

**FY 2017 Comprehensive
Federal Annual Monitoring Evaluation (FAME) Report**

New Mexico Occupational Health and Safety Bureau (NMOHSB)



Evaluation Period: October 1, 2016 – September 30, 2017

Initial Approval Date: December 10, 1975
Program Certification Date: December 4, 1984
Final Approval Date: None

**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region VI
Dallas, TX**



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I. Executive Summary

This is an annual evaluation of the operation of the State of New Mexico Occupational Health and Safety Bureau (OHSB) under the 23(g) State Plan grant. This report was prepared under the direction of Kelly C. Knighton, Regional Administrator, Region VI, Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and covers the period from October 1, 2016, to September 30, 2017.

The purpose of this report is to assess the OHSB activities for the Fiscal Year (FY) 2017 and its progress in resolving ongoing findings from the FY 2016 Follow-Up Federal Annual Monitoring and Evaluation (FAME) Report, focusing on the status of corrective activities.

OHSB's overall performance, as it relates to mandated activities and the implementation of policies and regulations, continues to be at an acceptable level with the exception of certain elements noted in this report.

The Compliance Section conducted 320 inspections, which was short of their goal of 400 for the year. They conducted 41 inspections in state and local government, which is higher than their goal of 20. The State Plan conducted 88 health inspections, but 74 (84%) of these inspections contained no sampling. OHSB's in-compliance rate of all safety inspections was 67%, compared to the national average of 30% for safety inspections.

The construction and oil and gas industries continue to experience the greatest number of fatal accidents in New Mexico. From 2012 through 2017, these industries combined accounted for 60 to 90 percent of annual fatalities within OHSB jurisdiction. In FY 2017, OHSB continued to place significant emphasis on enforcement and outreach activities in both construction and oil and gas.

The data for the last five years shows a downward trend ranging from a decrease of Total Case Incident Rate (TCIR) of 31% in the Construction Industry to a decrease of 28% for state and local governments. The Days Away, Restricted or Transferred (DART) data also shows an overall decline from 2012 and 2016 for Private Industry, Construction, Manufacturing and state and local government. This achievement may be attributed to OHSB's emphasis on increased enforcement presence in high hazard industries.

The two observations from the previous FAME report have been converted to findings in the FY 2017 FAME: the high in-compliance rate and low health sampling. There is one new observation for this period related to the inconsistencies in employee interviewing and the lack of documentation of interviews in the case file.

OHSB will include all of these issues in their FY 2018 State Internal Evaluation Program (SIEP). The Region is addressing them on a continual basis during the quarterly meetings, and will follow up on each issue during the FY 2018 Follow-Up FAME.

II. State Plan Background

A. Background

The New Mexico Occupational Health and Safety Program is administered by the Occupational Health and Safety Bureau (OHSB), which is part of the Environmental Protection Division of the New Mexico Environment Department. The State Plan Designee is Secretary of the New Mexico Energy Department Butch Tongate, and the OHSB Bureau Chief is Robert Genoway.

The New Mexico program covers all private sector industries within the state, except maritime (longshoring, ship building, and ship breaking) workers and federal civilian workers, who are under OSHA jurisdiction for enforcement. State and local government workers are also covered. The State Plan has a total work force of 658,600 private sector and 243,800 state and local government workers working for 57,422 businesses and public agencies throughout the New Mexico. Construction experienced a moderate growth (7%) after years of reductions, while the Mining, Oil and Gas industry lost 23% of employment following a 9% decrease from the previous year. Healthcare continues to grow significantly, adding more than 3,000 private sector employees a year. Approximately 88% of the businesses within the State Plan employ 19 or fewer workers. (Source: New Mexico Department of Workforce Solutions)

The federal share of the initial FY 2017 23(g) grant was \$994,500, and the State Plan share was \$994,500, for a total program budget of \$1,989,000. The State Plan deobligated \$4,300 in federal funds during the period.

A review of OHSB's 23(g) financial grant was conducted January 8-11, 2018, and there were no significant findings. Private sector consultation is provided by the Bureau under a 21(d) Cooperative Agreement, while public sector consultation is provided under the 23(g) grant. OHSB abides by the exemptions and limitations on OSHA appropriations, and no inspections were conducted outside of those guidelines.

Five Year Funding Comparison

Fiscal Year	Federal Award (\$)	State Plan Match (\$)	Total Funding (\$)	One Time Funding	Deobligated back to OSHA
2017	994,500	994,500	1,989,000	0	4,300
2016	994,500	994,500	1,989,000	14,300.00	10,728.59
2015	990,100	990,100	1,980,200	4,400	7,226.03
2014	967,300	967,300	1,934,600	22,800	25,870.71
2013	1,027,300	1,027,300	2,054,600	0	2,531

The OHSB staff consists of the Bureau Chief; three (3) Program Managers, one each for Compliance, Consultation, and Administration; seven (7) Safety Compliance Officers (COs); three (3) Health COs; two and half (2.5) Safety Consultants; two and half (2.5) Health Consultants; two (2) Compliance Assistance Specialists (CAS); and six (6)

administrative staff members. OHSB currently has four safety compliance officer and one health compliance officer vacancies, but are actively trying to fill these positions.

At the start of FY 2017, staffing levels consisted of 11 Safety COs, 10 of whom are fully trained. Over the course of FY 2017, two moved to consultation, one moved to the CAS position, and two resigned, leaving OHSB with only six COs at the end of FY 2017. As of February 21, OHSB had four safety COs and two health COs on board, but has posted hiring notices for four additional safety COs and one additional health CO.

New Mexico administers a combined onsite consultation program under 21(d) and 23(g) funding. OHSB's five consultant positions are funded from a variety of sources, including the 21(d) and 23(g) grants and state money. Private sector consultation is provided by the Bureau under a 21(d) Cooperative Agreement, while state and local government agencies consultation is provided under the 23(g) grant.

Most of the staff members work out of the Santa Fe or Albuquerque offices, with one CO stationed in Las Cruces, which is currently vacant, and one CO in Roswell. This has allowed the OHSB to provide more rapid responses to reports of hazards, including imminent danger situations and accidents, as detailed in this report.

B. Major New Issues

Maximum Penalty Increase

In response to Federal OSHA increasing maximum penalty amounts, the New Mexico Legislature passed Senate Bill 229 (SB 229) to adjust maximum and minimum penalties in conformance with Federal law. SB 229 was signed into law on April 6, 2017, and amended the Occupational Health and Safety Act, 50-9 NMSA 1978 to reflect the new increased penalties. The New Mexico OHSB Interim Penalty Policy are set to conform to SB 229 and the Federal Occupational Safety and Health Act. The policy is effective for all citations issued on or after June 1, 2017, for violations occurring after April 6, 2017.

Staffing

The OHSB experienced greater than normal staff turnover throughout FY 2017, with an average vacancy rate of 22% among COs. The State Plan lost five COs during FY 2017. A focus for FY 2018 is to fill their vacancies and train new hires as soon as possible so OHSB can continue to meet benchmarks. The State Plan has a competent enforcement section strategically positioned in field offices across the state at locations including Albuquerque, Las Cruces, Roswell, and Santa Fe. During FY 2017, one compliance officer transitioned to the CAS position, two moved to consultation, and two resigned. As of February 1, 2018, the Bureau has five vacancies – one Health CO and four Safety COs. OHSB expects to fill these positions within the next few months. OHSB struggles with low salaries, particularly when compared to the private sector, which is an impediment to recruiting and retention.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA has established a two-year cycle for the FAME process. FY 2017 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review.

A four-person OSHA team was assembled to conduct half the case file and financial review onsite in Santa Fe, NM during the timeframe of January 8-11, 2018. The other half of the case file review was completed remotely from the Dallas Regional Office during the weeks of January 17-26.

A total of 130 safety, health, and whistleblower case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct 1, 2016 through September 30, 2017). The selected population included:

- Nine (9) fatality case files
- Thirty-four (34) referral case files
- Nineteen (19) programmed planned case files
- Six (6) unprogrammed case files
- One (1) follow-up case file
- Sixty-one (61) whistleblower case files

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

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

Each State Activity Mandated Measures (SAMM) Report has an agreed-upon Further Review Level (FRL) which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the Further Review Level (FRL) triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2017 State Activity Mandated Measures Report and includes the FRL for each measure.

In addition to reviewing the above cited case files, the review team interviewed the whistleblower investigator, enforcement staff, and management. Throughout the entire process, OHSB was cooperative, shared information, and ensured staff was available to discuss cases, policies, and procedures. The State Plan staff members were eager to work with OSHA's evaluation team.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

OHSB transmitted a plan supplement in response to OSHA Instruction TED 01-00-019, Initial Training Program for Compliance Officers (CO), on September 18, 2014. OHSB's plan differs somewhat from the OSHA Instruction. These differences were detailed in the state's transmittal letter. The Region has requested the OSHA Training Institute (OTI) evaluate OHSB's Plan to ensure it meets the requirements for equivalency.

OHSB did not adopt identical TED 01-00-020, Mandatory Training Program for OSHA Whistleblower Investigators. They are developing a state specific training program for the whistleblower program, and it should be completed by the summer 2018.

The State Plan has sent numerous COs and Consultants to OTI during FY 2017 and 2016 to attend the following courses: Initial Compliance #1000, Introduction to Safety Standards for Safety Officers #1050, Introduction to Health Standards for Industrial Hygienists #1250, Investigative Interviewing Techniques #1310, Introduction to On-Site Consultation #1500, Crane and Rigging Safety for Construction #2050, Respiratory Protection #2220, Biohazards #2340, and Fall Protection #3115. In addition, State Plan personnel attended classes at the University of Texas OSHA Education Center and numerous Webinars.

