

FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

State of Minnesota

**Minnesota Department of Labor and Industry
Occupational Safety and Health Division**



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I. Executive Summary

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's performance for Fiscal Year (FY) 2019 and its progress in resolving outstanding findings from previous FAME reports. This report assesses the current performance of the Minnesota Department of Labor and Industry – Occupational Safety and Health Division (MNOSHA) 23(g) compliance program in the context of agreed upon monitoring measures.

A detailed explanation of the findings and recommendations of the MNOSHA performance evaluation is found in Section III, Assessment of State Plan Progress and Performance. The FY 2018 Follow-up FAME identified four continued observations. In this report, one has been continued and three have been closed. For FY 2019, no new findings were identified. Five new observations have been identified. A summary of observations is found in Appendix B, Observations and Federal Monitoring Plans.

The Minnesota Occupational Safety and Health Strategic Management Plan for FY 2019 to FY 2023 established three strategic goals: 1) Reduce occupational hazards through compliance inspections; 2) Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership; and 3) Strengthen and improve MNOSHA's infrastructure. The FY 2019 Performance Plan provided the framework for accomplishing the goals of the strategic plan by establishing specific performance goals for FY 2019.

In the FY 2019 State OSHA Annual Report (SOAR), MNOSHA provided information that outlines their accomplishment of meeting their Five-Year Strategic Management Plan. The information has been reviewed and analyzed to assess their progress in meeting performance plan goals and MNOSHA's SOAR is attached to this report as Appendix E. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, all but two of the annual performance goals have been met or exceeded.

- Goal 1.2, Reduction in state fatality rate from the previous five-year average for FY 2014 - 2018: MNOSHA experienced a 4% increase in their worker fatality rate.
- Goal 1.4, Percent of inspections designated as programmed: Only 74% of MNOSHA's inspections were programmed; short of the 82% target.

Minnesota's estimated workplace injury and illness rate remains at its lowest rate since the measurements started in 1973. According to the annual Survey of Occupational Injuries and Illnesses, the state had an estimated 3.2 OSHA-recordable nonfatal workplace injuries and illnesses per 100 full-time equivalent (FTE) workers in 2018. The estimated rate for 2017 was 3.3 cases per 100 FTE workers.

Quarterly monitoring team meetings were held during FY 2019, at which time the State Activity Mandated Measures (SAMM) reports and the State Indicators Reports (SIR) were reviewed and discussed with MNOSHA compliance staff. The FY 2019 SAMM is Appendix D of this report.

II. State Plan Background

A. Background

The Minnesota Department of Labor and Industry (DLI) administers the MNOSHA program. The program began operating on August 1, 1973, with final State Plan approval obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections in the private sector and in state and local government agencies, adoption of standards, and operation of other related OSHA activities), and the Workplace Safety Consultation (WSC) Division, which provides free consultation services upon request to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is "to ensure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA, including standards development, enforcement, compliance assistance, and outreach, which enables employers to maintain safe and healthful workplaces.

Commissioner Ken Peterson retired as the head of Minnesota DLI in December 2018. Nancy Leppink was appointed DLI Commissioner in February 2019 and Roslyn Robertson was appointed Deputy Commissioner. Mr. James Krueger is the Director of the OSH Compliance Division and Mr. Tyrone Taylor is the Director of the WSC Division within DLI. The FY 2019 grant included funding totaling \$9,010,002 and full-time equivalent (FTE) staffing of 70.69 positions. The State Plan's expected staffing level is 31 safety investigators and 12 health investigators. MNOSHA allocated funding for 31.97 safety and 12.97 health positions.

B. New Issues

Maximum Penalty Increase

In accordance with the Bipartisan Budget Bill passed on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum penalties. As required by law, OSHA then increased maximum penalties annually according to the Consumer Price Index (CPI). Minnesota State Plan has not yet completed the legislative changes to increase maximum penalties.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2019 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A four-person team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted at the Minnesota OSHA

State Plan office during the timeframe of January 6 - 10, 2020. A total of 86 safety and health inspection case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (October 1, 2018 through September 30, 2019). The selected population included:

- Forty-seven (47) programmed/programmed related case files
- Twenty-four (24) fatality case files
- Thirteen (13) complaint case files
- Two (2) referral case files
- In addition, 20 closed whistleblower case files

Sixteen non-formal complaint case files were also reviewed.

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (Appendix D)
- State Information Report
- Mandated Activities Report for Consultation
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Full case file review

Each state activity mandated measure has an agreed-upon further review level (FRL), which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2019 SAMM report and includes the FRL for each measure.

Throughout the entire process, MNOSHA was cooperative, shared information, and ensured staff was available to discuss cases, policies, and procedures. MNOSHA staff members were eager to work with the evaluation team.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

The MNOSHA Strategic Management Plan aligns closely with OSHA's initiatives. The plan serves as a mechanism for communicating a shared set of expectations regarding the results that MNOSHA expects to achieve and the strategies that it will use to achieve them. MNOSHA will adjust the plan as circumstances necessitate, use it to develop the annual Grant Application and Performance Plan, report on progress in annual performance reports, and monitor program accountability for achieving the goals and outcomes.

a) Training

MNOSHA has developed and implemented its own training program outlined in ADM 5.1 MNOSHA Investigator and Consultant Training Plan. A training and outreach director manages the training program. The training plan is comprehensive in nature, covering not only the information needed to conduct enforcement activities, but the routine administrative functions of MNOSHA. The equivalent of OSHA's Initial Compliance and Legal Aspects courses are covered at the state level. This facilitates and reinforces MNOSHA's policies and procedures for conducting an inspection and developing a legally sufficient case for the state. MNOSHA also provides training to develop soft skills, including conflict resolution, interviewing/investigation, organization, presentation, creating training techniques, and time management. The training instruction identifies the responsible party for conducting various aspects of the training and the period in which the training is completed. Some of the training is provided on line.

In addition to MNOSHA's internal training program, investigators attend courses at the OSHA Training Institute (OTI) to obtain specific instruction based on discipline and need. During FY 2019, twelve courses were attended at OTI covering inspection techniques and legal aspects, respiratory protection, trenching, noise, confined spaces, combustible dust, cranes, industrial toxicology, hazardous materials, electrical, health care, and power generation. Additionally, MNOSHA hosted OTI's Fire Protection and Life Safety Course and invited OSHA personnel from other states to attend.

b) OSHA Information System

Minnesota uses Informix-based software for enforcement information management and data processing, which is called MOOSE, for MNOSHA Operations System Exchange. It provides MNOSHA with real time information and data processing. At the start of FY 2016, MOOSE began interfacing with the OSHA Information System (OIS). Management reports, equivalent to those available from OIS, are used by MNOSHA management to track complaints, accidents, assignments, inspections, abatement, debt collection, and other issues of interest.

MNOSHA operates as paperless as possible. The use of MOOSE is integral to the process. Complaint and fatality intake, assignments, case file processing, and many other operations are performed in MOOSE. Data is entered into the system in a timely manner.

c) State Internal Evaluation Program Report

MNOSHA established goal #3 in their FY 2019 to FY 2023 Five-Year Strategic Management Plan as their workplace plan to address the state's internal evaluation program (SIEP). Projected Fiscal Year plans are identified in the program's annual grant applications. Summaries of the program's achievements in relation to their plan are provided in the SOAR.

MNOSHA reviews the rules for effectiveness, which include ongoing evaluation and development of rules, standards, guidelines and procedures, including the following eight-step process for workplace development and retention planning:

1. Environmental Scanning
2. Organizational Analysis
3. Identify Target Areas
4. Current Workforce Analysis
5. Future Workplace Analysis
6. Gap Analysis and Strategy Development
7. Develop and Implement an Action Plan and Communication Strategy
8. Monitor Plan and Evaluate Results

MNOSHA's Compliance Directives Coordination Team (DCT) is charged with coordinating and managing the MNOSHA internal information system. The DCT consists of two management analysts and two management representatives. This group monitors federal standard/policy activity and coordinates updates to all relevant MNOSHA standards, directives, and policies accordingly. MNOSHA adopts federal standards by reference and/or develops Minnesota specific standards when necessary to support MNOSHA program goals. During FY 2019, 15 MNOSHA directives were revised and issued to staff.

MNOSHA utilizes extensively trained and experienced investigative staff to conduct internal reviews to ensure the MNOSHA program continues to follow the requirements of the OSHA program. The group holds board meetings to discuss cases throughout the inspection process, holds informal conferences with employers, addresses abatement, and provides feedback to staff. Internal performance is a monthly agenda item at OSHA Management Team (OMT) meetings, whereby reports are generated to facilitate review of the internal program components.

MNOSHA's supervisors conduct on-site quality assurance inspections with the investigators to ensure hazards are sufficiently documented and to coach investigators on hazards or industries that they may be less familiar.

d) Staffing

Management and administration of the OSH Compliance Division is the responsibility of the OMT. The OMT includes the compliance director, the training / outreach / partnerships director, and eight supervisors. The total complement of the OSH Compliance Division was 72.9 FTE for FY 2018 and 70.69 FTE for FY 2019.

For FY 2019, the benchmark for safety was 31 positions with 30 positions (97%) filled. The benchmark for health was 12 positions with 12.97 positions filled (108% of the benchmark).

Enforcement Staffing Levels

		FY 15	FY 16	FY 17	FY 18	FY 19
Safety	Benchmark	31	31	31	31	31
	Positions Allocated	32.98	34.24	32.24	32.24	31.97
	Positions Filled	32.98	32.24	30.24	30.24	30
	Vacancies	0	2	2	2	1.97
	% Of Benchmarks Filled	106%	104%	98%	98%	97%
Health	Benchmark	12	12	12	12	12
	Positions Allocated	15.98	14.99	13.99	13.99	12.97
	Positions Filled	15.98	13.99	12.99	13.99	12.97
	Vacancies	0	1	1	0	0
	% Of Benchmarks Filled	133%	117%	108%	117%	108%

MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and e-mails. During FY 2019, MNOSHA responded to 4,186 phone calls and 2,014 written requests for assistance. A majority of these inquiries were answered within one day. During FY 2019, 93% of phone calls were received from employers, workers, and consultants. Callers are provided information during the initial phone call or directed to the MNOSHA or OSHA websites or another state agency for assistance. The information requested covers a wide variety of topics, which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

2. ENFORCEMENT

During FY 2019, MNOSHA conducted 1,841 inspections; 1,509 safety and 332 health. Of those, 1,358 were programmed, 364 were complaints and referrals, and 16 were follow-ups. The total number of inspections decreased by one inspection from FY 2018. (Source: Inspection Summary report dated January 28, 2020)

a) Complaints

During FY 2019, MNOSHA received 1,402 complaints, of which 329 (23%) were formal and 1,073 (77%) were nonformal. The average number of days to initiate a complaint inspection in FY 2019 was 2.6, well below the negotiated standard of nine days. The average number of days to initiate a complaint investigation was 0.82, below the negotiated standard of two days. OSHA randomly selected 13 formal complaint inspections and 16 nonformal complaint and referral investigations for review during this evaluation of the MNOSHA program.

MNOSHA has its own complaint process specified in ADM 3.16 Administrative Procedures for Handling Complaints and Information Requests. The directive outlines the policies and procedures for processing formal and nonformal complaints.

MNOSHA considers electronic complaints obtained through the federal complaint system as formal complaints if the individual indicates they are a current employee or

employee representative and an electronic signature is provided. After the receipt of an electronic complaint, a follow-up call to the complainant is usually made to clarify the complaint items. In some instances, the complainant may elect to process the complaint nonformally to address the issue, such as in sanitation complaints or complaints with low severity.

Following complaint inspections by OSHA, complainants are mailed a letter informing them of the inspection and indicating whether citations were issued. The letter addresses each complaint item with reference to the enclosed citation(s) or a sufficiently detailed explanation of why a citation was not issued. On September 12, 2016, Minnesota Rule 5210.0530 was adopted, directing MNOSHA to mail a copy of the citation to the complainant in a complaint inspection. In the cover letter, complainants are also invited to contact the investigator with any questions they may have regarding the inspection.

