

**FY 2019 Comprehensive  
Federal Annual Monitoring Evaluation (FAME) Report  
New Mexico Occupational Health and Safety Bureau (NMOHSB)**



**Evaluation Period: October 1, 2018 – September 30, 2019**

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

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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 Eric S. Harbin, Regional Administrator, Region VI, Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and covers the period from October 1, 2018, to September 30, 2019.

The purpose of this report is to assess the OHSB activities for the Fiscal Year (FY) 2019 and its progress in resolving ongoing findings. This report also reviews recommendations from the FY 2018 Follow-Up Federal Annual Monitoring 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 325 inspections, which was 90% of their goal of 360 for FY 2019. The State Plan conducted 271 safety and 54 health inspections. They conducted 23 inspections in state and local government, which is lower than their goal of 30. During FY 2019, OHSB lost one safety and four health Compliance Officers (COs), which contributed to the State Plan not meeting their goals for either health or state and local government.

The State Plan met all but one of their State Emphasis Programs (SEPs) goals for inspections in targeted industries and responded timely to all unprogrammed activity.

The construction and oil and gas industries continue to experience the greatest number of fatal accidents in New Mexico. In FY 2019, OHSB continued to place significant emphasis on enforcement and outreach activities in both construction and oil and gas.

During FY 2019, OSHB continued to make progress in addressing the six findings and recommendations from the FY 2018 FAME. Among the findings listed in the FY 2018 FAME were: a lack of documentation of employee interviews in the case files, an increased citation lapse time, a lack of health sampling, a high in-compliance rate, a failure to meet inspection goals and a low enforcement presence. OHSB has completed four of these findings, those related to citation lapse time, health sampling, high in-compliance rate, and enforcement presence. One observation, related to inconsistencies in employee interviews and the lack of related documentation, was combined with Finding FY 2019-01.

There are two continued findings and one new observation for FY 2019. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with completed corrective actions.

## 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 James C. Kenney, and the OHSB Bureau Chief is Robert Genoway.

The New Mexico program covers all private sector industries and state and local government workers within the state, except maritime (longshoring, ship building, and ship breaking), federal workers, Tribal lands, military installations, and other areas of exclusive federal jurisdiction.

The State Plan has a total work force of 866,300 private sector and 190,300 state and local government workers. Total nonagricultural employment grew by 14,800 (1.7%) jobs, between December 2018 and December 2019. The private sector service providing industries grew by 7,500 jobs (1.3%) percent, while the goods producing industries grew by 6,300 jobs (6.3%). In the state and local government agencies, there was a loss of 700 jobs (1.3%) in state government, though this was offset by gains of 1,100 jobs (1%) in local government.

Mining and construction reported the largest employment increase with a gain of 5,500 jobs (7.5%). Within this industry, construction was up 4,900 jobs and mining was up 600 jobs. (Source: New Mexico Department of Workforce Solutions [Employment News Release](#))

The data for the last five years shows a downward trend in accidents and illnesses, including an 18% decrease in the Total Case Incident Rate (TCIR) in the construction industry and an 18% decrease in state and local government. The Days Away, Restricted or Transferred (DART) data shows an overall decline from 2014 and 2018 for private industry, manufacturing, and state and local government. This achievement may be attributed to OHSB's emphasis on increased enforcement presence in high hazard industries. There has been a slight increase in construction, from 1.4 in FY 2014 to FY 2019 in 2019.

The federal share of the initial FY 2019 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 \$50,250 in federal funds during this period due to staffing vacancies.

A review of OHSB's 23(g) financial grant was conducted during the on-site, and there were no findings. OHSB abides by the exemptions and limitations on OSHA appropriations, and no inspections were conducted outside of those guidelines.

### Five Year Funding Comparison

<b>Fiscal Year</b>	<b>Federal Award (\$)</b>	<b>State Plan Match (\$)</b>	<b>Total Funding (\$)</b>	<b>One Time Funding</b>	<b>Deobligated back to OSHA</b>
2019	994,500	994,500	1,989,000	0	50,250
2018	994,500	994,500	1,989,000	0	19,500
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

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.

New Mexico transmitted a five year Strategic Plan and corresponding Annual Performance Plan during the FY 2019 grant application process. Several of the recent areas of emphasis remain in place such as construction, oil and gas well drilling and servicing, primary and fabricated metals, silica, hospitals and nursing care.

The OHSB staff consists of the Bureau Chief; three Program Managers, one each for Compliance, Consultation, and Administration; one Compliance Supervisor; seven Safety COs; three Health COs; two Safety Consultants; and two Health Consultants; two Compliance Assistance Specialists (CAS); and three and a half administrative staff members.