At each quarterly meeting and at the end of each fiscal year, the State Plan provides updates on training received by staff during the period.

b) OSHA Information System

OHSB uses all of the reports appropriate to the program to manage enforcement activities. The enforcement reports are run weekly and are printed on Monday. The Compliance Program Manager is appropriately using the reports to manage the enforcement program.

OHSB CO, CAS, and administrative staff members enter data in a timely and accurate manner, with few exceptions. The Compliance Program Manager continues

to follow up on data entry errors since they transitioned to OSHA Information System (OIS).

OHSB uses the standard OIS form letters, modified for State Plan use, for addressing referrals that are not inspected, communicating inspection results to complainants, and contacting victims' family members.

c) State Internal Evaluation Program Report

OHSB developed and implemented a comprehensive State Internal Evaluation Program (SIEP) in FY 2016. All issues in the evaluation program are reviewed at least once every five years.

OHSB's SIEP Report included an internal evaluation of its internal operations. This is a critical component of the monitoring system and highlights the State Plans' flexibility to design and implement programs that will fit each individual state's needs and personnel resources.

Areas of Emphasis for SIEP Program

1. Referrals
2. Petitions to Modify Abatement (PMA)
3. Equipment Maintenance, Calibration, and Personal Protective Equipment
4. Variances
5. Response to Federal Program Changes

OHSB developed a Continuous Improvement Plan (CIP) in FY 2016 to assure ongoing effectiveness in meeting key goals and objectives in support of OHSB's mission. This plan incorporates recommendations for programmatic improvement from internal and external review sources, including the SIEP conducted by OHSB, the FAME provided by OSHA, and the public, through recommendations made by OSHA resulting from Complaints About State Program Administration (CASPA) reports.

The CIP summarizes recommendations from the sources above and outlines response plans designed to address the recommendations. Due to staffing shortages the State Plan did not conduct a SIEP during FY 2017.

d) Staffing

According to the FY 2018 23(g) grant application, OHSB had 7 safety COs and 2 health COs (with 8 safety and 3 health allocated) on board as of August 2017.

The State Plan experienced heavy turnover in their Compliance staff during FY 2017, as previously discussed.

The compliance benchmarks for a fully effective program in OHSB are seven Safety COs and three Health COs. OHSB currently allocates 7.5 Safety COs and three Health COs positions in the Bureau.

2. ENFORCEMENT

Most of the issues addressed throughout this report are measures in the SAMM Report. OHSB performance as indicated in Appendix D of the SAMM report is discussed during quarterly meetings and ongoing communication throughout the year.

In FY 2017, OHSB inspections declined significantly, from 316 safety and 121 health in 2016 to only 238 safety and 88 health in FY 2017, a nearly 25% drop. The State Plan achieved only 82% of its FY 2017 goal, while it exceeded its goal by 9% in FY 2016. Of the 326 total inspections conducted in FY 2017, construction accounted for 138 (42%). Fifty-three were unprogrammed other or related, 132 were complaints and referrals, four were fatalities, two were follow-ups and 135 were programmed inspections. (Source: OIS Inspection Summary report ran on February 1, 2018. Note: Appendix D State Activity Mandated Measures Report (SAMM) Report shows 320 inspections due to differences in the execution of the report times.)

a) Complaints

New Mexico has interpreted the State Plan OHS Act to define complaints as only those signed notices of alleged hazards filed by current workers or their representatives. All other notices of alleged hazards, including those from former workers and unsigned notices from current workers or employee representatives, are classified as referrals. All complaints are responded to by inspection in accordance with the New Mexico OHS Act and regulations. Referrals may be handled by phone and fax, letter, or inspection, as determined by the Compliance Program Manager. Appendix D shows there were two complaint inspections conducted by OHSB in FY 2017, accounting for 1% of inspection activity. Referral inspections accounted for 40% (130/326) of inspection activity. (Source: OIS Inspection Summary report dated February 1, 2018)

The OHSB FOM time frame for response by inspection to complaints of serious and/or other-than serious hazards is five working days. The goal for responding to imminent danger complaints and referrals is one working day.

SAMM 1 shows OHSB averaged 2.00 working days to respond to all serious and/or other than serious complaints by inspection, which is below the FRL of five working days.

Complaints (SAMM 1, 2, 3, 4)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013	FRL
Average number of work days to initiate complaint inspections (SAMM 1)	2.00	3.00	2.86	6.85	3.40	5
Time to initiate complaint investigations State formula (Average number of work days to initiate complainant investigations (SAMM 2)	1.00	2.00	.50	0	0	1
Timely response to imminent danger complaints and referrals (percent of complaints and referrals of imminent danger responded to within 1 day) (SAMM 3)	100%	100%	100%	100%	100%	100%
Number of denials where entry not obtained (SAMM 4)	0	0	0	0	0	0

The FRL for SAMM 3 shows 100% (1/1) of the imminent danger complaints and referrals responded to during the period were inspected within one working day, matching last year's performance in this area.

Because the New Mexico Act so narrowly defines complaints, the State Plan's response to referrals alleging serious hazards has historically been reviewed at quarterly monitoring meetings. OHSB has an internal strategic goal of responding to 95% of referrals alleging serious hazards within 10 working days. OHSB responded to 440 of 459 (96%) referrals alleging serious hazards within 10 working days. (Source: OIS UPA One Liner Detail Report) An investigation may include an onsite inspection or inquiry by phone and fax, or letter.

b) Fatalities

The Weekly Fatality Report for OHSB shows 18 fatalities were reported to the OHSB in FY 2017. Two were heart attacks; three were auto accidents; one was an officer shooting; one was an active shooter; six were found deceased due to health reasons and one was due to natural causes. This resulted in four deaths under the jurisdiction of OHSB. One of the four fatality cases resulted in three deaths from an explosion at a fabrication company under the North American Industry Classification System (NAICS) 333992 Welding and Soldering Equipment Manufacturing.

All four fatality inspections (100%) were initiated within one day. Two of the four fatality inspections were in the oil and gas operations and two were in other industries.

Percent of work-related fatalities responded to in one workday (SAMM 10)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013	FRL
	100%	100%	100%	83%	81%	100%

OHSB places significant enforcement emphasis in the construction and oil and gas industries. These industries represent a large portion of fatal accidents and they continue to represent a long-term trend in the state. During FY 2015 and FY 2016, the oil and gas industry experienced a significant decline in activity, but in FY 2017 the oil and gas industry increased production.

OSHA reviewed nine fatality case files closed in FY 2017. The documentation in the files included interview statements, photographs, and investigation summaries. OHSB made progress in documentation regarding contact with victims' family members. Sufficient documentation was found in all of the nine case files reviewed. Therefore, finding 2016-3, related to documentation with victims' families, is closed.

Bureau of Labor Statistics (BLS) Rates

An overview of New Mexico's private industry Total Case Incident Rate (TCIR) and Days Away, Restricted or Transferred (DART) rates for the calendar years 2012 through 2016 is provided in the table below. At the closing of this monitoring period, 2016 was the most recent year for which data was available. (Source: www.bls.gov)

Five-Year Trend for Rates

Industry	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016	% Change, 2012 -2016
Private Industry						
TCIR	3.9	3.2	3.2	3.1	3.2	-18%
DART	1.9	1.5	1.5	1.5	1.6	-16%
Construction						
TCIR	3.2	2.6	3.4	3.6	2.2	-31%
DART	1.9	1.5	1.7	1.6	1.2	-37%
Manufacturing						
TCIR	4.3	3.2	5.3	2.4	2.8	-35%
DART	2.4	1.9	3.3	1.3	1.4	-42%
State and Local Government						
TCIR	6.1	5	5.7	5.4	4.4	-28%
DART	2.3	2.3	2	2.0	1.7	-26%

The data for the last five years shows a downward trend ranging from a decrease of TCIR of 31% in the construction industry to a decrease of 28% for state and local governments. The DART data shows an overall decline as well from 2012 and 2016 for private industry, construction, manufacturing and state and local government. This achievement may be attributed to OHSB's emphasis on increased enforcement presence in high hazard industries.

These data points suggest that OHSB’s efforts are contributing to both TCIR and DART rate reductions in the targeted industries.

c) Targeting and Programmed Inspection

Chapter 2 of the OHSB FOM directs OHSB personnel to establish targeting based on annual projections of inspection activity as determined through annual performance planning.

OHSB uses the high hazard industry list based on Dun and Bradstreet listings, which is provided by OSHA’s Directorate of Technical Support and Emergency Management (DTSEM), to target high hazard manufacturing and general industry sites. Dodge reports are used to target programmed construction inspections. The University of Tennessee provides OHSB a randomly selected list of construction projects from identified or known active projects. This list contains the projected number of sites the Bureau has reported it plans to inspect during the next month. Projects are selected in accordance with OSHA Instruction CPL 02-00-141, Inspection Scheduling for Construction.

The State Plan continued to implement State Emphasis Programs (SEPs) for fabricated metal products, oil and gas well drilling and servicing operations, construction, exposure to silica, waste management, nursing and long-term care. The Bureau also continued activities at facilities with hazards involving primary metals processing and the use of hexavalent chromium through the adoption of national emphasis programs. OHSB also adopted an additional National Emphasis Program (NEP) for exposure to isocyanates during the fiscal year. The Bureau uses BLS and New Mexico Department of Health data on health related exposures when developing SEPs.

During FY 2017, OHSB conducted 232 safety and 88 health inspections for a total of 320 inspections statewide. This represents 80% of OHSB’s annual performance goal of conducting 400 inspections during this period. The State Plan’s safety inspections number of 232 was 12% below the further review level of 264. The health inspection number of 88 was 23% below the further review level of 115. OHSB experienced a high turnover rate among Compliance Officers during this period which contributed to the lower inspections numbers. OSHA will continue to effectively monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2018. (Source: SAMM Report)

Planned vs. Actual Inspections (SAMM 7)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Goal	400	400	400	390	505
Conducted	320	437	388	411	290
Differences	(80)	37	(12)	21	(215)

SAMM 17, percent of enforcement presence is 0.92%, significantly lower than the 1.26% in FY 2016 and .03% lower than the FRL of .95% to 1.58%. The percent total enforcement presence is based on the total inspections divided by the total establishments. Total establishments do not include public sector establishments or establishments in low hazard private sector industries.

Percent of Enforcement Presence (SAMM 17)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
	0.92%	1.26%	1.13%	1.20%	1.10%

OHSB’s high in-compliance rates for safety are attributed to two factors. First, the State Plan had a high staff turnover leading to a low number of experienced staff. Second, the State Plan does not follow the focused inspection guidance for construction. Comprehensive inspections were conducted for all the contractors performing work at the site, resulting in a high number of in-compliance construction inspections.

The FRL for percent in-compliance for safety inspections is +/- 20% of the one year national average of 29.53% which equals a range of 23.62% to 35.44%. The New Mexico State Plan’s percent in-compliance for safety is 66.82%, which is substantially higher than the FRL and a cause for concern. The FRL for percent in-compliance for health inspections is +/- 20% of the one-year national average of 35.78%, with a range of 28.54% to 42.82%. The New Mexico State Plan’s percent in-compliance for health is 37.68%, which is in line with the national average and within the acceptable FRL range. Due to the repeated high in-compliance rates, Observation FY 2016-OB-02 has been converted to a finding for safety only.

Percent In-Compliance (SAMM 9)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Safety	66.8%	62.5%	45.9%	65.6%	57.9%
Health	37.6%	49%	29.7%	52.6%	72.0%

Finding 2017-4:

The in-compliance rate of 66.82% for safety exceeded the FRL of 35.44% for safety per SAMM 9.

Recommendation 2017-4:

OHSB should determine the cause of the high in-compliance rate in safety, as indicated in SAMM 9, and implement corrective action that improves both their targeting and hazard identification efforts.

Status:

This measure was an observation during the FY 2016 Follow-Up FAME. Monthly updates were provided to supervisors on the Compliance Officers’ in-compliance rates to facilitate efforts to reduce rates toward the national standard. However, the issue is ongoing.

The FY 2017 Inspection Summary report shows 42% (135/320) of OHSB's inspections were programmed. The table below shows the number of programmed inspections with violations.

Programmed Inspections SIR Measures	Safety	Health
SIR 2A - Percent of private sector programmed inspections that currently have violations	32% (38/117)	74% (28/38)
SIR 2B - Percent of private sector programmed inspections with violations as issued	34% (40/119)	74% (29/39)
SIR 2C - Percent of not in compliance (NIC) private sector programmed inspections that currently have serious, willful, repeat, and unclassified (SWRU) violations	95% (36/38)	82% (23/28)
SIR 2D - Percent of NIC private sector programmed inspections with SWRU violations as issued	95% (38/40)	90% (26/29)

Targeting programs are developed through the state's annual performance planning. The process is initiated early during the prior fiscal year through the State Plan's staff meetings, assignment of staff to individual areas of the Compliance Officer's performance plan, and finalization of the plan by OHSB's management. Performance planning includes review of existing State Emphasis Program (SEP) and potential SEPs based on industry information such as BLS rates.

OHSB continued its SEPs in construction, earth products manufacturing, fabricated metals, refineries, oil & gas, nursing and long-term care facilities, silica exposure in construction, and waste management during FY 2017. They also participated in several of OSHA NEPs including Primary Metals and Hexavalent Chromium.

In FY 2017, OHSB inspected 40% (130/326) of referrals with alleged serious or imminent danger hazards. Many of these were in industries included in the high hazard listing, a SEP or a NEP.

OHSB obtains inspection orders (warrants) through the State District Court in cases where the employer denies entry. There were no denials of entry during the period of this report.

During the case file review, 14 of the 69 case files reviewed (20%) did not document worker interviews as part of the investigation process. Chapter 3 of the OHSB FOM requires employee interview documentation be consistently in the case file and adequately documented using narrative to explain what occurred during the inspection or why citations were or were not recommended.

Observation 2017-1: Basic employee interview documentation should be consistently in the case file and adequately documented using narrative to explain what occurred during the inspection or why citations were or were not recommended,

as required by the OHSB FOM.

Federal Monitoring Plan 2017-OB-1:

OSHA will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2018.

The State Plan conducted 88 health inspections. According to the Sampling Scan Enforcement Report in OIS, 74 (84%) of these inspections contained no sampling.

In FY 2017, the State Plan conducted 121 health inspections. According to the Health No Sampling and Sampling Scan Enforcement report in OIS, 114 (94%) of these inspections contained no sampling which resulted in the observation FY 2016-OB-01. As a result, this observation has been converted to a finding.

Finding 2017-3 (Formerly FY 2016-OB-1):

The State Plan conducted 88 health inspections. According to the Sampling Scan Enforcement Report in OIS, 74 (84%) of these inspections contained no sampling.

Recommendation 2017-3:

OHSB should implement a comprehensive sampling strategy and provide its compliance officers with additional training in sampling techniques and identifying potential hazards through the use of sampling, when appropriate.

Status:

This measure was an observation during the FY 2016 Follow-Up FAME and has been converted to a finding. Monthly updates were provided to OHSB on sampling and sampling in draft OIS reports. However, the problem remains.

d) Citations and Penalties

The New Mexico Occupational Health and Safety Bureau Compliance Section cited a total of 347 violations, according to the Case Related Summary report in FY 2017. Of those violations 24% (59) were in the state and local government and 76% were in the private sector, with 14% (50) of the violations contested.

SAMM 11 for FY 2017 shows OHSB average citation lapse times of 67.25 working days for safety and 57.55 working days for health. The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and from 44.82 to 67.24 for health. From FY 2013 – FY 2017, the OHSB citation lapse time has continued to drop. OHSB has continued to work on their citation lapse time and this is evident in the health lapse time, which is no longer a finding.

The table below shows the State Plan has continually lowered their health lapse time. Health lapse time decreased 34% between FY 2013 and FY 2017. During the last half

of FY 17, OHSB effectively managed to lower the lapse time for both safety (39%) and health (53%).

Average Lapse Time (SAMM 11)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Safety	67.25	73.07	72.8	70.5	59.4
Health	57.55	74.39	70.5	66.4	88.4

High citation lapse times have been an issue for OHSB’s for several years. OHSB has taken several steps to address this issue; these are described below and in the documentation of each quarterly meeting. However, more work needs to be in this area. Strategies to reduce health citation lapse time will continue to be a topic of discussion at quarterly meetings in FY 2018.

During FY 2017, management closely monitored inspection assignments to ensure caseloads were reasonable. The Compliance Program Manager reviewed assignment reports compared with open inspection reports weekly. OHSB also reviewed referrals alleging serious hazards to identify those where an initial investigation by inquiry was appropriate. OHSB performed a monthly analysis of lapse times for individual COs and used lapse times as a major factor during employee performance evaluations. Performance reviews included an analysis of task prioritization to identify potential improvements, and supervisors coached COs on task prioritization. The Compliance Program Manager reviewed file progress weekly and met with COs at least monthly on open cases.

Finding 2017-2 (Formerly 2016-2):

Average citation lapse time for OHSB is significantly higher than the national average. New Mexico OHSB has a lapse time of 67.25 for safety, which is higher than the FRL of 54.35 days.

Recommendation 2017-2:

NM OHSB should review processes and policies to identify roadblocks and inefficiencies causing high lapse times.

Status:

Open. OHSB instituted several measures to aid staff in the timely closing of inspection files. They continue to utilize OIS reports to identify open cases with prolonged lapse times in order to minimize delays in citation issuance. The Compliance Program Manager reviews assignment reports to compare with open inspection reports weekly. OSHA monitors this finding monthly and provides the State Plan with several OIS reports to assist them with monitoring citation lapse time.

OHSB had an acceptable average number of violations per inspection for SAMM 5. OHSB had an average of 1.79 serious/willful/repeat violations per inspection, which is within the FRL range of 1.46 to 2.20. However, OHSB had an average of .47 other-than-serious violations, which is below the FRL range of .79 to 1.19. (SAMM

5).

The Inspection Summary Report for FY 2017 shows OHSB Compliance Officers identified a total of 409 violations. Of these, 293 (72%) were serious; 6 (1%) were repeat; and 108 (26%) were other-than-serious.

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016. As required by law, OSHA then increased maximum penalties annually, on January 1, 2017 and January 1, 2018, according to the CPI. State Plans are required to adopt both initial increase and subsequent annual increases.

The New Mexico Legislature passed Senate Bill 229 (SB 229), signed into law on April 6, 2017, and amended the Occupational Health and Safety Act, 50-9 NMSA 1978, to adjust maximum and minimum penalties in conformance with Federal law. This policy is effective for all citations issued on or after June 1, 2017, for violations occurring after April 6, 2017. The legislation may be viewed on the New Mexico Occupational Health and Safety Bureau’s website at https://www.env.nm.gov/Ohsb_Website/Announcements.htm.

OHSB’s current penalty per serious violation in private sector (SAMM 8: 1-250+ workers) was \$1,025.59 in FY 2017, which is below the acceptable further review level range of \$1,887.60 to \$3,146.00. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are “at least as effective as” (ALAE) those contained in the Field Operations Manual (FOM), which was revised on May 1, 2017 to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection.

Average Penalty Assessed per Serious Violation (SAMM 8) (Private Sector)	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,025.59	\$1,019.29	\$853.23	\$459.45	\$460.14
a. Average current serious penalty in private sector (1-25 workers)	\$671.64	\$679.31	\$589.92	\$707.91	\$1,107.32
b. Average current serious penalty in private sector (26-100 workers)	\$1,070.63	\$1,068.24	\$1,024.44	\$2,176.92	\$1,380.26
c. Average current	\$1,569.85	\$2,240.63	\$975.00	\$1,234.45	\$905.11

\$	serious penalty in private sector (101-250 workers)					
Mi.	Average current serious penalty in private sector (greater than 250 workers)	\$2,694.00	\$2,207.81	\$1,726.47	\$718.94	\$778.39

Penalty Retention Percent Penalty Retained shows OHSB retains 82%, which is 20% higher than nationwide average and well above the FRL of 57.32% to 77.56%.

e) Abatement

Available procedures and inspection data indicate OHSB obtains adequate and timely abatement information and has processes in place to track employers who are late in providing abatement information. The Enforcement Manager runs the appropriate reports that are shared with supervisors and is sorted by CSHOs.

Of the 26 (24/26) case files reviewed, 92% contained written documentation, photos, work orders, or employer’s certification of abatement. Petitions for Modification (PMA) of Abatement were appropriately provided when the employer requested an extension for their corrective action timeframe. OHSB conducted follow-up inspections according to their policy and procedures. One hundred percent (26/26) of the case files reviewed had appropriate abatement periods.

f) Worker and Union Involvement

The New Mexico Field Operations Manual (NMFOM), Chapter 3, pages 3-8, Section D and Chapter 7, page 7-2, Sections C.1 and C.2 afford workers and/or employee representatives the opportunity to participate in every phase of the inspection process. The Scan Summary Report shows 8% (26/320) of OHSB inspections conducted in FY 2017 were at union sites compared to 5% (24/437) in FY 2016.

SAMM 13 shows 99% (316/320) of initial inspections with employee walk around representation or employee interviews. The further review level is 100%.

The case file review revealed that in 80% (55/69) of the non-fatality cases were employees interviewed and in 61% (42/69) of these non-fatality cases were the employee interviews documented in the case file. All of the fatality inspections showed employees were interviewed and well documented. OHSB is not consistently conducting employee interviews in non-fatality inspections.

In FY 2017, OHSB continued to stress to compliance staff the importance of documenting employer knowledge when establishing violations. To drive continuous

improvement, the Compliance Program Manager reviews case files to check the adequacy of documentation on an on-going basis. Management reviews violation documentation periodically during internal CO training sessions and employee evaluations. With the conversion to the OIS, OHSB modified its procedure for documenting employer knowledge to capture information on OIS documents.

Finding 2017-1 (Formerly 2016-1):

In 20% (14/69) of the non-fatality case files reviewed, employees were not interviewed. 38% (26/69) of these case files lacked documentation of employee interviews.

Recommendation 2017-1:

New Mexico OHSB should ensure that employer knowledge is documented for all violations, including documentation of employee discussions relative to violations or complaint items. Evidence of employee exposure to hazards should also be included.

3. REVIEW PROCEDURES

a) Informal Conferences

The informal conference process in New Mexico allows for either amendments to citations or entering into Informal Settlement Agreements. The Bureau documents these changes in the OIS with the code ISA.

For FY 2017, the State Information Report measure 5A shows 5% (24/479) of violations vacated Pre-Contest for private sector inspections.

SIR measure 5B shows 10% (1/10) of violations vacated after a contest had been filed for private sector inspections. SAMM 12 is the penalty retention percent penalty retained. OHSB retained 82% (\$324,140/\$397,440) of their penalties prior to contest.

Penalty Retention Percent Penalty Retained (SAMM 12)	FY	FY	FY	FY	FY
	2017	2016	2015	2014	2013
	82%	81%	95%	90%	89%

b) Formal Review of Citations

Once a citation has been contested by an employer, employee, or employee representative, a settlement can be considered at the Informal Administrative Review level. In accordance with OHS Regulation 11.5.5.306.D (1) (a), the Bureau has 90 days in which to enter into a formal settlement agreement or file an administrative complaint with the New Mexico Occupational Health and Safety Review Commission (NMOHSRC). The Bureau Chief or his designee may conduct the Informal Administrative Review.

These include changes made through formal settlement, OHS Review Commission decisions, and court decisions. The SIR measures 6A and 6B address changes to citations and penalties subsequent to contest. Measure 6A shows 1.80% (8/445) of violations reclassified Pre-Contest for private sector inspections and 6B shows 36% (27/75) of violations reclassified after a contest had been filed for private sector inspections.

SIR measure 7A shows 83% penalty retention for Pre-Contest private sector inspections, and 7B shows 73% penalty retention after contest had been filed for private sector inspections.

SIR measure 8 is the average lapse time from receipt of contest on average of first level decision. The New Mexico average was 97 days; the national data shows 136 days. Almost all cases result in formal settlement agreements in New Mexico; only a few each year reach the Review Commission level.

The NMOHSRC is comprised of three members appointed by the Governor for terms of six years. There is also a Commission Secretary who handles all administrative matters such as correspondence and scheduling. The NMOHSRC meets on an as-needed basis. All settlement agreements subsequent to contest are sent to the NMOHSRC for approval and all such settlements during the period were approved.

The OHSRC held hearings on two OHSB cases during FY 2017 and none for FY 2016. Review Commission decisions are available to the public upon request.

The Office of General Counsel provided legal representations for OHSB. The attorneys are housed in Santa Fe and Albuquerque, NM. It is common for an attorney to work closely with the compliance staff during the preparation of a case. Compliance Officers and supervisors stated that they have a good working relationship with the attorneys and they are knowledgeable of OSHA requirements and what is needed for a case to be legally sufficient.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

The State Plan continues to be timely with responses to federal program changes, adoption of standards, and notifying OSHA of any major state-initiated changes.

c) Standards Adoption

In accordance with 29 CFR 1902, State Plans are required to adopt standards and federal program changes within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards.

OHSB regulations provide that amendments to OSHA standards that have been adopted by the New Mexico Environmental Improvement Board (EIB) are considered “adopted by reference” without conducting a hearing. Any new OSHA standards or State-initiated standards proposed for adoption require a public hearing.

During this evaluation period, OSHA had five final rules, while one is pending. OHSB adopted three identical to federal OSHA. All responses were transmitted prior to the due date. The table below identifies the OSHA-initiated standards.

Federal Standards Adopted in 2016 and 2017

Standard	State Response Date	Intent to Adopt	Adopt Identical	Response Due Date	State Adoption Date
1903.2560.2575 Final Rule on the Implementation of the 2017 Annual Adjustment to Civil Penalties for Inflation	6/8/2017	Yes	No	07/18/2017	6/28/2017
1910.1915.1926 Final Rule on Occupational Exposure to Beryllium	Pending	Pending	Pending	7/9/2017	Pending
1910 Final Rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Services)	5/18/2017	Yes	Yes	5/18/2017	5/18/2017
1902, 1903 Interim Final Rule on Maximum Penalty Increases	9/1/2016	Yes	No	01/01/2017	6/28/2017
1902, 1904 Final Rule to Improve Tracking of Workplace Injuries and Illnesses	7/12/2016	Yes	Yes	11/14/2016	1/1/2017
1910,1915,1926 Final Rule for Occupational Exposure to Respirable Crystalline Silica	06/14/2016	Yes	Yes	09/26/2016	06/23/2016

On January 9, 2017, OSHA adopted new standards addressing occupational beryllium exposure in general industry, construction and shipyards. State Plans were required to adopt an “at least as effective as” rule within six months of promulgation, by July 9, 2017. However, on June 27, 2017, OSHA published a notice of proposed rulemaking proposing to eliminate all of the new provisions for construction and shipyard industries, except for the new permissible exposure limits (PELs). In addition, OSHA asked for comment on extending the current compliance dates for construction and shipyards for an additional year. OSHA will not enforce the provisions of the January 9, 2017, construction and shipyard standards that it has

proposed to revoke while the current rulemaking is underway.

Given the unusual circumstances of this rulemaking, in which substantive changes have been proposed to a standard within six months following its initial promulgation, several State Plans, including New Mexico, have delayed promulgation pending completion of the second rulemaking.

d) Federal Program Change (FPC) Adoption

There were eight Federal Program Changes (FPCs) which required a response and/or plan supplement in FY 2016 and FY 2017. All responses were transmitted prior to the due date. OHSB was current on timely adoption of standards at the start of FY 2017 with the exception on one. OHSB adopted one of them identical to federal OSHA.

Status of Federal Program Changes (FPCs) Adoption

FPC Directive/Subject	State Response Date	Intent to Adopt	Adopt Identical	Response Due Date	State Adoption Date
CPL 02-03-007 Whistleblower Investigations Manual	10/13/2015	Adoption Not Required	No	4/27/2016	Did not adopt
TED 01-00-020 Mandatory Training Program for OSHA Whistleblower Investigators	12/15/2015	Adoption Not Required	No	12/8/2015	8/8/2016 Pending review
CPL-02-03-006 Alternative Dispute Resolution Process for Whistleblower Protection Program	12/15/2015	Adoption Not Required	N/A	12/7/2015	Did not adopt
CPL-02-00-159 Field Operations Manual	12/15/2015	Adoption Not Required	No	12/1/2015	Did not adopt
CSP-02-00-003 Consultation Policies & Procedures Manual	2/27/2016	Yes	Yes	2/19/2016	2/29/2016
CPL 02-01-058 Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence	4/3/2017	Adoption Not Required	No	3/10/2017	N/A

CPL-03-00-020 National Emphasis Program on Shipbreaking	06/14/2016	Yes	N/A	5/6/2016	Did not adopt
CPL 02-00-160 Field Operations Manual (FOM)	10/11/2016	Adoption Not Required	Pending	Pending	OHSB is updating their FOM – Pending review

5. VARIANCES

OHSB did not issue any permanent or temporary variances in FY 2016 or 2017. OHSB has only issued one temporary variance in its 42-year history. The Bureau honors all multi-state variances that have been issued by OSHA.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

According to the OHSB FY 2017 grant application, approximately 24% of workers in the state work in state and local government. For FY 2017, the State Plan projected they would conduct 20 state and local government inspections; according to the Inspection Summary Report for FY 2017, they conducted 41 inspections.

Penalties are assessed for violations identified in state and local government inspections. Penalties for serious violations are deemed “paid” (waived) if abatement is verified by the established abatement date.

SAMM 6 shows 12.81% (41/320) of the total inspections OHSB conducted were in the state and local government. OHSB’s goal is approximately 6%, based on the percentage of public sector employers who are considered in a high hazard industry.

SAMM 6	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013
Percent of Total Inspections in Local Government Workplaces	12.81%	5.26%	5.67%	7.06%	6.9%

The Bureau continued its compliance assistance activities in the state and local government during FY 2017 as part of the overall goal of reducing the injury rate within this sector, which continues to experience injury and illness rates greater than the private sector. In addition to providing technical assistance to several public sector entities, the OHSB presented occupational safety and health information to a total of twelve county, city and state government agencies, reaching approximately 948 workers and impacting many more.

7. WHISTLEBLOWER PROGRAM

In FY 2017, the Bureau received 61 retaliation complaints, opened 18 investigations, made 14 determinations, and found merit in 4 cases. Among the notable merit cases, OHSB found a public employee was discharged in retaliation for raising laboratory safety issues at a local community college. The Bureau facilitated settlement of all merit cases during the year.

Of the 61 cases reviewed, 70% (43) were administratively closed. An administratively closed case means a complaint is not appropriate for a full field investigation or does not have prima facie standing, which usually means a lack of jurisdiction, the complaint is untimely filed, the complaint lacks a tangible employment action or protected activity, the complainant voluntarily decides not to pursue the complaint, or the complainant is referred to OSHA.

The review demonstrated the State Plan effectively applies the mission and requirements of the whistleblower retaliation statute and regulations. The review revealed 100% of retaliation complaints were accounted for. The complainant was interviewed in every complaint and proper due process was followed of the full field investigations. Further, the position statement was disseminated to the complainant in every investigation and when applicable.

Lastly, the field investigator either recorded or documented pertinent (qualified) interviews for the case file and the data entry in Web Integrated Management Information System (WebIMIS) was accurate.

Section 50-9-25.A of the New Mexico OHS Act provides for retaliation protection equivalent provided by OSHA.

OHSB's policies and procedures for retaliation complaints under the OHS Act are identical to OSHA's with one exception: the New Mexico OHS Act requires retaliation complaints be filed in writing. If a complainant contacts the Bureau by phone within 30 days of the retaliation activity and follows up in writing after the 30-day period has expired, the complaint is deemed to have been filed within 30-day timeframe. During FY 2016, the state updated this procedure to allow for online complaints.

The State Plan policies and procedures are contained in NMFOM Chapter 13. Complainants are notified in writing of their right to dually file with OSHA. New Mexico policies and procedures include an internal appeal process.

SAMM 14 shows 47% (8/17) of OHSB's retaliation investigations during the period were completed within 90 days. The further review level is 100% for all State Plans; however, the national average is only 41%. The State Plan has one investigator for the Discrimination Program and the program is time intense.

SAMM 15 shows a 24% (4/17) meritorious case rate for OHSB during FY 2017 which is much higher than the 2% (2/13) in FY 2016. The further review level is based on a three-

year national average. The range of acceptable data not requiring further review is from 20% to 30%.

SAMM 16 shows OHSB takes an average of 114 days to complete an 11c investigation which is lower than FY 2016 at 201 days, but still above the further review level of 90.

Five Year Performance Comparison Whistleblower Protection	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013	FRL
Percent of 11(c) investigations completed within 90 days (SAMM 14)	47% (8/17)	54% (7/13)	19% (3/16)	40% (2/5)	100% (2/2)	100%
Percent of 11(c) complaints that are meritorious (SAMM 15)	24% (4/17)	2% (2/13)	0% (0/16)	20% (1/5)	0% (0/2)	20%-30%
Average number of calendar days to complete an 11(c) investigation (SAMM 16)	114	201	153	155	74	90

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA received and investigated one CASPA in FY 2016 and FY 2017 related to a complaint inspection. As requested, OHSB provided a written response to the allegations within 30 days. OHSB's response included an explanation of the actions taken and/or procedures in place with respect to the allegation. It was determined OHSB was following the appropriate policies and procedures for part of the allegations. However, OSHA made the following recommendations to OHSB in reference to their Retaliation Program: 1. The OHSB Whistleblower Investigator should attend additional formal training on OSHA standards for the purpose of documenting alleged hazards during ongoing retaliation investigations. 2. The OHSB Whistleblower Investigator should follow up with the Compliance Section to ensure information gathered during the course of an ongoing retaliation investigation is referred to the Compliance section. 3. OHSB Compliance Officers should obtain specific information regarding alleged hazards to the extent possible, during referral intake. OHSB's response to OSHA was considered satisfactory, and the CASPA was closed in the second quarter of FY 2017.

9. VOLUNTARY COMPLIANCE PROGRAM

OHSB cooperative programs include 11 VPP sites, 6 partnerships, and 4 alliances.

OHSB's voluntary protection program is called the Zia Star Voluntary Protection Program (VPP). The OHSB continued to focus efforts on strengthening program quality and reviewing current VPP participants during the year. The Bureau conducted three recertification evaluations and approved one new site.

OHSB focused on improving strategic partnership programs through more comprehensive onsite verification activities and by conducting reviews of existing agreements.

The State continues to make progress in strengthening its cooperative programs in both OHSB Strategic Partnership for Construction (OSPC) programs and Alliance agreements. The OHSB and the Construction Health and Safety Council of New Mexico, which became the New Mexico Construction Safety Coalition (CSC) in FY 2017, continued to improve the partnership processes in the construction industry and promoted inter-partnership sharing of information and ideas. The CSC is comprised of OHSB, the Associated Building Contractors (ABC), Associated Contractors of New Mexico (ACNM), Associated General Contractors (AGC), American Subcontractors Association of New Mexico, Mechanical Contractors Association of New Mexico, and the New Mexico Utilities Contractors Association (NMUCA). The OHSB signed a new Alliance agreement with the New Mexico Chapter of the American Society of Safety Engineers in FY 2017, and continued work with established Alliances, including the Southeast New Mexico Service, Transmission, Exploration, and Production Safety Network, the New Mexico Oil and Gas Association, and the Consulate of Mexico in Albuquerque.

The State Plan continues to work the University of New Mexico (UNM) Medical School's Occupational Medicine Rotation in FY 2017. The program provides OSHA information to physicians completing a rotation in occupational medicine. They receive information about regulations, and the State Emphasis Program for Hospitals, Nursing and Residential Care Facilities.

OHSB continued its compliance assistance activities in the public sector as part of the overall goal of reducing the injury rate, which continues to experience injury and illness rates greater than the private sector. As stated previously, in addition to providing technical assistance to several public sector entities, the OHSB presented occupational safety and health information to a total of 12 county, city and state government agencies, reaching 948 workers and impacting many more.

Increased outreach activities to public and private sector solid waste industries also took place in FY 2017. In addition to presenting safety and health information for the New Mexico Environment Department's Transfer Station, Landfill, and Recycling Facility Operator Certification Courses, OHSB presented information to permanent and temporary employees working for the largest city in New Mexico's Solid Waste Management Division.

Compliance Assistant Specialist Activity		
Type	FY 16	FY 17
Articles	0	7
Ceremony	4	2
Conferences/Seminars	4	1
Exhibit/Booth	1	1
Formal Training	2	3
Meeting	102	1
Other Compliance Activities	33	39
Safety and Health Program Assistance	1	29
Speech/Presentations	37	23
Technical Assistance	16	15
Training	4	1
VPP Site Visit	11	3
Total	215	125
Number of Workers Attended	11,645	5,085

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

The Mandated Activities Report for Consultation (MARC) is a computerized report on state and local government consultation activities. The MARC contains five performance measures, but MARCs 1 and 2 do not apply to the state and local government.

The MARC indicates OHSB conducted 23 visits statewide. Of the 23 visits conducted, 19 were initial visits, three (3) were training and education visits and one (1) was a follow-up visit.

The MARC metric 3 indicates OHSB consulted with workers in 100% of the state and local government sector initial visits.

MARC 4A shows 100% (58/58) of the identified serious hazards were corrected in a timely manner (within 14 days of the latest correction due date); the goal is 100%. MARC 4D shows 43.1% (25/58) of the serious hazards were corrected within the original timeframe or during on-site visit; the goal is 65%.

MARC 5 shows there were no serious hazards with corrections more than 90 days past due.

11. PRIVATE SECTOR 21(d) ON-SITE CONSULTATION PROGRAM

Private sector consultation services are provided in New Mexico under a 21(d) Cooperative Agreement, and public sector consultation services are provided under the 23(g) State Plan grant. Performance related to 21(d) funding work is reported in the Regional Annual Consultation Evaluation Report (RACER).

Appendix A – New and Continued Findings and Recommendations

FY 2017 New Mexico Comprehensive FAME Report

FY 2017-#	Finding	Recommendation	FY 2016-# or FY 2016-OB-#
FY 2017-1	In 20% (14/69) of the non-fatality case files reviewed, employees were not interviewed. 38% (26/69) of these case files lacked documentation of employee interviews.	OHSB should ensure that employer knowledge is documented for all violations, including documentation of employee discussions relative to violations or complaint items. Evidence of employee exposure to hazards should also be included.	FY 2016-1
FY 2017-2	Average safety citation lapse time for New Mexico OHSB is significantly higher than the national average. New Mexico OHSB has a lapse time of 67.25 for safety, compared to the national two-year average of 45.29.	OHSB should review processes and policies to identify roadblocks and inefficiencies causing high safety lapse times.	FY 2016-2
FY 2017-3	The State Plan conducted 88 health inspections. According to the Sampling Scan Enforcement Report in OIS, 74 (84%) of these inspections contained no sampling.	OHSB should implement a comprehensive sampling strategy and provide its compliance officers with additional training in sampling techniques and identifying potential hazards through the use of sampling, when appropriate.	FY 2016-OB-2
FY 2017-4	The in-compliance rate of 66.8% for safety exceeded the national in-compliance rate of 29.53% for safety per SAMM 9. The safety cases are significantly above the further review level.	OHSB should determine the cause of the high in-compliance rate in safety, as indicated in SAMM 9, and implement corrective action that improves both their training and hazard identification efforts.	FY 2016-OB-1

Appendix B – Observations Subject to New and Continued Monitoring

FY 2017 New Mexico Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB-# or FY 2016-#	Observation	Federal Monitoring Plan	Current Status
	FY 2016-OB-1	The State Plan conducted 88 health inspections. According to the Sampling Scan Enforcement Report in OIS, 74 (84%) of these inspections contained no sampling.	OSHA will continue to monitor sampling through quarterly monitoring visits.	Converted to Finding
	FY 2016-OB-2	The in-compliance rate of 66.8% for safety exceeded the national in-compliance rate of 29.53% for safety per SAMM 9.	OSHA will continue to monitor the high in-compliance rates through quarterly monitoring visits.	Converted to Finding
FY 2017-OB-1		Basic employee interview documentation should be consistently in the case file and adequately documented using narrative to explain what occurred during the inspection or why citations were or were not recommended, as required by their FOM.	OSHA will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2018.	New

Appendix C – Status of FY 2016 Findings and Recommendations

FY 2016 New Mexico Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2016-1	Case files reviewed were not always fully and accurately documented.	OHSB should ensure that employer knowledge is documented for all violations, including documentation of employee discussions relative to violations or complaint items. Evidence of employee exposure to hazards should also be included.	In FY 2016 OHSB continued to work with compliance staff to improve documenting employer knowledge when establishing violations. To drive continuous improvement, supervisors reviewed case files to ensure the adequacy of documentation on an on-going basis. Management reviewed violation documentation periodically during internal Compliance Officers (CO) training sessions and employee evaluations. In addition to prior ongoing efforts, OHSB sent a greater number of COs to OSHA Training Institute courses during FY 2017, and has initiated processes to improve documentation of employee discussions. However, there is still room for improvement.		Open February 14, 2018
FY 2016-2	Average citation lapse time for New Mexico OHSB is significantly higher than the national average. OHSB has a lapse time of 72.84	OHSB should review processes and policies to identify roadblocks and inefficiencies causing high lapse times.	OHSB used OIS reports to identify open cases with prolonged lapse times. Management closely monitored inspection assignments to manage caseloads. Supervisors reviewed assignment data to compare with		Open February 14, 2018

Appendix C – Status of FY 2016 Findings and Recommendations

FY 2016 New Mexico Comprehensive FAME Report

	for safety and 70.58 for health compared to the national average of 42.78 safety and 53.48 health.		weekly inspection reports. OHSB reviewed referrals to prioritize inspections. Management analyzes individual CO lapse times as a major element of performance evaluations. Although health lapse times have improved substantially, safety lapse times continue to be an issue. The state will closely monitor individual case files to ensure recently achieved lapse time reduction continues.		
FY 2016-3	Fatality case files closed in FY 2015 did not include documentation regarding contact with victims' family members. Seven of the ten (70%) did not make initial contact with the family, and four (40%) did not receive final notification of the results of the inspection.	OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico Field Operations Manual (NMFOM), and ensure that these contacts are documented in the case files.		January 12, 2018	Completed

Appendix D – FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 New Mexico Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: New Mexico - OSHB			FY 2017	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.00	5	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	1.00	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	4.00	0	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.00	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.79	+/- 20% of SWRU: 1.83	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.20 for SWRU and from 0.79 to 1.19 for OTS.
		Other: 0.47	+/- 20% of Other: 0.99	
6	Percent of total inspections in state and local government workplaces	12.81%	+/- 5% of 5.00%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 4.75% to 5.25%.
7	Planned v. actual inspections – safety/health	S: 232	+/- 5% of S: 278	The further review level is based on a number negotiated by OSHA and the State Plan through the grant
		H: 88	+/- 5% of	

Appendix D – FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 New Mexico Comprehensive FAME Report

			H: 122	application. The range of acceptable data not requiring further review is from 264.10 to 291.90 for safety and from 115.90 to 128.10 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,025.59	+/- 25% of \$2,516.80	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,887.60 to \$3,146.00.
	a. Average current serious penalty in private sector (1-25 workers)	\$671.64	+/- 25% of \$1,706.10	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,279.58 to \$2,132.63.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,070.63	+/- 25% of \$2,867.94	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,150.96 to \$3,584.93.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,569.85	+/- 25% of \$3,952.26	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,964.20 to \$4,940.33.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$2,694.00	+/- 25% of \$5,063.48	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,797.61 to \$6,329.35.
9	Percent in compliance	S: 66.82%	+/- 20% of S: 29.53%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 23.62% to 35.44% for safety and from 28.62% to 42.94% for health.
		H: 37.68%	+/- 20% of H: 35.78%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 67.25	+/- 20% of S: 45.29	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and from 44.82 to 67.24 for health.
		H: 57.55	+/- 20% of H: 56.03	
12	Percent penalty retained	81.56%	+/- 15% of 67.44%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 57.32% to 77.56%.
13	Percent of initial inspections with worker walk around	98.75%	100%	The further review level is fixed for all State Plans.

Appendix D – FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 New Mexico Comprehensive FAME Report

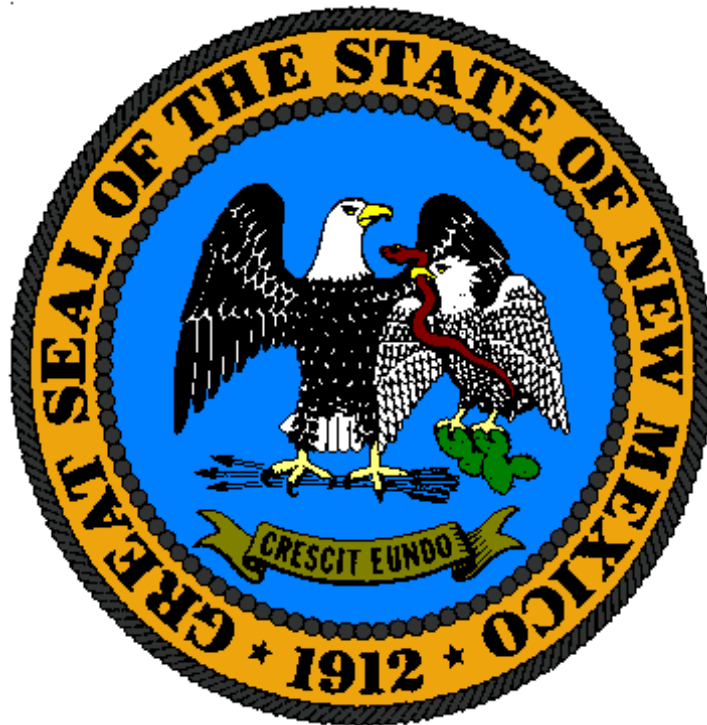
	representation or worker interview			
14	Percent of 11(c) investigations completed within 90 days	47%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	24%	+/- 20% of 25%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 20% to 30%.
16	Average number of calendar days to complete an 11(c) investigation	114	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	0.92%	+/- .25% of 1.26%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.95% to 1.58%.

NOTE: Fiscal Year 2017 is the second year since the transition from the NCR (OSHA’s legacy data system) began that all State Plan enforcement data has been captured in OSHA’s Information System (OIS). As such, the further review levels for SAMMs typically referencing a three-year rolling average will instead rely on a two-year average this year. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 13, 2017, as part of OSHA’s official end-of-year data runs.

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New Mexico Environment Department
Occupational Health and Safety Bureau

State OSHA Annual Report



Fiscal Year 2017

October 1, 2016 – September 30, 2017

Susana Martinez, Governor
Butch Tongate, Cabinet Secretary
Robert Genoway, Bureau Chief

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I. Executive Summary

In the fiscal year 2017, the New Mexico Occupational Health and Safety Bureau (“OHSB” or “the Bureau”) continued to focus on its mission to assure every employee safe and healthful working conditions. Through targeted enforcement, cooperative assistance, and outreach efforts, the OHSB used a broad approach to reach industries most in need of reductions in injuries and illnesses. New Mexico continued activities in its State Emphasis Programs (SEPs) and engaged in applicable National Emphasis Programs (NEPs).

New Mexico continued to engage in activities for SEPs within the industries of construction, primary and fabricated metals, oil and gas well drilling and servicing, hospitals and nursing care, and waste management during FY2017. The Bureau continued its SEP for silica exposure in the construction and earth products manufacturing industries. OHSB also participated in several OSHA NEPs including Primary Metals, Hexavalent Chromium and Process Safety Management in Chemical Processing Facilities.

The State continues to make progress in strengthening its cooperative programs in both OHSB Strategic Partnership for Construction (OSPC) programs and Alliance Agreements. The OHSB and the Construction Health and Safety Council of New Mexico, which became the New Mexico Construction Safety Coalition (CSC) in FY2017, continued to improve partnership processes in the construction industry and promoted inter-partnership sharing of information and ideas in addition to the intra-partnership sharing that had previously existed within each of the individual partnerships. The CSC is comprised of OHSB, the Associated Building Contractors (ABC), Associated Contractors of New Mexico (ACNM), Associated General Contractors (AGC), American Subcontractors Association of New Mexico, Mechanical Contractors Association of New Mexico, and the New Mexico Utilities Contractors Association (NMUCA). The OHSB signed a new Alliance agreement with the New Mexico Chapter of the American Society of Safety Engineers in FY2017, and continued work with established Alliances, including the Southeast New Mexico Service, Transmission, Exploration, and Production Safety Network, the New Mexico Oil and Gas Association, and the Consulate of Mexico in Albuquerque, New Mexico.

OHSB updated the state Field Operations Manual (FOM) in 2017 following the passage of legislation to increase maximum penalties. The OHSB experienced greater than normal staff turnover throughout 2017, with an average vacancy rate of 22% among compliance officers. A focus for 2018 is to fill vacancies and train new hires as soon as possible so OHSB can continue to meet benchmarks.

II. Progress toward Strategic Plan Accomplishment

Through strategic planning and regular meetings among management, compliance, and compliance assistance staff, OHSB coordinated efforts to reach industries and employees where the greatest potential for injuries and illness exist. The Bureau’s

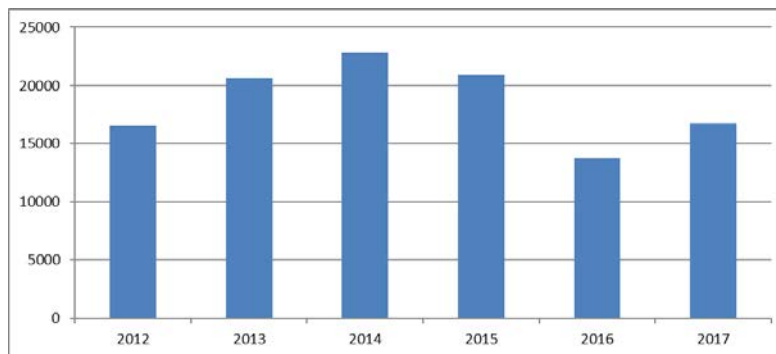
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performance plan for FY2017 focused on two major strategic areas that included activities for affecting reductions in injuries, illnesses and fatalities. The OHSB also focused on plan areas to improve the quality of cooperative programs and to provide educational outreach to employers and employees.

A. Enforcement Activities

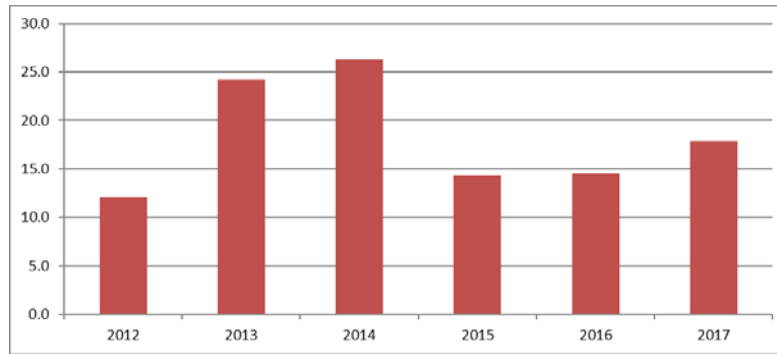
The OSHB continued to implement state emphasis programs for fabricated metal products, oil and gas well drilling and servicing operations, construction, exposure to silica, waste management, hospitals and nursing care facilities. The Bureau also engaged in enforcement at PSM-covered facilities, and at facilities with hazards involving primary metals processing and use of hexavalent chromium through the adoption of national emphasis programs. The state used SEPs to target industries with high injury and fatality rates. Fatal workplace accidents in New Mexico dropped significantly compared to the prior year, from ten in 2016 to four in 2017.

New Mexico continued to place significant enforcement emphasis in the construction and oil and gas industries. The number of fatal accidents in both these industry sectors continues to represent a large proportion of occupational fatalities in the state as a long-term trend. Fatal accidents in the oil and gas industry continued to represent the highest among all sectors. Following the OHSB internal review of LEP/SEPs during FY2014, the Bureau doubled its goal for enforcement inspections of oil and gas well drilling and servicing operations in New Mexico during FY2015. During FY2015 and FY2016, the state oil and gas industry experienced a significant decline in activity. OHSB decreased its inspection activities concurrent with reduced industry activity during the same period, and increased enforcement presence in 2017 based on forecasted increases in oil production and a continuing potential for serious accidents.



Number of workers employed in the oil & gas industry in New Mexico.

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Rate of oil & gas fatalities in OHSB jurisdiction (per 100,000 workers).

New Mexico Senate Bill 229 (SB 229), signed into law on April 6, 2017, amended the state Occupational Health and Safety Act, 50-9 NMSA 1978, to adjust maximum and minimum penalties in conformance with federal law. The legislation adopted the equivalent federal maximum and minimum penalty levels and authorized the NMED Cabinet Secretary to increase levels annually to account for inflation. OHSB subsequently amended its policies to increase assessed penalties. Among the differences between federal and state policy, New Mexico records inspection activity for construction companies that follow regulatory requirements. This ensures those companies receive recognition of their safety efforts and qualify for future good history penalty reductions. While the policy results in an “in-compliance” rate greater than the nationwide average for inspections, OHSB believes compliant employers should receive appropriate recognition and benefits for maintaining safe workplaces.

B. Whistleblower Protection

The OSHB continued to build upon the success of its whistleblower discrimination investigation program. In FY2017, the Bureau received 61 discrimination complaints, opened 18 investigations, made 14 determinations, and found merit in 4 cases. Among the notable merit cases, OHSB found that a public employee was discharged in retaliation for raising laboratory safety issues at a local community college; the case highlights the benefits of whistleblower programs in state plans that cover the public sector. The Bureau facilitated settlement of all merit cases during the year.

C. Cooperative Program Activities

1. Zia Star Voluntary Protection Program (VPP)

The OHSB continued to focus efforts on strengthening program quality and reviewing current VPP participants during the year. The



OHSB awards Zia Star to Raytheon Ktech Missile Systems

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Bureau conducted three recertification evaluations and approved one new site.

2. *OHSB Strategic Partnership in Construction (OSPC) Program*

New Mexico focused on improving strategic partnership programs through more comprehensive onsite verification activities and by conducting reviews of existing agreements.

The New Mexico Construction Safety Coalition held quarterly meetings in FY2017. The Coalition is composed of OHSB representatives and representatives of all six OSPC partnership associations.

3. *Compliance Assistance and Outreach*

The OHSB participated in the New Mexico Chapter of the American Society of Safety Engineers (NM ASSE) 41st Annual Professional Development Conference (PDC) by providing technical materials at a booth, and conducting presentations on Silica in Construction and an Introduction to Process Safety Management. Additionally, an Alliance Agreement was signed at the PDC with the NM ASSE, which includes the Los Alamos, Pecos and Zia NM ASSE sections. This new Alliance will provide New Mexico employees and employers with guidance, and access to information and training resources that will help them protect employees' health and safety, particularly in reducing and preventing exposure to industry-specific hazards. The Alliance Program works with trade, professional, and labor organizations, as well as with educational institutions and government agencies. Alliance Agreements allow groups who share a common interest in improving workplace safety and health to work with OHSB to prevent workplace injuries, illnesses, and fatalities.

The OHSB increased its participation in the University of New Mexico (UNM) Medical School's Occupational Medicine Rotation in FY2017. The purpose of this program is for physicians completing a rotation in occupational medicine to receive information about OSHA regulations, including recordkeeping and reporting requirements, and the State Emphasis Program for Hospitals, Nursing and Residential Care Facilities. Additionally, physicians had the opportunity to participate in site visits as well as health and safety-related projects with OHSB. The Bureau worked with medical school administrators to facilitate 'hands-on' visits for medical students to New Mexico worksites. Under the program, UNM medical residents accompany OHSB representatives during onsite reviews to gain practical knowledge of occupational hazards affecting the State's workforce. In April 2017, UNM expressed its appreciation of the Bureau's efforts –

“Thank you so much for coordinating these visits for our residents. They all have great things to say about the experience!” – Dr. Kavita Rajasekhar, Assistant Professor, Department of Family and Community Medicine, School of Medicine.