In two of the 17 (12%) onsite complaint inspections reviewed for FY 2017, the complainant was not provided the citation and/or letter because a mailing address was not included with the complaint. In both cases, the complaint was filed by email; therefore, an email address was known and could have been used to provide the information to the complainant. Alternatively, the complainant could have been contacted by email and given the opportunity to provide a mailing address. MNOSHA has declined to provide information to complainants by email due to their data practice requirement for the attached letter to be encrypted. MNOSHA has found this to be confusing to complainants. Rather, MNOSHA will attempt to obtain a mailing address from the complainant. Two of the 13 (15%) onsite complaint inspections reviewed for FY 2019 lacked evidence/documentation that the result of the inspection was mailed to the mailing address provided by the complainant.

MNOSHA's nonformal complaint processing also differs from the federal program as it relates to the outcome of nonformal complaint investigations. Chapter 9 of OSHA's Field Operations Manual (FOM) contains the requirement to advise the complainant of the employer's response, as well as the complainant's right to dispute that response, and if the alleged hazard persists, of the right to request an inspection. MNOSHA does not send a letter to the complainant at the conclusion of the investigation to inform them of the outcome. On December 29, 2014, MNOSHA revised their ADM 3.16 to include information in the acknowledgement letter to the complainant regarding how a complainant may obtain a copy of the employer's response after the complaint is closed and becomes releasable as a public record.

MNOSHA receives approximately 750 complaints filed through OSHA's website each year. Complainants are required to enter an email address in the online complaint form. Providing a mailing address is optional. However, the complainant is not informed that they will not receive correspondence from MNOSHA without one. As previously explained, MNOSHA has declined to send letters to complainants by email. MNOSHA is encouraged to be diligent in attempting to obtain a mailing address from the complainant and in documenting when the attempts are unsuccessful to ensure the complainant has been provided the opportunity to be informed.

On March 16, 2015, Minnesota adopted the revisions to 29 CFR 1904.39 requiring an employer to report work-related hospitalizations, amputations, and losses of an eye. MNOSHA modified ADM 3.16 to incorporate the employer reports of injuries and illnesses. ADM 3.16 contains a flow chart with the criteria to be used in determining whether an inspection is conducted. If a determination is made to conduct an inspection, it is done in accordance with ADM 3.18 Serious Injury Inspection Procedures. Reports of serious injuries and illnesses that are not inspected are handled similarly to nonformal complaints as outlined in ADM 3.16.

Unlike OSHA's interim enforcement procedures, which include factors such as history of the employer, youth and other vulnerable workers, hazard included in an emphasis program, and continuance or abatement of a hazard, MNOSHA's criteria for inspection focuses on the type and severity of the injury or illness. This includes electrical burns, fire burns on over 20% of the body, broken bones, head or spine injuries, and chemical pneumonia or sensitivity.

During the FY 2017 review, five of the selected nonformal complaints were employer-reported injuries. In four (80%) of the five instances, MNOSHA's decision to not inspect the report of injury was contrary to their criteria listed in MN Instruction ADM 3.16. On August 29, 2017, MNOSHA added a requirement to ADM 3.16 for a supervisor to determine whether the injury or illness will be inspected or processed as a non-formal complaint. In making the final decision, MNOSHA is encouraged to utilize the same criteria as OSHA does, which will help ensure inspection resources are directed where they will make the most impact in obtaining correction of serious hazards. No related concerns were noted in the files reviewed by the FY 2019 review team. Consequently, Observation FY 2018-OB-02 is closed.

Observation FY 2019-OB-01 (FY 2018-OB-01): Two of the 13 (15%) onsite complaint inspections reviewed for FY 2019 lacked evidence/documentation that the result of the inspection was mailed to the mailing address provided by the complainant.

Federal Monitoring Plan FY 2019-OB-01: OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

b) Fatalities

A total of 21 fatalities were inspected by MNOSHA in FY 2019, down from 25 during the previous year. DLI's Injury Notification Template is provided to OSHA for information and tracking of all fatalities. The 24 closed fatality cases reviewed were responded to within one day.

Fatality information is recorded in MNOSHA's MOOSE. All fatalities are entered into the Fatality/Serious Injury Log. A supervisor who determines if the fatality falls within MNOSHA's jurisdiction reviews each entry. The supervisor can assign a fatality for inspection from the log, at which time an Accident/Event record is generated. When jurisdiction cannot be determined from the initial information, an inspection is opened.

In fourteen of the cases reviewed, MNOSHA changed the inspection scope to ‘no inspection’ after a determination was made that MNOSHA did not have jurisdiction. In four of the fourteen cases, inspection activity was completed, prior to receiving information from the coroner or medical examiner indicating the death was not work-related. MNOSHA changed the scope to ‘no inspection’ even when onsite activity had taken place, interviews were conducted, and/or evidence was collected. MNOSHA’s policy is to change the scope to avoid skewing fatality data collected nationwide. In four of the 24 (17%) fatality case files reviewed, additional information was not obtained and/or considered before terminating the investigation and changing the inspection scope to no inspection.

In the fatality inspection case files reviewed, when the State Plan was not timely notified of a work-related death, the employer was cited for not reporting within eight hours.

During the 2000 session, the legislature amended the Minnesota Occupational Safety and Health Act by adding a new section (Minn. Stat. 182.6545) which requires MNOSHA to make reasonable efforts to locate a deceased employee’s next of kin and to mail them copies of the following documents related to the investigation:

- Citations and notification of penalty
- Notices of hearings
- Complaints and answers
- Settlement agreements
- Orders and decisions
- Notice of appeals

Under the statute, the next of kin also has the right to request a consultation with DLI regarding citations and notifications of penalties issued as a result of the investigation of the employee’s death.

MNOSHA Instruction ADM 3.19 Fatality Investigation Procedures requires a condolence letter be sent to the next of kin. After issuance of the initial letter, MNOSHA generally does not attempt to communicate with the next of kin unless they contact MNOSHA. Contact is kept at the supervisory/management level. In two of the 24 (8%) fatality cases reviewed, a letter to the next-of-kin contained an error. One next-of-kin was notified there were no citations issued, and was later sent a second letter that indicated there were citations issued. In the second case, the familial relationship was reversed when the letter referred to the death of a father rather than a son. In one of the 24 (4%) fatality cases reviewed, a letter was not sent to the next-of-kin.

Observation FY 2019-OB-02: In four of the 24 (17%) fatality case files reviewed, additional information was not obtained and/or considered before terminating the investigation and changing the inspection scope to no inspection.

Federal Monitoring Plan FY 2019-OB-02: OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.

Observation FY 2019-OB-03: In two of the 24 (8%) fatality cases reviewed, a letter to the next-of-kin contained an error; and in one case (4%), a letter was not sent to the next-of-kin.

Federal Monitoring Plan FY 2019-OB-03: OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

c) Targeting and Programmed Inspections

During FY 2019, MNOSHA conducted 1,841 inspections, with 74% opened as programmed inspections. MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries. MNOSHA has a specific administrative instruction that outlines its policies for inspection targeting, ADM 2.1 Scheduling Plan for Programmed Inspections. Ninety-one percent (91%) of all programmed inspections were conducted in the emphasis industries.

MNOSHA has developed targeting lists to address Strategic Management Plan hazards and specific industries during programmed inspections. MNOSHA's program administration unit is responsible for collecting data and developing targeting lists for inspection under the various national and local emphasis programs.

MNOSHA participates in several national emphasis programs (NEPs), which include amputations, combustible dust, lead, process safety management (PSM) – ammonia, refinery and ethanol, and trenching.

MNOSHA utilized data from Minnesota's Department of Employment and Economic Development to develop a local planning guide. Employers with SIC/NAICS codes identified in the state's Strategic Management Plan receive priority for an inspection. Other local emphasis programs (LEPs) include, but are not limited to, window washing, foundries, healthcare, meat packing, serious injury, grain facilities, hexavalent chromium, isocyanates, silica, schools and other state and local governments, and investigator-observed imminent danger.

MNOSHA's procedures for scheduling construction inspections are also outlined in MNOSHA's ADM 2.1. The primary scheduling methods for construction inspections are a Dodge list of the major projects in the state and activity generated inspections. Under the activity generated inspections LEP, an inspection may be opened if the site has at least one of the following activities being conducted (safety or health): demolition work, bridge work, structures greater than 30 feet high, buildings equal to or greater than two stories or 20 feet in height, buildings equal to or greater than 5,000 square feet, crane in operation, multiple equipment (at least one earth moving) operation - crushing hazard or struck-by hazard, or roofing work equal to or greater than 14 feet from the eave to a lower level or a potential fall of 20 feet.

Of the 1,358 programmed inspections opened in FY 2019, 1,332 were coded as programmed planned, while 26 were coded as programmed related.

The FRL for percent in-compliance for health inspections is +/- 20% of the three-year national average of 36.12%, which equals a range of 28.90% to 43.35%. The MNOSHA State Plan's percent in-compliance for health is within the expected range at 41.80%. The FRL for percent in-compliance for safety inspections is +/- 20% of the three-year national average of 30.30%, which equals a range of 24.24% to 36.36%. The MNOSHA State Plan's percent in-compliance for safety is 37%, which is slightly higher than the FRL. During FY 2019, MNOSHA experienced a high frequency of imminent danger complaints in the construction industry, which often times resulted in in-compliance inspections.

d) Citations and Penalties

In MNOSHA's Field Compliance Manual (FCM), Chapters 5 and 6 contain the requirements and policies for citations and penalties, respectively. The citations and penalties proposed for issuance are reviewed at multiple levels in MNOSHA's management system prior to issuance.

During FY 2019, MNOSHA investigators conducted 1,841 inspections where 2,875 hazards were identified and cited. Sixty-three percent (63%) of the inspections resulted in violations and 72% of those violations were classified as serious. The average number of serious/willful/repeat violations per inspection was 1.86.

No concerns were noted with the documentation of violations or appropriateness of citations in the files reviewed for FY 2019.

The average initial penalty per serious violation in the private sector during FY 2019 was \$1,028.31 (SAMM 8: 1-250+ workers). The FRL is -25% of the national average (\$2,871.96), which equals \$2,153.97. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are "at least as effective as" (ALAE) those contained in the FOM, Chapter 6 – Penalties and Debt Collection.

e) Abatement

MNOSHA continues to focus on abatement verification, in particular the number of cases more than 30 days past their abatement date.

MNOSHA has a management system in place to control abatement past due issues. MNOSHA ADM 3.4 Abatement Verification includes definitions for certification of abatement and documentation of abatement, as well as guidance on when each type of abatement verification is required. Identical to OSHA, MNOSHA's abatement documentation standard (5210.0532 subp. 3) and ADM 3.4 require abatement documentation, such as written, video graphic, or photographic evidence in certain

circumstances. When abatement documentation is necessary, MNOSHA identifies this requirement in the citations. In two of eight (25%) health inspection files with citations, the abatement certification provided by the employer was not adequate to close the case. In one case, the employer simply stated, “corrected.” In the second case, the action taken did not abate the cited violation.

A violation can be considered corrected during the inspection (CDI) when the investigator observes the correction to the specific violation while onsite. Additionally, OSHA requires that the violation worksheet contains information on how the violation was abated. This policy is outlined in the FOM. During the FY 2019 review, no concerns were noted with the use of CDI to close abatement.

MNOSHA’s regulations and written procedures for Petitions for Modification of Abatement Dates (PMA) are equivalent to federal regulations and procedures.

MNOSHA’s follow-up inspection policy is slightly different from OSHA’s. In addition to follow-ups being scheduled for inspections as the result of an employer’s failure to submit timely progress reports outlining abatement, or when the investigator recommends a follow-up inspection, MNOSHA identifies specific citation outliers. In Minnesota, a follow-up inspection may be scheduled when an inspection results in at least five citations that are serious, willful, or repeat and are not immediately abated, with at least one citation rated in greater severity and probability.

MNOSHA’s evaluation and decision regarding follow-up inspections was noted when appropriate in the files reviewed for FY 2019.

Observation FY 2019-OB-04: In two of eight (25%) health inspection files with citations, the abatement certification provided by the employer was not adequate to close the case.

Federal Monitoring Plan FY 2019-OB-04: OSHA will discuss and evaluate MNOSHA’s internal audits conducted in this area during quarterly monitoring meetings.

f) Worker and Union Involvement

Minnesota Statute 182.659 and Chapter 3 of the MNOSHA Field Compliance Manual (FCM) contain requirements and policies for the investigator to involve employees and employee representatives during the course of the inspection. This includes the opening conference, walk around, and closing conference. The narrative and violation worksheets in the case files reviewed for FY 2019 contained detailed descriptions of interviews with workers. In three of 13 (23%) health inspection files reviewed, the number of employees interviewed appeared to be less than the minimum number required in the FCM based on the total number of employees.

