2016 Annual Report

Cherie Berry
Commissioner of Labor
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I wish to acknowledge the cooperation of all the fine employees of the various divisions of the Department of Labor who made possible the many accomplishments and services to the people of North Carolina that are recorded in this report. The dedication shown by these employees helps make North Carolina a safe and healthy place to work and live.

Cherie Berry
Commissioner of Labor
Overview

The labor commissioner is a constitutional officer elected statewide by the people of North Carolina to serve a four-year term running concurrently with the governor and all other members of the Council of State. On Nov. 8, 2016, Cherie Berry became the first labor commissioner in the history of the state to be elected to a fifth four-year term.

The General Statutes provide the labor commissioner with broad regulatory and enforcement powers to achieve the objective of promoting the health, safety and general well-being of working North Carolinians. Foremost among her duties are the administration and enforcement of the occupational safety and health standards. Her duties also include enforcement of wage and hour laws, employment discrimination involving retaliation and the provision of free education, training and consultation to ensure safe and healthy working conditions for North Carolina’s employers and employees. Mine safety and health training is also provided to owners, operators and contractors working in North Carolina’s mining industry. The labor commissioner also ensures the public’s safety through the administration of inspections of boilers, elevators, escalators, amusement rides and inflatable devices.

The N.C. Department of Labor’s mission is to foster a safe, healthy, fair and productive North Carolina by:

- Providing responsive, effective and efficient services
- Providing and encouraging quality education and training
- Administering consistently and fairly our regulatory mandates
- Enhancing public confidence in the Department of Labor

North Carolina’s workforce contains more than 4 million workers in more than 270,000 private and public sector businesses. The laws and programs the department administers affect every worker—and virtually every person—in the state.

Department of Labor history dates back to 1887, when the General Assembly created the Bureau of Labor Statistics. In a reorganization of labor functions in 1931, the General Assembly laid the groundwork for the department’s transformation into an agency with laws and programs affecting most state citizens. Departmental divisions and bureaus carry out its principal regulatory, enforcement and informational programs.

The N.C. Occupational Safety and Health Review Commission operates independently from the department. The Review Commission, whose members are appointed by the governor, hears appeals of citations and penalties imposed by the Occupational Safety and Health Division.
The Administration Division comprises six divisions of the N.C. Department of Labor: Budget and Management; Communications; Governmental Affairs; Human Resources; Legal Affairs; and Research and Information Technology. These divisions provide support for Commissioner Berry’s office and the entire N.C. Department of Labor.

**Statistical Highlights for 2016**

**Budget and Management Division**

- Managed the annual budget for FY 2016, which was $32,883,771; revenue: $16,689,234; appropriations: $16,194,537.

**Communications Division**

- Released 78 news releases and media advisories.
- Managed the *N.C. Labor Ledger* database, which has 16,138 subscribers as of Dec. 31, 2016.
- Produced more than 1.5 million impressions and processed nearly 100,000 pieces of outgoing mail for the department’s Raleigh area offices through its Publications Bureau.

**Governmental Affairs Division**

- Monitored the short session of the General Assembly.

**Human Resources Division**

- Managed HR functions for 352 employees as of Dec. 31, 2016.

**Legal Affairs Division**

- Collected a total of $9,419.07 in outstanding wage collections.
- Initiated rulemaking activity for the Boiler Safety Bureau, finalized verbatim adoptions for the OSH Division, and finalized periodic review and expiration of rules for the Wage and Hour Bureau and OSH Division.

**Research and Information Technology Division**

- Conducted the Survey of Occupational Injuries and Illnesses and the Census of Fatal Occupational Injuries. The 2015 nonfatal incident rate for private sector is the lowest on record for the state.
- The IT Help Desk responded to 6,169 internal telephone and email requests.
Budget and Management Division

The Budget and Management Division’s 13 employees are responsible for all fiscal-related areas of the agency. The division continues initiatives to streamline our operations with creative uses of technology and more effective uses of our skilled staff.

Job responsibilities are separated into four categories: budget/accounts payable; purchasing; federal grant administration; and accounts receivable/collections. Reporting is done on a state fiscal year basis (July 1 through June 30). Table 1 provides data for each fiscal year beginning in FY 2013 through FY 2016.

<table>
<thead>
<tr>
<th>Annual budget</th>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>FY 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$33,221,825</td>
<td>$16,559,295</td>
<td>$17,044,163</td>
<td>$16,689,234</td>
</tr>
<tr>
<td>Average no. of checks written/month</td>
<td>391</td>
<td>358</td>
<td>341</td>
<td>331</td>
</tr>
<tr>
<td>Average monthly expenses</td>
<td>$2,388,181</td>
<td>$2,289,040</td>
<td>$2,300,112</td>
<td>$2,239,132</td>
</tr>
<tr>
<td>Percentage of invoices received/paid within 5 days</td>
<td>99</td>
<td>99</td>
<td>99</td>
<td>99</td>
</tr>
<tr>
<td>Average number of purchase orders issued/month</td>
<td>48</td>
<td>34</td>
<td>39</td>
<td>41</td>
</tr>
<tr>
<td>Monthly average value of purchase orders issued</td>
<td>$131,394</td>
<td>$63,962</td>
<td>$61,849</td>
<td>$58,013</td>
</tr>
<tr>
<td>Percentage of purchase orders issued within 5 days</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Average monthly inspection fees registrations &amp; penalties collected</td>
<td>$941,494</td>
<td>$956,023</td>
<td>$886,509</td>
<td>$898,593</td>
</tr>
<tr>
<td>Average monthly caseload for collections</td>
<td>4,468</td>
<td>3,186</td>
<td>3,253</td>
<td>4,493</td>
</tr>
</tbody>
</table>

Budget/Accounts Payable/Purchasing

For its part, the Budget and Management Division continues to meet its internal benchmarks by paying for and ordering items within five working days from receipt, thereby enabling the department to continue its efforts to be fiscally responsible and prudent with available resources.

Accounts Receivable/Collections

The Accounts Receivable/Collections section is responsible for collecting and depositing all revenue received by the department. Two departmental bureaus are fully receipt supported, which makes it important that all revenues are collected and deposited in a timely and accurate manner. In addition, collected penalties are remitted to the Civil Penalty and Forfeiture Fund, administered by the Office of State Budget and Management, for distribution to local school systems throughout the state in accordance with state law.

The responsiveness of the PayPoint application for our customers allows us to provide immediate receipts either through email or by fax, which benefits our customers as they no longer have to depend on personal check copies or bank statements. Whereas eight bureaus are now utilizing the PayPoint application, four of the eight now accept online payments directly through the Department of Labor website.
Successful integration of the OnBase System with the OSHA Express system is now complete. OnBase is a custom-designed system to automate our collection of Occupational Safety and Health Division penalty payments. The OSHA Express system facilitates the workflow within the OSH environment and makes it easier to perform data entry, look up information and generate reports. The integration has resulted in the ability to begin collecting penalties and interest on outstanding accounts, which should assist in quicker payments of the original penalties resulting from OSH inspections.

The Budget and Management Division continues to work closely with the NCDOL Research and Information Technology Division in developing the new Amusement Device Inspection Tracking System. This system allows customers to request inspections online 24 hours a day, eliminating the restriction of having to call the budget office during business hours. It provides a centralized location where information can be viewed by the budget staff, the amusement administrative team, field inspectors and customers, thus streamlining the information sharing process.

**Communications Division**

The NCDOL Communications Division provides publications and information to the general public and media outlets. Information is handled in a number of ways—through direct telephone contact with the members of the media and general public, news releases, newsletters, social media, brochures, manuals and other publications. The division also compiles the department’s annual report, prepares talking points for NCDOL personnel, coordinates guests and prepares briefing materials for Commissioner Berry’s monthly radio show on WSHA 88.9 FM and promotes the department’s programs to the public. The Publications Bureau staff designs and prints workplace safety documents and other materials the department provides to the public.

The division edits all materials printed by the Publications Bureau and coordinates the posting of items on the department’s website. The division released 78 news releases and media advisories in 2016. Topics included SHARP and Star Program ceremonies, safety award winners and other events and programs.

The division manages the department’s social media platforms on Facebook, YouTube and Twitter, posting content for all NCDOL divisions and bureaus. An Instagram account was added in October. The Facebook page increased from 515 likes at the beginning of the year to 650 likes at the end of the year. The division continued to use the department’s Twitter account that began in May 2012. The division tweeted 315 times during 2016. The department’s Twitter account grew from 784 followers at the beginning of the year to 1,029 at the end of the year.

The Communications Division produces and manages the department’s external newsletter, the NC Labor Ledger, which has an electronic subscription base of 16,138 as of December 2016. The division’s print shop produces more than 1.5 million impressions and 847 electronic items, such as safety brochures, industry guides, logos and labor law posters, which are made available to the public. The print shop staff also processed 98,295 pieces of outgoing mail in addition to distributing incoming mail for the department’s Raleigh area offices.

**Governmental Affairs Division**

The 2015-2016 General Assembly re-convened on Monday, April 25, to officially commence the 2016 short session. The House and Senate concluded its short session work on Friday, July 1. This year the General Assembly held five “extra sessions” on Feb. 18, March 23, Dec. 13, Dec. 14 and Dec. 21 to consider various matters, none of which were relevant to the department. This document briefly summarizes the legislation that the Governmental Affairs division tracked during the short session.
HB 1030— 2016 Appropriations Act (S.L. 2016-94)

This bill makes changes to the biennial budget set forth in S.L. 2015-241 (Appropriations Act of 2015) and became effective on July 1, 2016. The N.C. Department of Labor received a one-time credit of $300,000 for IT needs. The bill eliminates two vacant OSH compliance officer positions. These positions were targeted for elimination since they have been vacant more than two years, which was the criteria set by the General Assembly in eliminating certain positions. Additionally, the final budget includes a 1.5 percent raise for state employees, a one-time, across the board bonus of 0.5 percent payable in Oct. 2016, and allocates a pool of money to the department for additional one-time, merit-based bonuses.

Additionally, there are several special provisions in the budget bill that apply to the department.

- **Section 6.3** addresses circumstances when the General Assembly does not pass a budget by June 30. The new language eliminates the need for continuing resolutions and would allow for the automatic continuation of state funding at levels authorized in the previous year’s budget. This eliminates the threat of a “state government shut-down.”

- **Section 6.4** adds on to the provision in last year’s budget about positions vacant for more than 12 months. Any position that is vacant for more than 12 months as of April 30, 2016, is subject to elimination, and each position will go through a vetting and exception process through the North Carolina Office of State Budget and Management.

- **Section 7.3(C)** states the intention of the General Assembly in next year’s session to appropriate funds to Department of Information Technology for overhead costs, removing that as a billed agency cost for subscription fees.

- **Section 7.5** allocates the N.C. Department of Labor a one-time credit of $300,000 for IT needs.

- **Section 7.14(D)** eliminates the N.C. Longitudinal Data System Board, which was established in 2012 and on which the Commissioner of Labor was a member. The board has not met in at least a year.

- **Section 32.5** eliminates the Youth Advocacy and Involvement Office (YAIO) and transfers its functions to the Council for Women in the Department of Administration. The YAIO operates the internship program that has been the source of NCDOL student interns.

- **Section 36.18** allows agencies to offer employees the opportunity to use or cash in special bonus leave that previous budgets have provided. To do so, agencies must meet the following conditions—participation must be voluntary, special leave payouts must be valued at the employee’s current salary rate, and each agency must collect and report certain demographic information on employees who use the program to the legislature.

HB 805—Budget Technical Corrections (S.L. 2016-123)

This bill began as the Measurability Assessments Bill intended to require a measurability assessment of any proposed or existing state program to determine whether the program is or will be capable of reporting performance and return on investment. The bill later became the Budget Technical Corrections Bill, and keeps the measurability assessments provision. There is one provision in the Technical Corrections Bill that applies to the N.C. Department of Labor: Section 6.4 which eliminates certain vacant positions. The bill changes the date on which any positions that have been vacant for more than 12 months may be eliminated from April 17, 2016 to April 30, 2016.
HB 1043—Zip Line and Challenge Course Safety/Sanders’ Law

This bill was filed after the department completed a study of the zip line and challenge course industry in North Carolina as directed by S.L. 2015-152. The N.C. Department of Labor worked with Rep. Ted Davis to draft the bill as he requested. Rep. Davis is a relative of Sanders Burney, the 12-year-old girl who died following a zip line accident at Camp Cheerio in June 2015. The bill enacts a new Article 24 to Chapter 95 known as the “Zip Line and Challenge Course Safety Act.” The bill governs the design, construction, installation, inspection, certification, operation, use, maintenance and investigation of accidents involving zip lines, aerial adventure parks, canopy tours, challenge courses and other similar devices.

Section 2 of the bill consists of the new Article 24. The main provisions are as follows:

• Provides that devices shall be inspected at least once annually by a third party, qualified inspector. A person may be designated as a qualified inspector by filling out an application form provided by the commissioner, and must reapply biennially.

• Requires that a professional engineer must approve device plans before a device is erected or changed. States that the design, manufacture, installation, operation, and maintenance of all devices subject to this Article must conform to one of the following standards: ACCT Standards, PRCA Standards, ERCA Standards, or ASTM Standards.

• Requires that an owner of a device shall annually submit an application for a certificate of operation to the Commissioner and shall request a certificate of operation for each device at least 30 days before the expiration of the certificate.

• Requires that an owner of a device inspect a device before opening on each day that the device is intended to be used, train employees in accordance with the ANSI/PRCA 2014 Ropes Challenge Course Installation, Operation and Training Standard or a similar standard, have an emergency evacuation plan in accordance with these standards, and maintain a record of these completed requirements. The Commissioner may refuse to issue or renew or may revoke, suspend, or amend the certificate of operation for any device regulated by this Article and may order that an unsafe device be stopped until deemed safe upon failure to meet these requirements.

• Requires that operators of devices be at least 18 years of age and prohibits operating devices while impaired.

• Provides that no owner shall operate a device subject to the provisions of this Article unless there is in existence a contract of insurance providing coverage of not less than $1 million dollars per occurrence against liability for injury to persons or property arising out of the operation of such device.

• Provides for civil and criminal penalties for certain violations of the Article.

Section 3 allows the Department of Labor to adopt rules, including temporary rules, design and distribute forms, begin accepting applications, and establish and collect fees in order that a device subject to the provisions of this act that is existing on or before Dec. 1, 2017, is in compliance with the provisions of this act and has received a certificate of operation from the Department of Labor by that date.

Section 4 establishes the effective date for Section 2 of the act as Dec. 1, 2017, and the effective date for the remainder of the bill upon law.

The bill was heard in the House Judiciary III Committee and received many questions and comments from members of the committee as well as representatives from various stakeholder groups, including the Youth Camp Association and the Aerial Adventure Association. After receiving a favorable report in the House Judiciary III Committee, the bill was then referred to the House Finance committee where it remained for the duration of the session. The department expects that a new bill will be filed during the 2017 long session.
SB 747—State-Owned Real Property Management/PED (S.L. 2016-119)

This bill would change the way in which state-owned real property is managed and disposed of. This would affect the Council of State, which is tasked with approving transactions involving state-owned property. The bill implements various recommendations from the Program Evaluation Division’s report, “North Carolina Should Dispose of Unneeded Real Property and Improve Portfolio Management to Reduce Costs, Report Number 2015-04 (June 2015).” These changes would require more active management of state-owned real property, ongoing identification and disposal of surplus state-owned real property, ongoing measurement and reporting of utilization of state-owned real property, ongoing updating of state-owned real property inventories and ensuring that state-owned property is not available before leases are approved or renewed.

Of specific interest to the department, Section 3(c) deals with the renewal of leases for OSH regional offices. Per this section, these leases cannot be renewed unless suitable state-owned property is not available for occupancy. The first lease that could be impacted by this provision is Asheville, which expires July 31, 2017.

Bills Introduced That Did Not Become Law

- Legislation that would reduce the number of employees an employer must have from 25 to five before the employer is required to use E-Verify.
- Legislation that would exempt employees of a seasonal amusement establishment from wage and hour overtime and record keeping requirements.
- Legislation that would require the N.C. Department of Labor to report to the Attorney General’s office any local government entities that are not in compliance with the contract requirements of E-Verify.

Human Resources Division

The Human Resources Division supports the department through the administration and management of workplace services and the personnel policies and procedures established by the State Personnel Act (N.C. Gen. Stat. § 126). Human Resources chronicled new hires, separations from service, promotions within the department, job postings, applications received and total personnel actions processed. In addition, the two part-time Human Resources Division receptionists in the Labor Building assisted the department by responding to 3,997 phone calls in 2016.

Working with a third-party administrator, Human Resources administers the department’s workers’ compensation program. There were 11 reported injury/illness claims during 2016. Of these, two qualified as OSHA recordable injuries. Table 2 provides a comparison of HR activity in calendar years 2013 through 2016.
Table 2
Human Resources Activities, Calendar Years 2013 Through 2016

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hires</td>
<td>24</td>
<td>40</td>
<td>42</td>
<td>59</td>
</tr>
<tr>
<td>Separations</td>
<td>47</td>
<td>38</td>
<td>49</td>
<td>48</td>
</tr>
<tr>
<td>Promotions</td>
<td>25</td>
<td>31</td>
<td>25</td>
<td>21</td>
</tr>
<tr>
<td>Job Applications Received</td>
<td>12,589</td>
<td>10,378</td>
<td>7,813</td>
<td>10,960</td>
</tr>
<tr>
<td>Personnel Actions Processed</td>
<td>211</td>
<td>712***</td>
<td>417</td>
<td>856****</td>
</tr>
<tr>
<td>Total Positions on 12/31</td>
<td>403</td>
<td>384</td>
<td>382</td>
<td>382</td>
</tr>
<tr>
<td>Total Employees on 12/31</td>
<td>371</td>
<td>355</td>
<td>340</td>
<td>352</td>
</tr>
<tr>
<td>(includes part-time employees sharing one position)</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Positions Posted for the Year</td>
<td>67</td>
<td>89</td>
<td>91</td>
<td>99</td>
</tr>
<tr>
<td>(internal, external and repostings)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Employee’s Age</td>
<td>50</td>
<td>50</td>
<td>50</td>
<td>51</td>
</tr>
<tr>
<td>Average Employee Service Months</td>
<td>179</td>
<td>156</td>
<td>158</td>
<td>150</td>
</tr>
<tr>
<td>EEOI Training/Refresher Course</td>
<td>11</td>
<td>2</td>
<td></td>
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</tr>
</tbody>
</table>

** Includes 380 legislative increase salary adjustments.
*** Includes 357 legislative increase salary adjustments.
**** Includes 326 legislative increase salary adjustments and 143 salary adjustment fund actions.

Legal Affairs Division

The Legal Affairs Division advises the commissioner and the department as a whole on a wide variety of legal issues. The division monitors all legal issues related to the department. This includes reviewing and referring cases in need of litigation to the Attorney General’s Office; advising the commissioner and the department when policy developments involve legal issues; drafting and conducting legal reviews of policies and procedures; fielding a large number of and wide variety of constituent questions/issues on a daily basis; serving as liaison between the Occupational Safety and Health Review Commission and the department for the purpose of distributing contested case documents and maintaining and reporting availabilities and hearing schedules; maintaining a comprehensive database and auditing employee compliance with the NCDOL State Vehicle Use Policy; tracking and initiating appropriate action on all bankruptcy matters affecting the department from initiation to recovery/distribution of outstanding wages, invoices and civil money penalty debts; handling collection of outstanding wage and hour debts on behalf of employees before and after they have been reduced to judgment; serving as liaison between NCDOL and the N.C. Attorney General’s Office for contested case petitions filed under N.C. Gen. Stat. § 150B; conducting a variety of jurisdictional case file reviews and comprehensive reviews of potential litigation files for wage and hour/employment discrimination complaints; housing the position of chief records retention officer for the department; housing the position of agency rulemaking coordinator who is responsible for coordinating/conducting all administrative rulemaking activities for the department and preparing/filing all rulemaking reports required by N.C. Gen. Stat. § 150B; housing the position of agency ethics liaison to field ethics questions, track ethics training, and ensure conformance with the reporting requirements of the state ethics laws; and housing the position of agency business license coordinator to ensure conformance with reporting requirements of licenses/permits obtained from the department by the public.
Wage and Hour Judgments/Settlement Disbursements

Since 2009, the Legal Affairs Division has been assisting the Attorney General’s Office in collecting outstanding wage and hour judgments. All outstanding judgments are in different stages of the collection process as the division continues to actively pursue collection of these wages for the employees to whom they are owed.

The division has worked actively with employers to collect monthly payments after the employer defaults on a settlement agreement entered into with the department to pay back wages plus interest to one or more employees. The Legal Affairs Division also continued to work with Barber Scotia College to collect and distribute interest on wages that were owed to 46 current and former employees of the college. During 2016, BSC made one final quarterly payment of $8,989.07. Payment was disbursed among the employees at the end of the quarter. Total outstanding wages disbursed in 2016 were $9,419.07.

Division/Departmental Policies and Procedures

The Legal Affairs Division continues to collaborate with both the Boiler Safety Bureau and the Elevator and Amusement Device Bureau to review and revise certain policies, practices and procedures. These revisions are an effort to streamline inspection procedures, maximize the effectiveness of penalty assessment and collections, and conserve time for field and office staff alike through a variety of revised measures. Work on revising these policies and procedures will continue into 2017.

The Legal Affairs Division is responsible for maintaining and auditing driving histories in accordance with the NCDOL Vehicle Use Policy. All NCDOL personnel who may have the potential to drive a state-owned vehicle during their course of employment with the department, or who are required to have a valid North Carolina driver’s license must submit a signed form to the division and a DMV history search will be conducted. After review of the employee’s driving record, an employee may be authorized to drive a state-owned vehicle. All individuals with the department who drive as part of their job duties or are authorized to drive a state vehicle must report any and all traffic violations to their supervisor, the motor fleet vehicle liaison and the Legal Affairs Division immediately upon being charged with the violation.

Upon request and assignment by the Office of State Human Resources, members of the Legal Affairs Division provide mediation services to other state agencies as a part of OSHR’s grievance procedure.

The division provides continuous support to the entire department through such things as administrative assistance, interpretations, guidance and assistance on specific matters and issues, and enforcement/investigation of policy and procedure violations.

Occupational Safety and Health Variances

In accordance with N.C. Gen. Stat. § 95-132, employers may apply to the commissioner for a temporary, permanent or experimental variance from a promulgated occupational safety and health standard. The Legal Affairs Division works with the Education, Training and Technical Assistance Bureau to review variance applications and to ensure compliance with the N.C. General Statutes, N.C. Administrative Code and the Code of Federal Regulations. The division also prepares and files the paperwork necessary to process a variance request in accordance with Title 13, Chapter 07A, Section .0700 of the N.C. Administrative Code, Rules of Practice for Variances: Limitations: Variations: Tolerances and Exemptions. There were no variance requests filed in 2016.
Rulemaking

Occupational Safety and Health Division


Session Law 2014-76 required the Commissioner of Labor to adopt rules to establish requirements for the handling of antineoplastic agents in facilities where there is occupational exposure to antineoplastic agents. 13 NCAC 07G .0101—Handling Of Antineoplastic Agents—was adopted with an effective date of June 13, 2016.

Periodic Review and Expiration of Rules

In the 2013 legislative session, the General Assembly enacted Session Law 2013-413. This law established N.C. Gen. Stat. § 150B-21.3A, “Periodic Review and Expiration of Existing Rules.” This statute requires the Rules Review Commission to establish a process and schedule for those covered agencies to ensure compliance with the law. This schedule and process requires agencies to review all of their active rules codified in the N.C. Administrative Code every 10 years.

As part of the process, agencies must classify each rule subject to review as:

1. “Necessary with substantive public interest,” generally meaning the rule is needed but there is a known or suspected concern about it from the public;
2. “Necessary without substantive public interest,” generally meaning the rule is needed and there is no known concern from the public; or
3. “Unnecessary,” meaning the agency determined the rule is obsolete, redundant or otherwise no longer needed.

Office of Occupational Safety and Health

On Sept. 1, 2015, the division assisted the commissioner of labor in conducting a mandatory review of rules codified under 13 NCAC 07, Office of Occupational Safety and Health, according to the requirements of N.C. Gen. Stat. § 150B-21.3A. As a result of the review, the commissioner initially determined all rules codified under 13 NCAC 07, Office of Occupational Safety and Health, were necessary without substantive public interest, except for 13 NCAC 07F .0105, which was determined to be unnecessary. The initial determination was published in a report posted on the Department of Labor’s website on Sept. 8, 2015, and on the Office of Administrative Hearing’s website on Sept. 12, 2015. A public comment period was open from Sept. 16, 2015, until Nov. 16, 2015. The Department of Labor received no public comments, and the commissioner finalized the determination that all rules were necessary without substantive public interest on Dec. 1, 2015, except for 13 NCAC 07F .0105, which was determined to be unnecessary.

Pursuant to 26 NCAC 05 .0211, the review of these administrative rules was completed and a final report was filed with the RRC before its meeting on Feb. 18, 2016. At that meeting, the RRC approved the Department of Labor’s determination that all rules under 13 NCAC 07, Office of Occupational Safety and Health, were necessary without substantive public interest, except for 13 NCAC 07F .0105, which was determined to be unnecessary.

The Rules Review Commission sent a report to the Joint Legislative Administrative Procedure Oversight Committee at the General Assembly on Feb. 22, 2016. The commission’s determination became final following review by the Joint Legislative Administrative Procedure Oversight Committee on March 1, 2016.
Wage and Hour

On Sept. 1, 2015, the division assisted the commissioner of labor in conducting a mandatory review of rules codified under 13 NCAC 12, Wage and Hour, according to the requirements of N.C. Gen. Stat. § 150B-21.3A. As a result of the review, the commissioner initially determined all rules codified under 13 NCAC 12, Wage and Hour, were necessary without substantive public interest. The initial determination was published in a report posted on the Department of Labor’s website on Sept. 8, 2015, and on the Office of Administrative Hearing’s website on Sept. 12, 2015. A public comment period was open from Sept. 16, 2015, until Nov. 16, 2015. The Department of Labor received no public comments, and the commissioner finalized the determination that all rules were necessary without substantive public interest on Dec. 1, 2015.

Pursuant to 26 NCAC 05 .0211, the review of these administrative rules was completed and a final report was filed with the RRC before its meeting on Feb. 18, 2016. At that meeting, the RRC approved the Department of Labor’s determination that all rules under 13 NCAC 12, Wage and Hour, were necessary without substantive public interest.

The RRC sent a report to the Joint Legislative APO Committee at the General Assembly on Feb. 22, 2016. The RRC determination became final following review by the APO on March 1, 2016.

Verbatim Adoptions: Occupational Safety and Health

General Industry (13 NCAC 07F .0101)

The division adopted verbatim, changes to Title 29 of the Code of Federal Regulations promulgated by federal OSHA, which included changes to Part 1910—General Industry. This verbatim adoption was effective April 22, 2016.

The correcting amendment published in the Federal Register on March 1, 2016 (81 FR 10490), corrects 29 CFR § 1910.106(a)(14) to reinstate introductory text. OSHA’s correcting amendment was effective March 1, 2016.

The amendment of 13 NCAC 07F .0101 incorporates recent OSHA changes to the provisions of the Occupational Safety and Health Standards for General Industry at 29 CFR 1910. The amendment is required by 29 CFR 1902.2(a) and N.C. Gen. Stat. § 95-131(a) in order for North Carolina’s occupational safety and health program to be as effective as the federal program and to maintain North Carolina’s state plan status under the federal Occupational Safety and Health Act of 1970. This rule was adopted in accordance with N.C. Gen. Stat. § 150B-21.5(c).

Marine Terminals (13 NCAC 07F .0502)

The division adopted verbatim, changes to Title 29 of the Code of Federal Regulations promulgated by federal OSHA, which included changes to Part 1917—Marine Terminals. This verbatim adoption was effective Sept. 2, 2016.

The revising amendment published in the Federal Register on March 25, 2016 (81 FR 16085), revises 29 CFR §1917.3 and 29 CFR §1917.91 by updating the references to national consensus standards approved by the American National Standards Institute. OSHA’s revising amendment was effective April 25, 2016. The changes involve incorporation by reference of the latest ANSI/ISEA Z87.1-2010 standard on Occupational and Educational Eye and Face Protection Devices and removal of the oldest ANSI (Z87.1-1989) version of the same standard.
The amendment of 13 NCAC 07F .0502 incorporates OSHA revisions to the provisions of the Occupational Safety and Health Standards at 29 CFR 1917. The amendment is required by 29 CFR 1902.4(a)(1) and N.C. Gen. Stat. § 95-131(a) in order for North Carolina’s occupational safety and health program to be as effective as the federal program and to maintain North Carolina’s state plan status under the federal Occupational Safety and Health Act of 1970. This rule was adopted in accordance with N.C. Gen. Stat. § 150B-21.5(c).

**General Industry** (13 NCAC 07F .0101)

**Construction** (13 NCAC 07F .0201)

**Shipyard Employment** (13 NCAC 07F .0501)

The division adopted verbatim, changes to Title 29 of the Code of Federal Regulations promulgated by federal OSHA, which included changes to Part 1910—General Industry, Part 1926—Construction and Part 1915—Shipyard Employment. These verbatim adoptions were effective Sept. 2, 2016.

(1) **Eye and Face Protection**

The amendment published in the Federal Register on March 25, 2016 (81 FR 16085), revises 29 CFR 1910.6, 1910.133, 1915.5, 1915.153, 1926.6 and 1926.102 by updating the references to national consensus standards approved by the American National Standards Institute. This final rule updates eye and face protection requirements in OSHA’s general industry, construction, and shipyard employment standards. The changes involve incorporation by reference of the latest ANSI/ISEA Z87.1-2010 standard on Occupational and Educational Eye and Face Protection Devices and removal of the oldest ANSI (Z87.1-1989) version of the same standard. OSHA’s amendment was effective April 25, 2016.

(2) **Occupational Exposure to Respirable Crystalline Silica**

The final rule published in the Federal Register on March 25, 2016 (81 FR 16286), amends 29 CFR 1910.1000, 1915.1000, and 1926.55 and adopts 29 CFR 1910.1053, 1915.1053, and 1926.1153 for occupational exposure to respirable crystalline silica. This final rule establishes a new permissible exposure limit of 50 micrograms of respirable crystalline silica per cubic meter of air (50 μg/m3) as an eight hour time-weighted average in all industries covered by the rule. It also includes other provisions to protect employees, such as requirements for exposure assessment, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping. OSHA is issuing two separate standards—one for general industry and maritime, and the other for construction—in order to tailor requirements to the circumstances found in these sectors. This final rule was effective June 23, 2016.

(3) **Occupational Exposure to Respirable Crystalline Silica**


(4) **Occupational Exposure to Respirable Crystalline Silica**

The amendments of 13 NCAC 07F .0101, .0201, and .0501 incorporate recent OSHA revisions to the provisions of the Occupational Safety and Health Standards at 29 CFR 1910, 1915, and 1926. The amendment is required by 29 CFR 1902.4(a)(1) and N.C. Gen. Stat. § 95-131(a) in order for North Carolina’s occupational safety and health program to be as effective as the federal program and to maintain North Carolina’s state plan status under the federal Occupational Safety and Health Act of 1970. This rule was adopted in accordance with N.C. Gen. Stat. § 150B-21.5(c).

Research and Information Technology Division

Research

The research area of the division collects information and data for use by the commissioner of labor. The division develops and implements special programs and projects. The division also provides policy staff support to the commissioner and other divisions within the department.

Safety and Health Survey Section

The Safety and Health Survey Section of the division collects, reviews, refines and publishes the Survey of Occupational Injuries and Illnesses data for certification to the U.S. Bureau of Labor Statistics. The data—used by both state and federal departments of labor—provide accurate estimates of North Carolina’s work-related injury and illness rates as well as details about demographic and case characteristics for injured workers. The state incidence rate for injuries and illnesses in the private sector was 2.6 for every 100 full-time employees in 2015, which was significantly below the national rate of 3.0. The 2015 SOII figure for North Carolina was the lowest on record for the state. (See Figure 1.)

Figure 1
Occupational Injury and Illness Rate for North Carolina, Private Sector, Calendar Years 2000 Through 2015
Annually, North Carolina samples roughly 8,600 establishments for the Survey of Occupational Injuries and Illnesses. For the 2015 SOII (collected during 2016), the state sampled 8,600 establishments, of which 7,407 remained collectible after accounting for business closures, sampled unit changes and duplicate sampled units. This total collectible number ranks as the fifth highest total among all states and represents 21.8 percent more collectible units than the next closest state.

The sample selection process begins with North Carolina providing a list of important industries to BLS. When BLS randomly selects establishments for participation in the survey, it does so within those targeted industries in order both to ensure that SOII produces usable estimates for industries important to North Carolina and to guarantee that North Carolina’s sample reflects the business community generally. Within those targeted industries, BLS then draws a random sample of establishments using data obtained from the Quarterly Census of Employment and Wages.

The survey includes private, local and state entities sampled at the establishment level, not the business or corporate level. Thus BLS may sample one company more than once if it owns or operates multiple locations. BLS then mails survey participants a prenotification letter informing them about SOII and asking them to maintain injury and illness records for the following year. The mailing also provides all necessary documents such as copies of the OSHA 300A logs since federal regulations require all sampled establishments to participate regardless of whether or not they normally maintain annual OSHA logs.

Sampled units receive the actual survey in January following the surveyed year. In 2016, 86.4 percent of sampled establishments responded to North Carolina’s 2015 SOII. NCDOL staff members refer any establishments that have failed to respond or have expressly refused to respond to the survey to the federal Bureau of Labor Statistics for further action.

After the survey collection period ends, the Bureau of Labor Statistics aggregates all of the data. It then produces injury and illness estimates for each targeted industry as well as an overall state injury and illness rate, private sector injury and illness rates, and local and public sector injury and illness rates.

Many stakeholders use the data. The NCDOL OSH Division employs the data to target hazardous industries. Businesses in nearly every sector use the injury and illness data to benchmark themselves and to evaluate the relative safety of their workplaces. Academics also analyze the injury and illness data for safety trends, and even journalists have made use of the data to inform and support stories as well as pinpoint industries worth investigating.

The section also codes, analyzes and publishes statistical data on occupational fatalities in the state to build the BLS-sponsored Census of Fatal Occupational Injuries. The information is obtained from employers, death certificates, medical examiner reports and other sources. Fatality and injury and illness information enables NCDOL to better understand how and where accidents occur. The figures also are used to assist those industries with high rates of injuries and fatalities to target safety and health education and training where needed. Bureau of Labor Statistics figures (from the Census of Fatal Occupational Injuries) show that North Carolina suffered 150 workplace deaths in 2015. (See Figure 2.)

Using census data, BLS also calculates the fatality rate for North Carolina as the number of fatal workplace injuries per 100,000 equivalent full-time workers. In 2015, the fatality rate was 3.4 fatalities per 100,000 full-time worker—equal to the 3.4 fatality rate among all states participating in the CFOI program. In addition, the 3.4 rate represents an increase from the 3.1 rate recorded for 2014 in North Carolina.
Information Technology

The information technology section of the division provides the department with information technology services for the administration, design, engineering, and acquisition of all software and hardware, while providing daily computer service and support. It also supports a federal-level information system OSHA Information System, which is used by the Occupational Safety and Health Division.

In 2016 the information technology section’s accomplishments included:

Completed the migration of all servers located at NCDOL to be housed at the Department of Information Technology.

- OnBase document management system—OnBase has continued to grow to become part of the daily routine for the bureaus. The PC Support Team has provided OnBase system support in the following areas:
  - Training design
  - Reporting
  - System enhancements
  - Design of Budget Accounts Receivable/OSH Collections Workflow
  - Planning the move and upgrade of OnBase to DIT.

- OSHA Express information management system—The PC Support Team provided support for the installation of an interface module to allow the transfer of data between the DOL OSHA Express system and the federal OSHA Information System. In addition, the team provided the following OSHA Express support:
  - Daily support of OSHA Express users
  - Support of the Citrix Server
  - Planning and developing the Citrix-OE server’s move to DIT

- The IT Help Desk responded to a total of 6,169 internal telephone and email requests for assistance.

- There were 17 PC, 88 laptop, and 49 printer refreshes for 2016.

Collections for interest and penalties automated processes applied to an invoice that meets past due requirements was implemented in 2016.

Started using report services for the Wage and Hour Bureau—this shortens the time of generating weekly reports from two hours to 20 minutes creating greater efficiency.
Developed a method for the OSH Division’s PSIM Bureau to upload not only documents but the large amount of pictures and videos in a more consistent method and reducing file size, conserving storage space resulting in a cost savings for the department.

The NCDOL website had 2,107,036 visits in 2016.
The Occupational Safety and Health Division comprises six bureaus of the N.C. Department of Labor: Agricultural Safety and Health; East Compliance; West Compliance; Consultative Services; Education, Training and Technical Assistance; and Planning, Statistics and Information Management.

Statistical Highlights for 2016

Agricultural Safety and Health Bureau
- The ASH Bureau completed 1,731 preoccupancy housing inspections of migrant farmworker housing and issued certificates to 1,695 sites.
- The bureau conducted 98 compliance inspections and issued 144 violations, with total current penalties amounting to $144,982.50.
- Gold Star status was achieved by 234 growers.

Compliance Bureaus
- Compliance conducted 1,673 safety inspections and 962 health inspections, for a total of 2,635 compliance inspections.
- Compliance issued citations for 4,730 violations, with total current penalties amounting to $5,052,106.

Consultative Services Bureau
- The bureau conducted 838 safety visits and 561 health visits, for a total of 1,399 consultative visits.
- Hazards identified and eliminated as a result of consultative visits totaled 7,529. Of these, 6,930 were serious hazards, 505 were other-than-serious hazards, and 94 were regulatory.
- The bureau recognized 83 Safety and Health Achievement Recognition Program worksites. There are currently 174 active private sector SHARP sites in the program.
- Eight new public sector establishments were added, resulting in 42 public sector establishments participating in SHARP at the end of 2016.

Education, Training and Technical Assistance Bureau
- The ETTA Bureau participated in 231 courses, forums and workshops, providing training for 6,652 employers and employees.
- The bureau distributed 46,451 hard copy publications and responded to 3,954 standards interpretation inquiries.
- The Safety Awards Program celebrated its 70th year, awarding 3,375 annual and 113 million-hour safety awards.
- The bureau recognized six new Star sites and recertified 12 Star sites. There were 147 companies in the Star Program at the end of the fiscal year.

Planning, Statistics and Information Management Bureau
- The PSIM Bureau completed the Public Sector Survey for calendar year 2015 data with a 98.6 percent response rate and a 100 percent clean rate.
- The bureau received 785 disclosure requests and processed 655 requests.
Agricultural Safety and Health Bureau

Inspection Effort

In 2016 the Agricultural Safety and Health Bureau completed 1,731 preoccupancy housing inspections of migrant farmworker housing and 98 compliance inspections. Housing certificates were issued to 1,695 sites with total occupancy (beds) of 21,680. Sites in 100 percent compliance at the time of the inspection numbered 1,096 and were operated by 608 growers. Double Gold Star status was achieved by 145 growers and Single Gold Star status was achieved by 89 growers for a total of 234 in calendar year 2016. These growers were recognized for their efforts Feb. 1-2, 2017, at the 23rd Annual Gold Star Growers meeting. Ron Wright of R.J. Reynolds was the recipient of the 2016 Ron Hudler Workplace Safety Training Award. Wright is the first non-grower to receive the award.

Gold Star Growers Meeting

The 22nd Annual Gold Star Growers meeting was held at the Gov. James G. Martin Building on the N.C. State Fairgrounds on Feb. 3, 2016. Growers were recognized for the 2015 calendar year. Dr. Vanya Jones, a former ASH intern, and current professor at Johns Hopkins University, gave the keynote address. Her topic was “Safety Collaboration in NC: A Story of a Successful Program Development using a Public Health Approach.” Dr. Jones discussed her partnership with NCDOL’s ASH Bureau, the NCSU Cooperative Extension and the Gold Star Growers Program. Dr. Jones worked collaboratively with the Gold Star Growers to determine that driving farm equipment on rural roadways was the most threatening safety hazard to migrant workers. Dr. Jones also shared her building blocks for success during her presentation.

Compliance

ASH inspectors conducted 98 compliance inspections in calendar year 2016. These inspections included one accident, seven complaints, 69 referrals, 18 unprogrammed related, one follow-up and two programmed inspections. The bureau issued 144 violations. During this period, 36 percent of the inspections resulted in no citations. Total penalties for citations issued amounted to $144,982.50. In addition 10 unregistered, uncertified camps were discovered in 2016.

Workplace Safety Training & Outreach

During 2016, ASH conducted two outreach/training sessions for growers and migrant farmworkers on North Carolina farms. At farm locations, training stations were set up, and staffed by USDOL Wage and Hour Division, Office of Migrant Health and ASH. All sessions were conducted in Spanish and English. On June 9, 2016, staff worked with tobacco growers in Nashville (Nash County) to conduct onsite training. A total of 200 farmworkers and 40 growers were trained in agricultural safety issues. This training was hosted and organized by GAP Connections. Members of the tobacco consortium and the Farm Labor Practices Group helped promote this. The training consisted of 10 stations that included: heat stress prevention, green tobacco sickness recognition, farm machine safety (tractors and balers), wage and hour regulations, housing regulations, field sanitation requirements, and CPR.

Ron Wright receives the 2016 Ron Hudler Workplace Safety Training Award at the Gold Star Grower Luncheon, Feb. 1, 2017. From left to right, Regina Cullen, bureau chief, ASH; Ron Wright, senior leaf manager, R.J. Reynolds; Carol Wright; Labor Commissioner Cherie Berry.
The Occupational Safety and Health Compliance Bureau enforces occupational safety and health laws, rules and regulations, and employee protection in workplaces throughout North Carolina through the use of professional industrial hygiene, safety engineering, administrative, training and technical services provided to all employers within the state of North Carolina. OSH Compliance identifies and analyzes workplace accidents, injuries and occupational illnesses; evaluates workplace safety methods, policies, procedures and programs; communicates workplace safety information to employees and employers; measures, analyzes
and evaluates the effectiveness of safety programs, as well as affecting changes to programs to achieve optimum results in the various workplaces throughout North Carolina. The compliance activities are directly associated with the OSH Division’s strategic plan. The data are reported on a federal fiscal year basis (Oct. 1 through Sept. 30).

FY 2016 compliance activities included:

- 2,635 compliance inspections (See Figure 3.)
- 1,673 safety inspections
- 962 health inspections
- 1,105 construction inspections
- 4,730 total violations
- 3.08 average number of violations per inspection
- $5,052,106 in current penalties assessed
- 41 average lapsed days from inspection date to when citations were issued
- 688 informal conferences conducted
- 3,605 serious hazards abated
- 696 employer safety and health program improvements
- 81 inspections associated with the Tree Felling Special Emphasis Program
- 403 inspections in the Construction Special Emphasis Program counties
- 61 inspections in long-term care facilities
- 100 inspections associated with the Health Hazards Exposure Special Emphasis Program
- 161 inspections associated with the public sector
- 138 compliance interventions (includes speeches, training programs and program assistance)
- 56 fatality/accident Inspections, including 48 fatality inspections (OFIR)
- 687 complaint inspections
- 820 referrals/accidents:
  - 333 referral/accident inspections
  - 487 referral/accident investigations
- 1,698 complaint investigations
- 24 employment discrimination investigations received associated with occupational safety and health

Figure 3 depicts the total number of compliance inspections conducted in North Carolina for federal fiscal years 2013 through 2016. The reduction in compliance inspections in recent years is the result of a combination of factors including reduced federal and state funding, noncompetitive salaries and increased turnover rates. The department is proactively seeking ways to address these concerns through ongoing discussions with the Office of State Human Resources, the Office of State Budget Management and the Legislature.
Several tools, in addition to the statewide injury and illness rates, are used to monitor inspection quality and operational efficiency. Figure 4 represents the total recordable case rate per 100 full-time public and private sector North Carolina workers. Internal case file audits, field audits, employer/employee feedback and informal conferences are some of the tools used to measure quality and consistency of the statewide work product.

In addition to inspection/investigation activity, OSH Compliance provides technical assistance and outreach training to as many employers and employees as resources will permit. Additional significant activities that occurred in OSH Compliance or involved OSH Compliance participation during FY 2016 include the following:

- The state’s total recordable case rate released by the U.S. Bureau of Labor Statistics was the lowest in program history at 2.8 for FY 2015, which is the most current year available. The private sector TCR also was the lowest in program history at 2.6.
• The state’s DART rate, Days Away from Work, Job Transfer or Restriction, released by the U.S. Bureau of Labor Statistics was the lowest in program history at 1.4 for FY 2015, which is the most current year available. The private sector DART matched the lowest in program history at 1.4.

• An additional 60 staff members attained various professional certifications in 2016. The staff certifications and credentials strengthen the ratios associated with professionalism in the department and is showing movement toward the overall strategy to retain experienced safety and health professionals.

• Customer input was realized through a meeting of the OSH Advisory Council held in early 2016 in the western part of the state. OSH Division staff met with representatives of various advocacy groups in FY 2016. OSH participated in meetings with: North Carolina Justice Center, AFL-CIO, Farm Labor Organizing Committee, Farm Labor Practices Group, Student Action with Farmworkers, Farmworkers Advocacy Network and the Western NC Workers Center.

• Five change requests were submitted for the new OSHA Express data management system along with numerous enhancements this past year.

• In 2016 OSH transmitted a full year of fiscal year data from OSHA Express to OSHA’s OSHA information system via a new interface.

• A modification was made to OSHA Express in FY 2016 to allow for the issuance of administrative penalties, in addition to gravity based penalties. Previously, the staff had to modify each gravity based penalty generated by the system to reflect the established administrative penalties prior to citation issuance.

• A total of 32 action requests were processed by the Compliance Bureaus. This quality program activity provides opportunities for program improvement identified by customers, division employees or as a result of internal audits and federal OSHA audits. Ongoing revisions are made to the Field Operations Manual and Operational Procedure Notices as a result of the quality program action items.

• OSH Compliance Bureaus closed out numerous inspection files on the OSHA’s IMIS system, prior to the system being decommissioned July 1, 2016. Four NCR servers previously being utilized by OSH were decommissioned and disposition arrangements were made per federal procedures.

• OSH Compliance Bureaus provided a participant to the OSHA Legacy Data workgroup. The OLD system was developed to transfer and maintain IMIS data. The OLD system was partially rolled out in FY 2016, and additional features are being added to allow OSHA and State Plans to access and modify pre-OIS inspection files, as necessary.

• OSH Compliance had annual training Sept. 12-14. Training topics included construction hazard identification, electrical hazards, cranes, long term care facilities, handling of antineoplastic agents, silica standards overview, asbestos awareness, industrial hygiene case studies, combustible dust, welding and cutting, heat stress, grain bin safety, spray finishing, confined space, scaffolding safety, pesticides, sampling techniques, noise, logging and arboriculture, respiratory protection, construction and machine guarding.
OSH Compliance conducted technical writing training for compliance officers Oct. 11-13 at the Charlotte field office.

An additional level of case file review for high profile cases was created with the establishment of the position of OSH reviewer and program analyst in 2015. This position reports to the assistant OSH director and reviewed 165 high profile cases in FY 2016.

OSH hosted the 2016 Occupational Safety and Health State Plan Association conference in Wilmington Sept. 20-22. The conference had over 70 attendees from 20 State Plans and federal OSHA.

Labor Commissioner Cherie Berry addresses Doug Kalinowski, OSHA director of Office of State Plans and Consultation; Jordan Barab, USDOL deputy assistant secretary; Kevin Beauregard, deputy commissioner NCDOL OSH Division and other officials at the OSHSPA conference in Wilmington.
• The OSH Director is on the Board of OSHSPA as the Vice Chair. The OSHSPA Board meets with OSHA leadership three times a year to plan and coordinate OSHSPA meetings in an effort to better ensure consistency amongst OSHA programs nationwide.

• An antineoplastic agents rule went into effect in June 2016. North Carolina Administrative Code Title 13 NCAC07G.0101 incorporates by reference, the recommendations issued by the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention, as contained in the Alert: Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings, as published in 2004.

• Gov. McCrory issued Executive Order #83. This Executive Order addresses the issue of businesses that engage in “employee misclassification” by improperly classifying their employees as independent contractors which enables businesses to avoid the liabilities and obligations imposed by state and federal law. The Order established an Employee Classification Section within the N.C. Industrial Commission to investigate complaints and referrals associated with employee misclassification. The Executive Order encouraged the commissioner of labor and the head of other agencies to designate employees to serve as a liaison to this new Industrial Commission Section. A liaison was established in the N.C. Department of Labor and a new code was created in OSHA Express for compliance officers to identify inspections where there is an issue of potential employee misclassification. A monthly report of all such businesses coded in this manner is now being provided to the N.C. Industrial Commission by the designated liaison.

• The OSH Director’s Office issued a turnover report in January 2016. This report linked an increasingly high turnover rate the past several years among safety and health compliance officers, to low salaries. This information was shared with the Office of State Human Resources. OSHR also had an outside contractor perform a salary comparison study. The OSHR study and the OSH turnover report had similar findings. A 7 percent salary increase adjustment was provided to the majority of compliance officers in FY 2016, funded by a salary adjustment fund. Additional efforts are being made to secure additional increases, to better ensure OSH can attract and retain qualified safety and health professionals.

• The OSH Director is on the Advisory Board for the North Carolina Occupational Safety and Health Education and Research Center. NC OSHERC is led by the University of North Carolina with collaboration with NC State University and Duke University. The mission of NC OSHERC is to provide high quality education and research training in occupational health and safety sciences for the protection of workers. The Advisory Board met in February 2016.

• As part of the OSH quality program, 17 internal inspection report audits were conducted by the OSH Director’s Office that covered FY 2016. The purpose of the audits was to ensure that inspection activities were being conducted in accordance with established policies and procedures. The findings of these audits were posted internally and feedback was provided to the compliance bureau chiefs, supervisors, and compliance officers.

• A trench cave-in with N.C. Department of Transportation was investigated, with issuance of two willful serious trenching violations and $140,000 in penalties.

• The OSH complaint desk processed 2,386 complaints and 820 referrals in FY 2016. This was a significant increase over the 1,834 complaints and 709 referrals in FY 2015. Over 2,481 additional contacts were made with the public that did not result in a valid complaint.

• The OSH Lab completed 748 in-house equipment calibrations. An additional 89 pieces of equipment were sent to the manufacturer for calibration or repair.
Consultative Services Bureau

The Consultative Services Bureau continued to provide services to the employers and employees in both the private and public sectors during federal fiscal year 2016. The bureau conducted 1,399 total consultative visits. (See Table 3.)

- 838 (60 percent) safety visits; 561 (40 percent) health visits.
- 1,180 (84 percent) initial visits; 123 (9 percent) training/assistance visits; 96 (7 percent) follow-up visits.
- 1,188 (85 percent) private sector visits; 211 (15 percent) public sector visits.
- 412 (29 percent) manufacturing visits; 402 (29 percent) construction visits; 374 (27 percent) other industry type visits; 211 (15 percent) public sector visits.
- Hazards identified and eliminated as a result of consultative visits totaled 7,529, a 3.4 percent increase over the average of 7,278 during the past three fiscal years. Of these, 6,930 (92 percent) were serious hazards, 505 (7 percent) were other-than-serious hazards, 94 (1 percent) were regulatory.

Consultants conducted 221 safety and health interventions with employers which included speeches, training programs, safety and health program assistance, interpretations, conference presentations and hazard abatement assistance.

The bureau continues to focus on small and high hazard employers and encourage participation in the Safety and Health Achievement Recognition Program. During 2016, the bureau recognized 83 SHARP employers (renewal or initial). Total participation in SHARP reached 222 employers (174 general industry, 42 public sector, 6 construction).

The bureau met all of its target goals for the OSH Division strategic plan by visiting employers in the Special Emphasis programs.

Table 3
Consultative Services Bureau Program, FY 2013 Through FY 2016

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<th>Comparisons</th>
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</tbody>
</table>
Each year employers participating in SHARP have success stories to share. They experience safety and health benefits including fewer injuries and illnesses and a stronger workplace safety and health program. During FY 16, the success story from the Original Mattress Factory was published on OSHA’s website. The agency works with employers to provide them the recognition they deserve for their hard work in achieving SHARP status. The Original Mattress factory has been a participant in SHARP since 2012.

Employees from The Original Mattress Factory hold up the SHARP flag at the company’s Raleigh facility. (L to R): Scott Hudson, Eddie Carrington, Janice Woolard, Matthew Breedlove, Michael Neal, Reed Murphy, DaQuan Turner, Oliver Smith, Maurice Childressinco, Brett Rowe, Nadia Aguilar, Jayson Montague.

**Education, Training and Technical Assistance Bureau**

**FY 2016 Accomplishments**

The Education, Training and Technical Assistance bureau continued to focus on increasing efficiency and effectiveness in providing outreach and technical services to the public. The work of the bureau included library services, recognition programs (Safety Awards and Carolina Star), publications, rulemaking, alliances, along with training and outreach.

**Library**

The NCDOL library loaned 1,586 volumes (primarily safety videos to registered public patrons). Additionally, the librarian responded to 1,339 information requests and 462 reference questions from both public and internal patrons. During the year, over 300 volumes were acquired (e.g., new safety videos and consensus standards). The librarian alerted staff to webinars and OSHA-related electronic resources. The library continued to support safety training through its video program and assist agency employees in their investigations.
Recognition Program

The Safety Awards Program celebrated its 70th year with another successful season. This year, 33 safety award banquets were held, with a total of 4,362 in attendance. The program distributed 3,375 annual awards and 113 million-hour awards. Gold Awards were presented to 2,865 employer sites with a total lost workday case rate (lost and restricted workdays included) at least 50 percent below the state average for its industry. Silver Awards were presented to 510 employer sites with a lost workday rate at least 50 percent below the state average.

The Carolina Star Program is ranked No. 1 as a state plan state and is ranked second of all states that participate in the VPP/Star Program. The Star Program enjoyed another year of growth and success: Six new Star sites achieved Star Site status, four Rising Star sites were promoted to Carolina Star, 12 Star sites were recertified, and 173 Star interventions were conducted. At the end of FY 2016, there were 147 companies in the Star Program.

Publications

ETTA Publications Sales Desk served 5,671 customers via email, fax, telephone, or walk-in. The bureau distributed 46,451 publications in support of the division’s outreach and regulatory goals to promote a safe and secure work environment across the state of North Carolina. Eight publications were updated and two outreach letters were mailed during FY 2016. Highlights include the following:

- A letter to staffing agencies regarding the responsibilities related to occupational safety and health for temporary workers was created and mailed to 3,127 employers in North Carolina.
- A letter and outreach materials were mailed to 34 construction employers with five or more serious violations regarding OSH outreach services and publications.

The following publications were revised:

- Quick Cards:
  - Revised Injury and Illness Reporting Requirements
- Brochures:
  - Manager of Environmental, Safety and Health
  - Hazardous Chemicals Right to Know Act
  - Top Ten Most Frequently Cited Serious Violations in 2015
- Hazard Alerts:
  - Heat Stress and Working in Hot Conditions
  - Working to Prevent Line of Duty Deaths, Injuries, and Illnesses in North Carolina Firefighters
- Industry Guides:
  - OSHA General Industry Standards Requiring Programs, Inspections, Procedures, Records and/or Training (New rules)
  - OSHA Construction Standards Requiring Programs, Inspections, Procedures, Records and/or Training (New rules)

Rulemaking

The Standards Section answered 3,954 inquiries for standards interpretation by phone or written correspondence for employers and employees across the state. Fifty-four documents were added to the Field Information System including updates to the Field Operations Manual, new OSH Division policies, and adoption of multiple federal OSHA Instructions. Final rules adopted in North Carolina included the
reporting and recording final rule to improve tracking of workplace injuries and illnesses, the final rule to update consensus standards for eye and face protection, and the final rule on occupational exposure to crystalline silica. Procedures were written for conducting inspections and issuing citations associated with the temporary workforce and for calculating employee exposure to carbon monoxide.

**Alliances**

In North Carolina, alliances typically focus on specialized industry outreach and training. Through an alliance agreement, organizations that are committed to safety and health work with the OSH Division to prevent injuries, illnesses, and fatalities in the workplace. Current alliances include Carolinas Associated General Contractors, Forestry Mutual Insurance Co., Lamar Advertising Co., Mexican Consulate, N.C. Forestry Association, N.C. State University—Industry Expansion Solutions, National Utility Contractors Association of the Carolinas, and the Safety and Health Council of North Carolina. An alliance with the Builders Mutual Insurance Company is currently being explored for 2017.

**Training and Outreach**

The ETTA bureau offers a wide variety of safety and health training and outreach services to employers and employees across North Carolina. The services include a speakers bureau, free OSHA training, and technical assistance and outreach support for safety and health schools, conferences and workshops. Training is offered on demand, as well as through a regularly scheduled training series, which can be accessed through the online calendar. Training is offered at employers’ worksites, the OSH Division field offices, and select community colleges and other sites throughout the state. In addition to traditional leader-led instruction, ETTA provides a webinar series as well. To keep the public informed of upcoming courses, ETTA sends periodic newsletters to over 11,650 employers/employees every year.

In FY 2016, ETTA hosted and/or participated in 231 courses and events providing training to 6,652 employers and employees. Additionally, the Consultative Services Bureau trained 2,050 employers/employees which brought an overall total of 8,702 workers trained by the OSH Division. Training included six 10-hour and two 30-hour general industry awareness courses, nine 10-hour and two 30-hour construction awareness courses, two long-term care workshops, 13 Spanish outreach events, 146 speakers bureau events, 45 webinars and 18 booth events. The Labor One mobile training unit was also used for an additional nine training events at various industrial conferences and “Safety Stand Downs.” The ET Training Section participated with Federal OSHA in the National Safety Stand Down to Prevent Falls in Construction. As such, three large training events were held at construction projects in Greensboro and Raleigh. Labor One was on site for tailgate safety training and personal protective equipment demonstrations. Training and demonstrations were offered in both English and Spanish.

The Training Section continued to expand Spanish Outreach services in FY 2016. They hosted a booth during the Mexican Consulate Labor Week and the La Fiesta del Pueblo community event where staff handed out outreach materials and were available for questions on a variety of safety and health topics. In addition, several public service announcements relating to construction workplace hazards were broadcast on Hispanic media outlets across the state. The topics included heat stress, confined space, fall protection, carbon monoxide, electrical safety, OSH overview, struck by/caught between, personal protective equipment, and hazard communication.

The Training Section also offered its second series of NC 502 and NC 503 refresher courses for the Train the Trainer Program that was implemented in 2010. For FY 2016, state-authorized trainers provided 10
and 30-hour training courses for an additional 125 employers and employees in North Carolina. The Train the Trainer Program supports the Training Section’s outreach efforts thereby increasing the total number of employees/employers trained.

Planning, Statistics and Information Management Bureau

The Planning, Statistics and Information Management Bureau responds to statistical data requests and requests for the redaction and release of OSH Division inspection file documents and Employment Discrimination Bureau safety and health related investigative file documents. PSIM also gathers and analyzes injury and illness data by conducting the annual Public Sector Survey. Data are also gathered and analyzed to publish the OSH Division’s Annual Program Statistics Report and several other annual department, division and legislative reports. The bureau archives all OSH Compliance inspection files. The PSIM Bureau maintains the OSH Division’s private and public sector employer databases, the inspection targeting system, and statistical data related to workplace fatalities, all in support of the OSH Division’s Strategic Management Plan.

- There were a total of 3,201 surveys mailed to public sector employers (collection of calendar year 2015 injury and illness data). As of the end of federal fiscal year 2016, 3,157 survey responses were received with a 98.6 percent response rate and a 100 percent clean rate. All survey responses have now been collected.

- Completed an analysis of data collected from the 2012, 2013, and 2014 Public Sector Surveys, resulting in updated, established target rates for employer specific categories.

- Worked in conjunction with ETTA Bureau, Compliance Bureaus and Legal Affairs Division staff to update and revise several Field Operation Manual chapters and OPN’s. PSIM staff updated OPN 128 and APN 19 for FY 2016.

- PSIM bureau chief continued to perform duties associated with the responsibility of being the medical records coordinator for the OSH Division.

- Analyzed public sector inspection activities for FY 2011 through 2015.

- Analyzed construction inspection activities for FY 2015.


- Analyzed and verified CY 2015 fatality data for Communications Division’s annual news release. See Figure 5.
Continued refinement of the OSH private and public sector databases to supplement our exclusive use of the Division of Employment Security database.

Received, researched, and processed 1,113 requests for revisions/changes to the private and public sector databases, which helps to enhance the accuracy of these site databases and the OSH Division Targeting System.

Various targeting schedules were updated and assignments released:
- Public Sector Schedule
- General Industry Schedules (Safety and Health)
- ASH Schedule
- Health Hazards Schedules (Asbestos, Lead, and Isocyanates)
- Fatality Reinspection Schedule
- Communication Tower Schedule

PSIM staff members continued as active Strategic Management Plan Committee members and participated in all SMP meetings, discussions, and activities, which were essential functions directly related to the success of OSH Division Strategic Management Plan goals.

PSIM staff participated as a representative from the OSH Division to the Occupational Surveillance Advisory Group.

Bureau Operating Procedures were updated and posted to the One Stop Shop.

Compilation of OSH data was initiated for the NCDOL Annual Report, the OSH Annual Program Statistics Report and various other annual reporting requirements.

The PSIM Bureau received closed inspection files for FY 2013 (and older) from the field offices.

After several years of contracting for the OSH Compliance inspection files to be imaged by an outside company, PSIM staff began successfully imaging these files in-house.
• The project of quality control review is continuing and ongoing for OSH inspection files, which have been archived through the imaging and file conversion processes.

• Received 785 disclosure requests during FY 2016 and processed 655 requests (608 from FY 2016 and 47 from previous years) during this fiscal year, which resulted in an 83.5 percent response rate.

• PSIM bureau chief participated in the OSHA Injury Tracking Application Workgroup to provide input to Federal OSHA from a State Plan perspective relative to the upcoming changes to the 1904 Recordkeeping Standard.

• PSIM provided notifications of workplace accidents and fatalities to the N.C. Department of Commerce, N.C. Industrial Commission Fraud Investigations Unit of the Insurance Compliance and Fraud Investigation Section.
The Standards and Inspections Division comprises five bureaus of the N.C. Department of Labor: Boiler Safety; Elevator and Amusement Device; Employment Discrimination; Mine and Quarry; and Wage and Hour.

**Statistical Highlights for State Fiscal Year 2016**

**Boiler Safety Bureau**
- Investigated nine incidents during the year.
- Inspected 52,077 items of pressure equipment.
- Identified 3,024 violations.
- The average backlog for state inspectors was 0.67 percent. The average combined backlog for both state and insurance company inspectors was 1.20 percent.
- Inspected 5,266 new items.
- Conducted 802 half-day inspections in ASME Code manufacturing shops.

**Elevator and Amusement Device Bureau**
- Completed 23,222 routine elevator inspections, with 91.6 percent inspected within 30 days of the inspection due date.
- Inspected 5,344 amusement devices at 853 locations.

**Employment Discrimination Bureau**
- Settlements have increased to 28.2 percent of all closed cases.
- Average days to complete a case continued to decrease to 48.89 days.

**Mine and Quarry Bureau**
- Conducted 495 on-site training programs and trained 4,535 miners and contractors.
- Conducted eight Part 48 instructor classes, certifying 73 people as MSHA-approved instructors.
- The injury and illness rate of the North Carolina minerals industry was 1.74 per 100 full-time employees during the 2016 calendar year.

**Wage and Hour Bureau**
- Substantiated over $1.7 million due to employees ($1,722,766).
- Recovered over $1.4 million in wages due for over 1,400 workers ($1,429,274 for 1,438 workers).
- Opened 3,049 complaints from employees.
- Closed 3,722 cases as a result of complaints filed.
- Issued 67,114 youth employment certificates online using YEC Auto.
- Youth employment certificates issued through YEC Auto reached nearly 89 percent of all certificates issued.
- Answered 99.9 percent of 56,010 calls received on the first attempt.
Boiler Safety Bureau

During state fiscal year 2016, the Boiler Safety Bureau employed 13 field inspectors, two field supervisors, five administrative staff and two senior staff to support more than 52,000 inspections. State inspectors, along with 12 insurance company partners, conducted in-service inspections on boilers, antique boilers, model/hobby boilers, various types of pressure vessels, repair inspections and pressure equipment accident investigations. The Boiler Safety Bureau is a receipt-supported bureau; the fees collected pay for the operation of the bureau and the salaries of the bureau staff.

Commissioned inspectors conducted third-party authorized inspector duties at companies where boilers and pressure vessels are manufactured. The bureau’s support staff processed and conducted quality control functions on all inspection reports received by hard copy or electronically.

Programs

Periodic inspection continues to be the primary focus of the Boiler Safety Bureau. The bureau also provides education and promotes voluntary safety. The bureau’s inspection program for boilers and pressure vessels covers a wide array of businesses and industries. Table 4 shows the number of inspections and violations for FY 2013 through FY 2016. The 52,077 inspections conducted in FY 2016 included inspection of 5,266 new items. The bureau investigated nine accidents due to boiler/pressure vessel failures. None of the accidents resulted in life-threatening injuries, but there was significant property damage.

Table 4

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Inspections</th>
<th>Number of Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>51,185</td>
<td>2,115</td>
</tr>
<tr>
<td>2014</td>
<td>50,284</td>
<td>2,970</td>
</tr>
<tr>
<td>2015</td>
<td>50,567</td>
<td>2,933</td>
</tr>
<tr>
<td>2016</td>
<td>52,077</td>
<td>3,024</td>
</tr>
</tbody>
</table>

The Boiler Safety Bureau staff members gather on the front steps of the Labor Building after a meeting in Raleigh in 2016.
Backlogs

Any inspection program can have a backlog of items past-due for inspection. The combined average backlog of state objects and insurance objects was 1.20 percent in FY 2016, one of the lowest backlog rates among states inspecting boilers and pressure vessels. The average backlog for N.C. state inspectors was 0.67 percent.

Other Duties

In addition to the inspections of equipment in businesses and institutions throughout the state, inspectors with special training and endorsements carried out 802 half days of ASME Boiler and Pressure Vessel Code third-party inspections in manufacturing facilities that construct boilers and pressure vessels as well as pressure equipment repair firms known as National Board “R” Stamp holders. The bureau also has specially trained qualified review team leaders who are charged with conducting quality reviews of “R” Stamp holders.

The bureau’s support staff entered the collected data from hard copy reports into the data system and conducted quality reviews of the data entered directly by inspectors. They printed and mailed invoices and certificates and answered many questions from inspectors and the public.

Elevator and Amusement Device Bureau

The Elevator and Amusement Device Bureau is responsible for the proper installation and safe operation of all elevators, escalators, workman’s hoists, dumbwaiters, moving walks, lifting devices for persons with disabilities, aerial passenger tramways, amusement rides, incline railways that operate in public establishments (except federal buildings) and private places of employment. Elevators are inspected annually by the bureau. It also inspects all of the amusement devices each and every time they are set up for operation in the state. The bureau inspects all inflatable amusement devices and portable rock walls. The bureau conducted 23,222 routine and 1,104 new elevator inspections as well as 5,344 amusement device inspections at 853 locations.

Elevator Inspections

Inspections of elevators, dumbwaiters, escalators and handicapped lifts consist of routine inspections of existing devices and new inspections. As shown in Figure 6, the number of routine inspections and the number of new inspections both decreased from the previous fiscal year.

Amusement Device Inspections

Amusement device inspections consist of mechanical rides, inflatable rides, go-karts and rock-climbing walls. Tramways and ski lifts are included in this inspection category. While mechanical rides at permanent parks are inspected once annually, mechanical rides with traveling amusement companies are inspected every time they are set up for operation at fairs, festivals, carnivals and other amusement events. The bureau also conducts operational inspections at least once during the operating season for permanent parks and at least once during the operation at a traveling show. The bureau inspects all inflatable amusement devices and portable rock walls that operate in the state on an annual basis.

Figure 7 indicates the total number of amusement devices inspected in FY 2013 through FY 2016. The number of individual amusement rides inspected decreased from FY 2015 to FY 2016.

Accident or Incident Investigations

Accident investigations are conducted according to N.C. Gen. Stat. § 95-110.9. \textit{Reports required.}

(a) The owner of any device or equipment regulated under the provisions of this Article, or his authorized agent, shall within 24 hours notify the commissioner of each and every occurrence involving such device or equipment when:
Figure 6
Routine Inspections Within 30 Days of Due Date and New Inspections, FY 2013 Through FY 2016

Figure 7
Number of Amusement Rides Inspected, FY 2013 Through FY 2016
(1) The occurrence results in death or injury requiring medical treatment, other than first aid, by a physician. First aid means the one-time treatment or observation of scratches, cuts not requiring stitches, burns, splinters and contusions or a diagnostic procedure, including examination and x-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel; or

(2) The occurrence results in damage to the device indicating a substantial defect in design, mechanics, structure or equipment, affecting the future safe operation of the device. No reporting is required in the case of normal wear and tear. The owner of the equipment is required to contact the bureau.

An inspector is sent to the location and completes a report that is kept on file. As Table 5 reflects, the number of accident investigations for elevators and related equipment decreased while the number for amusement rides stayed the same in FY 2016. Patron error accounted for 78 percent of elevator accidents and 92 percent of amusement ride accidents.

<table>
<thead>
<tr>
<th>Table 5</th>
<th>Number of Elevator and Amusement Device Accidents, FY 2013 Through FY 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year</td>
<td>Elevators and Related Equipment</td>
</tr>
<tr>
<td></td>
<td>Total</td>
</tr>
<tr>
<td>2013</td>
<td>62</td>
</tr>
<tr>
<td>2014</td>
<td>70</td>
</tr>
<tr>
<td>2015</td>
<td>70</td>
</tr>
<tr>
<td>2016</td>
<td>68</td>
</tr>
</tbody>
</table>

**Employment Discrimination Bureau**

The Employment Discrimination Bureau enforces the Retaliatory Employment Discrimination Act. The law was enacted in 1992 following the disastrous plant fire at Imperial Foods in Hamlet. REDA incorporated whistleblower protections from the Wage and Hour, the Occupational Safety and Health, and Mine Safety and Health Acts. Additional provisions protect workers’ compensation claimants, hemoglobin C and sickle cell carriers, and those subject to genetic testing, National Guard service and involvement in the juvenile justice system. In 2004 protection was added for employees seeking relief from domestic violence. In 2008 protection was added for employees who have made complaints under the pesticide regulation statutes. In 2009 protection was added for employees reporting activities of their employers under the Paraphernalia Control Act.

The bureau receives oversight from the federal Occupational Safety and Health Administration under a contract that requires the bureau to be “as effective” as the federal agency in enforcing the occupational safety and health whistleblower protections of REDA.

In FY 2016, 381 cases were opened by the bureau, a decrease from FY 2015. Of the 381 cases opened, 228 involved workers’ compensation, 90 involved wage and hour matters and 61 involved occupational safety and health concerns. (See Table 6.)

The Employment Discrimination Bureau closed 354 cases in FY 2016. Of the 354 closed cases, the bureau settled 28.2 percent, an increase from FY 2015. (See Figure 8.)
Investigators with the bureau seek the best resolution for each case. There are many potential outcomes involving a REDA case. A settlement is an agreement that is reached between all parties involved and generally results in some kind of monetary payment, but not always. A settlement can be reached through a third party agreement as often happens with a workers’ compensation complaint. Of the 354 cases closed in FY 2016, 100 cases were settled, 20 cases were withdrawn by complainants, 52 cases were closed when the complainant failed to respond, and ten cases were closed administratively. In 107 cases, the complainant requested a right-to-sue letter after 90 days when the investigation was not complete. In 39 cases, the bureau did not make a determination within 180 days of the filing, and the complainant was granted a right-to-sue letter. In 23 cases, the bureau issued a merit right-to-sue letter and three cases were closed as untimely filed.

Table 6
Number of Cases by Type, FY 2013 Through FY 2016

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Workers’ Comp</th>
<th>Wage and Hour</th>
<th>OSH</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>320</td>
<td>127</td>
<td>87</td>
<td>3</td>
</tr>
<tr>
<td>2014</td>
<td>279</td>
<td>114</td>
<td>81</td>
<td>2</td>
</tr>
<tr>
<td>2015</td>
<td>287</td>
<td>101</td>
<td>62</td>
<td>3</td>
</tr>
<tr>
<td>2016</td>
<td>228</td>
<td>90</td>
<td>61</td>
<td>2</td>
</tr>
</tbody>
</table>

Figure 8
Employment Discrimination Cases Opened and Closed, FY 2013 Through FY 2016
Mine and Quarry Bureau

The Mine and Quarry Bureau is one of the earliest established units of the N.C. Department of Labor, having administered state mining laws since 1897. The bureau administers laws concerning the operation and inspection of mines and quarries. Bureau staff consists of a bureau chief, an office assistant, and four mine safety and health field representatives. Funding for mandatory safety training is provided by a federal grant from the U.S. Mine Safety and Health Administration.

The Mine and Quarry Bureau continues to provide a wide assortment of mine safety and health services such as complete safety evaluations of the workplace, consultations, technical assistance, education and training, health surveys, safety meetings, investigations, and training plan assistance. Currently there are 387 surface mines with 3,572 employees. Instructor fundamentals, health and safety laws, and supervisory training are offered through the Mine and Quarry Bureau’s seminars and institutes. (See Table 7.)

Table 7
Mine and Quarry Training and Inspection Activities, FY 2013 Through FY 2016

<table>
<thead>
<tr>
<th>FY 2013</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>FY 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Mine Safety and Health Instructors Trained</td>
<td>51</td>
<td>31</td>
<td>72</td>
</tr>
<tr>
<td>Number of Education and Training Programs Provided</td>
<td>646</td>
<td>620</td>
<td>618</td>
</tr>
<tr>
<td>Number of Miners and Contractors Trained in Parts 46 and 48</td>
<td>5,579</td>
<td>5,150</td>
<td>5,052</td>
</tr>
</tbody>
</table>

Wage and Hour Bureau

The Wage and Hour Bureau administers the N.C. Wage and Hour Act, which includes the minimum wage, overtime pay and wage payment (promised wages including wage benefits, such as vacation pay, sick leave, holiday pay, and bonuses and commissions). The bureau ensures employers make, keep and preserve records of hours worked, wages paid, and other conditions and practices of employment necessary for the enforcement of wage and hour laws.

The bureau issues youth employment certificates to protect the health and safety of minors and to preserve young workers’ rights. The bureau also enforces the statutes that regulate the licensure and reporting requirements of private personnel services, job listing service agencies and the Controlled Substance Examination Regulation Act. The bureau is responsible for the department’s toll-free telephone system. Bureau staff consists of an administrator, a deputy administrator, three supervisors, an office manager, 19 investigators, three investigative assistants and four information specialists.

Call Center

The bureau’s call center is staffed by four information specialists who are the first point of contact to the Department of Labor for most customers. Their primary job duties are to gather information relative to alleged violations of laws enforced by the bureau and to enter appropriate data into an electronic database that is used for assignment and tracking of complaints received. Additionally, they refer callers to other sections within the department, other state or federal agencies, or civic/charitable organizations that may provide assistance.
Call centers are often characterized as “high volume” centers, and the numbers in Table 8 certainly speak to this. Three of the four employees are bilingual and provide assistance to callers who speak Spanish. They also assist investigators and other departmental employees when communicating with Spanish speakers as the need arises.

Table 8
Wage and Hour Call Center Activity, FY 2013 Through FY 2016

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Calls Received</th>
<th>Calls Answered</th>
<th>Percent Answered</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>65,408</td>
<td>65,272</td>
<td>99.8</td>
</tr>
<tr>
<td>2014</td>
<td>61,527</td>
<td>61,451</td>
<td>99.9</td>
</tr>
<tr>
<td>2015</td>
<td>61,275</td>
<td>61,179</td>
<td>99.8</td>
</tr>
<tr>
<td>2016</td>
<td>56,010</td>
<td>55,960</td>
<td>99.9</td>
</tr>
</tbody>
</table>

Wage and Hour Investigations

The majority of the bureau’s investigations stem from employee complaints. The bureau also conducts non-complaint investigations and industry-specific investigations to determine compliance with assigned laws.

The data in Figure 9 indicate that 91 percent of the investigations closed during FY 2016 were wage payment claims. These claims include such things as final paychecks, vacation/sick pay, bonuses, commissions and holiday pay. Minimum wage claims accounted for 1 percent of investigations closed; overtime accounted for 2 percent; and other (i.e., youth employment, recordkeeping, controlled substance and private personnel) accounted for about 3 percent.

Figure 9
Types of Wage and Hour Investigations Closed, FY 2016
The investigators first try to substantiate the complaint. If substantiated, they seek recovery of the unpaid wages for the complainant. As a result of these investigations, over 1,400 employees were paid an estimated $1.4 million without the time and expense involved with litigation. Table 9 compares the bureau’s performance in FY 2016 with previous years. The inventory of open investigations was significantly decreased in FY 2016, pursuant to a focus on addressing the backlog and streamlining investigative processes. As a result, the bureau started with 1,462 investigations open at the start of FY 2016 and 789 open at the end of FY 2016.

### Table 9
**Wage and Hour Investigations Opened and Investigations Closed, FY 2013 Through FY 2016**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Investigations Opened</th>
<th>Investigations Closed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>4,357</td>
<td>4,243</td>
</tr>
<tr>
<td>2014</td>
<td>4,096</td>
<td>3,695</td>
</tr>
<tr>
<td>2015</td>
<td>3,258</td>
<td>3,233</td>
</tr>
<tr>
<td>2016</td>
<td>3,049</td>
<td>3,722</td>
</tr>
</tbody>
</table>

### Youth Employment Certificates

Protecting young workers from inappropriate or unsafe jobs is the cornerstone of the Youth Employment Certificate Program. The timely review of certificates issued continues to be a key element in our efforts to protect young workers. The data in Figure 10 indicate that there were 75,243 youth employment certificates (work permits) issued in FY 2016, roughly a 14 percent increase from the previous fiscal year total of 64,892. Of the certificates issued during FY 2016, 89 percent were issued online, an increase over FY 2015. Online issuance of certificates is the safest and most efficient method. Certificates issued online provide immediate feedback to employers and applicants when the age and proposed job duties place the employer in jeopardy of violation of state or federal child labor laws. Additionally, certificates issued online are reviewed the next business day, whereas the review of certificates issued by the Department of Social Services or designees may lag by several months. During this year, the Wage and Hour Bureau sent a notification to all social services offices about the availability of the online option for youth employment certificates.

### Figure 10
**Youth Employment Certificates Issued, FY 2013 Through FY 2016**
Notes

All of the bureaus of the Standards and Inspections Division report data based on the state fiscal year. Most of the bureaus of the Occupational Safety and Health Division report data based on the federal fiscal year. The Agricultural Safety and Health Bureau is the exception. It uses the calendar year as the basis for reporting its data.

Within the Administration Division, the Budget and Management Division uses the state fiscal year for reporting its data, while the remaining divisions report data on a calendar year basis. Some of the data are reported for the bureaus and divisions on a preliminary basis and are subject to change in subsequent annual reports.

Reporting Years for NCDOL Divisions and Bureaus

<table>
<thead>
<tr>
<th>Calendar Year (Jan. 1 through Dec. 31)</th>
<th>State Fiscal Year (July 1 through June 30)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Safety and Health Bureau</td>
<td>Boiler Safety Bureau</td>
</tr>
<tr>
<td>Communications Division, including Publications Bureau</td>
<td>Budget and Management Division</td>
</tr>
<tr>
<td>Governmental Affairs Division</td>
<td>Elevator and Amusement Device Bureau</td>
</tr>
<tr>
<td>Human Resources Division</td>
<td>Employment Discrimination Bureau</td>
</tr>
<tr>
<td>Legal Affairs Division</td>
<td>Mine and Quarry Bureau</td>
</tr>
<tr>
<td>Research and Information Technology Division</td>
<td>Wage and Hour Bureau</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Federal Fiscal Year (Oct. 1 through Sept. 30)</th>
</tr>
</thead>
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<td>Compliance Bureaus</td>
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<td>Consultative Services Bureau</td>
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<td>Education, Training and Technical Assistance Bureau</td>
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<td>Planning, Statistics and Information Management Bureau</td>
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Index of Acronyms

AFL-CIO—American Federation of Labor and Congress of Industrial Organizations
ANSI—American National Standards Institute
APO—Administrative Procedure Oversight
ASH—Agricultural Safety and Health
BLS—Bureau of Labor Statistics
BSC—Barber Scotia College
CFOI—Census of Fatal Occupational Injuries
DIT—Department of Information Technology
DOL—Department of Labor
ETTA—Education, Training and Technical Assistance
GAP—Good Agricultural Practices
HR—Human Resources
IMIS—Integrated Management Information System
IT—Information Technology
NCAC—North Carolina Administrative Code
NCDOL—N.C. Department of Labor
NCR—National Cash Register
OE—OSHA Express
OFIR—Occupational Fatality Inspection Review
OIS—OSHA Information System
OLD—OSHA Legacy Data
OSHA—Occupational Safety and Health Administration
OSHER—Occupational Safety and Health Education and Research Center
OSH—Occupational Safety and Health
OSHSPA—Occupational Safety and Health State Plan Association
PSIM—Planning Statistics and Information Management
RRC—Rules Review Commission
SHARP—Safety and Health Achievement Recognition Program
SOII—Survey of Occupational Injuries and Illnesses
USDOL—United States Department of Labor
YEC—Youth Employment Certificate