

**FY 2015 Comprehensive
Federal Annual Monitoring and Evaluation (FAME) Report**

State of New Jersey

Public Employees Occupational Safety and Health (PEOSH)



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I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this report is to assess the New Jersey Public Employee Occupational Safety and Health (PEOSH) State Plan activities for Fiscal Year (FY) 2015, and its progress in resolving outstanding findings and recommendations from previous FAME reports, with a focus being on the FY 2014 Follow-up FAME Report.

PEOSH continues to have a significant presence in the workplace through its inspection activity, partnerships, and outreach activity. PEOSH conducted 750 inspections in FY 2015 (81% of the 925 inspection goal). This number is slightly down from the 899 inspections conducted in FY 2014. In recent years, PEOSH has experienced challenges with staff retention due to retirement; however, late in FY 2015, two additional safety inspectors were hired and permission was granted to hire two additional health inspectors. This year, PEOSH exceeded their projected consultation visits goal by 181 visits.

PEOSH also continues to excel in outreach and training and its compliance assistance and training staff conducted significant outreach to targeted high hazard agencies. In addition, PEOSH continues to be a leader in the realm of homeland security in New Jersey. PEOSH personnel continues to serve as key members of the emergency response community, and have served in leadership roles in a number of local, state, and federal emergency response efforts and activities. This participation helps to ensure effective PEOSH integration into the emergency response community.

Last year's PEOSH FAME report included two findings and two observations. One finding was completed with the hiring of additional inspectors. The other finding (related to excessive abatement periods) improved, but OSHA converted it to an observation for further monitoring during next year's performance period.

During the comprehensive on-site case file review, OSHA identified four new findings. Notable issues related to these findings include: 23(g) program consultants not completing required training, consultation case files not being completed correctly, and inadequate supervisory review of case files. In addition, complainants were not notified of inspections results, and worker retaliation case files lacked witness interview documentation and/or a statement as to why witness interviews were not conducted.

OSHA determined that one observation from the FY 2014 follow-up FAME (inadequate abatement documentation) was sufficiently addressed and could be closed. The other observation (Petition for Modification of Abatement (PMA)) is being continued for further monitoring. In addition, seven new observations were noted during this year's evaluation and will be closely monitored in the FY 2016 performance period. The observations identified related to only a few case files and involved missed violations, not obtaining final confirmation of completed abatement for phone/fax complaints, organization of worker retaliation case files not being in accordance with the

Whistleblower Manual, insufficient of worker interview documentation, and excessive abatement periods (converted from a FY 2014 finding).

B. State Plan Introduction

PEOSH is administered by the Public Safety and Occupational Safety and Health Division of the New Jersey Department of Labor and Workforce Development (NJDLWD) in partnership with the Consumer Environmental Occupational Health Service (CEOHS) of the New Jersey Department of Health (DOH). Harold J. Wirths serves as Commissioner and oversees the NJ State Plan which included two offices: a labor (safety) central office and a health central office – both located in Trenton, New Jersey. These offices cover all state and local government enforcement and consultation activities in New Jersey.

PEOSH covers both safety and health disciplines. Private sector enforcement is retained under federal jurisdiction, while private sector consultative services are provided by the NJLWD Consultation Services Bureau under Section 21(d) of the OSH Act. Private sector consultation services are administered under a separate grant. A review of that program is not included in this report. The New Jersey State Plan agreement requires PEOSH to adopt all applicable OSHA safety and health standards – either identically or as alternative standards “at least as effective as” the federal standards.

PEOSH does not contain provisions for the issuance of monetary penalties for state and local government employers found not to be in-compliance with applicable standards on a first instance basis, except in cases of willful or repeat violations. There is also a provision for penalties on all failure to correct violations. PEOSH’s review proceedings are similar to OSHA review procedures.

The table below shows PEOSH’s funding levels from FY 2011 through FY 2015.

| FY 2011-2015 Funding History | | | | | |
|-------------------------------------|---------------------------|------------------------------|-----------------------------------|---------------------------|---|
| Fiscal Year | Federal Award (\$) | State Plan Match (\$) | 100% State Plan Funds (\$) | Total Funding (\$) | Percent of State Plan Contribution |
| 2015 | \$1,921,400 | \$1,921,400 | \$911,664 | \$4,754,464 | 59.5% |
| 2014 | \$1,912,800 | \$1,912,800 | \$824,156 | \$4,649,756 | 58.9% |
| 2013 | \$1,901,900 | \$1,901,900 | \$946,025 | \$4,749,825 | 59.3% |
| 2012 | \$1,984,700 | \$1,984,700 | \$1,093,483 | \$5,062,883 | 60.8% |
| 2011 | \$1,984,700 | \$1,984,700 | \$773,508 | \$4,742,908 | 58.2% |

The table below shows the number of full-time and part-time staff as of July 31, 2015.

| FY 2015 Staffing | | | | | |
|--|------------------------------------|---|--------------|----------------------------------|--|
| 23(g) Grant Positions | Allocated FTE* Funded 50/50 | Allocated FTE 100% State Plan Funded | Total | 50/50 Funded FTE On Board | 100% State Plan Funded FTE On Board |
| Managers/Supervisors (Administrative) | 0.63 | 0.41 | 1.04 | 0.53 | 0.31 |
| First Line Supervisors (Program) | 3.00 | 1.47 | 4.47 | 2.50 | 0.97 |
| Safety Compliance Officers | 8.57 | 4.93 | 13.50 | 5.07 | 1.43 |
| Health Compliance Officers | 5.90 | 0.00 | 5.90 | 4.90 | 0.00 |
| Discrimination Investigator | 0.39 | 0.11 | 0.50 | 0.39 | 0.11 |
| State and Local Government Safety Consultants | 1.64 | 1.36 | 3.00 | 0.39 | 0.11 |
| State and Local Government Health Consultants | 1.50 | 0.00 | 1.50 | 1.00 | 0.00 |
| Compliance Assistance Specialist | 0.78 | 0.22 | 1.00 | 0.78 | 0.22 |
| Trainers | 2.56 | 0.44 | 3.00 | 2.56 | 0.44 |
| Clerical | 5.17 | 2.34 | 7.51 | 3.76 | 0.94 |
| Total 23(g) FTE | 30.14 | 11.28 | 41.12 | 21.88 | 4.53 |

*Full-Time Equivalent

C. Data and Methodology

OSHA established a two-year cycle for the FAME process. This is the comprehensive year, and as such, OSHA performed on-site case file reviews. Monitoring of PEOSH was performed by a team of OSHA personnel from both the safety and the health side and from the whistleblower 11(c) program. The team conducted on-site audits at PEOSH's office in Trenton, New Jersey starting on January 25, 2016 and ending January 29, 2016. The evaluation of PESH covered FY 2015 (the period of October 1, 2014 through September 30, 2015) and included the following documents:

- State Activity Mandated Measures (SAMM Report)
- Mandated Activities Report for Consultation (MARC)

The OSHA team reviewed a total of 135 case files broken down by the following:

- Fatality/hospitalization case files (10)

- Whistleblower case files (17)
- Consultation case files (24)
- Enforcement case files (65 total – 50 safety and 15 health – complaints, planned, and referrals)

D. Findings and Observations

This report contains four new findings and eight observations (seven new and one continued). PEOSH successfully completed one finding from last year’s evaluation. The other finding was converted to an observation.

FY 2015 Findings

During the comprehensive on-site review, OSHA found that PEOSH consultants under the 23(g) program had not received the required OTI training, consultation case files were completed incorrectly, consultation training and assistance (TA) visits did not include the training syllabus and prior hazard assessment, and there was inadequate supervisory case file review prior to issuing reports.

Worker retaliation case files lacked documentation of witness interviews and/or there was no statement as to why the witnesses should not be interviewed. Health complaint case files reviewed lacked documentation that the complainant was notified of the results of the inspection. Details of the FY 2015 findings and recommendations can be found in Appendix A of this report.

FY 2015 Observations

One of the two observations noted in last year’s evaluation was closed, whereas the other will continue as an observation this year. In addition, seven new observations were noted in this report; therefore, the total number of observations is eight. Details of the FY 2015 observations can be found in Appendix B of this report.

Status of FY 2014 Findings

PEOSH was successful in closing one of the two findings from the FY 2014 report. Additional hiring of enforcement staff resulted in PEOSH closing the gap between the numbers of allocated and onboard staff. The other finding was converted to an observation for monitoring during the next performance period. Details of the FY 2014 finding and recommendation can be found in Appendix C of this report.

II. Major New Issues

State Plan Certification

On January 22, 2016, OSHA certified New Jersey's State Plan for protecting the safety and health of more than 530,000 state and local government workers. The New Jersey State Plan was initially approved in January of 2001 and certification was effective on January 22, 2016. Formal certification documents the satisfactory completion of all structural and

developmental aspects of New Jersey's approved State Plan. This certification attests to the fact that New Jersey now has in place all those structural components necessary for a State Plan covering state and local government workers.

"This is a major milestone for New Jersey state and local government workers, as well as the development of the state's occupational safety and health program," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "We applaud them for their ongoing commitment to protecting the safety and health of government workers who support the vital services that make New Jersey a viable place to live and work." The certification was published in the Federal Register and can be viewed at the following link: <http://federalregister.gov/a/2016-01286>.

Workplace Violence

PEOSH responded to a media referral regarding a case involving two state social workers for the NJ Department of Children and Families that were assaulted during a call to a private residence by an estranged parent. Although there is no federal standard for workplace violence and only recommended guidelines for these situations, the PEOSH enforcement unit investigated the incident due to the characteristic hazardous condition to which the employees were exposed. Although no citations were issued, the presence of a PEOSH enforcement investigation provided encouragement for the employer to follow through with corrective measures to prevent future occurrences.

Aside from the specific incident above, PEOSH continues to enforce the PEOSH general duty clause for healthcare facility workplace violence referencing the New Jersey Violence Prevention in Healthcare Facilities Act, N.J.S.A. 26:2H-5.17 as a means of corrective action. This initiative has been implemented to address the characteristic violent acts committed by patients against workers in healthcare-related types of facilities.

Efforts to Prevent Amputations

One of PEOSH's new safety focuses this year was preventing amputations. PEOSH investigated several cases of amputations or near amputations which resulted in citations for Lockout/Tagout or specific training. These investigations coincided with the recent PEOSH adoption of the National Emphasis Program for Amputations Directive #CPL-03-00-019.

III. Assessment of State Plan Performance

A. STATE PLAN ADMINISTRATION

1) Training

PEOSH continues to provide CSHOs the opportunity to attend the OSHA Training Institute (OTI) for safety and health technical training. In addition, PEOSH took

advantage of a number of local training opportunities as well as taking full advantage of applicable OSHA in-house webinars.

Consultant Training

Finding 15-01

PEOSH consultants had not received the required OTI Course #1500 (Introduction to On-Site Consultation) as outlined in the Consultation Policies and Procedures Manual (CSP 02-00-002). Three of five (60%) consultants who were conducting training and assistance visits had not received the required OTI training, and two of four (50%) consultants conducting initial visits had not completed the required OTI course.

Recommendation 15-01

PEOSH Consultation should ensure that its consultants have received the required training outlined in the Consultation Policies and Procedures Manual prior to conducting visits.

2) Funding

PEOSH did not return any 23(g) funding during FY 2014 and FY 2015.

3) Staffing

Staffing continues to remain consistent – the total FTE allocated for PEOSH in FY 2014 and FY 2015 is 41. PEOSH currently has 26 FTEs onboard. During FY 2014 and FY 2015, PEOSH did not experience furloughs or hiring freezes; in fact, PEOSH hired two safety compliance officers late in the 3rd quarter of FY 2015.

4) OSHA Information System (OIS)

Towards the end of FY 2014, PEOSH transitioned from the Integrated Management Information System (IMIS) to OIS. During FY 2015, PEOSH's average lapse time for citations was calculated at 9.45 days for safety – a slight decrease from 9.73 days in FY 2014 and considerably lower than the one-year OIS national rate of 42.78. The health lapse time was calculated at 43.61 days compared to 43.5 days in FY 2014 and also is lower than the one-year OIS national rate of 53.58. PEOSH uses OIS data for tracking purposes.

5) State Internal Evaluation Program (SIEP) Report

The New Jersey SIEP consists of field audits conducted to evaluate CSHO performance to key job elements. Documentation of these audits is retained and was reviewed during this evaluation period. This program was initiated to determine if program operations conform to policies and procedures established by the State Plan.

B. ENFORCEMENT

1) Complaints

During this evaluation period, PEOSH responded to 128 complaints with an average response time of 14.97 days from notification. This represents a decrease from 21.19 days in FY 2014. The 14.97 days response time is skewed due to the high number of indoor air quality (IAQ) complaints that were received by the NJDOH during the year. PEOSH's response to all non-IAQ complaints averaged less than five days which is acceptable (SAMM report SAMM #1a). The average number of days to initiate complaint investigations was 0.49 days which is well below the one-year OIS national rate of one day (SAMM report SAMM #2a).

a) Timeliness of State Plan response and notifications to complainant

Twelve complaint case files were reviewed. Complaint items appeared to be addressed in all 12 (100%) of the case files. Notification to the complainant in two of the case files was documented on the diary sheet as occurring by phone or in person. The diary sheet of another case file stated that letters were sent to the employer and complainant, but the file lacked a copy of the letter.

Notification to Complainant

Finding 15-02

In four of the 12 (33%) complaint files reviewed, documentation that the complainant was notified of the results of the inspections, either by letter or phone, was missing in the case file.

Recommendation 15-02

PEOSH should ensure case files, through supervisory review, include all required letters or documentation related to complaints according to PEOSH's Field Operations Manual (FOM).

Documentation

Observation 15-01

In three of the 15 (20%) health case files reviewed, the employer and worker were given advance notice of the inspection. The case files lacked documentation of the condition requiring the advance notice and the procedures followed.

Federal Monitoring Plan 15-01

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

b) State Plan response

The case file review showed that PEOSH sent a response to the complainant in a timely manner when necessary.

2) Fatalities

PEOSH recorded a total of 11 fatalities for FY 2015. Of the 11 fatalities reported, three were determined to be “work-related.” Three fatality case files were reviewed during this evaluation. In one of the three case files reviewed the next-of-kin (NOK) closeout letter was not sent. PEOSH noted in the case file that the NOK had moved out of the country and no contact information was available. One of the fatalities was appropriately determined to be “no inspection” and the response times to the fatalities were 100% (SAMM report SAMM #10).

3) Targeting and Programmed Inspections

PEOSH conducted a total of 750 inspections in FY 2015 which is 81% of the projected goal of 925 inspections. Safety staff conducted 564 inspections¹ (75% of the goal) and the industrial hygiene staff conducted 186 inspections (106% of the goal) (NJ SOAR FY 2015). PEOSH focused its inspection resources within the five state and local government agencies targeted for enforcement interventions as follows:

- Transportation - six inspections
- Nursing and Residential Care Facilities - 19 inspections
- Fire Protection – 84 inspections
- Public Works Departments - 160 inspections
- Water and Sewage Treatment Facilities – 62 inspections

The percent of in-compliance inspections was recorded at 6.96% for safety and 33.82% for health (SAMM report SAMM #9). PEOSH issued an average of 4.39 serious/willful/repeat (S/W/R) violations per inspection and 2.39 for other-than-serious violations per inspection. PEOSH continues to be above the one-year OIS national rate of 1.92 S/W/R and .87 other-than-serious (SAMM report SAMM #5).

During FY 2015, no significant cases were noted.

4) Citations and Penalties

A review of case files with violations showed an improvement in documentation supporting the violations from previous years, particularly in the safety case files. Only two of the 40 (5%) case files reviewed with violations did not have adequate evidence to support violations. The missing information on the violation worksheet pertained to

¹ Two safety enforcement staff members lost in FY 2014 were not replaced until the 3rd quarter of FY 2015.

failing to document whether a recordable injury occurred when an OSHA 300 log violation was observed. OSHA is not making a formal recommendation at this time.

PEOSH issued an average of 4.39 S/W/R violations per inspection and 2.39 for other-than-serious violations per inspection. PEOSH continues to be above the one-year OIS national rate of 1.92 S/W/R and .87 other-than-serious (SAMM report SAMM #5).

Missed Violations

Observation 15-02

Missed violations were noted in five of the 40 (13%) case files reviewed. The missed violation in all five case files was related to OSHA 300 logs. Citations were not issued for lack of the OSHA 300 logs when the case file had documentation that they were missing.

Federal Monitoring Plan 15-02

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Appropriateness of Violation Classification

Observation 15-03

Severity/probability given on the violation worksheet did not compare to the injury/illness assessed in 12 of the 40 (30%) case files reviewed. Examples include: high/greater given for a worker exposed to a trip hazard with lacerations/contusions listed as the probable injury; a medium severity was listed when the probable injury was classified as amputation or death.

Federal Monitoring Plan 15-03

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

PEOSH does not issue monetary penalties except in cases of willful or repeat violations. During FY 2015, PEOSH collected a total of \$11,635 in penalties. (NJ SOAR FY 2015)

5) Abatement

The review of case files during this audit revealed that adequate verification/evidence of abatement was obtained in all but two of the 44 (5%) case files. The two case files lacked final documentation as to how the violation was corrected. OSHA is not making a formal recommendation at this time. Follow-up inspections were performed when indicated.

Excessive Abatement Periods

Observation 15-04 (FY 2014-02)

Abatement periods established for correction of violations were found to be excessive in four of the 44 (9%) case files that had citations issued. Examples of excessive abatement periods included: 30 days for a blocked electrical panel, 30 days to anchor a drill press, and 30 days to adjust the work rest on a grinder.

Federal Monitoring Plan 15-04

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Abatement Verification

Observation 15-05

Two of the ten (20%) phone/fax complaints were being closed in the system without final confirmation that abatement verification had been completed, and supervisors were not signing the letters to the complainant.

Federal Program Monitoring 15-05

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Petition for Modification of Abatement (PMA)

Observation 15-06 (OB-14-02)

Of the 50 safety case files reviewed, documentation that PMAs were granted was missing in five of the case files.

Federal Program Monitoring 15-06

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

6) Worker and Union Involvement

PEOSH continues to follow proper procedures outlined in their FOM with regard to appropriate notification being delivered to workers and their union representatives. Of the 75 case files reviewed, 41 (55%) involved unions. Union representation was involved in all aspects of the inspection process. In those few cases where the union was not available during the inspection, the case file contained documentation that contact had been made with the representative.

Worker Interview Documentation

Observation 15-07

In five of the 75 (7%) case files reviewed, worker interviews were not documented.

Federal Monitoring Plan 15-07

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

C. REVIEW PROCEDURES

1) Informal Conferences

PEOSH has no first instance sanctions and therefore conducts very few informal conferences. PEOSH held five informal conferences during FY 2015. OSHA reviewed one of the informal conference case files and found that the case file was appropriately documented to reflect changes made and the reasons for the changes. (NJ SOAR FY 2015)

2) Formal Review of Citations

During FY 2015, PEOSH did not have any contested cases.

D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION

In accordance with 29 CFR 1902, State Plans are required to adopt standards and Federal Program Changes (FPCs) within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. During FY 2014 and FY 2015, PEOSH responded in a timely manner with the required notice of intent to adopt. The tables below provide a complete list of the federal directives and standards which required action during this period:

1) Standards Adoption

| Standards Requiring Action | Federal Register Date | Adopted Identical | Date Promulgated |
|--|-----------------------|-------------------|------------------|
| Final Rule for Electric Power Generation, Transmission & Distribution; Electrical Protective Equipment | April 2014 | Yes | 07/01/2014 |
| Longshoring & Marine terminals; Vertical Tandem Lifts (Revised 4/21/2014) | May 2014 | Yes | 10/01/2014 |
| Occupational Injury & Illness Recording & Reporting Requirements – NAICS Update & Reporting Revisions | October 2014 | Yes | 12/15/2014 |

| | | | |
|---|--------------|-----|-----|
| Cranes & Derricks in Construction – Operator Certification Final Rule | October 2014 | No | N/A |
| Final Rule for Confined Spaces in Construction | May 2015 | *** | |

***PEOSH plans to adopt pending legal action by an outside party.

2) Federal Program Changes (FPC) Adoption

| FPCs Requiring Action and Federal Directive Number | Date of Directive | Adopted Identical | Adoption Date |
|--|-------------------|-------------------|---------------|
| OSHA Strategic Partnership Program for worker Safety and Health CPL 03-02-003 | 11/06/2014 | No | N/A |
| Site-Specific Targeting 2014 (SST-14) CPL 02-14-01 | 02/02/2014 | No | N/A |
| Shipyards Employment Tool Bag CPL 02-00-156 | 02/06/2014 | No | N/A |
| Inspection Procedures for the Respiratory Protection Standard CPL 02-00-158 | 06/26/2014 | Yes | 11/18/2014 |
| Inspection Procedures for Accessing Communication Towers CPL 02-01-056 | 07/17/2014 | No | N/A |
| Mandatory Training Program for OSHA Compliance Personnel TED 01-00-019 | 07/21/2014 | Yes | 10/01/2014 |
| Cranes & Derricks in Construction CPL 02-01-057 | 10/17/2014 | Yes | 10/30/2014 |
| NEP – Primary Metal Industries CPL 03-00-018 | 10/20/2014 | No | N/A |
| Whistleblower Investigations Manual CPL 02-03-005 | 04/21/2015 | No | 10/21/2015 |
| Enforcement Procedures & Scheduling for Occupational Exposure to TB CPL 02-02-078 | 06/30/2015 | Yes | 10/01/2015 |
| NEP – Amputations CPL 03-00-019 | 06/30/2015 | Yes | 11/01/2015 |
| Inspection Procedures for the Haz Com Std. (HCS 2012) CPL 02-02-079 | 07/09/2015 | Yes | 01/09/2016 |
| OSHA Alliance Directive TED 04-01-002 | 07/29/2015 | No | N/A |
| SGE Program Policies & Procedures Manual for OSHA VPP TED 03-01-004 | 07/30/2015 | No | N/A |
| Alternative Dispute Resolution Process for Whistleblower Protection Program CPL 02-03-006 | 08/18/2015 | No | N/A |

E. VARIANCES

Variance requests were not received or processed during FY 2014 and FY 2015.

F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

One hundred percent (100%) of all inspections conducted by PEOSH occurred within the state and local government workplaces. PEOSH does not contain provisions for the issuance of monetary penalties for state and local government employers found not to be in compliance with applicable standards on a first instance basis, except in cases of willful or repeat violations. There is, also a provision for penalties on all failure to correct violations. If an employer incurs penalties for violations, PEOSH may at an informal conference offer a reduction in the amount of the imposed penalty, providing the employer agrees to total consultation services for all facilities within the municipality.

G. WORKPLACE RETALIATION PROGRAM

PEOSH investigated six allegations of workplace retaliation during FY 2014 and 14 allegations in FY 2015. During this evaluation period, regional discrimination investigators reviewed 17 case files (three from FY 2014 and 14 from FY 2015). Of these 17 case files reviewed, one was withdrawn, six were dismissed, two were settled, and eight were administratively closed. Case files contained sufficient documentation to support determinations, and settlement and litigation rates were appropriate and investigations conducted timely.

Worker Retaliation Documentation

Observation 15-08

Although the case files were organized, seven of the 17 (41%) workplace retaliation case files reviewed were not organized in accordance with the Whistleblower Manual.

Federal Monitoring Plan 15-08

In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Worker Retaliation Witness Interviews

Finding 15-03

Witness interviews were not documented and/or there was no statement as to why the witnesses should not be interviewed in 100% of the case files reviewed.

Recommendation 15-03

PEOSH should ensure it is following the requirements of their Whistleblower Manual regarding witness interviews.

H. COMPLAINTS ABOUT STATE PLAN ADMINISTRATION (CASPA)

One CASPA was received late in FY 2014. Allegations related to the lack of staffing and federal funds designated to fill vacant positions being diverted to other purposes and/or returned to the federal government. PEOSH responded to the CASPA in a timely manner; however, the Regional Office took further action which included interviewing program personnel and reviewing statistical data. The Region communicated to both commissioners (labor and health) the expectation of fully staffing the funded positions. PEOSH received approval to hire staff to fill the vacancies. OSHA concluded that PEOSH acted congruent with its current funding level and no recommendations were made. No CASPAs were filed against PEOSH during FY 2015.

I. VOLUNTARY COMPLIANCE PROGRAM

PEOSH does not have a Voluntary Compliance Program; however, it does have a Safety and Health Achievement Recognition Program (SHARP) which is comparable. There were no new SHARPs awarded during FY 2014. In FY 2015, two facilities received approval, and two additional facilities submitted applications that are currently under review.

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

During FY 2015, PEOSH's public sector consultation program conducted a total of 256 consultation visits, well above their projected 75 visits outlined in the Annual Performance Plan. The 256 visits are broken down as: 85 initial, 13 follow-up, and 158 training and assistance. The percentage of visits with hazards abated within a timely manner was 100% for the fiscal year. (MARC report 11-06-15 – MARC #4a) A total of 24 consultation case files were reviewed (21 safety and three health). Visits were performed in a timely manner.

Consultation case file documentation

Finding 15-04

Documentation in the consultation case files was lacking. Specifically:

- The safety and health hazard survey (Form 33) was not completed correctly in all 12 (100%) of the TA files. It appeared that a number is being inserted in only one of the six attributes without performing a true evaluation of the training program.
- Ten of the 12 (83%) training and assistance case files reviewed were missing the training syllabus.
- In all 12 (100%) of case files reviewed, evidence that a hazard assessment had been completed in the last 12 months was lacking.

- In two of the three (67%) health case files, there was no supervisory review documented prior to issuing the report. All 12 (100%) of the safety case files lacked a training and assistance letter signed by the consultant.

Recommendation 15-04

PEOSH should ensure consultants complete the required training in accordance with CSP 02-00-002 to improve consultation case file documentation, specifically:

- Evaluate and complete the safety and health hazard survey (Form 33) correctly.
- Ensure a copy of the syllabus is in the case file as required by the CSP 02-00-002.
- Ensure consultants are obtaining the required hazard assessment prior to conducting a training and assistance visit. Assessments can be obtained by searching the OSHA public website and/or having discussions with the employer when the request is received.
- Ensure supervisors are reviewing reports and/or letters prior to consultants signing and sending them to employers in both safety and health case files.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals (Source: FY 2015 APP and FY 2015 SOAR)

This section focuses on PEOSH’s progress toward meeting its targeted performance goals as outlined in the program’s FY 2015 Annual Performance Plan (APP). The APP consist of three fundamental goals to reduce workplace injuries, illness, and fatalities in New Jersey. Below is a summary of PEOSH activities and results as they relate to the PEOSH Strategic Plan for FY 2014-FY 2018.

Strategic Goal #1

Improve workplace safety and health for all state and local government workers as evidenced by fewer hazards, reduced exposures, as well as fewer injuries, illnesses, and fatalities.

Performance Goal 1.1 - State Support Activities for Transportation (NAICS 488)

Decrease non-fatal occupational injury and illness incident rates in state, county, and/or local agencies in the specific NAICS segments by 5% by 2018 (1% per year). Entities targeted under this emphasis area identified were:

- New Jersey Turnpike Authority (includes Garden State Parkway)
- South Jersey Transportation Authority (includes Atlantic City Expressway)
- South Jersey Port Corporation

The NEP associated with this performance goal is Highway Work Zone Safety.

| Incidence rates ¹ of non-fatal occupational injuries and illnesses by industry and case types, New Jersey, 2013 | | | | | | | |
|--|-------------------------|------------------------|------|------|------|------|------|
| Industry ² | NAICS code ³ | Total recordable cases | | | | | |
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| State government Support activities for transportation | 488 | 11.1 | 11.7 | | | | |

¹ Incidence rates represent the number of injuries and illnesses per 100 full-time workers and were calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses, EH = total hours worked by all employees during the calendar year, 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² Totals include data for industries not shown separately.

³ North American Industry Classification System -- United States, 2007.

(SOURCE: N.J. Department of Labor & Workforce Development, in cooperation with U.S. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, October 29, 2015)

The baseline used is the 2013 NAICS 488 incidence rate of non-fatal occupational injuries and illnesses of **11.1** total recordable cases (Source: NJDLWD, Office of Research and Information). The current Occupational Injury and Illness data table can be found at: http://lwd.dol.state.nj.us/labor/lpa/content/occsafheasvy_index.html). During FY 2015, PEOOSH conducted six inspections and one outreach training session. The compliance assistance specialist continues to participate in quarterly meetings of the NJ Highway Work Zone Safety Partnership.

Performance Goal 1.2 - State Nursing and Residential Care Facilities (NAICS 623)

Decrease non-fatal occupational injury and illness incident rates in state, county, and/or local agencies in the specific NAICS segments by 5% by 2018 (1% per year). Entities targeted under this emphasis include:

- NJ Department of Corrections
- NJ Department of Human Services
- NJ Department of Law and Public Safety
- NJ Department of Military and Veterans Affairs

The NEP associated with this performance goal is Nursing Homes Residential Care.

| Incidence rates ¹ of non-fatal occupational injuries and illnesses by industry and case types, New Jersey, 2013 | | | | | | | |
|--|-------------------------|------------------------|------|------|------|------|------|
| Industry ² | NAICS code ³ | Total recordable cases | | | | | |
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| State government Nursing and residential care facilities | 623 | 11.9 | 11.1 | | | | |
| Local government Nursing and residential care facilities | 623 | 14.0 | 11.3 | | | | |

¹ Incidence rates represent the number of injuries and illnesses per 100 full-time workers and were calculated as (N/EH) x 200,000 where N = number of injuries and illnesses, EH = total hours worked by all workers during the calendar

year, 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² Totals include data for industries not shown separately.

³ *North American Industry Classification System* -- United States, 2007

(SOURCE: N.J. Department of Labor & Workforce Development, in cooperation with U.S. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, December 04, 2014)

The baseline used is the 2013 NAICS 623 incidence rates of non-fatal occupational injuries and illnesses of **11.9** total recordable cases for state government facilities and **14.0** for local government facilities. (Source the NJDLWD, Office of Research and Information). The current occupational injury and illness data table can be found at: http://lwd.dol.state.nj.us/labor/lpa/content/occsafheavy_index.html).

A 5% decrease from the baselines of 11.9 (state government) and 14.0 (local government) will result in 11.3 and 13.3 total recordable cases respectively. The latest Division of Program Planning, Analysis, and Evaluation data is for the year 2014. The 2014 total recordable cases for state nursing and residential care facilities decreased from the baseline of 11.9 to 11.1 for state government facilities and 14.0 to 11.3 for local government facilities.

During FY 2015, PEOSH conducted 19 inspections and 14 outreach training sessions. Staff from the consultation program initiated an emphasis program to reduce the injuries and illnesses related to workplace violence and lifting (safe patient handling). Nursing and residential care facilities have recorded high injury and illness rates. PEOSH will evaluate rates, evaluate the workplace, and make recommendations to reduce injuries and illnesses related to workplace violence. The PEOSH Safety Training/Consultation Unit exhibited at the Healthcare Association of New Jersey’s (HCANJ) Annual Convention. This convention provided an opportunity to promote PEOSH cooperative services to state and local government nursing home administrators, directors of nursing, and other high ranking officials.

Performance Goal 1.3 – Local Fire Protection (NAICS 92216)

Decrease non-fatal occupational injury and illness incident rates in state, county, and/or local agencies in the specific NAICS segments by 5% by 2018 (1% per year).

| Incidence rates ¹ of non-fatal occupational injuries and illnesses by industry and case types, New Jersey, 2013 | | | | | | | |
|--|-------------------------|------------------------|------|------|------|------|------|
| | | Total recordable cases | | | | | |
| Industry ² | NAICS code ³ | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Local government Fire protection | 92216 | 10.5 | 8.2 | | | | |

¹ Incidence rates represent the number of injuries and illnesses per 100 full-time workers and were calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses, EH = total hours worked by all employees during the calendar year, 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² Totals include data for industries not shown separately.

³ *North American Industry Classification System* -- United States, 2007

(SOURCE: N.J. Department of Labor & Workforce Development, in cooperation with U.S. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, December 04, 2014)

The baseline to be used is the 2013 NAICS 92216 incidence rate of nonfatal occupational injuries and illnesses of **10.5** total recordable cases (Source the NJDLWD, Office of Research and Information). The current occupational injury and illness data table can be found at http://lwd.dol.state.nj.us/labor/lpa/content/occsafheasvy_index.html).

A 5% decrease from the baseline of 10.5 will result in 10.0 total recordable cases. The latest Division of Program Planning, Analysis, and Evaluation data is for the year 2014. The 2014 total recordable cases for local fire protection decreased from the baseline of 10.5 to 8.2. During FY 2015, PEOSH conducted 84 inspections, 48 consultation visits, and six outreach training sessions.

Performance Goal 1.4 – Public Works Departments

Decrease injuries and illnesses in state, county and/or local agencies in the specific NAICS segments by 5% by 2018 as follows (1% per year).

The NEP associated with this performance goal is Highway Work Zone Safety and Trenching.

| Incidence rates ¹ of non-fatal occupational injuries and illnesses by industry and case types, New Jersey, 2013 | | | | | | | |
|--|-------------------------|------------------------|------|------|------|------|------|
| Industry ² | NAICS code ³ | Total recordable cases | | | | | |
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Local government | | | | | | | |
| Public Works Departments ⁴ | 921 | 3.3 | 3.7 | | | | |

¹ Incidence rates represent the number of injuries and illnesses per 100 full-time workers and were calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses, EH = total hours worked by all employees during the calendar year 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² Totals include data for industries not shown separately.

³ *North American Industry Classification System* -- United States, 2007.

⁴ Public Works Departments (PWD) do not have an individual NAICS code. Therefore, the measure used for the PWD category is the incident rate for the occupational duties found at PWD facilities under the 921 NAICS code for recordable cases with days away from work. This incident rate for PWD occupational duties for days away from work under the NAICS 921 comprises the majority (average 80%) of the total number of cases.

(SOURCE: N.J. Department of Labor & Workforce Development, in cooperation with U.S. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, October 29, 2015)

The baseline to be used is the 2013 NAICS 921 incidence rate of cases involving days away from work by occupation of **3.3** (Source the NJDLWD, Office of Research and Information). The current Occupational Injury and Illness data table can be found at: http://lwd.dol.state.nj.us/labor/lpa/content/occsafheasvy_index.html).

A 5% decrease from the baseline of 3.3 will result in a 3.1 incident rate for cases with days away from work. The latest Division of Program Planning, Analysis, and Evaluation data is for the year 2014. The 2014 incident rate for cases with days away from work for NAICS 921 increased from the baseline of 3.3 to 3.7. During FY 2015, PEOSH conducted 160 inspections, six consultation visits, and 73 outreach training sessions.

Performance Goal 1.5 –Sewage Treatment Facilities (NAICS 221320)

Decrease injuries and illnesses in state, county, and/or local agencies in the specific NAICS segments by 5% by 2018 as follows (1% per year):

| Incidence rates* of non-fatal occupational injuries and illnesses by industry and case types New Jersey, 2013 | | | | | | | |
|--|---------------|------------------------|------|------|------|------|------|
| | | Total recordable cases | | | | | |
| Industry** | NAICS code*** | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Local government Water, sewage and other systems | 2213 | 8.1 | 9.3 | | | | |

¹ Incidence rates represent the number of injuries and illnesses per 100 full-time workers and were calculated as: (N/EH) x 200,000 where N = number of injuries and illnesses, EH = total hours worked by all employees during the calendar year, 200,000 = base for 100 equivalent full-time workers (working 40 hours per week, 50 weeks per year).

² Totals include data for industries not shown separately.

³ North American Industry Classification System -- United States, 2007

(SOURCE: N.J. Department of Labor & Workforce Development, in cooperation with U.S. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, December 04, 2014)

The baseline to be used is the 2013 NAICS 221320 incidence rate of nonfatal occupational injuries and illnesses of **8.1** total recordable cases (Source the NJDLWD, Office of Research and Information). The current Occupational Injury and Illness data table can be found at: http://lwd.dol.state.nj.us/labor/lpa/content/occsafheasvy_index.html). A 5% decrease from the baseline of 8.1 will result in 7.7 total recordable cases. The latest Division of Program Planning, Analysis, and Evaluation data is for 2014. The 2014 total recordable cases for water and sewage treatment facilities increased from the baseline of 8.1 to 9.3.

During FY 2015, PEOSH conducted 62 inspections, 13 consultation visits, 48 outreach training sessions, and distributed 32 outreach materials. A presentation was provided to the New Jersey Utilities Association detailing the most common safety hazards found by PEOSH in water/wastewater facilities. Fifty state and local government workers attended the training from various water utilities throughout New Jersey.

Strategic Goal #2

To promote safety and health values in New Jersey’s state and local government workplaces.

Performance Goal 2.1 – Worker Involvement

All (100%) of PEOSH interventions (e.g., inspections, consultations, etc.) will include worker involvement (every year). All (100%) of PEOSH interventions conducted in FY 2015 included worker involvement.

Performance Goal 2.2 – SHARP Award

Award Safety and Health Achievement Recognition (e.g., SHARP, Inspection Deferral) to 20 worksites by the end of 2018 (four per year). Two state and local government facilities

were awarded SHARP recognition during FY 2015. Applications are being reviewed for two additional facilities. SHARP is discussed during each consultation visit.

Performance Goal 2.3 – Promote Safety and Health Management System

All (100%) of PEOSH consultations will include site specific recommendations to improve the Safety and Health Program Management System in place at that facility. In FY 2015, 100% of PEOSH consultations included site specific recommendations to improve the Safety and Health Program Management System in place at that facility.

Performance Goal 2.4 – Compliance Assistance for High Hazard Industry Organizations/Groups

Perform compliance assistance interventions for high hazard industry organizations / groups specifically those named in Performance Goals 1.1, 1.2, 1.3, 1.4, and 1.5 (State Support for Transportation, Public Nursing Homes, Local Fire Protection, Public Works, and Water and Sewer). These interventions will focus on the hazards of relevant National and Local Emphasis Programs, and promoting PEOSH cooperative services. Six specific interventions were conducted which reached 106 individuals in high hazard industry organizations / groups.

Strategic Goal #3

Secure public confidence through excellence in the development and delivery of PEOSH programs and services.

Performance Goal 3.1–Fatality Investigations/Inspections

Initiate inspections of fatalities and catastrophes within one day of notification for 100% of occurrences to prevent further injuries or deaths by the end of FY 2018. There were 11 state and local government worker fatalities in FY 2015. Eight were determined to be non-work related and no investigation was initiated. The three investigations that were undertaken were initiated within one day of notification which met this strategic goal.

Performance Goal 3.2A–Safety Complaints Received

As stated in the Annual Plan, the NJDLWD planned to initiate 100% of safety complaint inspections within five working days of notification. During FY 2015, NJ PEOSH received 43 formal complaints. One hundred percent (100%) of the FY 2015 complaint investigations were initiated within five days.

Performance Goal 3.2B –Health Complaints Received

As stated in the APP, the NJDOH goal is to initiate 95% of non-IAQ/ sanitation complaint inspections within five working days of notification. For FY 2015, NJDOH/PEOSH received 47 non-IAQ/Sanitation complaints. Forty-six of the 47 (99%) inspections were initiated within five days (average 2.4 days, range 1-5 days).

Performance Goal 3.3 – Consultation Customer Satisfaction Surveys

Each year, 90% of state and local government employers targeted through consultation visits rate the intervention as highly effective (score seven or higher on a scale of one through 10 on a customer satisfaction survey). NJDLWD PEOSH received 20 customer satisfaction surveys for initial consultation interventions. One hundred percent (100%) of the customer satisfaction surveys received rated the consultation interventions as “Highly Effective.” NJDOH PEOSH received nine customer satisfaction surveys for initial consultation interventions. One hundred percent (100%) of the customer satisfaction surveys received rated the consultation interventions as “Highly Effective.”

Performance Goal 3.4 – Compliance Assistance Customer Satisfaction Surveys

Every year, 90% of compliance assistance interventions (e.g., outreach, seminars, mass mailings, hazard bulletins, newsletters, etc.) conducted/distributed in state and local government workplaces rated the intervention as “Highly Effective.” Of those who responded to the survey, 100% rated the compliance assistance as “Highly Effective.” In addition, PEOSH is involved in other activities that include involvement of workers or their representatives including: conducting a total of four PEOSH Advisory Board meetings that involve employer and worker representative from state, counties, and municipalities; involvement with the PEOSH Advisory Board Subcommittee on workplace violence in schools, and the American Lung Association, Pediatric/Adult Asthma Coalition (IAQ-related).

V. Other Special Measures of Effectiveness and Areas of Note

N/A

Appendix A – New and Continued Findings and Recommendations
FY 2015 PEOSH Comprehensive FAME Report

| FY 2015-# | Finding | Recommendation | FY 2014-# |
|------------|---|--|-----------|
| FY 2015-01 | <p><i>Consultant Training</i> Consultants had not received the required OTI Course #1500 (Introduction to On-Site Consultation) as outlined in the Consultation Policies and Procedures Manual (CSP 02-00-002). Three of five (60%) consultants who were conducting training and assistance visits had not received the required OTI training, and two of four (50%) consultants conducting initial visits had not completed the required OTI course.</p> | <p>PEOSH Consultation should ensure that its consultants have received the required training as outlined in the Consultation Policies and Procedures Manual prior to conducting visits.</p> | |
| FY 2015-02 | <p><i>Notification to Complainant</i> In four of the 12 (33%) complaint files reviewed, documentation that the complainant was notified of the results of the inspections (either by letter or phone) was missing in the case file.</p> | <p>PEOSH should ensure that case files, through supervisory review, include all required letters or documentation related to complaints according to PEOSH’s Field Operations Manual (FOM).</p> | |
| FY 2015-03 | <p><i>Worker Retaliation Witness Interviews</i> In all case files reviewed (100%), witness interviews were not documented and/or there was no statement as to why the witnesses should not be interviewed.</p> | <p>PEOSH should ensure it is following the requirements of their Whistleblower Manual regarding witness interviews.</p> | |
| FY 2015-04 | <p><i>Consultation Case File Documentation</i> NJ PEOSH should improve its consultation case file documentation, specifically:</p> <ul style="list-style-type: none"> ▪ In all 12 (100%) training and assistance visits case files reviewed, the safety and health hazard survey (Form 33) was not completed correctly. ▪ Ten of the 12 (83%) training and assistance case files reviewed were missing the training syllabus. ▪ In all 12 (100%) of case files reviewed, evidence that a hazard assessment had been completed in the last 12 months was lacking. ▪ In two of the three (67%) health case files, there was no supervisory review documented prior to issuing the report. All 12 (100%) of the safety case files lacked a training and assistance letter signed by the consultant. | <p>PEOSH should ensure that consultants complete the required training in accordance with CSP 02-00-002 to improve consultation case file documentation, specifically:</p> <ul style="list-style-type: none"> ▪ Evaluate and complete the safety and health hazard survey (Form 33) correctly. ▪ Ensure a copy of the syllabus is in the case file as required by the CSP 02-00-002. ▪ Ensure consultants are obtaining the required hazard assessment prior to conducting a training and assistance visit. ▪ Ensure supervisors are reviewing reports and/or letters prior to consultants signing and sending them to employers in both safety and health case files. | |

Appendix B – Observations Subject to New and Continued Monitoring
FY 2015 PEOSH Comprehensive FAME Report

| Observation # | Finding # | Observation | Federal Monitoring Plan | Current Status |
|---------------|------------|---|---|----------------|
| FY 2015-OB-01 | | <p><i>Documentation</i></p> <p>In three of the 15 (20%) health case files reviewed, the employer and worker were given advance notice of the inspections. The case files lacked documentation of the condition requiring the advance notice and the procedures followed.</p> | <p>In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.</p> | New |
| FY 2015-OB-02 | | <p><i>Missed Violations</i></p> <p>Missed violations were noted in five of the 40 (13%) case files reviewed. The missed violation in all five case files was related to OSHA 300 logs. Citations were not issued for lack of the OSHA 300 logs when the case file showed documentation that they were missing.</p> | <p>In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.</p> | New |
| FY 2015-OB-03 | | <p><i>Appropriateness of Violation Classification</i></p> <p>Severity/probability given on the violation worksheet did not compare to the injury/illness assessed in 12 of the 40 (30%) case files reviewed. Examples include: high/greater given for a worker exposed to a trip hazard with lacerations/contusions listed as the probable injury, a medium severity was listed when the probable injury was classified as amputation or death.</p> | <p>In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.</p> | New |
| FY 2015-OB-04 | FY 2014-02 | <p><i>Excessive Abatement Periods</i></p> <p>Abatement periods established for correction of violations were found to be excessive in four of the 44 (9%) case files that had citations issued. Examples of excessive abatement periods included: 30 days for a blocked electrical panel, 30 days to anchor a drill press, and 30 days to adjust the work rest on a grinder.</p> | <p>In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.</p> | New |

Appendix B – Observations Subject to New and Continued Monitoring
FY 2015 PEOSH Comprehensive FAME Report

| Observation # | Finding # | Observation | Federal Monitoring Plan | Current Status |
|---------------|---------------|---|--|----------------|
| FY 2015-OB-05 | | <i>Abatement Verification</i> Two of the ten (20%) phone/fax complaints were being closed in the system without final confirmation that abatement verification had been completed and supervisors were not signing the letters to the complainant. | In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action. | New |
| FY 2015-OB-06 | FY 2014-OB-02 | <i>Petition for Modification of Abatement (PMA)</i> Of the 50 safety case files reviewed, documentation that PMAs were granted was missing in five of the case files. | In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action. | Continued |
| FY 2015-OB-07 | | <i>Worker Interview Documentation</i> In five of the 75 (7%) case files reviewed, worker interviews were not documented. | In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action. | New |
| FY 2015-OB-08 | | <i>Worker Retaliation Documentation</i> Seven of the 17 (41%) workplace retaliation case files reviewed were not organized in accordance with the Whistleblower Manual. | In FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action. | New |
| | FY 2014-OB-01 | <i>Inadequate Abatement Documentation</i> Abatement documentation was adequate in the case files reviewed. | | Closed |

Appendix C - Status of FY 2014 Findings and Recommendations

FY 2015 PEOSH Comprehensive FAME Report

| FY 2014-# | Finding | Recommendation | State Plan Response/Corrective Action | Completion Date | Current Status |
|------------|---|---|--|--------------------|-----------------------------|
| FY 2014-01 | <p><i>Staffing</i> PEOSH staffing level is allocated for 41 employees, currently there are 30 full-time equivalents (FTEs) onboard. Fifteen (15) fall under the enforcement category, two are under consultation (23(g) state and local government only, four are compliance assistance specialist/trainers, and the remaining nine are managers or administrative staff.</p> | <p>PEOSH needs to evaluate their staffing to ensure they meet their strategic plan goals.</p> | <p>During FY 2015, PEOSH hired two safety compliance officers, and two industrial hygienists. With the additional hiring the enforcement is fully staffed based on the allocated vs. onboard number.</p> | September 30, 2015 | Completed |
| FY 2014-02 | <p><i>Excessive Abatement</i> Abatement periods established for correction of violations were found to be excessive in 52% (ten of 19) of the case files reviewed. Examples of excessive abatement periods included: 30 days for a blocked exit, 30 days to secure a ladder, and 30 days for blocked eyewash.</p> | <p>Ensure appropriate time periods are established for all abatement.</p> | <p>During FY 2015, supervisors closely reviewed the abatement periods to ensure appropriate abatement was being assessed to violations.</p> | | Converted to an observation |

Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 PEOSH Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA’s ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the “Notes” column below for further explanation on the calculation of each SAMM. All of the New Jersey State Plan’s enforcement data was captured in OIS during FY 2015. The New Jersey State Plan opened 746 enforcement inspections, and they were all captured in OIS.

| U.S. Department of Labor | | | | |
|---|--|-----------------|---|--|
| Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs) | | | | |
| State Plan: New Jersey - PEOSH | | | FY 2015 | |
| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 14.97 | 5 days for serious hazards; 120 days for other than serious hazards | State Plan data is pulled only from OIS. Further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 12.69 | N/A | State Plan data is pulled only from OIS. 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) | 0.49 | 1 | State Plan data is pulled only from OIS. Further review level is negotiated by OSHA and the State Plan. |

Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 PEOSH Comprehensive FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
|-------------|---|-----------------|-----------------------|--|
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.11 | N/A | State Plan data is pulled only from OIS. 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) | 100% | 100% | State Plan data is pulled only from OIS. Further review level is fixed for every State Plan. |
| 4 | Number of denials where entry not obtained | 0 | 0 | State Plan data is pulled only from OIS. Further review level is fixed for every State Plan. |
| 5 | Average number of violations per inspection with violations by violation type | SWRU: 4.39 | +/- 20% of SWRU: 1.92 | State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS. |
| | | Other: 2.39 | +/- 20% of Other: .87 | |
| 6 | Percent of total inspections in state and local government workplaces | 100% | 100% | Since this is a State and Local Government State Plan, all inspections are in state and local government workplaces. |
| 7 | Planned v. actual inspections – safety/health | S: 560 | +/- 5% of S: 750 | State Plan data is pulled only from OIS. |
| | | H: 186 | +/- 5% of H: 175 | Further review level is based on a number negotiated by OSHA and the State Plan through the grant application. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | N/A | +/- 25% of \$2,002.86 | N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS. |
| | a. Average current serious penalty in private sector (1-25 workers) | N/A | +/- 25% of \$1,402.49 | N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS. |

Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 PEOSH Comprehensive FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
|-------------|---|-----------------|-----------------------|--|
| | b. Average current serious penalty in private sector (26-100 workers) | N/A | +/- 25% of \$2,263.31 | N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS. |
| | c. Average current serious penalty in private sector (101-250 workers) | N/A | +/- 25% of \$3,108.46 | N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS. |
| | d. Average current serious penalty in private sector (greater than 250 workers) | N/A | +/- 25% of \$3,796.75 | N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS. |
| 9 | Percent in compliance | S: 6.96% | +/- 20% of S: 28.47% | State Plan data is pulled only from OIS. |
| | | H: 33.82% | +/- 20% of H: 33.58% | Further review level is based on a one-year national rate, pulled only from OIS. |
| 10 | Percent of work-related fatalities responded to in one workday | 100.00% | 100% | State Plan data is pulled only from OIS. Further review level is fixed for every State Plan. |
| 11 | Average lapse time | S: 9.45 | +/- 20% of S: 42.78 | State Plan data is pulled only from OIS. |
| | | H: 43.61 | +/- 20% of H: 53.48 | Further review level is based on a one-year national rate, pulled only from OIS. |
| 12 | Percent penalty retained | 100% | +/-15% of 167.96% | State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS. |
| 13 | Percent of initial inspections with worker walk around representation or worker interview | 99.46% | 100% | State Plan data is pulled only from OIS. Further review level is fixed for every State Plan. |

Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 PEOSH Comprehensive FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
|-------------|--|-----------------|----------------------|---|
| 14 | Percent of 11(c) investigations completed within 90 days | 89% | 100% | State Plan data is pulled from OIS. Further review level is fixed for all State Plans. |
| 15 | Percent of 11(c) complaints that are meritorious | 22% | +/- 20% of 24% | State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average, pulled from WebIMIS. |
| 16 | Average number of calendar days to complete an 11(c) investigation | 90 | 90 | State Plan data is pulled from OIS. Further review level is fixed for all State Plans. |
| 17 | Percent of enforcement presence | N/A | +/- 25% of 1.35% | N/A – This is a State and Local Government State Plan and is not held to this SAMM. Further review level is based on a one-year national rate, pulled only from OIS. |