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

## **B. New Issues**

### Staffing

OHSB experienced greater than normal staff turnover throughout FY 2018 and 2019, with an average vacancy rate of 20% among COs during FY 2019. The State Plan lost one safety CO and three health COs during FY 2019. The focus for FY 2019 was to fill their vacancies and train new hires as soon as possible so OHSB can continue to meet their benchmarks and inspection goals.

As of February 5, 2020, OHSB currently has one CO supervisor, one safety CO, one health CO and one administrative staff vacancy. They are actively trying to fill these positions. The State Plan 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 2019 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review.

A seven person OSHA team was assembled to conduct half the case file and financial review onsite in Santa Fe, NM between December 9 and December 13, 2019.

A total of 69 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, 2018 through September 30, 2019). The selected population included:

- Six fatality case files
- Twenty-three referral case files
- Eleven programmed planned case files
- Ten programmed related case files
- One other case files
- Three follow-up case file
- Fifteen 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 (SAMM) (Appendix D)
- State Indicators Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (SOAR) (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 2019 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**

During FY 2018 and 2019, OHSB provided training to the staff via webinars, the OSHA Training Institute (OTI), OSHA Education Centers, and online courses.

The State Plan sent COs to OTI during FY 2018 and 2019 to attend the following courses:

- Initial Compliance #1000
- Introduction to Safety Standards for Safety Officers #1050
- Accident Investigation #1230
- Investigative Interviewing Techniques #1310
- Introduction to Health Standards for Industrial Hygienists #1250
- Inspection Techniques and Legal Aspects #1410
- Introduction to On-Site Consultation #1500
- State Plan Monitoring #1530
- Industrial Noise #2200
- Principles of Industrial Ventilation #2210
- Biohazards #2340
- Evaluation of Safety and Health Management Systems #2450
- Safety and Health in the Chemical Processing Industries #3300
- Combustible Dust Hazards and Controls #3320
- Hazard Analysis in the Chemical Processing Industries #3400

In addition, State Plan personnel attended classes through the University of Texas OSHA Education Center and numerous Webinars. They have worked with the University of Texas OSHA Education Center during FY 2019 to bring three classes to the state in order to train the new COs at one time, and to save on travel expenses.

At each quarterly meeting and at the end of each fiscal year, the State Plan provides updates on training received by all 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 ran weekly and printed on Monday. The Compliance Program Manager (CPM) is appropriately using the reports to manage the enforcement program.

OHSB staff members enter data in a timely and accurate manner, with few exceptions. The CPM 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 victim's family members.

c) State Internal Evaluation Program Report

OHSB developed and implemented a comprehensive State Internal Evaluation Program (SIEP) in FY 2019. The SIEP was initiated to ensure that program operations conform to policies and procedures established by the State Plan.

OHSB's SIEP Report included an internal evaluation of its 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 states needs and personnel resources.

Areas of Emphasis for SIEP Program

- Case file documentation
- Citation processing
- Petitions to modify abatement
- Denial of entry/warrant applications
- 23(g) laboratory processes

OHSB developed a Continuous Improvement Plan (CIP) in FY 2019 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.

d) Staffing

According to the FY 2020 23(g) grant application, OHSB had seven safety COs and two health COs (with seven safety and three health allocated) on board as of August 2019. Staff turnover and filling vacancies for the State Plan was challenging. During FY 2019, OHSB vacancies included one administrative staff, one compliance supervisor (CS), one administrative manager, one safety CO and three health COs.



New Mexico took immediate hiring actions to fill the vacant positions. The process of filling a CO position begins with a vacancy announcement. However, once hired, a new compliance personnel must complete the OTI Initial course. After a period of shadowing, new hires acquire the skills to conduct their first solo inspection. The process to becoming a fully trained CO can take approximately eight to twelve months. Currently, OHSB has seven safety COs and two health COs on board. They are actively trying to fill the following vacancies: one safety CO, one health CO and one Compliance Supervisor.

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

Most of the staff members work out of the Santa Fe or Albuquerque offices, with one CO stationed in Las Cruces and one CO in Roswell.

## **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 2019, OHSB inspections increased significantly, from 155 safety and 64 health in 2018 to 271 safety and 54 health in FY 2019, a nearly 48% increase overall. The State Plan missed their goal of 360 by 10%. Of the 325 total inspections conducted in FY 2019, construction accounted for 126 (39%). Sixty-two were unprogrammed other or related, thirty-one were referrals, five were fatalities, one was a follow-up and sixty-four were programmed inspections. (Source: OIS Inspection Summary report ran on January 24, 2020)

### **a) Complaints**

New Mexico has interpreted the New Mexico Occupational Health and Safety 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 CPM. Appendix D shows there were one complaint inspection conducted by OHSB during FY 2019, accounting for less than 1% of inspection activity. Referral inspections accounted for 42% (138/325) of inspection activity. (Source: OIS Inspection Summary report dated February 4, 2020)

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 38 working days to respond to all serious and/or other than serious complaints by inspection, which is outside the FRL of five working days.

The State Plan originally entered a complaint as a referral and handled it by phone and fax letter. They completed their investigation, and closed the referral. OHSB then received additional allegations from the complainant and decided to conduct an inspection. The State Plan then changed the referral to a complaint. OSHA will continue to monitor this measure during quarterly meetings.

Looking back at the previous five years, OHSB has been below the further review level and OSHA believes this is a onetime occurrence. Therefore, this does not rise to the level of a finding or observation.

<b>Complaints (SAMM 1, 2, 3, 4)</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>	<b>FRL</b>
Average number of work days to initiate complaint inspections (SAMM 1)	38	3	2	3	2.86	5
Time to initiate complaint investigations State formula (Average number of work days to initiate complainant investigations (SAMM 2)	8	0	1	2	.50	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 their previous five-year performance in this area.

Because the New Mexico OHS Act so narrowly defines complaints, the State Plan’s response to referrals alleging serious hazards has historically been reviewed at quarterly monitoring meetings. OHSB responded to 288 of 311 (93%) referrals alleging serious hazards within 10 working days. (Source: OIS UPA One Liner 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 35 fatalities were reported to OHSB in FY 2019. Two resulted from an airplane crash; five were heart attacks; ten were auto accidents; and eight were found deceased due to health reasons not related to occupational hazards. Of the ten fatalities OHSB inspected, five were in the construction industry and three in state and local government. Three fatalities resulted from falls; four were electrocuted; one slipped on ice; one was crushed; and one was killed in a fireworks explosion. All fatality inspections (100%) were initiated within one day.

<b>Percent of work-related fatalities responded to in one workday (SAMM 10)</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>	<b>FRL</b>
	100%	100%	100%	100%	100%	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.

OSHA reviewed six fatality case files closed in FY 2019. The documentation in the files included interview statements, photographs, and investigation summaries.

**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 2014 through 2018 is provided in the table below. At the closing of this monitoring period, 2018 was the most recent year for which data was available. (Source: [www.bls.gov](http://www.bls.gov))

**Five-Year Trend for Rates**

<b>Industry</b>	<b>CY 2018</b>	<b>CY 2017</b>	<b>CY 2016</b>	<b>CY 2015</b>	<b>CY 2014</b>	<b>% Change, 2014-2018</b>
<b>Private Industry</b>						
TCIR	3.1	3.1	3.4	3.1	3.2	-3%
DART	1.4	1.3	1.6	1.5	1.5	-7%
<b>Construction</b>						
TCIR	2.8	2.6	2.2	3.6	3.4	-18%
DART	1.8	1.6	1.2	1.6	1.7	6%
<b>Manufacturing</b>						
TCIR	4.1	3.0	2.8	2.4	5.3	-23%
DART	2.7	1.8	1.4	1.3	3.3	-18%
<b>State and Local Government</b>						
TCIR	4.7	4.9	4.4	5.4	5.7	-18%
DART	1.6	1.7	1.7	2.0	2.0	-20%

The data for the last five years shows a downward trend, with a decrease of TCIR of 18% in the construction industry and state and local governments. The DART data shows an overall decline as well from 2014 to 2018 for private industry, 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 two 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 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, nursing and long-term care. OHSB also continued activities at facilities with hazards involving primary metals processing and the use of hexavalent chromium through the adoption of national emphasis programs. The Bureau uses BLS and New Mexico Department of Health data on health related exposures when developing SEPs.

During FY 2019, OHSB conducted 271 safety and 54 health inspections for a total of 325 inspections statewide. This represents 90% of OHSB's annual performance goal of conducting 360 inspections during this period. The State Plan's safety inspections number of 271 was 11% above their goal of 245. The health inspection number of 54 was 53% below their goal of 115. 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 232.75 to 257.25 for safety and 109.25 to 120.75 for health. (SAMM 7)

OHSB experienced a 100% turnover rate among their health COs during this period, which contributed to the lower health inspections numbers. Turnover and the need for compliance officer training were cited as the primary factors contributing towards

the lower than expected health inspections. OSHA will continue to monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2020.