Chapter 1 of the MOOSE Manual for Inspection Files contains instructions to indicate contact with the union representative(s) or explain their absence. In cases where citations

are issued, the authorized employee representatives are also mailed a copy of the citation. In five of the 25 (20%) files reviewed where employee representation applied, participation by a representative and/or mailing a copy of the citation to the representative were not consistently documented.

In accordance with MN Stat.182.661 and Minnesota Rules Chapter 5210, employers, employees, and authorized employee representatives have 20 calendar days from the date of receipt of citations within which to file a notice of contest regarding the citation, type of violation, penalty, and/or abatement date. The statute further requires that the notice be filed on a form provided by the Commissioner and that the contesting parties serve a copy of the notice on affected employees.

Additionally, Minnesota Rule 5210.0573 permits an employer, affected employees, or authorized representatives to request party status if one of the other parties contests the citation. Employees and authorized representatives are informed of this process on the Employee Notice of Contest form. By obtaining party status, affected workers or authorized representatives are involved in informal and formal settlements and formal hearings.

Observation FY 2019-OB-05: In five of the 25 (20%) files reviewed where employee representation applied, participation by a representative and/or mailing a copy of the citation to the representative were not consistently documented.

Federal Monitoring Plan FY 2019-OB-05: OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

3. REVIEW PROCEDURES

a) Informal Conferences

MNOSHA's review procedures are organized slightly differently than the OSHA program. Instead of conducting an informal conference before the expiration of the contest period, a citation must be contested before an informal conference is held. As previously noted, employers, employees, and authorized employee representatives have 20 calendar days from the date of receipt of citations within which to file a notice of contest regarding the citation, type of violation, penalty, and/or abatement date. The notice must be filed on a form provided by the Commissioner and contesting parties must serve a copy of the notice on affected employees.

MNOSHA has developed three official forms for an employer or employee to use when filing a notice of contest. Forms are mailed to the employer with the citation package when the citation notice is issued. The Employee Notice of Contest form is sent to the employer when an employee contest letter is received. The employee contest date is considered the date the original letter of contest is received by MNOSHA from an employee.

b) Formal Review of Citations

After receiving the properly filed notice of contest, MNOSHA will attempt to meet with the contesting party to discuss relevant matters pertaining to the conduct of the inspection, citations, means of correction, penalties, abatement dates, and safety and health programs. After the informal conference, recommended changes to the original citation will be accomplished through a Settlement Agreement and Order prepared by MNOSHA’s legal counsel or the matter may be referred for hearing.

MNOSHA’s management or principal investigator discusses interim worker protection measures with employers during settlement conferences prior to entering into an agreement where abatement dates are extended. Abatement information is included in the informal conference memorandum prepared following the conference.

MNOSHA’s management or principal investigator also discusses penalty reduction and reclassification reasoning with employers during settlement conferences, and documents the reasons for the changes in the memorandum. In the cases reviewed during the FY 2019 audit, a majority of the changes were penalty reductions for settlement purposes. The FRL for percent penalty retained is +/- 15% of the three-year national average of 66.38%, which equals a range of 56.42% to 76.33%. The Minnesota State Plan retained 87.36% of penalties, which is well above the FRL and a positive outcome.

4. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION

a) Standards Adoption

During FY 2019, two applicable standards were required to be adopted, including the 2019 annual adjustment to civil penalties.

**Table X
Status of FY 2019 Federal Standards Adoption**

Standard:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
Final Rule on the Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	7/11/2019	Yes	Yes	11/14/2019	11/4/2019
Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	3/18/2019	Yes	No	7/23/2019	Pending
Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	1/9/2019	Yes	Yes	5/9/2019	11/4/2019

Interim Final Rule on Maximum Penalty Increases 29 CFR 1902, 1903 (7/1/2016)	9/1/2016	7/26/2016	Yes	No	1/1/2017	Pending
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MNOSHA continues to provide timely notification to OSHA regarding all state-initiated standard changes. Minnesota proposed and adopted the repeal of two state rules during FY 2018. Minnesota Rule changes addressed the following topics: walking working surfaces and confined spaces. No changes to Minnesota Rules occurred during FY 2019.

b) Federal Program Change (FPC) Adoption

All FPC responses were submitted timely. For those FPCs that the state did not adopt, the topics were not adopted due to the state having a pre-existing directive that addressed the issues. To access these documents, please visit <http://www.osha.gov/stateplans/adoption>. For specific information on the state's policy as it relates to these items, please contact MNOSHA Compliance at 651-284-5050.

Table Y
Status of FY 2019 Federal Program Change (FPC) Adoption

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
<i>Adoption Required</i>						
National Emphasis Program on Trenching and Excavation CPL 02-00-161 (10/1/2018)	11/30/2018	11/28/2018	No	n/a	4/1/2019	n/a
<i>Equivalency Required</i>						
Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment CPL 02-01-061 (5/22/2019)	7/21/2019	7/11/2019	Yes	Yes	11/22/2019	7/11/2019
Shipyard Employment "Tool Bag" Directive CPL 02-00-162 (5/22/2019)	7/21/2019	7/11/2019	Yes	Yes	11/22/2019	7/11/2019
Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment CPL 02-01-060 (5/22/2019)	7/21/2019	7/11/2019	Yes	Yes	11/22/2019	7/11/2019
Site-Specific Targeting 2016	12/15/2018	12/10/2018	No	n/a	4/16/2019	n/a

(SST-16) CPL 02-18-01 (10/16/2018)						
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019	4/2/2019	No	n/a	n/a adoption not required	n/a

5. VARIANCES

There were no variance requests received or variances granted during Fiscal Years 2018 and 2019.

A variance is an order issued by the Minnesota DLI to allow an employer to deviate from the requirements of a MNOSHA standard. Variances can be temporary or permanent. Variances are written to cover future activity by the employer and his or her employees. DLI can refuse to accept an application for a variance regarding a contested citation. When OSHA grants variances covering several states, MNOSHA will honor a federal variance, if the following conditions are met: the employer has not applied to DLI for a separate state variance, the federal application included Minnesota, the federal standard from which the variance was granted has been adopted by MNOSHA without change, and DLI receives no objections to the variance.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

MNOSHA's state and local government worker program operates identically to the private sector program. As with the private sector, state and local government employers can be cited with monetary penalties. The penalty structure is the same. In FY 2019, MNOSHA conducted 83 inspections of state and local government workplaces, 4.51% of the total inspections conducted in Minnesota. During the FY 2019 review, seven case files were reviewed. There were no apparent differences between the state and local government and private sector case files.

7. WHISTLEBLOWER PROGRAM

MNOSHA's Whistleblower Protection Program consists of an OMT whistleblower director, one supervisor, and three investigators. Procedurally, the MNOSHA Whistleblower Protection Program adheres to MNOSHA ADM 3.6 Discrimination Complaint Handling Procedures, which provides guidelines for the investigation and disposition of retaliation complaints filed with MNOSHA.

Accordingly, this review followed the guidelines, procedures, and instructions of OSHA CPL 02-03-007 Whistleblower Investigations Manual (WIM), and 29 CFR 1977. MNOSHA's supervisor was consulted for information as necessary during the review.

During FY 2019, MNOSHA docketed 54 cases for investigation and closed 54 cases. This represents a decrease in new cases from FY 2018, when 65 cases were opened and 47 cases were closed.

Investigative File Review

The cases reviewed were selected from those with final determinations during the review period and the selections were based on type of determination and the investigator of record. Twenty of the 54 (37%) closed investigations were reviewed, including those with non-merit/dismissed, merit, settled other, and withdrawn determinations. Additionally, 10 cases were reviewed that had been screened and closed prior to investigation.

Cases are assigned for investigation after a response has been received from the complainant and the respondent has been notified of the complaint. An assignment memorandum is not produced, but the assignment is tracked in MOOSE. Whistleblower unit staff meets monthly to discuss cases and ensure cases are completed in a timely manner.

A review of the Whistleblower State Plan Investigation Data report for the review period indicated that of the 54 cases completed, one (1.9%) was withdrawn, 47 (87%) were dismissed, five (9.3%) had merit, and one (1.9%) case settled among the parties. The percentage of cases completed timely was 33%.

Complaint Intake and Screening

MNOSHA follows ADM 3.6 for complaint intake and screening. All complaints are screened by the investigators or the supervisor and are tracked in MOOSE. Notes regarding the intake information and the reason the complaint is screened and closed are entered into MOOSE. On occasion, a complainant may disagree with the investigator's determination that the complaint is inappropriate for investigation. The investigators document whether the complainant was in agreement with the disposition of their complaint.

OSHA's WIM requires that a letter to the complainant be generated for all screened and closed complaints. MNOSHA's policy is to offer to send the complainant a letter confirming that the case is inappropriate for investigation, and to document the complainant's response to the offer. If requested, the complainant is sent a letter explaining the determination and providing an opportunity to request a review within 15 days. During the review period, MNOSHA screened and closed 42 complaints. Of the 10 screened and closed complaints reviewed for FY 2019, two (20%) closing letters were not sent. The files indicated the letter was not requested.

Lastly, MNOSHA's instruction indicates that if a complainant does not wish to file at the time of initial contact with MNOSHA, they may leave their address to receive a letter confirming the 30-day filing time period.

Case Activity Worksheet

The MNOSHA Whistleblower Program does not use Case Activity Worksheets generated by the Whistleblower WebIMIS system. The program determined that they do not need the information contained on the form. While the Case Activity Worksheet is not provided to the respondent, a detailed allegation is incorporated into the respondent's notification letter.

Complainant Statement and Witness Interviews

MNOSHA utilizes a Complainant's Statement form filled out by the investigator after the initial phone intake with the complainant. The Complainant's Statement form includes a narrative of the allegation and is mailed with the complainant's acknowledgement letter. The complainant is asked to fill in any incomplete sections of the form, review the narrative of the allegation, provide any additional written documentation, and sign to verify it is accurate.

Prior to beginning interviews with witnesses, Minnesota Statute § 13.04, subd. 2, requires the individual be given certain information referred to as the "Tennessee Warning." Included is information on confidentiality of the witness's statement. MNOSHA's ADM 3.6 directs the investigator to read the warning to non-management witnesses. During the FY 2019 review, two of the 20 (10%) investigation files reviewed showed that the Tennessee Warning had been given to management and business owner witnesses. This concern was previously noted as an observation during the FY 2015 review and closed in the FY 2017 FAME report.

MNOSHA does not require signed statements for witness interviews. Interviews are taped at the discretion of the investigator. Interviews are reduced to a memo to the file or transcribed at the discretion of the investigator. The word processing unit in DLI does all transcription.

Observation FY 2019-OB-06: Two of the 20 (10%) whistleblower protection cases reviewed showed that the Tennessee Warning had been given to management and business owner witnesses.

Federal Monitoring Plan FY 2019-OB-06: OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.

Docketing and Respondent Notification

Once a complaint has been determined to be appropriate for investigation, the investigator will docket the complaint and send the docket and notification letter to the complainant. In addition to the Complainant's Statement form, the complainant's letter includes dual filing rights, and is sent via certified mail. After MNOSHA receives the completed Complainant's Statement form, a docket and notification letter is sent to the respondent. The respondent is given 10 days to submit their response and supporting documentation.

Final Investigation Report

MNOSHA has declined to change the name of the report to Report of Investigation as OSHA has done in order to be consistent with other federal agencies. MNOSHA only prepares a Final Investigation Report (FIR) when the complaint resulted in a full field investigation. Complaints that are closed for lack of cooperation, settlement, or withdrawals are closed with a memorandum to the supervisor or OMT Director. The FIR follows the criteria provided in OSHA's WIM. One area where MNOSHA differs is how case files are organized. While the FIR and memorandums outline the facts of the case, MNOSHA's files are not arranged in accordance with the WIM so that supporting exhibits are referenced and easily identified. Rather, contents of the files are scanned into MOOSE.

MNOSHA utilizes a written determination that adequately sets forth the determination and provides the respective party their right to request review of the MNOSHA finding. MNOSHA sends the written determination by both regular U.S. mail and certified mail with a request for a return receipt. On occasion a party receives the letter by regular mail and attempts to change the outcome of the decision by providing additional information. If the party does not accept delivery of the certified mail, MNOSHA does not have documentation of receipt. MNOSHA is encouraged to reconsider sending the decision by regular mail and/or utilize tracking provided online by the U.S. Postal Service to show receipt of the decision, if necessary.

