 | |
| Total Serious Hazards | 84 | 259 | |
| Number of Serious Hazards Verified Corrected: | 64 | 237 | |
| On-Site | 14 | 47 | |
| Within Original Time Frame | 29 | 142 | |
| Within Extension Time Frame | 16 | 30 | |
| Within 14 Days of Latest Correction Due Date | 5 | 18 | |
| 4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date) | | | |
| Number NOT Verified Timely | 20 | 22 | |
| Percent | 23.81 | 8.49 | |
| Total Serious Hazards | 84 | 259 | |
| 4C. Percent of Serious Hazards Referred to Enforcement | | | |
| Number Referred to Enforcement | 0 | 0 | |
| Percent | .00 | .00 | |
| Total Serious Hazards | 84 | 259 | |
| 4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE) | | | 65% |
| NUMBER VERIFIED | 43 | 189 | |
| Percent | 51.19 | 72.97 | |
| Total Serious Hazards | 84 | 259 | |

| | | | |
|--|----|-----|---|
| Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE) | 43 | 189 | |
| On-Site | 14 | 47 | |
| Within Original Time Frame | 29 | 142 | |
| 5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter) | | | 0 |

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION