**FY 2023 Comprehensive**

**Federal Annual Monitoring Evaluation (FAME) Report**

**State of Connecticut**

**Division of Occupational Safety and Health**

**(CONN-OSHA)**

Logo, Connecticut Department of Labor



**Evaluation Period: October 1, 2022 – September 30, 2023**

**Initial Approval Date: January 4, 1974**

**Conversion to State and Local Government Plan: November 3, 1978**

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**Prepared by:**

**U. S. Department of Labor**

**Occupational Safety and Health Administration**

**Region I**

**Boston, Massachusetts**



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1. **Executive Summary**

The purpose of this report is to assess the Connecticut State Plan’s (CONN-OSHA’s) performance for Fiscal Year (FY) 2023 and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) Reports.

Several personnel changes that occurred over the past two fiscal years left CONN-OSHA with four of six compliance officers who were relatively new in FY 2023. However, the State Plan operated at a high level even though the new personnel faced a learning curve and devoted a significant amount of time to training.

For example, CONN-OSHA did well on all performance metrics, met the goals for inspections and consultation visits, and surpassed all goals in the five-year strategic plan. In addition, having no outstanding findings, CONN-OSHA successfully resolved a single observation from the FY 2021 FAME Report related to case file documentation.

In FY 2023, four new issues surfaced—three related to case file documentation and one pertaining to abatement. Even though these issues led to observations in this report, CONN-OSHA should be able to address them through internal training focused on the pertinent chapters of the State Plan's Field Operations Manual (FOM).

This report contains no new or continued findings or recommendations. Appendix B describes observations and related federal monitoring plans and contains four new observations. CONN-OSHA had no previous findings and, therefore, no associated completed corrective actions. In summary, this report contains four new observations and no findings.**[[1]](#footnote-1)**

**II. State Plan Background**

**A. Background**

CONN-OSHA became operational on January 4, 1974, and covered the private sector and state and local government. It operated effectively in that manner until 1977, when the Connecticut State Labor Council sponsored a bill in the state legislature to restrict enforcement of Connecticut's safety and health program to state and local government only. The bill was enacted with an effective date of June 30, 1978. Connecticut’s previously approved 18(b) Plan was withdrawn on October 2, 1978, and officially converted to a State and Local Government Only State Plan on November 3, 1978.

In August 1986, CONN-OSHA was officially recognized by the U.S. Department of Labor as having completed all structural and developmental aspects of its approved State and Local Government Only State Plan, giving CONN-OSHA the distinction of being the first State and Local Government Only State Plan in the nation. CONN-OSHA is administered by the State of Connecticut, Department of Labor, under the leadership of the Commissioner of Labor. In FY 2023, CONN-OSHA covered approximately 61,801 state government workers and 136,826 local government workers, as well as 10,000 volunteer firefighters.**[[2]](#footnote-2)**

The State Plan operates out of a state office building located in Wethersfield, Connecticut. CONN-OSHA adopts and enforces safety and health standards and provides consultation and outreach services to the state and local government workforce. The Connecticut Occupational Safety and Health Review Commission hears and rules on appeals from citations, notifications, and penalties issued by CONN-OSHA.

CONN-OSHA is staffed with a director, program manager, six compliance safety and health officers (CSHOs), two 23(g) consultants and two compliance assistance specialists. The Connecticut Department of Labor operates a Workplace Anti-Retaliation Program covering state and local government workers pursuant to the Connecticut Occupational Safety and Health Act of 1973 (Chapter 571, Sections 31-367 through 31-385). Attorneys who administer the Workplace Anti-Retaliation Program are employed by the Legal Division, a separate division within the Connecticut Department of Labor.

Based on FY 2023 financial close-out forms, the State Plan’s total funding was $2,860,235. In FY 2023, CONN-OSHA’s initial federal award was $1,326,452. The State Plan matched the initial federal award and contributed an additional $207,331. In summary, OSHA contributed $1,326,452 and CONN-OSHA contributed $1,533,783 ($1,326,452 plus $207,331) to the State Plan’s total funding.

**B. New Issues**

None.

**III. Assessment of State Plan Progress and Performance**

1. **Data and Methodology**

OSHA has established a two-year cycle for the FAME process. FY 2023 was a comprehensive year, and as such, OSHA was required to conduct an onsite case file review. The opening conference was held via Microsoft Teams on Friday, October 13, 2023, and the case file review was conducted from October 16 – 18, 2023, at the State Plan’s headquarters in Wethersfield, Connecticut.

OSHA’s team consisted of five personnel who reviewed 44 safety and health inspection case files selected randomly from a universe of inspections that CONN-OSHA opened and closed during FY 2023.

The selected population of case files consisted of:

* Twenty-eight (28) programmed inspections
* Nine (9) complaint inspections
* Six (6) referral inspections
* One (1) fatality/catastrophe inspection

During the review, OSHA conducted interviews with the director, program manager, and two state attorneys. The purpose of these interviews was to discuss topics related to the operation of the State Plan, such as the status of the contested cases, standard and directive adoptions, citation issuance, complaint processing, and abatement tracking.

**Workplace Anti-Retaliation Program Case File Review**

OSHA conducted an on-site evaluation of CONN-OSHA’s Anti-Retaliation Program on January 24, 2024. OSHA’s review team consisted of the Assistant Regional Administrator and a Regional Supervisory Investigator for the Whistleblower Protection Program. OSHA interviewed the principal attorney and a staff attorney from the Legal Division. The administratively closed files were reviewed in OIS. The investigative files were reviewed on-site. OSHA reviewed 15 workplace retaliation case files. The selected population consisted of:

* Eight (8) administratively closed files
* Five (5) closed investigation files
* Two (2) pending investigation files

**Monitoring Sources**

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 (SAMM) Report (Appendix D)
* Mandated Activities Report for Consultation (MARC)
* State OSHA Annual Report (SOAR)
* State Plan Annual Performance Plan
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan
* OSHA Information System (OIS) Reports (Pending Investigation; Pending Intake; Docketed Closed; Administratively Closed)
* Full case file review

Each SAMM 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 2023 SAMM Report and includes the FRL for each measure.

1. **Review of State Plan Performance**
2. **PROGRAM ADMINISTRATION**

a. Training

The director and training coordinator plan the training and education program for CONN-OSHA staff. CONN-OSHA follows OSHA’s Training and Education Directive 01-00- 019, Mandatory Training Program for OSHA Compliance Personnel, which outlines the requirements for training compliance officers. In Phase 1, the CSHO must complete eight courses within the first three years of employment. Under Phase 2, a certain number of technical courses must be completed throughout the rest of the compliance officer’s career. Four new CSHOs who were hired in the past few years have taken the courses in the basic training program on schedule and are expected to complete the entire track in FY 2024. CONN-OSHA also ensures that the CSHOs who have completed the training track take the technical courses required in Phase 2. A listing of training completed by all CSHOs in FY 2023 is included in the CONN-OSHA SOAR.

b. OSHA Information System

CONN-OSHA understands the usefulness of OIS reports in monitoring case files and program activity. The State Plan enters data and information into OIS promptly and periodically runs reports. CONN-OSHA also uses OIS reports to monitor each CSHO’s monthly activity.

c. State Internal Evaluation Program Report

CONN-OSHA has a long track record of performing satisfactorily on all the metrics evaluated in its previous SIEP Reports, such as lapse time for citation issuance, time to initiate complaint inspections, and days lapsed between opening conference and the written report. Therefore, in FY 2023, the State Plan developed a new SIEP to evaluate performance in other areas. In the new SIEP, CONN-OSHA identified the need to reduce abatement timeframes and ensure that case files contain adequate abatement documentation. The new SIEP describes several measures the State Plan will take in FY 2024 to improve in these areas.

d. Staffing

CONN-OSHA had many personnel changes over the past two years. In June 2021, a 23(g) health consultant resigned; CONN-OSHA did not fill this vacancy. Instead, the State Plan added an additional CSHO to its roster, thereby increasing the number of CSHOs from five to six and decreasing the number of 23(g) consultants from three to two. The new health compliance officer (i.e., the “sixth” CSHO) was hired in December 2021. A safety compliance officer retired in October 2021, and this position was filled in January 2022. In March 2022, CONN-OSHA’s long-time director retired. The program manager of the 23(g) enforcement program was promoted to director in September 2022. In April 2022, a compliance assistance specialist retired, and the State Plan filled this vacancy by promoting a safety and health trainee. Another safety compliance officer retired in July 2022 and was replaced by a safety consultant from the 21(d) consultation program. In early FY 2023, a health compliance officer was promoted to program manager of the 23(g) enforcement program. The vacancy created by this promotion was filled in March 2023.

**2. ENFORCEMENT**

a. Complaints

CONN-OSHA’s procedures for handling complaints are set forth in Chapter 9 of the CONN-OSHA FOM, which mirrors OSHA’s FOM in this regard. SAMMs 1 through 3 assess efficiency in handling complaint inspections. SAMM 4 pertains to gaining access to the worksite. Other than insufficient documentation of worker interviews, as discussed later in this report, OSHA did not identify any major issues in the nine complaint files reviewed.

**SAMM 1a - Average number of work days to initiate complaint inspections (state formula)**

Discussion of State Plan Data and FRL: The negotiated FRL for this measure was five work days. CONN-OSHA’s average in FY 2023 was 1.29 work days. This outcome was positive.

Explanation: CONN-OSHA met the FRL in FY 2023.

**SAMM 2a**- **Average number of work days to initiate complaint investigations (state formula)**

Discussion of State Plan Data and FRL: The negotiated FRL was one work day. CONN-OSHA’s result of 0.19 days is outside (below) the FRL and was a positive outcome.

Explanation: CONN-OSHA’s result met the FRL in FY 2023.

**SAMM 3 - Percent of complaints and referrals responded to within one work day (imminent danger)**

Discussion of State Plan Data and FRL: The FRL of 100 percent was fixed for all State Plans. In FY 2023, CONN-OSHA did not have any data to report for this measure.

Explanation: The State Plan did not receive any imminent danger complaints or referrals in FY 2023.

**SAMM 4 - Number of denials where entry not obtained**

Discussion of State Plan Data and FRL: The FRL of zero was fixed for all State Plans. In FY 2023, CONN-OSHA’s result was zero, which was acceptable.

Explanation: CONN-OSHA did not have any denials of entry in FY 2023.

b. Fatalities

**SAMM 10 - Percent of work-related fatalities responded to in one work day**

Discussion of State Plan Data and FRL: The FRL of 100 percent was fixed for all State Plans. In FY 2023, CONN-OSHA’s result of 66.67 percent was outside (below) the FRL. This outcome was acceptable.

Explanation: In FY 2023, the State Plan responded to two of three work-related fatalities in one work day. The other fatality involved two police officers who were victims of gunfire. Because of the extensive criminal investigation surrounding this event, CONN-OSHA decided to delay the investigation by one work day. The State Plan’s result for SAMM 10 does not warrant concern. OSHA did not identify any major issues in the one fatality case file that was reviewed for this report.

c. Targeting and Programmed Inspections

**SAMM 7- Planned v. actual inspections – safety/health**

Discussion of State Plan Data and FRL: In FY 2023, the FRL range was from 76 to 84 for safety and from 76 to 84 for health. CONN-OSHA conducted 112 safety inspections. This total was outside (above) the FRL range and was a positive outcome. CONN-OSHA conducted 101 health inspections in FY 2023; this result was also outside (above) the FRL range and was positive.

Explanation: Of the six CSHOs on board in FY 2023, four were new hires. Although the new CSHOs faced a learning curve, they were able to get up to speed rather quickly, which helped the State Plan achieve 133 percent of the goal of 160 inspections in FY 2023.

In the current five-year strategic plan, CONN-OSHA has targeted the following high-hazard industries for safety inspections: highway maintenance and repair operations; police and fire departments; environmental and energy protection services; automotive repair facilities; trade shops within school systems and prisons; public works; parks and recreation; housing authorities; water distribution; waste and remediation services; water pollution; and animal control.

For health inspections, CONN-OSHA has targeted high-hazard workplaces prone to serious health hazards identified by OSHA in emphasis programs. Examples of hazards identified by OSHA in recent emphasis programs include lead, silica hexavalent chromium, respiratory protection, hazard communication, metals, asbestos, noise, bloodborne pathogens, and airborne and surface contaminants.

The program manager assigns programmed inspections to CSHOs based on a list of 169 cities and towns in the state. CONN-OSHA cycles through the list so that the next local government entity assigned for an inspection is the one where the most time has elapsed since the last time it received a programmed inspection. Each local government has at least one department (e.g., public works, water, animal control, etc.) that falls under one of the targeted high-hazard industries, and CSHOs focus part of their time on inspecting these targeted industries.

For state government, CONN-OSHA randomly selects workplaces for programmed inspections and prioritizes inspections of the various departments within state government entities based on whether they fall under one or more of the targeted industries. CONN-OSHA also evaluates OSHA’s national emphasis programs (NEPs) and adopts them if they are applicable to state and local government workplaces.

**SAMM 5 - Average number of violations per inspection with violations by violation type**

Discussion of State Plan Data and FRL: The FRL range for serious, willful, repeat, or unclassified (SWRU) violations was from 1.40 to 2.10 in FY 2023. CONN-OSHA’s average of 3.29 for SWRU violations was outside (above) the FRL range. The FRL range for other-than-serious (OTS) violations was from 0.71 to 1.07; in FY 2023, CONN-OSHA’s average of 0.92 for OTS violations was within the acceptable range. Both results were positive.

Explanation: SAMM 5 calculates the average number of SWRU violations, as well as the average number of OTS violations, per not in compliance inspection. CONN-OSHA’s results for SAMM 5 indicate that the State Plan targeted the most hazardous worksites for enforcement activity and that CSHOs are adept at identifying and classifying violations.

**SAMM 9 – Percent in compliance**

Discussion of State Plan Data and FRL: The FRL was based on a three-year national average. In FY 2023, the FRL range was from 25.38 percent to 38.08 percent for safety and from 35.06 percent to 52.58 percent for health. CONN-OSHA’s in-compliance rate of 18.18 percent for safety inspections was outside (below) the FRL range, and its in-compliance rate of 14.29 percent for health inspections was outside (below) the FRL range; both in-compliance rates were positive outcomes.

Explanation: Low in-compliance rates indicate CONN-OSHA targeted the most hazardous work sites and that CSHOs are adept at identifying and citing violations.

d. Citations and Penalties

**Citations**

CONN-OSHA must issue citations within six months of the occurrence of any violation. SAMM 11 measures the State Plan’s timeliness in issuing citations.

**SAMM 11- Average lapse time**

Discussion of State Plan Data and FRL: The FRL was based on a three-year national average. In FY 2023, the FRL range was from 44.18 to 66.28 for safety and from 55.78 to 83.66 for health. CONN-OSHA’s average of 34.64 for safety was outside (below) the FRL range, and its average of 40.13 for health was also outside (below) within the FRL range. Both results were positive.

Explanation: Lapse time is the number of work days from the opening conference date to the earliest issuance date. The State Plan has a solid record of meeting the FRL for this metric.

In the FY 2021 Comprehensive FAME Report, OSHA made one observation related to case file documentation. Specifically, OSHA determined that the State Plan’s policy of not requiring the CSHOs to include the Narrative in case files for programmed inspections was not in keeping with the CONN-OSHA FOM, which states “all” case files “must include” the Narrative form (see the CONN-OSHA FOM, Chapter 5). Over the past two years, CONN-OSHA has changed its practice regarding the Narrative, and all 28 (100 percent) programmed inspections reviewed for this report contained a Narrative.

**Observation FY 2022-OB-01 (formerly FY 2021-OB-01):** In 14 (42 percent) of 33 programmed inspections, there was no Narrative in the case file.

**Status FY 2022-OB-01**: This observation is closed.

Although CONN-OSHA resolved this observation, OSHA identified case files that that did not include enough information to adequately document the violation(s) cited. For example, the CSHO noted that interviews with workers had taken place, but no notes were found to support this claim; in other case files, there were notes describing manager interviews but not worker interviews. In some case files where interviews were included, information about the interview was minimal.

According to the CONN-OSHA FOM, Chapter 5, “All necessary information for documenting violations shall be obtained during the inspection, including but not limited to notes, audio/video recordings, photographs, employer and employee interviews and employer maintained records. CSHOs shall develop detailed information for the case file to establish the specific elements of each violation.”

**Observation FY 2023-OB-01:** In FY 2023, in 26 (65 percent) of 44 inspection case files, worker interviews were not properly documented, as required in the CONN-OSHA FOM, Chapter 5.

**Federal Monitoring Plan FY 2023-OB-01:** During quarterly meetings, OSHA will discuss the need for CONN-OSHA to follow the CONN-OSHA FOM, Chapter 5 guidance on worker interviews.

**Status FY 2023-OB-01:** This observation is new.

For each alleged violation, the violation worksheet should describe the observed hazardous conditions or practices, including all relevant facts, and all information pertaining to how and/or why a standard is violated for each alleged violation (CONN-OSHA FOM, Chapter 5). Thus, much like notes on worker interviews, the violation worksheet is a crucial component of case file documentation. In some case files that were reviewed, information in the violation worksheet was quite limited and did not adequately describe all relevant facts pertaining to the violation, as required in the CONN-OSHA FOM, Chapter 5.

**Observation FY 2023-OB-02:** In FY 2023, in 13 (33 percent) of 40 case files that had violations cited, the violation worksheet did not adequately describe all relevant facts pertaining to the violation, as required in the CONN-OSHA FOM, Chapter 5.

**Federal Monitoring Plan FY 2023-OB-02:** On a quarterly basis, OSHA will review the CONN-OSHA FOM, Chapter 5 requirements for completing the violation worksheet.

**Status FY 2023-OB-02**: This observation is new.

**Penalties**

CONN-OSHA’s penalties are established in the state’s Occupational Safety and Health Act, Section 31-382. Willful violations may incur a penalty of up to $10,000 for each violation, and serious and OTS violations may incur a penalty of not more than $1,000 for each violation. The State Plan bases its penalty structure and penalty amounts on those contained in the OSHA FOM that was issued in December 1990.

e. Abatement

During the on-site review, OSHA reviewed 36 case files for abatement and identified instances where the State Plan did not follow the policies pertaining to abatement in Chapter 5 of the CONN-OSHA FOM.

**Observation FY 2023-OB-03**: In FY 2023, in 17 (47 percent) of 36 cases reviewed for abatement, CONN-OSHA did not follow its policy in the CONN-OSHA FOM, Chapter 5 for assigning the shortest interval within which the employer can reasonably be expected to abate the hazard and/or did not document the reason for granting abatement periods longer than 30 days.

**Federal Monitoring Plan FY 2023-OB-03:** On a quarterly basis, OSHA will reinforce the need for the State Plan to follow the CONN-OSHA FOM’s requirements for assigning abatement periods and documenting abatement periods granted for more than 30 days.

**Status FY 2023-OB-03:** This observation is new.

f. Worker and Union Involvement

OSHA verified that CONN-OSHA has adequate policies and procedures addressing worker involvement during the inspection process and that most inspections had sufficient union and/or worker representation.

**SAMM 13 – Percent of initial inspections with worker walk around representation or worker interview**

Discussion of State Plan Data and FRL: The FRL of 100 percent was fixed for all State Plans. In FY 2023, CONN-OSHA’s result was 100 percent.

Explanation: In FY 2023, CONN-OSHA met the FRL for SAMM 13.

**3. REVIEW PROCEDURES**

* 1. Informal Conferences

CONN-OSHA’s Occupational Safety and Health Act mirrors Chapter 7 of OSHA’s FOM with respect to contesting citations and notifying employers of penalties or abatement dates. CONN-OSHA does not have penalty reduction programs, such as expedited informal agreements. However, the State Plan has a policy whereby the total of all penalty reductions does not average more than 50 percent of the total penalties leveled against all establishments per year.

The CONN-OSHA FOM, Chapter 7, requires a summary of all main issues discussed during the informal conference. Also, a copy of the summary, together with any other relevant notes of the discussion, should be placed in the case file. During the case file review, OSHA identified a fair number of case files that did not contain summaries or notes on the main issues discussed during the meeting.

**Observation FY 2023-OB-04:** In FY 2023, in 12 (39 percent) of 31 case files reviewed for informal conferences, there were no summaries or notes on the main issues discussed, as required by the CONN-OSHA FOM, Chapter 7.

**Federal Monitoring Plan FY 2023-OB-04:** On a quarterly basis, OSHA will discuss with the State Plan the CONN-OSHA FOM, Chapter 7 requirement for documenting the main issues discussed during informal conferences.

**Status FY 2023-OB-04:** This observation is new.

* 1. Formal Review of Citations

In May 2018, CONN-OSHA had one contested case. The assistant attorney general who is handling this matter for CONN-OSHA and the employer have been in settlement negotiations since that time. In the fall of 2023, the assistant attorney general indicated that a settlement was close at hand. Since then, a new administration was elected, which caused a delay in getting the agreement reprioritized and signed.

In August 2021, CONN-OSHA received another notice of contest. The assistant attorney general’s office and the employer recently exchanged final language on the settlement agreement in December 2023 and expect to finalize it shortly.

**4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION**

a. Standards Adoption

In 1972, Connecticut enacted a state law known as the Uniform Administrative Procedure Act (UAPA). This law is codified in the General Statutes of Connecticut as Chapter 54, Section 4-166, *et. seq*. Connecticut’s UAPA contains the provisions governing the rulemaking process that all agencies must follow. A standing committee of the General Assembly, the Regulations Review Committee, must ultimately approve a regulation before it becomes law. Regulations have the same weight as statutes once the regulations have been properly enacted.

CONN-OSHA has adopted all of OSHA’s standards for general industry and construction. CONN-OSHA incorporates federal standards by reference. Therefore, the state and federal standards are identical except for Table Z-1, Limits for Air Contaminants, in 29 CFR 1910.1000, 29 CFR 1904.1, 29 CFR 1904.2, note to Subpart B and non-mandatory Appendix A to Subpart B of 29 CFR 1904.

Although CONN-OSHA undertakes all rulemaking with the intention of meeting the six-month deadline, the legislature’s Regulations Review Committee controls adoption of CONN-OSHA’s standards. Thus, delays may occur during the process that the State Plan has no power to prevent. Table A shows the status of CONN-OSHA’s standards adoptions over the past two fiscal years and is followed by a discussion of each standard.

**Table A**

**Status of FY 2022 and FY 2023 Federal Standards Where Adoption Was Required**

| **Standard** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| COVID-19 Vaccination and Testing; Emergency Temporary Standard  29 CFR 1910, 15, 17, 18, 26, 28  (11/5/2021) | 11/20/2021 | N/A | N/A | N/A | 12/5/2021 | N/A |
| Updated COVID-19 Vaccination and Testing; Emergency Temporary Standard  29 CFR 1910  (11/5/2021) | 1/7/2022 | 1/6/2022 | Yes | Yes | 1/24/2022 | N/A |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act – Annual Adjustment for 2022  29 CFR 1903  (1/15/2022) | 3/15/2022 | 3/4/2022 | No | N/A | 7/15/2022 | N/A |
| Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions  29 CFR 1910.502(q)(2)(ii), (q)(3)(ii)-(iv) and (r)  (2/14/2022) | 4/14/2022 | 4/14/2022 | Yes | Yes | 8/14/2022 | 3/16/2023 |
| Final Rule on the Department of Labor Civil Penalties for Inflation Adjustment Act – Annual Adjustment for 2023  29 CFR 1903  (1/15/2023) | 3/15/2023 | 3/9/2023 | No | N/A | 7/15/2023 | N/A |
| Final Rule to Improve Tracking of Workplace Injuries and Illnesses  29 CFR 1904  (7/21/2023) | 9/21/2023 | 10/10/2023 | Yes | No | 1/21/2024 | 2/27/2024 |

**COVID-19 Vaccination and Testing; Emergency Temporary Standard 29 CFR 1910, 15, 17, 18, 26, 28 (11/5/2021); Updated COVID-19 Vaccination and Testing; Emergency Temporary Standard 29 CFR 1910 (11/5/2021):** The Emergency Temporary Standard for COVID-19 Vaccination and Testing was withdrawn.

**Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions 29 CFR 1910.502(q)(2)(ii), (q)(3)(ii)-(iv) and (r) (2/14/2022):** This rule requires employers who must keep OSHA injury and illness records under 29 CFR 1904 to continue to maintain and make available a COVID-19 log and report to OSHA all COVID-19-related fatalities and hospitalizations.

Although CONN-OSHA was timely in responding with its intent to adopt this rule and promptly began rulemaking on April 6, 2022, adoption was seven months overdue. This lateness was mainly caused by delays in the regulatory review process that were beyond CONN-OSHA’s control. For example, the rule was under review by one of the state offices involved in the process for three months. Therefore, since CONN-OSHA’s actions on this rule were timely, OSHA is not overly concerned with this late adoption.

**Final Rules on the Department of Labor Civil Penalties for Inflation Adjustment Act – Annual Adjustment for 2022 and 2023 29 CFR 1903 (1/15/2022) (1/15/2023):** As a state and local government State Plan, CONN-OSHA is not required to adopt rules pertaining to the annual adjustment to civil penalties and did not do so in FY 2023 or FY 2022.

**Final Rule to Improve Tracking of Workplace Injuries and Illnesses 29 CFR 1904 (7/21/2023):** Under this rule, establishments with 100 or more workers in the highest-hazard industries must electronically submit information from their Form 300 Log and Form 301 Incident Report; establishments with 20 or more workers in certain high-hazard industries and establishments with 250 or more workers in industries that are routinely required to keep injury and illness records must continue to electronically submit information from their Form 300A Annual Summary; and establishments are required to include their legal company name in their submission. CONN-OSHA was one month late in responding to this, rule and the State Plan exceeded the adoption deadline of January 21, 2024, by one month. However, these delays were not long enough to warrant concern.

1. FPC Adoption

State Plans must respond to FPCs with their intention to adopt identically, differently, or not adopt within 60 days of their effective date. State Plan adoption, either identical or different, should be accomplished within six months. Tables B through D show the status of CONN-OSHA’s FPC adoptions over the past two fiscal years.

**Table B**

**Status of FY 2022 and FY 2023 FPCs Where Adoption Was Required**

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Revised Combustible Dust National Emphasis Program  CPL 03-00-008  (1/30/2023) | 3/31/2023 | 3/17/2023 | Yes | Yes | 7/30/2023 | 4/3/2023 |
| National Emphasis Program on Warehousing and Distribution Center Operations  CPL 03-00-026  (7/13/2023) | 9/11/2023 | 7/24/2023 | Yes | Yes | 1/9/2024 | 7/24/2023 |

CONN-OSHA responded to and adopted FPCs timely when adoption was required.

**Table C**

**Status of FY 2022 and FY 2023 FPCs Where Equivalency Was Required**

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **Adoption Due Date** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- | --- |
| Compliance Directive for Cranes and Derricks in Construction Standard  CPL 02-01-063  (2/11/2022) | 7/3/2022 | 6/2/2022 | Yes | Yes | 11/3/2022 | 6/13/2022 |
| OSHA Whistleblower Investigations Manual  CPL 02-03-011  (4/29/2022) | 10/11/2022 | 10/6/2022 | Yes | No | 2/11/2023 | 6/9/2023 |
| Severe Violator Enforcement Program (SVEP)  CPL 02-00-169  (9/15/2022) | 11/15/2022 | 11/7/2022 | Yes | No | 3/15/2023 | 11/8/2022 |
| Site-Specific Targeting (SST)  CPL 02-01-064  (2/7/2023) | 4/8/2023 | 3/29/2023 | No | N/A | 8/6/2023 | N/A |
| National Emphasis Program – Falls  CPL 03-00-025  (5/1/2023) | 6/30/2023 | 5/31/2023 | Yes | Yes | 10/28/2023 | 6/5/2023 |
| Consultation Policies and Procedures Manual  CSP 02-00-005  (9/29/2023) | 11/28/2023 | 11/6/2023 | Yes | Yes | 3/27/2024 | 11/6/2023 |

**OSHA Whistleblower Investigations Manual CPL 02-03-011 (4/29/2022):** CONN-OSHA was timely in responding with its intention to adopt this FPC, but adoption was overdue. According to the State Plan, an extensive review was needed to make sure all differences between OSHA and CONN-OSHA’s manuals were identified, and this caused the State Plan to exceed the adoption due date by four months. This lengthy delay appears to be a one-time occurrence. Therefore, OSHA is not overly concerned with CONN-OSHA's performance on this directive because it has a good track record of adopting FPCs on time.

**Severe Violator Enforcement Program (SVEP) CPL 02-00-169 (9/15/2022):** OSHA concentrates inspection resources on employers that have demonstrated indifference to their OSH Act obligations through willful, repeated, or failure-to-abate violations. CONN-OSHA was timely in its response to this FPC and adoption of an alternative program which reflects the differences between the SLG State Plan and OSHA.

**Site-Specific Targeting (SST) CPL 02-01-064 (2/7/2023):** The SST plan is OSHA’s main site-specific programmed inspection initiative for non-construction workplaces that have 20 or more workers. The SST program uses objective data from injury and illness information that employers submit under 29 CFR § 1904.41. OSHA-approved State Plans are required to have their own inspection targeting systems which must be in their State Plans and revised as necessary to reflect current practices. These inspection policies and procedures must be at least as effective as OSHA’s and be available for review. CONN-OSHA responded timely to this directive but did not adopt because it has its own program for targeting high-hazard employers as described in the State Plan’s current five-year strategic plan. CONN-OSHA identified the most hazardous industries in state and local government by evaluating data from serious citations and recommendations from its 23(g) consultation program.

As fortheCompliance Directive for Cranes and Derricks in Construction Standard, the National Emphasis Program – Falls, and the Consultation Policies and Procedures Manual, CONN-OSHA’s responses and adoptions were timely, and the State Plan adopted all identically.

**Table D**

**Status of FY 2022 and FY 2023 FPCs Where Adoption Was Encouraged**

| **FPC Directive/Subject** | **Response Due Date** | **State Plan Response Date** | **Intent to Adopt** | **Adopt Identical** | **State Plan Adoption Date** |
| --- | --- | --- | --- | --- | --- |
| OSHA’s Use of Small Unmanned Aircraft Systems  CPL 02-01-169  (12/22/2021) | 2/22/2022 | 1/31/2022 | No | No | N/A |
| National Emphasis Program – Outdoor and Indoor Heat-Related Hazards  CPL 03-00-024  (4/8/2022) | 6/8/2022 | 6/6/2022 | Yes | Yes | 6/13/2022 |

CONN-OSHA responded timely to both FPCs where adoption was encouraged. The State Plan adopted the National Emphasis Program on Outdoor and Indoor Heat-Related Hazards identically and did so timely.

**5. VARIANCES**

CONN-OSHA did not have any variances in FY 2023 or in FY 2022.

**6. STATE AND LOCAL government WORKER Program**

CONN-OSHA is a State and Local Government Only State Plan.

**7. WHISTLEBLOWER Program**

Two attorneys from the Connecticut Department of Labor’s Legal Division allocate a portion of their time to operating the State Plan’s Anti-Retaliation Program. The major difference between OSHA’s Whistleblower Protection Program and CONN-OSHA’s Anti-Retaliation Program is that the Legal Division considers each case as having merit and, after the exchange of party documentation, immediately sends parties involved in workplace retaliation complaints to the mediation process (assuming threshold and jurisdiction issues are supported). Either a settlement is reached in mediation, or the matter is referred to a hearing officer who, after conducting a hearing in accordance with the state’s UAPA, issues a proposed decision to the Commissioner of Labor. The Commissioner may then adopt the decision in whole, or modify it, and may also entertain the filing of briefs and presentation of an oral argument from an aggrieved party.  Thereafter, an aggrieved party may appeal to the Superior Court, and then, if applicable, the Appellate and Supreme Courts.  OSHA does not immediately send parties to the mediation process; parties who bring a case to OSHA either go through the investigative process or choose to enter the Voluntary Mediation Program.

The State Plan’s [website](https://www.ctdol.state.ct.us/osha/rights.htm) has a link to workplace anti-retaliation information on its homepage. The site also includes links to the online complaint form and workers’ rights information. Complainants can easily find information on their workplace retaliation rights and can file a complaint from the website.

In FY 2022, the Legal Division closed two cases: one was settled, and the other was dismissed and afforded appeal rights. In FY 2023, the Legal Division closed four cases: three were settled, and one was dismissed and afforded appeal rights. For these cases, the Legal Division conducted and followed all relevant procedures.

**8. Complaint About State Program Administration (CASPA)**

CONN-OSHA did not have any CASPAs in FY 2023 or FY 2022.

**9. Voluntary Compliance Program**

OSHA has determined that CONN-OSHA has adequate written policies and procedures for voluntary and cooperative programs. CONN-OSHA has an Alliance Program that is modeled after the federal program. For example, CONN-OSHA’s Alliances include the following core activities: training and education; outreach and communication; and promoting the national dialogue on workplace safety and health. The State Plan had four active Alliances in FY 2023 and five in FY 2022.

**10. STATE AND LOCAL GOVERNMENT 23(g) On-site CONSULTATION PROGRAM**

Before FY 2022, CONN-OSHA’s 23(g) on-site consultation program consistently projected a goal of 130 consultation visits. However, in anticipation of staff turnovers and the fact that COVID was still impacting workplaces, the State Plan lowered the goal to 90 consultation visits. Nonetheless, in FY 2022, CONN-OSHA ended the year with 127 visits, which was 141 percent of the goal. FY 2023 was the first full year that CONN-OSHA operated with two consultants instead of the usual three. When the State Plan formulated its consultation goals for FY 2023, COVID was still impacting staff and workplaces. Thus, CONN-OSHA maintained the target of 90 consultation visits. The State Plan conducted 145 visits in FY 2023, which was 161 percent of the goal.

MARC 4A measures the percent of serious hazards corrected within the required timeframe (up to 14 days of the latest correction due date). The reference for this MARC is 100 percent. In FY 2023 and FY 2022, the State Plan’s results were 100 percent and 95.24 percent, respectively. In FY 2022, a new consultant needed training on verifying timely hazard correction, which the State Plan provided. This resolved the issue going forward.

In terms of MARC 4D, percent of serious hazards corrected within the original time or on site, the State Plan’s performance was satisfactory in FY 2022; CONN-OSHA’s percent for MARC 4D was 70.13, which was outside (above or better than) the reference of 65 percent. In FY 2023, the State Plan’s percent was 90.10 percent, which was also outside (above) the reference of 65 percent and was a positive outcome.

| **FY 2023-#** | **Finding** | **Recommendation** | **FY 2022-# or**  **FY 2022-OB-#** |
| --- | --- | --- | --- |
|  | None. |  |  |

| **Observation #**  **FY 2023-OB-#** | **Observation#**  **FY 2022-OB-# or FY 2022-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2023-OB-01 |  | In FY 2023, in 26 (65 percent) of 44 inspection case files, worker interviews were not properly documented, as required in the CONN-OSHA FOM, Chapter 5. | During quarterly meetings, OSHA will discuss the need for CONN-OSHA to follow the CONN-OSHA FOM, Chapter 5 guidance on worker interviews. | New |
| FY 2023-OB-02 |  | In FY 2023, in 13 (33 percent) of 40 case files that had violations cited, the violation worksheet did not adequately describe all relevant facts pertaining to the violation, as required in the CONN-OSHA FOM, Chapter 5. | On a quarterly basis, OSHA will review the CONN-OSHA FOM, Chapter 5 requirements for completing the violation worksheet. | New |
| FY 2023-OB-03 |  | In FY 2023, in 17 (47 percent) of 36 cases reviewed for abatement, CONN-OSHA did not follow its policy in the CONN-OSHA FOM, Chapter 5 for assigning the shortest interval within which the employer can reasonably be expected to abate the hazard and/or did not document the reason for granting abatement periods longer than 30 days. | On a quarterly basis, OSHA will reinforce the need for the State Plan to follow the CONN-OSHA FOM’s requirements for assigning abatement periods and documenting abatement periods granted for more than 30 days. | New |
| FY 2023-OB-04 |  | In FY 2023, in 12 (39 percent) of 31 case files reviewed for informal conferences, there were no summaries or notes on the main issues discussed, as required by the CONN-OSHA FOM, Chapter 7. | On a quarterly basis, OSHA will discuss with the State Plan the CONN-OSHA FOM, Chapter 7 requirement for documenting the main issues discussed during informal conferences. | New |
|  | FY 2022-OB-01 | In 14 (42 percent) of 33 programmed inspections, there was no Narrative in the case file. |  | Closed |

| **FY 2022-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date (if Applicable)** | **Current Status**  **(and Date if Item is**  **Not Completed)** |
| --- | --- | --- | --- | --- | --- |
|  | None. |  |  |  |  |

| State Plan: SAMM Number | State Plan: SAMM Name | State Plan: Data | FY 2023 Further Review Level | FY 2023 Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 1.29 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 1.10 | 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) | 0.19 | 1 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.14 | N/A | This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | N/A | 100% | 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. |
| 5a | Average number of violations per inspection with violations by violation type (SWRU) | 3.29 | +/- 20% of 1.75 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.40 to 2.10 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 0.92 | +/- 20% of 0.89 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.71 to 1.07 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 0.92 | +/- 20% of 0.89 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.71 to 1.07 for OTS. |
| 7a | Planned v. actual inspections (safety) | 112 | +/- 5% of  80 | 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 76 to 84 for safety. |
| 7b | Planned v. actual inspections (health) | 101 | +/- 5% of  80 | 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 76 to 84 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | N/A | +/- 25% of  $3,625.21 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
|  | **a**. Average current serious penalty in private sector  (1-25 workers) | N/A | +/- 25% of  $2,348.03 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
|  | **b**. Average current serious penalty in private sector  (26-100 workers**)** | N/A | +/- 25% of  $4,167.28 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
|  | **c**. Average current serious penalty in private sector  (101-250 workers) | N/A | +/- 25% of  $6,052.04 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
|  | **d**. Average current serious penalty in private sector  (greater than 250 workers) | N/A | +/- 25% of  $7,331.41 | N/A – This is a State and Local Government State Plan.  The further review level is based on a three-year national average. |
| 9a | Percent in compliance (safety) | 18.18% | +/- 20% of  31.73% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.38% to 38.08% for safety. |
| 9b | Percent in compliance (health) | 14.29% | +/- 20% of  43.82% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.06% to 52.58% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 66.67% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 34.64 | +/- 20% of  55.23 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.18 to 66.28 for safety. |
| 11b | Average lapse time (health) | 40.13 | +/- 20% of  69.72 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 55.78 to 83.66 for health. |
| 12 | Percent penalty retained | N/A | +/- 15% of  71.84% | NA – This is a State and Local Government State Plan and is not held to this SAMM.  The further review level is based on a three-year national average. |
| 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 | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A\* | N/A\* | This measure is not being reported for FY 2023 due to the transition of 11(c) data from IMIS to OIS. |
| 17 | Percent of enforcement presence | N/A | +/- 25% of  0.93% | NA – This is a State and Local Government State Plan and is not held to this SAMM.  The further review level is based on a three-year national average. |

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 SAMM Report in OIS and the State Plan WebIMIS report run on November 14, 2023, as part of OSHA’s official end-of-year data run.

1. Findings are those issues that warrant corrective action by the State Plan to ensure it is at least as effective as OSHA. If data supporting an area of concern is limited, or if the concern cannot yet be determined to impact the effectiveness of the State Plan, it shall be noted in the FAME Report as an observation. Observations shall include a federal monitoring plan to be completed by OSHA (Source: State Plan Policies and Procedures Manual, pages 74- 75). [↑](#footnote-ref-1)
2. Source: [Bureau of Labor Statistics' Quarterly Census of Employment and Wages](https://data.bls.gov/PDQWeb/en)

   CONN-OSHA provided the estimate for volunteer firefighters. [↑](#footnote-ref-2)