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The Bureau provides as many as 14 onsite activities each year as part of this collaborative program, including a May 2017 visit to Raytheon Ktech in Albuquerque.

Increased outreach activities to public and private sector solid waste industries also took place in FY2017. In addition to presenting safety and health information for the New Mexico Environment Department's Transfer Station, Landfill, and Recycling Facility Operator Certification Courses, OHSB presented information to permanent and temporary employees working for the largest city in New Mexico's Solid Waste Management Division.

4. *Public Sector Consultation*

The OHSB Consultation Program conducted 23 visits in the public sector during FY2017. Fourteen of these visits were to elementary, middle and high schools in the southern part of the state. Public schools in New Mexico have faced significant funding challenges so it is a valuable benefit to utilize the expertise of consultation staff in identifying and abating health and safety hazards that could impact employees as well as children that could be exposed to these hazards.

D. *Administrative Activities*

The Bureau's Administration Section continues to provide necessary support functions including financial, information systems, and labor statistics management. Financial staff meets regularly with management to ensure budgets are properly projected and funds appropriately expended. OHSB began using the OSHA Information System (OIS) in FY2015 for all enforcement and compliance assistance data. Labor statistics staff continues to excel at injury, illness, and fatality data collection.

III. *Progress on Federal Annual Monitoring Evaluation (FAME) Recommendations*

Federal OSHA conducts an annual review of OHSB programs through the Federal Annual Monitoring Evaluation (FAME). As part of the FY2016 FAME, OSHA made several recommendations for improvement of the New Mexico state plan. The following summarize OHSB progress toward implementing the federal recommendations during FY2016.

A. Recommendation 16-1:

New Mexico OHSB should ensure that employer knowledge is documented for all violations, including documentation of employee discussions relative to violations or complaint items. Evidence of employee exposure to hazards should also be included.

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In FY2017, OHSB began instituting modified processes to document employer knowledge, including expanded use of audio and video recording. In addition, informal trainings have been conducted with compliance staff to ensure that existing methods for documenting employer knowledge in OIS forms and worksheets are improved.

B. Recommendation 16-2:

NM OHSB should review processes and policies to identify roadblocks and inefficiencies causing high lapse times.

In FY2017, OHSB placed a greater emphasis on reducing lapse times. The results of this emphasis resulted in an overall decreased lapse time in both health and safety case files. OHSB is committed to a continued focus on lapse times in FY2018 and is confident lapse times will continue to experience reductions.

C. Recommendation 16-3:

New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico Field Operations Manual (NM FOM), and that these contacts are documented in the case files.

In FY2017, OHSB instituted more rigorous fatality case file reviews to ensure communication with family members occurred as appropriate in all cases.

IV. Conclusion

The OHSB utilized available resources to deliver enforcement and compliance assistance activities to target industries where workers are most at risk of injury and illness. The Bureau met or exceeded performance plan goals in many areas. The OHSB analyzed the need for enforcement and compliance assistance activity in various industries, and adjusted emphasis programs to affect positive change in injury and illness experience in those industries.

New Mexico continues to experience reductions in Days Away, Restricted, or Transferred (DART) rates. DART rates dropped fifteen percent from 2012 to 2013 (from a rate of 2.0 to 1.7 per 100,000 workers), an additional six percent reduction to 1.6 in 2014, and another reduction to 1.5 in 2015. The New Mexico DART rate in 2016 increased slightly to 1.6 but remains lower than the nationwide average of 1.7 for the same year. Long-term rate reductions continue to reflect the positive influence of OHSB programs.

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Appendix A – Summary of FY2017 Performance Plan Results

The following tables summarize the Annual Performance Plan results for the Compliance and Cooperative Program activities of the New Mexico Occupational Health and Safety Bureau for fiscal year 2017. The referenced goals were established prior to the start of the fiscal year. Goals associated with consultation activities (Goal 1.3) are not described in this report.

5 Year Strategic Goal 1.1: Reduce the total New Mexico injury and illness DART rates by 5% through 2019 by focusing on targeted safety and health hazards.			
FY2017 Performance Goal 1.1: Reduce the total injury and illness DART rate to less than 2.0 for CY2017 by conducting 400 enforcement inspections and 250 consultation visits.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of enforcement inspections	OHSB conducted 358 enforcement inspections in FY2017	
Intermediate Outcome Measures	Abatement of serious, willful and repeated violations	OHSB verified abatement of 368 serious, willful and repeated violations	
Primary Outcome Measures	Injury and illness DART rate of less than 2.0 for 2016	The New Mexico DART rate was 1.6 for 2016	BLS rates for 2017 are not currently available

5 Year Strategic Goal 1.2: Reduce the 5-year average of OHSB investigated workplace fatalities by 5% through scheduled inspections and visits at workplaces in targeted industries.			
FY2017 Performance Goal 1.2: Experience fewer than 11 workplace fatalities requiring OHSB investigations in FY2017.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of enforcement inspections in Oil & Gas	OHSB conducted 24 oil & gas industry inspections in FY2017	
	Number of enforcement inspections in Construction	OHSB conducted 133 construction industry inspections in FY2017	
Intermediate Outcome Measures	Number of fatalities investigated in Oil & Gas	OHSB investigated 0 oil & gas industry	

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		fatalities in FY2017	
	Number of fatalities investigated in Construction	OHSB investigated 0 construction industry fatalities in FY2017	
Primary Outcome Measures	Record fewer than 11 NM OSHA investigated fatalities in FY2017	OHSB investigated 4 fatal accidents in FY2017.	
5 Year Strategic Goal 1.3: Increase the number of new participants in SHARP by 5.			
FY2017 Performance Goal 1.3*: Increase the number of new participants in SHARP by 1 employer. *Goal 1.3 applies to 21(d) Consultation. The FY2017 CAPR reviews this goal.			

5 Year Strategic Goal 1.4: Improve the quality of participant health and safety programs by reducing top-level member DART rates by 10% through 2019.			
FY2017 Performance Goal 1.4: Reduce DART rates for top-level members by 2%.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Verification activities for partnership members	9 verification activities	OHSB completed a total of 9 verification activities in FY2017.
Intermediate Outcome Measures	DART cases for ABC members DART cases for ACNM members DART cases AGC members DART cases ASA members DART cases MCA members DART cases NUCA members	Not available	2017 data will be available in late February 2018.
Primary Outcome Measures	DART rate for ABC members DART rate for ACNM members DART rate for AGC members DART rate for ASA members DART rate for MCA members DART rate for NUCA members	Not available	Data is currently unavailable for this measure. 2017 data will be collected and analyzed during 2018.

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5 Year Strategic Goal 1.5: Increase the number of VPP participants by 5.			
FY2017 Performance Goal 1.5: Increase the number of VPP participants from 11 to 13.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of candidates for VPP	OHSB received one new application in FY2016 and approved the worksite in FY2017.	OHSB dropped 2 sites in FY2016 and FY2017. There are currently 11 VPP worksites.
Intermediate Outcome Measures	Number of new VPP members	One new employer was approved for VPP in FY2017.	
Primary Outcome Measures	Have 13 VPP participants	New Mexico had 11 VPP participant worksites at the end of FY2017.	

5 Year Strategic Goal 2.1: Initiate inspections for reported fatalities within 1 working day 100% of the time.			
FY2017 Performance Goal 2.1: Initiate inspections for reported fatalities within 1 working day 100% of the time.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of fatality reports in fiscal year.	There were 18 fatal accidents reported in FY2017.	
Intermediate Outcome Measures	Number of fatality reports under OHSB jurisdiction in fiscal year. Number of fatality reports under OHSB jurisdiction responded to within 1 workday	There were 4 fatal accidents under OHSB jurisdiction in FY2017. OHSB responded to all 4 fatal accidents within 1 working day.	
Primary Outcome Measures	Percent of responses to fatality reports under OHSB jurisdiction initiated within 1 working day	OHSB initiated 100% of fatality investigations within 1 working day.	

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5 Year Strategic Goal 2.2: Conduct investigations for referrals alleging serious hazards within 10 working days 95% of the time.			
FY2016 Performance Goal 2.2: Conduct investigations for referrals alleging serious hazards within 10 working days 95% of the time.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of referrals alleging serious hazards responded to during the year.	OHSB responded to 459 serious referrals in FY2017.	An investigation may include an onsite inspection or inquiry by phone, fax or letter.
	Number of investigations for these referrals responded to within 10 days.	OHSB responded to 440 serious referrals within 10 days.	
Intermediate Outcome Measures	Average number of working days to conduct inspections for referrals alleging serious hazards.	NA	This measure is not applicable to the performance goal. OHSB will modify this measure.
Primary Outcome Measures	Percent of investigations conducted within 10 working days.	OHSB investigated 96% of serious referral within 10 workdays.	

5 Year Strategic Goal 2.3: Complete discrimination investigations within 60 days 95% of the time.			
FY2016 Performance Goal 2.3: Complete discrimination investigations within 60 days 95% of the time.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of discrimination cases opened.	OHSB opened 17 discrimination cases in FY2017.	
Intermediate Outcome Measures	Number of discrimination cases completed within 60 days.	OHSB completed 8 FY2017 discrimination case within 60 days.	OHSB completed 8 of 17 total cases within 90 days.
Primary Outcome Measures	Percent of discrimination cases completed within 60 days.	OHSB completed 47% of FY2017 cases within 60 days.	OHSB completed 47% of total cases within 90 days.