**Finding FY 2019-02 (Formerly FY 2018-05):** OHSB conducted 54 health inspections, which was 53% below their goal of 115. The range of acceptable data not requiring further review is 109.25 to 120.75 for health.

**Recommendation:** The State Plan should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach their health inspection goals.

**Status:** Continued.

<b>Planned vs. Actual Inspections (SAMM 7)</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>
Goal	360	400	400	400	400
Conducted	325	219	320	437	388
Differences	(35)	(181)	(80)	37	(12)

SAMM 17, percent of enforcement presence, is 0.93%. The FRL is based on a three-year national average. The range of acceptable data not requiring further review is 0.92% to 1.54%. The percent total enforcement presence is based on the total inspections divided by the total establishments. Total establishments do not include state and local government workplaces establishments or establishments in low hazard private sector industries.

**Finding FY 2018-06:** Percent of enforcement presence of 0.63% is significantly lower than the 0.92% in FY 2017 and lower than the FRL of 0.93% to 1.55%. (SAMM 17)

**Recommendation:** OHSB should continue efforts to understand and address its high turnover rate and fill staff vacancies.

**Status:** Completed. The range of acceptable data not requiring further review is from 0.92% to 1.54%.

<b>Percent of Enforcement Presence (SAMM 17)</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>
	0.93%	0.63%	0.92%	1.26%	1.13%

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 the percent of in-compliance safety inspections is +/- 20% of the one-year national average of 30.30%, which falls within a range of 24.24% to 36.36%. The State Plan's percent in-compliance for safety is 43.46%, which is higher than the FRL due to OSHB opening with all employers on construction sites. Since FY 2015, OHSB has consistently lowered their in-compliance rate.

The FRL for percent in-compliance for health inspections is +/- 20% of the one-year national average of 36.12%, which falls within a range of 28.90% to 43.35%. The State Plan's percent in-compliance for health is 33.33%, which is in line with the national average and within the acceptable FRL range.

Percent In-Compliance (SAMM 9)	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015
Safety	43.46%	54.07%	66.8%	62.5%	45.9%
Health	33.33%	36.84%	37.6%	49%	29.7%

**Finding 2018-4:** The in-compliance rate of 54.07% for safety exceeded the FRL of 35.88% for safety per SAMM 9.

**Recommendation 2018-4:** 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 training and hazard identification efforts.

**Status:** Completed. The range of acceptable data not requiring further review is 24.24% to 36.36% for safety and 28.90% to 43.35% for health.

The FY 2019 Inspection Summary report shows 43% (141/325) 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	61% (32/52)	42% (3/7)
SIR 2B - Percent of private sector programmed inspections with violations as issued	61% (32/52)	42% (3/7)
SIR 2C - Percent of not in compliance (NIC) private sector programmed inspections that currently have serious, willful, repeat, and unclassified (SWRU) violations	84% (7/32)	66% (2/3)
SIR 2D - Percent of NIC private sector programmed inspections with SWRU violations as issued	87% (28/32)	66% (2/3)

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, manufacturing of fabricated metals; oil and gas well drilling and servicing; hospitals, nursing care facilities and residential care facilities and long-term care facilities; and silica exposure during FY 2019. OHSB also participated in several National Emphasis Programs (NEPs) including Primary Metals, Hexavalent Chromium and Process Safety Management in Chemical Processing Facilities.

In FY 2019, OHSB inspected 42% (138/325) 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, 19 of the 54 case files reviewed (35%) did not document worker interviews as part of the investigation process. According to SAMM 13, Percent of Initial Inspection with Worker Walk Around Representation or Worker Interview, in all 325 (100%) inspections conducted employees were interviewed. 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 2018-01:** 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.

**Status:** Converted to a finding. This observation is converted to Finding FY 2019-01.

**Finding 2019-01 (Formerly 2018-01):** In 19% (10/54) of the case files reviewed, employees were not interviewed. 35% (19/54) of these case files lacked documentation of employee interviews.

**Recommendation 2019-01:** OHSB should ensure 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.

**Status:** Open. The State Plan has continued to make progress on this finding and will continue to work with training and overseeing their new compliance officers in this area.

During FY 2019, the State Plan conducted 54 health inspections. According to the Sampling Scan Enforcement Report in OIS, 13 (24%) of these inspections contained sampling. In FY 2018, the State Plan conducted 64 health inspections. According to the Sampling Scan Enforcement report in OIS, 11 (17%) of these inspections contained sampling.