During the FY 2017 review, two (10%) of the 20 cases reviewed contained determinations contrary to the outcome of the case. Both cases were closed for lack of cooperation after the complainants requested to stop the investigation. The complainants were each provided an opportunity to request a review of the dismissal of their case. OSHA considers a request to stop an investigation a withdrawal, whether or not the request is in writing. Additionally, complainants who withdraw their complaint with OSHA are not provided an opportunity to appeal. No concerns were noted in the files reviewed by the FY 2019 review team. Consequently, Observation FY 2018-OB-03 is closed.

Settlements

OSHA's WIM contains instruction that settlement agreements must not state or imply that OSHA or DOL is party to a confidentiality agreement. OSHA discloses settlement agreements to the public upon request in accordance with the Freedom of Information Act (FOIA), unless one of the FOIA exemptions applies. Similarly, MNOSHA Instruction ADM 3.7 Data Practices and Release of Case File Information states that settlement agreements must be released. MNOSHA Instruction ADM 3.6 includes a template settlement agreement.

During the period under review, one case was settled among the parties and properly coded settled other.

Timeliness

The Occupational Safety and Health Act of 1970 (OSH Act) states the complainant shall be notified of the case determination within 90 days. However, 29 CFR 1977 indicates the deadline is a goal to strive to meet, not a requirement, as delays will occur. MNOSHA currently has three whistleblower investigators on staff and continues to look for ways to expedite investigations. During FY 2019, 33% of docketed cases were closed within 90 days, which is a decrease from 49% in FY 2018. The topic is discussed during quarterly monitoring meetings throughout the year. MNOSHA emphasizes complete investigations, thorough final investigation reports, and careful supervisory review.

MNOSHA also reports that delays have occurred while attempting to contact witnesses for interviews. OSHA's WIM requires that the activity/telephone log include all telephone calls made, messages received, and written or electronic correspondence exchanged during the course of an investigation. Accurate documentation is both a helpful chronological reference for the investigator or other reader of the file, and a helpful resource to resolve any difference of opinion concerning the course of events during the processing of the case. MNOSHA's Discrimination MOOSE Manual describes the phone log tab as used to document all conversations with the parties or witnesses to the case. In one of the 20 (5%) cases reviewed, attempts to contact individuals by telephone were not consistently documented.

Whistleblower WebIMIS System Information

Prior to each Fiscal Year, the State Plan submits a grant application, which contains a signed agreement, entitled 23(g) OSHA Restrictions and Conditions. The document states, in part, "Any State developing an alternative or supplemental system must continue to provide data to OSHA that are identical to that required by the federal Information System and that are submitted in the same manner and to the same extent as though continuing to participate in the federal system."

MNOSHA does not currently enter administratively closed complaints into the WebIMIS, which was noted as a finding in the FY 2012 FAME and revisited during the

FY 2013 onsite review. MNOSHA offered to enter administratively closed case information into WebIMIS, with OSHA's help, since MNOSHA would be entering the same data into both systems, creating a duplication of work. As an alternative, MNOSHA and OSHA signed a memorandum of understanding affirming MNOSHA's agreement to provide OSHA data related to administratively closed cases entered into MOOSE upon request.

MNOSHA entries into the WebIMIS for docketed cases include party information and investigation information, and do not include case comments or additional tracking. In three of the 20 (15%) cases reviewed for FY 2017, inconsistencies were found in filing and adverse action dates entered in MOOSE and in WebIMIS. The same concern was not noted in the files reviewed by the FY 2019 review team. Consequently, Observation FY 2018-OB-04 is closed.

Review of the files completed during FY 2019 revealed that MNOSHA does not always use the same date for the determination and the letters to the parties, as OSHA does, when for instance the letters are delayed by a weekend or the supervisor's availability. Although MNOSHA's practice is different from OSHA's, it does not appear to be a concern due to the reason for the difference.

Program Management

MNOSHA primarily relies on their MOOSE, not WebIMIS, for tracking and management of whistleblower protection activity. The MNOSHA management team reviews activity reports from MOOSE on a monthly basis. Effective procedures are also in place to review appealed cases. Requests for review must be submitted in writing. When a complainant requests an appeal (review), the MNOSHA Director and/or OMT Director review the file and appeal. If there is a dispute or question, regarding complaints that are screened and closed, the OMT Director is involved and additional investigation is conducted if necessary. All screened and referred complaints are tracked in MOOSE.

Resources

Investigators are provided with computers, digital recorders, and personal protective equipment. Based on the current new caseload, staffing of three investigators appears to be adequate. As previously noted, MNOSHA continues to focus on reducing the backlog, while completing new cases in a timely manner, in order to raise the percentage of cases completed within 90 days.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

No CASPAs were received regarding MNOSHA during FY 2019.

9. VOLUNTARY COMPLIANCE PROGRAM

Voluntary Protection Program (MNSTAR)

There were five voluntary protection program (MNSTAR) site evaluations conducted in Minnesota in FY 2019. One of the five received the designation of MNSTAR for the first time, and the remaining four were recertification evaluations. MNOSHA Instruction ADM 3.28 MNSTAR Voluntary Protection Program outlines how the state administers the program. MNOSHA's instruction follows OSHA's CSP 03-01-003 Voluntary Protection Programs (VPP): Policies and Procedures Manual. Applicants must meet the criteria contained in the MNOSHA Voluntary Protection Program instruction. In addition to requiring the company's injury and illness rate be below the national average for the industry, MNSTAR applicants' rates must also be below the state averages for the industry.

Partnerships

MNOSHA Directive ADM 3.27 MNOSHA Strategic Partnership Plan is consistent with OSHA Strategic Partnership Program for Worker Safety and Health CSP 03-02-003 (November 6, 2013). There were two active Partnerships in place. The two Partnerships were being administered appropriately by MNOSHA. MNOSHA's Partnerships are an extended voluntary cooperative relationship between MNOSHA and groups of employers, employees, employee representatives and interested stakeholders designed to encourage, assist, and recognize efforts to eliminate serious hazards and achieve a high degree of worker safety and health.

Alliances

MNOSHA is not required to have an Alliance program similar to the OSHA Alliance Program CSP 04-01-002. However, MNOSHA's Workplace Safety Consultation (WSC) has administered a program since 2004. In October 2016, MNOSHA developed their own written program in response to updates made by OSHA. MNOSHA and Alliance participants work together to reach out to educate and lead Minnesota's employers and their employees in advancing workplace safety and health.

During FY 2018, one new Alliance was established with the Minnesota Municipal Utilities Association (MMUA) focusing on assessing exposure to respirable crystalline silica during road maintenance and repair tasks. The group completed assessments for street sweeping and mowing in nine municipalities during the first year.

Two Alliances with state and local government entities, including MMUA, remained active during FY 2019. The group continued to work with Minnesota State Colleges and Universities to perform hazard surveys and safety management assistance for campuses and campus safety representatives. There were no new Alliances established during the year.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

MNOSHA conducted 99 onsite consultation visits in state and local government during FY 2018, which exceeded the grant projection of 75 visits. A total of 67 (92%) of the 73 initial visits were coded as high hazard visits, as defined by MNOSHA's high hazard emphasis program. (Source: Mandated Activities Report for Consultation (MARC) dated November 14, 2018)

During FY 2019, MNOSHA conducted 122 state and local government consultation visits, which is 222% of their grant projection of 55. A total of 92 (97%) of the 95 initial visits were coded as high hazard visits. During FY 2019, 331 serious hazards were identified and corrected. All but five of the hazards were verified and corrected in a timely manner. (Source: MARC and CNS Metrics reports dated October 23, 2019)

Appendix A – New and Continued Findings and Recommendations

FY 2019 MNOSHA Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 2018-# or FY 2018-OB-#
	None		

Appendix B – Observations and Federal Monitoring Plans

FY 2019 MNOSHA Comprehensive FAME Report

Observation # FY 2019-OB-#	Observation# FY 2018-OB-# or FY 2018-#	Observation	Federal Monitoring Plan	Current Status
FY 2019-OB-01	FY 2018-OB-01	Two of the 13 (15%) onsite complaint inspections reviewed for FY 2019 lacked evidence/documentation that the result of the inspection was mailed to the mailing address provided by the complainant.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	Continued
	FY 2018-OB-02	MNOSHA's listed criteria for inspecting employer-reported injuries and illnesses, contained in MN ADM 3.16, focuses on the type and severity of the injury or illness that had occurred, rather than factors such as history of the employer, youth and other vulnerable workers, hazard included in an emphasis program, and continuance or abatement of a hazard. Further, in four (80%) of the five employer-reported injuries selected during the FY 2017 review, MNOSHA's decision to not inspect the injury was contrary to their own listed criteria.		Closed
	FY 2018-OB-03	In two (10%) of the 20 whistleblower protection cases reviewed, the disposition of the case was incorrectly identified.		Closed
	FY 2018-OB-04	In three (15%) of the 20 whistleblower protection cases reviewed, there were inconsistencies between filing and adverse action dates entered in MOOSE and in WebIMIS.		Closed
FY 2019-OB-02		In four of the 24 (17%) fatality case files reviewed, additional information was not obtained and/or considered before terminating the investigation and changing the inspection scope to no inspection.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2019-OB-03		In two of the 24 (8%) fatality cases reviewed, a letter to the next-of-kin contained an error; and in one case (4%), a letter was not sent to the next-of-kin.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2019-OB-04		In two of eight (25%) health inspection files with citations, the abatement certification provided by the employer was not adequate to close the case.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	New

Appendix B – Observations and Federal Monitoring Plans

FY 2019 MNOSHA Comprehensive FAME Report

FY 2019-OB-05		In five of the 25 (20%) files reviewed where employee representation applied, participation by a representative and/or mailing a copy of the citation to the representative were not consistently documented.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	New
FY 2019-OB-06		Two of the 20 (10%) whistleblower protection cases reviewed showed that the Tennessen Warning had been given to management and business owner witnesses.	OSHA will discuss and evaluate MNOSHA's internal audits conducted in this area during quarterly monitoring meetings.	New

Appendix C - Status of FY 2018 Findings and Recommendations

FY 2019 MNOSHA Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
	None				

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MNOSHA Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Minnesota – MNOSHA			FY 2019	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.60	9	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	2.04	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	0.82	2	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.72	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	99.30%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MNOSHA Comprehensive FAME Report

5	Average number of violations per inspection with violations by violation type	SWRU: 1.86	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
		Other: 0.70	+/- 20% of Other: 0.97	
6	Percent of total inspections in state and local government workplaces	4.51%	+/- 5% of 3.89%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 3.69% to 4.08%.
7	Planned v. actual inspections – safety/health	S: 1,509	+/- 5% of S: 1,440	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 1,368 to 1,512 for safety and from 342 to 378 for health.
		H: 332	+/- 5% of H: 360	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,028.31	+/- 25% of \$2,871.96	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	a. Average current serious penalty in private sector (1-25 workers)	\$733.07	+/- 25% of \$1,915.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	b. Average current serious penalty in private sector (26-100 workers)	\$696.58	+/- 25% of \$3,390.30	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,640.14	+/- 25% of \$4,803.09	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MNOSHA Comprehensive FAME Report

	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,406.66	+/- 25% of \$5,938.59	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.
9	Percent in compliance	S: 37.00%	+/- 20% of S: 30.30%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
		H: 41.80%	+/- 20% of H: 36.12%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 21.28	+/- 20% of S: 47.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health.
		H: 27.63	+/- 20% of H: 57.23	
12	Percent penalty retained	87.36%	+/- 15% of 66.38%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
13	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	33%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	11%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
16	Average number of calendar days to complete an 11(c) investigation	216	90	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 MNOSHA Comprehensive FAME Report

17	Percent of enforcement presence	1.54%	+/- 25% of 1.23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.
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NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 12, 2019, as part of OSHA's official end-of-year data run.

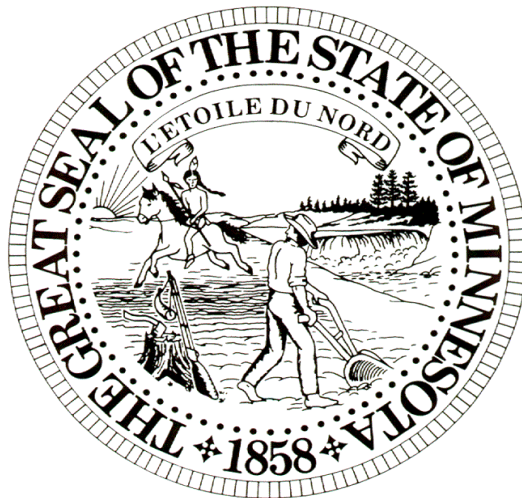
Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MNOSHA Comprehensive FAME Report

FFY 2019

**Minnesota Occupational Safety & Health Compliance
State OSHA Annual Report (SOAR)**

MNOSHA – 23g



December 2019
[Final]

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MNOSHA Comprehensive FAME Report

SOAR for FFY2019 Minnesota Occupational Safety & Health Compliance (OSH)

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Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 MNOSHA Comprehensive FAME Report

SOAR for FFY2019

Minnesota Occupational Safety & Health Compliance (OSH)

INTRODUCTION

The Minnesota Occupational Safety and Health (MNOSHA) program is administered by the Minnesota Department of Labor and Industry (DLI); the program became effective on August 1, 1973, with final State Plan approval being obtained on July 30, 1985. MNOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration (conducting enforcement inspections, adoption of standards, and operation of other related OSHA activities) and the Workplace Safety Consultation (WSC) Division which provides free consultation services, on request, to help employers prevent workplace accidents and diseases by identifying and correcting safety and health hazards.

MNOSHA's mission is: "To make sure every worker in the State of Minnesota has a safe and healthful workplace." This mandate involves the application of a set of tools by MNOSHA including standards development, enforcement, compliance assistance, and outreach which enable employers to maintain safe and healthful workplaces.

MNOSHA's vision is to be a leader in occupational safety and health and make Minnesota's workplaces the safest in the nation. MNOSHA is striving for the elimination of workplace injuries, illnesses, and deaths so that all of Minnesota's workers can return home safely. MNOSHA believes that to support this vision, the workplace must be characterized by a genuine, shared commitment to workplace safety by both employers and workers, with necessary training, resources, and support systems devoted to making this happen.

The Minnesota Occupational Safety and Health Strategic Plan for FFY2019 to 2023 established three strategic goals:

MNOSHA Compliance (OSH) Strategic Goals
Goal 1: Reduce occupational hazards through compliance inspections
Goal 2: Promote a safety and health culture through compliance assistance, outreach, cooperative programs and strong leadership
Goal 3: Strengthen and improve MNOSHA's infrastructure

The FFY2019 Performance Plan provided the framework for accomplishing the goals of the MNOSHA Strategic Plan by establishing specific performance goals for FFY2019. This SOAR presents a review of the strategies used and results achieved in FFY2019. Special accomplishments as well as the successful completion of mandated activities are also discussed.

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FY 2019 MNOSHA Comprehensive FAME Report

GOAL SUMMARIES - SOAR for FFY2019 Minnesota Occupational Safety and Health (MNOSHA) Compliance SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS

With few exceptions, MNOSHA Compliance's FFY2019 performance goals have been achieved. Each of the FFY2019 Performance goals and the activities and strategies used to achieve those goals are described below. Comments/discussion relating to accomplishment of Goal sub-items follows each chart.

Goal 1: Reduce occupational hazards through compliance inspections

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/18	FFY 19 Target	FFY 19 Results
1. Reduce Total Recordable Cases (TRC) Rate	BLS data CY 5-year average using the 5 years prior to the target year ¹ CY 2013-2017 avg.: 3.6	Reduction in TRC rate from the previous 5-year avg. CY 2013-2017 avg.: 3.6	Consistent reduction over five-year plan (See comments following chart [1.1]) CY 2018 TRC rate: 3.2, a 11.11% reduction
2. Reduce fatality rate ² for fatalities within MNOSHA's jurisdiction	³ DEED & MNOSHA data FY 5-year average using the 5 years prior to the target year FY 2014-2018 avg.: .700	Reduction in fatality rate from the previous 5-year avg. FY 2014-2018 avg.: .700	Consistent reduction over five-year plan (See comments following chart [1.2]) FY 2019 fatality rate: .729 a 4% increase
3. Number of hazards identified & establishments visited: a) Total hazards identified / establishments visited b) Establishment emphasis ⁴ 1. <u>Inspection emphasis</u> 23 Construction 311 Food mfg. 312 Beverage & tobacco product mfg. 321 Wood product mfg. 322 Paper manufacturing 326 Plastics & rubber products mfg. 331 Primary metal mfg. 332 Fabricated metal product mfg. 333 Machinery mfg. 336 Transportation equipment mfg. 337 Furniture & related product mfg. 424 Merchant wholesalers, nondurable goods 441 Motor vehicle & parts dealers 444 Bldg material & garden equip supplies Public Sector (State & Local Gov't & Schools) 2. <u>National Emphasis Programs</u> Amputations – General Industry Combustible Dust – General Industry Lead – Health PSM – Health & General Industry Trenching Hazards – Construction 3. <u>Local Emphasis Programs</u> Foundries – General Industry & Health Grain Facilities – General Industry & Health Healthcare – General Industry & Health Hexavalent Chromium - Health Isocyanates - Health Meat Packing–General Industry & Health Silica- Health Window Washing – General Industry c) Ergo, Workplace Violence & Safe Patient Handling, including hospitals, surgical centers, nursing homes	MNOSHA data FY 2013 – 2017 avg.: 4256 / 2303 N/A Current practice	N/A 65% of all programmed inspections Ongoing support of WSC's Ergo, Workplace Violence & SPH effort	2875 / 1841 91% of all programmed inspections See below
4. Percent of designated programmed inspections	MNOSHA data FY 2013-2017 avg: 82%	82%	74%

¹BLS data for the last year of five-year average is not available until November.

²Fatality rate is calculated as the number of fatalities per 100,000 workers: (# MNOSHA fatalities / # of MN employed workers) x 100,000

³Minnesota Department of Employment and Economic Development.

⁴The quantity of programmed inspections is variable; therefore, no defined number is provided.

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GOAL 1 - Comments

Goal 1.1

Reduce total recordable cases: FFY19 target = reduction in TRC from the previous 5-year average and a consistent reduction over the five-year plan.

The TRC for calendar year 2018 decreased 11.11% from the previous 5-year average.

Goal 1.2

Reduction in state fatality rate: FFY19 target = reduction in fatality rate from the previous 5-year average and a consistent reduction over the five-year plan.

The fatality rate for FFY 2019 increased 4% from the previous 5-year average. There were 21 fatalities in Minnesota

in FFY 2019, and the rate of fatalities (.729) was higher than the average rate of fatalities for FFY 2014-2018 (.700). However, the rate for FFY 2019 decreased by 17.72% from FFY 2018. The FFY 2019 fatalities occurred in a broad

range of industries and were due to various causes. MNOSHA conducts inspections according to its policies, and addresses workplace fatalities through its various outreach methods. Going forward, MNOSHA, along with partners

and stakeholders, will further identify areas on which to focus its outreach resources.

Goal 1.3

Hazards abated / establishments visited: FFY19 target = 65% of all programmed inspections conducted in emphasis industries.

In FFY 2019, MNOSHA investigators conducted 1841 inspections where 2875 hazards were identified and cited. Sixty-three percent (63%) of the inspections conducted resulted in violations; 72% of violations were cited serious. MNOSHA continues to create incentives for employers to address safety and health issues through strong, fair, and effective enforcement of safety and health regulations. MNOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain emphasis industries.

The FFY 2019 goal was for 65% of all programmed inspections conducted to be in the emphasis industries. MNOSHA met this goal. MNOSHA conducted 91% of all programmed inspections in the emphasis industries.

As part of an ergonomic focus, MNOSHA conducted 30 programmed inspections in the meat processing industry and healthcare industries.

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Goal 2

Promote a safety and health culture through compliance assistance, outreach, cooperative programs, and strong leadership

How Progress in Achieving this Goal Will be Assessed	Baseline 9/30/18	FFY 19 Target	FFY 19 Results
1. Increase or maintain:			
a. Partnerships	# of FFY18 partnerships: 2	Maintain	(See comments following chart [2.1a,c])
b. Voluntary Protection Programs (MNSTAR)	# of FFY18 MNSTAR sites: 35	1 new and 3 recerts	1 new and 4 recerts (See comments following chart [2.1.b])
c. Continue to identify compliance assistance opportunities. ¹	Current practice	Ongoing	(See comments following chart [2.1a,c])
f. Alliances ²	N/A	1 new	(See comments following chart [2.1.f])
2. Maintain total number of people participating in OSHA outreach/training in areas such as:	FY 2013-2017 avg: 3,751	3500	3,222
a. Youth			
b. Immigrant employers and employees			
c. Emerging businesses			
d. Construction			
e. Manufacturing			
f. Other strategic plan compliance			
g. Public sector			
3. Participate in homeland security efforts at state and national levels	Current practice	Ongoing	Ongoing (See comments following chart [2.3])
4. Maintain response time and/or service level to stakeholders in areas such as:	Current practice	Ongoing	Ongoing (See comments following chart) [2.4]
a. Telephone inquiries and assistance			
b. Written requests for information			
c. MNOSHA website information/updates			

¹The compliance assistance activities are incorporated in various places, including Goals 1 and 2.

²The Goal 2.1.f. target of 1 new Alliance was projected in the Consultation FFY 2019 CAPP. Alliances in the public sector are reported in the SOAR.

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GOAL 2 - Comments

Goal 2.1a,c -

Compliance Assistance (including maintaining 2 partnerships) in FFY19.

MNOSHA's construction safety and health partnerships with the Minnesota Chapter of Associated Builders and Contractors (MN ABC) and with Associated General Contractors (AGC) of Minnesota are designed to help reduce the number of injuries, illnesses and fatalities at participating construction industry employers.

The partnership is managed by both associations and has three levels. Level 1 requires the employer to maintain the minimum requirements of a safety and health program. Level 2 requires a more comprehensive safety

and health program. Level 3 is MNOSHA's Cooperative Compliance Partnership (CCP) program, whereby MNOSHA Compliance will provide compliance assistance for a specific project. To qualify, contractors must be at Level 2 for a minimum of one year and can then apply for participation in the CCP program for construction projects expected to

last at least six months, but fewer than 18 months.

In FFY 2019, MNOSHA signed Cooperative Compliance Partnership agreements with seventeen Level 3 individual contractors at 12 specific construction sites. The partnership continues to hold quarterly meetings with Level 3 contractors. At these meetings, contractors share best practices with each other. The focus of the meetings

is on accident and injury reduction.

MNOSHA continues to strive to improve communication with immigrant and "hard-to-reach" employers and employees. MNOSHA employs two investigators who are fluent in both English and Spanish. MNOSHA was unable to give any presentations in Spanish this year. In addition, MNOSHA provides written materials to immigrant and other hard-to-reach employers in coordination with the Department's community services representative.

Goal 2.1.b -

Increase VPPs by 1 new and 3 re-certifications in FFY19.

MNSTAR is a voluntary protection program available to any size employer in Minnesota. The MNSTAR program relies mainly on the concept of self-assessment by the requesting employer and follows ADM 3.28K which is the Minnesota specific MNSTAR/VPP directive.

MNSTAR requires the employer's commitment to complete an extensive application, which includes providing the WSC Unit with copies of all requested written policies and programs. The employer's TCIR and DART injury and illness rates must be below the national averages, for their industry. Employers who meet all requirements for MNSTAR status are exempt from programmed inspections by MNOSHA Compliance for up to three years, upon initial certification, and up to five years upon subsequent re-certification.

MNSTAR/VPP has been very successful since its inception in FFY 1999. MNSTAR status has been awarded to both large and small employers in high-hazard and in state-targeted industries.

FFY 2019 ended with 35 full MNSTAR sites. One site (Monsanto – Redwood Falls Pre-Commercial, Redwood Falls), was granted full MNSTAR status, meeting the FFY 2019 goal. Four companies (Marvin Windows and Doors, Warroad; Aptim Services LLC, Rosemount; Danfoss Power Solutions, Plymouth; Sysco Asian Foods, St. Paul) successfully achieved full re-certification as MNSTAR sites, also meeting the FFY 2019 goal. One site (New Ulm Medical Center, New Ulm) withdrew from MNSTAR.

All active MNSTAR certified companies for FFY 2019 are listed below:

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MINSTAR SITES							
No.	Company Name	Address	Contact Information	EE	SIC	NAICS	Dates
1	CF Industries, Inc., Glenwood Terminal	19369 195th Avenue PO Box 20 Glenwood, MN 56334-0020	Darrel Kollman Terminal Superintendent (320) 634-5134	10	5191	424910	Apr 17 2000 - Apr 17, 2003 Apr 17 2008 - Apr 17, 2013 Apr 17, 2013 - Apr 17, 2018 Apr 17, 2018 - Apr 17, 2023
2	Marvin Windows and Doors	Hwy. 11 West; PO Box 100 Warroad, MN 56763-0100	Brian Gilbert - Main Contact EHS Manager 218-386-1430 ext. 1809 Marti Stevens 218-386-4358 - Marti	2,560	2431	321911	Aug 1 2001 - Aug 1, 2004 Aug 1, 2009 - Aug 1, 2014 Aug 1, 2014 - Aug 1, 2019 Aug 1, 2019 - Aug 1, 2022
3	PotlatchDeltic Corporation Bemidji Lumbermill	50518 County 45 Bemidji, MN 56601 back up until Randy rtns >>>	Susan Kaplan & Randy Lipsy HR Manager & Safety Manager 218-759-4308	94	2421	321113	June 1, 2002 - June 1, 2005 June 1, 2010 - June 1, 2015 June 1, 2015 - June 1, 2020
4	IBM	3605 Highway 52 North Mail Stop EQ9A IBM Well-being Services Dept. UONA/002-1 H105 Rochester, MN 55901	Randy Back Safety engineer (507) 253-6374	2,677	3571	334111	Jul 16, 2002 - Jul 16, 2005 Jul 16, 2010 - Jul 16, 2015 Jul 16, 2015 - Jul 16, 2020
5	International Paper	1699 West Ninth Street White Bear Lake, MN 55110	Joseph Domino Site Manager 651-426-6222	132	2653	322211	Jul 22, 2004 - Jul 22, 2007 Jul 22, 2007 - Jul 22, 2012 Jul 22, 2012 - Jul 22, 2013 Jul 22, 2012 - July 22, 2017 Jul 22, 2017 - July 22, 2022
6	Louisiana-Pacific Corp.	711 25th Avenue Two Harbors, MN 55616	Nathan Maen Env. Health & Safety Mgr 218-834-8715	143	2493	321219	Apr 15, 2005 - Apr 15, 2008 Apr 15, 2008 - Apr 15, 2013 Apr 15, 2013 - Apr 15, 2018 April 15, 2018 - April 15, 2023
7	Flint Hills Resources	PO Box 64596 St. Paul, MN 55164-0596	Robert Duffy Safety Contact 651-437-0647	830	2911	324110	Dec 21, 2005 - Dec 21, 2008 Dec 21, 2008 - Dec 21, 2013 Mar 1, 2012-Mar 1, 2013 Dec 21, 2013 - Dec 21, 2018 Dec 21, 2018 - Dec 21, 2023 Jan 1, 2019 - Dec 31, 2020 2YRR
8	Aptim Services, LLC	12555 Clark Road Box 64596 Rosemont, MN 55268	Jason Nardiello, Project Manager Ben Weideman, HSE Manager J: 651-438-5864 or 612-246-7002(cell) B: 651-437-0627 or 715-441-2430(cell)	300	1629	236210	Sept 19, 2006 - Sept 19, 2009 Sept 19, 2009 - Sept 19, 2014 Sept 19, 2014 - Sept 19, 2019 Sept 19, 2019 - Sept 19, 2024
9	Valmont Industries, Inc.	20805 Eaton Avenue Farmington, MN 55024	Jim Morris, Director of Opns 651-463-9137 Christian Timanus Safety Coordinator 651-463-9167	123	3446	332323	June 1, 2007 - June 1, 2010 June 1, 2010 - June 1, 2011 June 1, 2010 - June 1, 2015 June 1, 2015 - June 1, 2020 May 2018 - May 2019 1 yr Cond.
10	Monsanto Company - Soybean Research	29770 US Highway 71 Redwood Falls, MN 56283	Aaron Kramer Testing Operations Manager 507-644-3011 ext 1	6	713	115114	Aug 27, 2007 - Aug 27, 2010 Aug 27, 2010 - Aug 27, 2015 Aug 27, 2015 - Aug 27, 2020
11	Honeywell Defense & Space	12001 State Hwy. 55 Plymouth, MN 55441	Jim Tischner / Patricia Hansen Sr. HSE engineer (both) 763-954-2718 (Jim), 763-954-2643(Patric)	550	3674	334413	Dec 3, 2007 - Dec 3, 2010 Dec 3, 2010 - Dec 3, 2015 Dec 3, 2015 - Dec 3, 2020
12	Liberty Paper, Inc.	13500 Liberty Lane Becker, MN 55308	John Martin Safety Manager 763-261-6106 or 763-301-0809 (cell)	110	2631	322130	Feb 14, 2008 - Feb 14, 2011 Feb 14, 2011 - Feb 14, 2016 Feb 14, 2016 - Feb 14, 2018 2YRR Feb 14, 2018 - Feb 14, 2021
13	Monsanto Company - Soybean Production	29770 U.S. Hwy. 71 Redwood Falls, MN 56283	Dave Magyar, Production Lead 507-644-2108	35	713	115114	July 25, 2008 - July 25, 2011 July 25, 2011 - July 25, 2016 July 25, 2016 - July 25, 2021

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14	Aveda Corporation	4000 Pheasant Ridge Drive NE Blaine, MN 55449-7106	Kim Yoakum Safety and Risk Mgmt Manager 763-951-4252	647	2844	325620	Dec 17, 2008 - Dec 17, 2011 Dec 17, 2011 - Dec 17, 2016 Dec 17, 2016 - Dec 17, 2021
15	Aveda Services, Inc. - Midwest Distribution Center	3860 Pheasant Ridge Drive NE Blaine, MN 55449-7106	Kim Yoakum Safety and Risk Mgmt Manager 763-951-4252	194	4225	493110	Dec 17, 2008 - Dec 17, 2011 Dec 17, 2011 - Dec 17, 2013 2yr RR plan based on elevated rts Dec 17, 2011 - Dec 17, 2016 Dec 17, 2016 - Dec 17, 2021
16	Trident Seafoods Corporation	1348 Hwy 10 S P.O Box 440 Motley, MN 56466	Curt McIlravy, Plant Manager 218-352-2340	350	2092	311712	Feb 6, 2009 - Feb 6, 2012 Feb 6, 2012 - Feb 6, 2013 Feb 6, 2012 - Feb 6, 2017 Feb. 6, 2017 - Feb. 6, 2020
17	Danfoss Power Solutions	3500 Annapolis Lane N Plymouth, MN 55447	Emily Freihammer Senior Quality Engineer, EHS 763-694-2190	140	3629	335999	Jun 17, 2011 - Jun 17, 2014 Jun 17, 2014 - Jun 17, 2019 Jun 17, 2019 - Jun 17, 2022
18	Monsanto - Stanton	2440 Hwy 19 Blvd Stanton, MN 55018	Becky Sockness Kevin Barrett 507-263-6937 - Becky	14	723	115114	Aug 1, 2012 - Aug 1, 2015 Aug 1, 2015 - Aug 1, 2020
19	The Sherwin Williams Company (formerly The Valspar Corporation - Headquarters and VAST Campus)	1101 South 3rd Street Minneapolis, MN 55415	Mark Friske EHS Manager 612-375-7370	413	2851	325510	Jan. 1, 2013 - Jan. 1, 2016 Jan. 1, 2016 - Jan. 1, 2021
20	Monsanto - Glyndon	11486 12th Ave S Glyndon, MN 56547	Keith Jackson Site Manager 218-498-0267 Daphne Horton - Admin	15	723	115114	Feb 15, 2013 - Feb 15, 2016 Feb 15, 2016 - Feb 15, 2021
21	Norbord Minnesota, LLC	4409 Northwood Road NW Solway, MN 56678	Dean Bentler Safety Coordinator 218-751-2023	141	2436	321219	July 1, 2013 - July 1, 2016 July 1, 2016 - July 1, 2021
22	NuStar Energy - Roseville Terminal	2288 County Road C West Roseville, MN 55133	Mike Moore SR Operations Manager 651-636-1780 Bill Turner, HSE Specialist 316-721-7072	11	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
23	NuStar Energy - Moorhead Terminal	1101 SE Main Avenue Moorhead, MN 56560	Mike Moore SR Operations Manager 651-636-1780 Bill Turner, HSE Specialist 316-721-7072	5	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
24	NuStar Energy - Sauk Centre Terminal	1833 Bellline Road Sauk Centre, MN 56378	Mike Moore SR Operations Manager 651-636-1780 Bill Turner, HSE Specialist 316-721-7072	3	4226	493190	Oct 15, 2013 - Oct 15, 2016 Oct 15, 2016 - Oct 15, 2021
25	Nyco, Inc.	10730 Briggs Drive, Suite B Inver Grove Heights, MN 55077	Brantley Grekoff Project Manager 612-325-7280	53	1799	238290	May 1, 2014 - May 1, 2017 May 1, 2017 - May 1, 2022
26	Delta Air Lines - Minneapolis Reservations Customer Engagement Center	7500 Airline Drive Minneapolis, MN 55450	Chris Besener-Boulton Customer Experience Manager 612-266-5080	426	7389	561599	May 27, 2014 - May 27, 2017 May 27, 2017 - May 27, 2022
27	Firmenich - New Ulm	100 North Valley Street New Ulm, MN 56073-1601	Jenny Backer Health and Safety Manager 507-233-7466	90	2023	311514	June 1, 2014 - June 1, 2017 June 1, 2017 - June 1, 2020

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28	Bosch Security Systems	12000 Portland Ave Burnsville, MN 55337	Jim Stroud EHS Administrator 952-736-3877 cell: 952-210-3076	135	3669	334290	Dec 1, 2014 - Dec 1, 2017 Dec 1, 2017 - Dec 1 2022
29	Cintas Corporation - Location 470	11500 95th Ave N Maple Grove, MN 55369	Brad Beyer General Manager 763-391-5266	106	7218	812332	Feb 15, 2015 - Feb 15, 2018 Feb 15, 2018 - Feb 15, 2023
30	Sysco Asian Foods	1300 L'Orient St St. Paul, MN 55117	Joe Lolich Safety Manager 651-558-2534	128	5141	424410	Jan 22, 2016 - Jan 22, 2019 Jan 22, 2019 - Jan 22, 2024
31	Cintas FAS - Brooklyn Park	8703 Brooklyn Blvd Brooklyn Park, MN 55445	Bill Montealegre General Manager (763) 657-8192 or (651)253-8192 cell	42	5047	423450	May 10, 2017 - May 10, 2020
32	Cintas - Eagan	3375 Mike Collins Drive Eagan, MN 55121	Brad Newton, General Manager	148	7218	812332	February 1, 2018 - February 1, 2021
33	Delta Air Lines, Inc. - Iron Range Reservations - Customer Engagement Center	601 Iron Drive Chisholm, MN 55719	Ken Ness 218-254-7511 Pam Joki (replacing Shelly Sullivan) 218-254-7719	434	4729	561599	January 5, 2018 - January 5, 2021
34	NRG Energy Center Minneapolis, LLC	816 4th Ave South Minneapolis, MN 55404	Greg Olson Operations Supervisor 612-436-4152	36	4961	221330	Sept 1, 2015 - Sept 1, 2018 Merit Extended full 3-years Sept 18, 2018 - Sept 18, 2021
35	Monsanto - Redwood Falls Pre-Commercial	1210 East Bridge Street Redwood Falls, MN 56283	Dustin Larsen Safety Coordinator 507-637-2204 dustin.larsen@monsanto.com	50	0723	115114	Dec 17, 2018 -Dec 17, 2021

Goal 2.1.f –

Increase Alliances by 1 in FFY19 (projected in Consultation's FFY2019 CAPP, see footnote 2, pg. 6).

Overall, no new Alliances were initiated with a public sector entity.

Alliances with the MN Municipal Utilities Association (MMUA) and the MN State Colleges and Universities remain active. The Alliance specific to Riverland College was concluded.

The MMUA Alliance continues to assess worker exposure to respirable, crystalline silica dust, and provide guidance on exposure control options, focusing mainly on street sweeping operations. The MN State Colleges and Universities Alliance continues to initiate hazard survey and safety management assistance for campuses and campus safety representatives.

Goal 2.2 -

In FFY19 target = 3500 people participating in outreach/training areas.

MNOSHA established a baseline of 3,500 participants per year for outreach training sessions covering various subject areas. In FFY 2019, MNOSHA Compliance conducted 94 presentations to 3,222 participants. MNOSHA continued to utilize its Safety Investigator III and IV positions in its outreach efforts throughout the state. One-hundred (100) percent of outreach presentations were in emphasis industries, including construction with a focus in excavation and silica. Eight outreach training sessions were presented, specific to excavation hazards, to over 900 employer representatives.

Each year, MNOSHA Compliance has five leading organizations that request outreach services: Midwest Center for Occupational Health and Safety; Associated General Contractors of Minnesota; Associated Building Contractors; American Society of Safety Professionals; and Minnesota Safety Council. In these leading areas, MNOSHA did 63 outreach presentations to over 1,444 participants.

In addition, MNOSHA conducted five Construction Seminars in FFY 2019. The Construction Seminar was developed to assist members of the construction industry responsible for worksite safety to stay current with MNOSHA standards. The Construction Seminar provides a forum for members of the construction trades and their employers to discuss issues and experiences with the speaker, their peers, and MNOSHA investigators.

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MNOSHA continues to work with the Construction Seminar Focus Group to select safety topics and presenters for each event. Topics are discussed and voted on by each member and then approved by MNOSHA's management team. The committee is comprised of various representatives from the construction industry, including insurance loss control representatives, company safety directors, and safety consultants who volunteer their time and expertise. In total, the Construction Seminar presentations attracted 209 participants. Topics Included: Ladders and Stairs; Earthmoving Equipment Safety; Excavation Safety; Traffic Controls; and, Hazardous Materials.

MNOSHA continued its strong working relationship with the Minnesota Safety Council. MNOSHA continues to participate in major safety conferences throughout the state, including staffing information booths at five separate exhibitions in FFY 2019. All were well attended, with significant attendance and interest at the MNOSHA booth.

MNOSHA provided presentations at the local American Industrial Hygiene Association and American Society of Safety Professionals (ASSP) with 85 participants in attendance.

MNOSHA continues to look for opportunities to conduct presentations in the area of outreach for youth.

Five presentations targeting youth were conducted in FFY 2019 with 31 youth in attendance.

New or revised publications during the fiscal year included: MNOSHA Fatality Investigation Summary for FFY 2019; MNOSHA Serious Injury Investigation Summary for FFY 2019; and, MNOSHA Most Frequently Cited Standards for FFY 2019.

In addition to the specific publications, MNOSHA continues to publish its newsletter, Safety Lines. Some of the topics covered in articles this past year included: the adoption of the beryllium standard; carbon monoxide; the new Commissioner and Deputy Commissioner at DLI; the Excavation Safety Stand-Down; safety equipment recall; safety in the grain industry; teen workers; most frequently cited standards; MNOSHA's outreach efforts, including the Construction Seminar; Voluntary protection programs (i.e., MNSTAR and MNSHARP) and partnerships; MNOSHA Compliance and Consultation year in review; Workers Compensation statistics, including the annual safety report from Research and Statistics; and, MNOSHA Answers Frequently Asked Questions.

Goal 2.3 -

Homeland Security (Current practice; ongoing)

The MNOSHA Compliance program continued to participate on the State Emergency Response Plan. The Minnesota Emergency Operations Plan was reviewed in January 2019. During FFY 2019, a MNOSHA supervisor attended four meetings of the Emergency Response Preparedness Committee. A MNOSHA supervisor attended federal Homeland Security conference calls and completed the Basic Emergency Management Certificate Learning Program.

MNOSHA, and the entire Department of Labor and Industry, continue to review and exercise our Continuation of Operations Plan (COOP). Several "calling tree" exercises were successfully conducted throughout the department including MNOSHA.

Goal 2.4 -

In FFY19, maintain response time and/or service level to stakeholders.

Each business day, MNOSHA has two safety and health professionals on duty to answer questions received primarily through phone calls and emails. During FFY 2019, MNOSHA responded to 4,186 phone calls and 2,014 written requests for assistance, primarily emails. A majority of these inquiries are answered within one day. Of the phone calls received during FFY 2019, 48% were from employers, 42% employees, 3% consultants and the rest were from other individuals requesting safety and health information. Most information is provided to callers during the initial phone call, while others are directed to the MNOSHA or federal OSHA websites, or another state agency for assistance. The information requested covers a wide variety of topics which is why MNOSHA continues to use investigative staff to answer a majority of the calls.

During FFY 2019, MNOSHA received 1,402 workplace safety and health employee complaints. And 329 or 23% of the total complaints resulted in an onsite inspection with an average of 2.6 days response time. The remaining complaints were handled via MNOSHA's phone/fax system (non-formal complaint).

MNOSHA also provides a variety of safety and health information on its website, including printable handouts. The MNOSHA website provides links to other websites where safety and health regulations can be accessed. In total, there were 60,309 hits to the MNOSHA web page.

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Goal 3
Strengthen and improve MNOSHA's infrastructure

How Progress in Achieving this Goal Could Be Assessed	Baseline 9/30/18	FFY 19 Target	FFY 19 Results
1. Review rules annually for effectiveness: ongoing evaluation, development of rules, standards, guidelines and procedures.	Current practice	Ongoing	See comments following chart. [3.1]
2. Workforce development and retention plan	Current practice	Evaluate and update existing workforce plan.	See comments following chart. [3.2]
3. Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided to stakeholders, are met.	Current practice	1)Evaluate consistency and quality of inspection files 2)Complaint process review with workflow analysis.	See comments following chart.** [3.3]

GOAL 3 – Comments

Goal 3.1 -

In FFY19: Conduct Annual Review of Rules/Standards, Guidelines and Procedures, ongoing

The MNOSHA Compliance Directives Coordination Team (DCT) is charged with coordinating and managing the MNOSHA internal information system. The DCT consists of two MNOSHA management analysts, and both a MNOSHA director and supervisor. This group monitors federal standard/policy activity and coordinates updates to all relevant MNOSHA standards, directives, and policies accordingly. MNOSHA adopts federal standards by reference and/or develops Minnesota-specific standards when necessary to support MNOSHA program goals.

- Federal standards adopted in FFY 2019: No Federal standards were adopted in 2019.
- Minnesota Rules adopted in FFY 2018: No Minnesota Rules were adopted in 2019.

The annual review of Agency rules resulted in no additional MNOSHA obsolete or duplicative rules needing repeal in FFY 2019.

Of the 15 MNOSHA directive issuances in FFY 2019, all were existing directives that were revised, either as part of the scheduled review, or as needed. The amended directives included those pertaining to: scheduling, serious injury, state cars, contest and informal conference, training, data practices, referrals, moveable equipment and penalty collections.

Goal 3.2 -

FFY19: Workforce development and retention plan: Ongoing evaluation and updates as necessary.

In FFY 2019, MNOSHA continued to maintain consistency and quality throughout the organization's field staff. Goals previously identified and continued in FFY 2019 were:

- To assure that MNOSHA has an adequate workforce to ensure that worksites are complying with MNOSHA safety and health regulations; and
- To assure that MNOSHA continues to be an organization that is recognized as a "best-in-class" state plan state.

Results from updating the Workforce Development Plan in FFY 2018 showed that MNOSHA staff in a number of leadership positions with significant years' experience may and would be retiring. These departures reduce MNOSHA's institutional knowledge and memory. This will potentially create leadership challenges in supporting and managing the many different approaches and situations of work/life balance for employees. As MNOSHA's workforce shifts to newer and younger employees, there will be an increasing need to invest in career planning for these workers to build their proficiency in their jobs. This will increase the need to assess skills, abilities, and competencies, and provide training accordingly.

During FFY2019, MNOSHA experienced two long-term staff retirements, a Supervisor and the Management Analyst responsible for state plan monitoring and standards adoption. MNOSHA was able to leave these positions open while other MNOSHA positions were filled. Ryan Nosan and Ron Anderson assumed the duties of supervising the North area staff while they continued their roles as Principal and Program/IH3 Supervisors. The Management Analyst position responsibilities have been absorbed by various staff. The temporary shift of these duties and the

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reassignment of some roles continues to allow Workplace Safety Program staff to grow, understand, and manage/supervise different areas of the program.

During FFY2019, the MNOSHA Enforcement Director was able to attend several Safety Day events around the State of MN. These opportunities help to answer questions that are unique to that area of the state. It also gives attendees an opportunity to speak with the Director without traveling to the Twin Cities.

MNOSHA continued with specialized training in select industries such as foundries, grain handling, asbestos, combustible dust, HAZWOPER recertification, health care, PSM, traffic controls, and window washing. Each of these areas have had team leaders that assume the role as “expert” in this area and work with various stakeholders to ensure that communication is maintained between MNOSHA staff and the various stakeholders. These team leads gain knowledge on leadership and how to work with significant stakeholders in the state of Minnesota.

During FFY 2019, MNOSHA trained its staff on: Right-to-know, including GHS; and OSHA Injury Tracking Application. In addition, MNOSHA has been able to retain field staff that have significant safety and health consulting experience, and retain 2 investigators who speak fluent Spanish. MNOSHA has extremely dedicated and experienced staff, including 6 Industrial Hygienists with 15+ years of experience, including two CIHs, and 11 Safety Investigators with 10+ years of experience.

Goal 3.3 -

FFY19: Monitor and improve systems and processes to ensure the business needs of MNOSHA, the requirements of Federal OSHA, and the services provided to stakeholders are met: 1) Ongoing- Evaluate consistency and quality of inspection files 2) Complaint process review

1) Regularly scheduled SI4/IH3 staff meetings are conducted and day to day issues are discussed. Consistency of inspection files and inspection review is discussed at each meeting to ensure quality reports are being generated and possible abatement is discussed. Deficiencies are communicated back to staff through their supervisor. Board meeting procedures were reviewed in FFY19 and it was determined the meetings would be offered weekly in order to reduce file lapse time and provide for earlier discussion and decision-making during investigations.

In addition, the SI4/IH3 group communicates with staff, discusses, and answers abatement questions, among other things. At the informal conference each SI4/IH3 discuss abatement and ensure abatement documentation is received prior to settling a case. In order to provide more consistency within files, an additional level of review was added in regard to abatement extension during informal conferences. SI4/IH3 staff are required to provide justification for the extension within the informal conference memo which is reviewed by their supervisor.

To ensure a quality inspection file, supervisors have continued to conduct on-site quality assurance inspections with investigators at increased frequencies. This allows the supervisors to verify that hazards seen by investigators are being documented sufficiently in their written files. It also gives the supervisors the opportunity to coach on any hazards with which investigators, especially newer investigators, may not be familiar. This coaching, in turn, allows the investigators to obtain the necessary information for their current and future files, contributing to more comprehensive written files for the organization.

2) MNOSHA compliance continues to evaluate and make determinations on how to improve the complaint process. In FFY 2019, MNOSHA reviewed our intake of serious injuries to improve the handling of non-formal complaints related to these injuries. The organization developed more concrete criteria for conducting serious injury inspections, allowing injuries not meeting that criteria to be handled first as non-formal complaints. Should the response to the non-formal complaint be inadequate, this allows MNOSHA the ability to still conduct complaint inspections related to an injury. This has freed up resources to allow us to be more proactive with our investigations.

**In addition to the previously-designated Goal 3.3 targets for FFY 2019, MNOSHA managed to complete the time-intensive projects associated with the renovation of its office space. Individual staff work space, shared work spaces and meeting rooms were reconfigured and outfitted with updated technology and equipment.

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FY 2019 MNOSHA Comprehensive FAME Report

SOAR for FFY2019
- Minnesota Occupational Safety & Health Compliance (OSH)
SPECIAL ACCOMPLISHMENTS

In addition to traditional compliance activities, MNOSHA also concentrates efforts in other areas aimed at assisting employers to make their workplaces safer and healthier. Some achievements for FFY 2019 include:

MNOSHA Excavation Stand-down

MNOSHA held the third Excavation Stand-down April 15 through April 19, 2019. Excavation safety was the topic because of the many hazards associated when working in excavations/trenches and the number of fatalities in Minnesota and the country. The purpose was to raise awareness among employers and workers about preventing excavation accidents. There were at least 18 companies and 562 employees who participated in the Stand-down by requesting a certificate of participation on MNOSHA's website. MNOSHA plans to continue with this focus on excavation safety.

Excavation Safety Outreach

In addition to the Stand-down, MNOSHA conducted eight outreach presentations for a "Pipeline Safety Group". The presentation series was called "Contractor/Excavator Damage Prevention Seminar". The presentations were held in the south and western part of the state. MNOSHA's presentation covered excavation basics, related standards, appropriate PPE, equipment inspections and required training. There were over 900 employees and employers in attendance and the series also included a lot of interactive discussion.

Grain Emphasis

MNOSHA has a grain team comprised of trained safety investigators and industrial hygienists who are prepared to conduct inspections in the grain industry. Going into harvest season in the fall, MNOSHA conducts an in-house training for the grain team to refresh their hazard recognition for grain sites. Joint inspections are conducted each year as part of MNOSHA's commitment to preventing injuries and deaths in this industry. The organization seeks opportunities to provide outreach to workers in the grain industry. Most recently, MNOSHA presented at a conference in February 2019 in coordination with the National Grain and Feed Association, Minnesota Grain and Feed Association, federal OSHA, and grain employees from several midwestern states. MNOSHA's quarterly *Safety Lines* publication also includes a reminder of grain hazards each year around fall harvest time.

Loggers' Safety Education Program (LogSafe)

This program is 100% state-funded and administered by the WSC unit. The LogSafe training provides safety training throughout the state for logging employers. The training was contracted to the Minnesota Logger Education Program, for CYs 2017 through 2019 and renewed for CYs 2020 and 2021. The goal of the program is to help reduce injuries and illnesses in the logging industry through onsite consultation services, outreach and training seminars. In order to receive workers' compensation premium rebates from the Targeted Industry Fund, logger employers must maintain current workers' compensation and they and their employees must have attended, during the previous year, a logging safety seminar sponsored or approved by the WSC unit. The training session topics included CPR/first aid applicable to logging, and other selected topics such as preventing equipment fires, slips and falls prevention, emergency response call systems, emergency planning, hydraulic safety, tire maintenance safety, GHS labeling system, etc. There currently is not a consultant position dedicated to logging. Logging employers can still submit a request for consultation services.

Workplace Violence Prevention Program

This program helps employers and employees reduce the incidence of violence in their workplaces by providing onsite consultation, training seminars, and general information. The program focus is on providing technical assistance to workplaces at higher risk of violence. There has been continued work on workplace violence prevention in public sector and healthcare, with specific topic areas on program development, threat assessment, and de-escalation of violent situations. In addition, Active Shooter training was organized. The Workplace Violence Prevention Program is a 100% state-funded program and is administered by safety consultants within the WSC unit.

Ongoing occurrences of workplace violence incidents in healthcare, public sector, and other work facilities has maintained continued interest for ongoing technical assistance in the form of onsite evaluations and formal training. In FY 2019, 21 formal training sessions were held and 5 additional technical assistance occurrences, with various public and private sector entities.

The workplace violence prevention consultant continues to serve on an advisory board for the Midwest Center for Occupational Health and Safety, Education and Research Center.

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Safety Grants Program

This 100% state-funded program, which is administered by the WSC unit, awards funds up to \$10,000 for qualifying employers on projects designed to reduce the risk of injury and illness to their employees. Qualified applicants must be able to match the grant money awarded and must use the award to complete a project that reduces the risk of injury or illness to employees.

During SFY 2019, the State was given additional funding for the program. This resulted in a higher number of applicants receiving their full, requested grant. The program awarded \$1,216,743 to 173 applicants representing private sector employers (e.g., health care facilities, construction, logging, manufacturing, and other service employers) and public sector employers (e.g., schools, health care facilities, and municipalities).

Examples of grant project items that were purchased include: fall protection systems and equipment, trenching/excavation cave-in protection equipment, safe patient handling equipment, tools & equipment for silica dust control, material handling equipment and other tools to minimize exposure to ergonomic risk factors, workplace violence prevention equipment, ventilation systems, improved logging & log hauling equipment, machine guarding, PPE, emergency eyewash & shower systems, permit-required confined space entry equipment, flammable liquid storage equipment, fire prevention, loading dock vehicle restraints, road construction safety equipment, and noise control.

Ergonomics Program

WSC has retained an ergonomics program coordinator, with a CPE credential. Safe patient handling (SPH) in acute healthcare, long-term healthcare, and emergency services continue to be areas of significant involvement, with increased requests for ergonomic assessments in manufacturing facilities. Overall, on-site consultative services were provided at various acute and long-term healthcare facilities, food manufacturing, dental and other healthcare clinics, various manufacturing sites (i.e. wood pallet, precision valves, aerospace, concrete products, fabricated metal, furniture, commercial printing, prosthetics, aluminum foundry), laboratory, banking and other office facilities. Specific to public sector employers, 4 initial consultation visits were completed, along with 12 training and assistance visits. In addition, 10 interventions were completed which included formal training, outreach, and technical assistance. Visits also included assessment in ergonomic risks, as well as assistance with other hazards and mandated health programs.

Alliances representing long-term care and hospital facilities have continued, with on-going networking meetings to provide a venue for participating facility representatives to discuss SPH and other S&H issues. Meetings have focused on SPH program implementation for various areas and tasks, through real-world case issues brought up by participants; discussing barriers that hinder SPH methods, best practices and other issues related to SPH and other areas of S&H. The groups successfully network through these meetings and via e-mail, to continue discussions and idea-sharing.

Updates to the ergonomics and SPH webpage are in-progress, following a major web-page redesign.

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SOAR for FFY2019
Compliance

Minnesota
(OSH)

Occupational

Safety

&

Health

MANDATED ACTIVITIES

Compliance:

Activities mandated under the Occupational Safety and Health Act are considered core elements of Minnesota's occupational safety and health program. The accomplishment of these core elements is tied to achievement of the State's strategic goals. Many mandated activities are "strategic tools" used to achieve outcome and performance goals.

"Mandated activities" include program assurances and state activity measures. Fundamental program requirements that are an integral part of the MNOSHA program are assured through an annual commitment included as part of the 23(g) grant application.

Program assurances include:

- ▶ Unannounced, targeted inspections, including prohibition against advance notice;
- ▶ First instance sanctions;
- ▶ A system to adjudicate contestations;
- ▶ Ensuring abatement of potentially harmful or fatal conditions;
- ▶ Prompt and effective standards setting and allocation of sufficient resources;
- ▶ Counteraction of imminent dangers;
- ▶ Responses to complaints;
- ▶ Fatality/catastrophe investigations;
- ▶ Ensuring employees:
 - * Protection against, and investigation of, discrimination
 - * Access to health and safety information
 - * Information on their rights and obligations under the Act
 - * Access to information on their exposure to toxic or harmful agents
- ▶ Coverage of public employees;
- ▶ Recordkeeping and reporting;
- ▶ Voluntary compliance activities.

Mandated activities are tracked on a quarterly basis using the SAMM (State Activity Mandated Measures) Report which compares State activity data to an established reference point. A comparison of MNOSHA activity measures for FFY 17, FFY18, and FFY19 is provided in the tables on pp. 17-18.

Notable improvement was seen in these mandated activities in FFY19:

- Days to initiate complaint inspections decreased to 2.6 days, and remains significantly lower than the goal of 9 days.
- Days to initiate complaint investigations decreased to 0.82 days, and remains lower than the goal of 2 days.
- Percent of total inspections in public sector decreased in FFY19, but remains above the goal of 3%.
- Percent of work-related fatalities responded to in 1 work day, remains at 100%.

Consultation

Mandated activities are tracked on a quarterly basis using the MARC (Mandated Activities Report for Consultation) and the CAPP (Consultation Annual Performance Plan) Report which compares State consultation data to an established reference point. Some

specific performance measures that are monitored (and any corresponding targets/requirements):

- Percent of initial visits in high hazards establishments (not less than 90%);
- Percent of initial visits to smaller businesses (not less than 90%);
- Percent of visits where consultant conferred with employee (100%);
- Percent of serious hazards verified corrected in a timely manner, <= 14 days of latest correction due date (100%);
- Percent of serious hazards verified corrected in original time or on-site (65%).

The MNOSHA Public Sector Consultation program met CAPP total visit projections and met three of the MARC performance measures for FFY 2019:

- Percent of initial visits in high hazard establishment...96.84
- Percent of initial visits to businesses with <250 employees at the establishment...76.84%
- Percent of initial visits to businesses with <500 employees controlled by employer...81.05%
- Percent of visits where Consultant conferred with Employees100%
- Percent of serious hazards verified corrected in a timely manner...96.67% (Note: hazard corrections were submitted timely, but not verified w/in 14-days, for the outliers)
- Percent of serious hazards verified corrected (in original time or on-site)...84.67%

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COMPARISON OF FFY17, FFY18, and FFY19 ACTIVITY MEASURES MNOSHA Compliance

Performance Measure	FFY17	FFY18	FFY19	Comments
Average number of work days to initiate complaint inspections (state formula)	3.38	3.55	2.60	The average number of days to initiate a complaint inspection decreased in FFY19 and remains well below the established goal of 9 days.
Average number of work days to initiate complaint inspections	2.36	3.22	2.04	(Federal formula)
Average number of work days to initiate complaint investigations (state formula)	0.95	1.0	0.82	The average number of days to initiate a complaint investigation decreased in FFY19 and remains below the established goal of 2 days.
Average number of work days to initiate complaint investigations	0.81	0.91	0.72	(Federal Formula)
Percent of complaints & referrals responded to within 1 workday (imminent danger)	98.86	100	99.3	All but 1 imminent danger complaint was responded to within one day.
Number of denials where entry not obtained	0	0	0	Entry was obtained for all denials in FFY19.
Average violations per inspection with violations – Serious/willful/repeat	1.86	1.79	1.86	The number of SWR citations increased from FFY18. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Average violations per inspection with violations – Other	0.70	0.80	0.70	The number of other citations decreased in FFY19. MNOSHA continues to follow its training plan to assist investigative staff in identifying hazards.
Percent of total inspections in public sector	5.11	5.21	4.51	The percent of programmed public sector inspections remains above the goal of 3%.
Inspections - Safety	1446	1444	1509	The number of safety inspections increased in FFY19 and remains above the fiscal year goal.
Inspections - Health	412	398	332	The number of health inspections decreased from FFY18.
Average current penalty per serious violation (Private Sector Only) Total 1-250+ EEs	1010.19	1006.08	1028.31	The overall average current penalty increased in FFY19.
Average current penalty per serious violation (Private Sector Only) 1-25 EEs	783.03	620.76	733.07	The average penalty for this size employer increased in FFY19
Average current penalty per serious violation (Private Sector Only) 26-100 EEs	728.26	759.73	696.58	The average penalty for this size employer decreased from FFY18.
Average current penalty per serious violation (Private Sector Only) 101-250 EEs	1748.91	2295.30	1640.14	The average penalty for this size employer decreased from FFY18.
Average current penalty per serious violation (Private Sector Only) 251+ EEs	2186.70	2207.16	3406.66	The average penalty for the largest employers increased significantly in FFY19.
Percent in compliance - Safety	34.38	36.32	37.00	The percent in compliance safety inspections increased slightly in FFY19.
Percent in compliance - Health	43.04	39.69	41.80	The percent in compliance health inspections increased in FFY19.

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% of work-related fatalities responded to in 1 work day	100	100	100	All fatalities were responded to within one day.
Average lapse time from opening conference date to issue date - Safety	18.64	18.78	21.28	Safety lapse time increased in FFY19.
Average lapse time from opening conference date to issue date - Health	24.91	25.00	27.63	Health lapse time increased in FFY19.
Percent penalty retained	89.44	86.44	87.36	The percent penalty retained increased in comparison to FFY18.
% of initial inspections with employee walk around representation	100	100	100	The percent of inspections with walk around representation remained at 100%.
Percent of 11(c) investigations completed within 90 days	46	49	33	MNOSHA continued to work on the backlogged cases as well as the increase in new cases. The percent completed decreased in FFY19.
Percent of 11(c) complaints that are meritorious	12	11	11	MNOSHA's percent meritorious cases remained the same.
Average number calendar days to complete 11(c) investigations	126	137	216	The average number of days increased from FFY18. The discrimination unit continues to work on the backlogged cases.

Data Source: SAMM report run by Federal OSHA November 2019.