**Finding 2018-03:** 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 2018-03:** 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:** Completed.

d) Citations and Penalties

The New Mexico Occupational Health and Safety Bureau Compliance Section cited 391 violations, according to the Case Related Summary report in FY 2019 with 106 (27%) of the violations contested. Of the serious violations, 28 (10%) were in the state and local government and 245 (90%) were in the private sector.

SAMM 11 for FY 2019 shows OHSB average citation lapse times of 51.59 working days for safety and 52.44 working days for health. The further review level is based on a three-year national average. The range of acceptable data not requiring further review is 38.08 to 57.13 for safety and 45.78 to 68.68 for health.

The safety lapse time decreased by 29% between FY 2015 and FY 2019 and the health lapse time decreased 25%. OHSB has continued to work on lowering their citation lapse time and this measure is no longer considered cause to continue the finding.

The table below shows the State Plan has continually lowered their citation lapse time.

Average Lapse Time (SAMM 11)	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015
Safety	51.59	56.26	67.25	73.07	72.8
Health	52.44	71.00	57.55	74.39	70.5

**Finding 2018-2:** During FY 2018, SAMM 11 shows the average safety citation lapse time for OHSB is higher than the national average. OHSB has a lapse time of 56.26 for safety and 71.00 for health compared to the high end of the further review level range of 55.44 for safety and 67.87 for health.



**Recommendation:** OHSB should review processes and policies to identify roadblocks and inefficiencies causing high safety lapse times.

**Status:** Completed. OHSB instituted several measures to aid staff in the timely closing of inspection files.

OHSB had an acceptable average number of violations per inspection for SAMM 5. OHSB had an average of 1.78 serious/willful/repeat violations per inspection, which is within the FRL range of 1.43 to 2.15. However, OHSB had an average of 0.61 other-than-serious violations, which is below the FRL range of .78 to 1.16.

The Inspection Summary Report for FY 2019 shows OHSB COs identified 346 violations. Of these, 229 (66%) were serious; 3 (1%) were repeat; and 108 (31%) 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, January 1, 2018, and January 1, 2019 according to the CPI. State Plans are required to adopt both the 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](https://www.env.nm.gov/Ohsb_Website/Announcements.htm).

OHSB's current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) is \$2,207.27 in FY 2019, which is within the acceptable further review level range of \$2,153.97 to \$3,589.95. 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.

<b>Average Penalty Assessed per Serious Violation (SAMM 8) (Private Sector)</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>
Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$2,207.27	\$1,909.40	\$1,025.59	\$1,019.29	\$853.23
a. Average current serious penalty in private sector (1-25 workers)	\$1,501.48	\$925.00	\$671.64	\$679.31	\$589.92
b. Average current serious penalty in private sector (26-100 workers)	\$2,301.41	\$2,684.21	\$1,070.63	\$1,068.24	\$1,024.44
c. Average current serious penalty in private sector (101-250 workers)	\$3,405.59	\$3,026.00	\$1,569.85	\$2,240.63	\$975.00
d. Average current serious penalty in private sector (greater than 250 workers)	\$3,368.91	\$2,485.38	\$2,694.00	\$2,207.81	\$1,726.47

SAMM 12, Penalty Retention Percent Penalty Retained shows OHSB retains 84%, which is 19% higher than the nationwide average and well above the FRL of 56.42% to 76.33%.

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 Compliance Manager (CM) runs the appropriate reports, which are shared with the COs.

Of the 34 case files reviewed, 32 (94%) contained written documentation, photos, work orders, or employer’s certification of abatement. Petitions for Modification of Abatement (PMA) 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. Of the 34 case files reviewed, 91% had appropriate abatement periods. Of the three, the reviewers felt the abatement period was either too short or too long.

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 7% (24/325) of OHSB inspections conducted in FY 2019 were at union sites, the same as the 7% (15/219) in FY 2018.

SAMM 13 shows 100% (325/325) of initial inspections with employee walk around representation or employee interviews. The further review level is 100%.

The case file review revealed that in 81% (44/54) of the case files included employee interviews and 65% (35/54) of these case files included documentation of these employee interviews. OHSB is not consistently conducting employee interviews in inspections. This was finding 2018-01 in FY 2018 and will continue as finding FY 2019. According to the Inspections Where Worker are Involved Report in OIS, 100% (325/325) conducted employee interviews.

In FY 2019, OHSB continued to stress to compliance staff the importance of documenting employer knowledge when establishing violations. To drive continuous improvement, the CPM reviews case files to check the adequacy of documentation on an on-going basis. Management reviews violation documentation periodically during internal COs training sessions and employee evaluations.

**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 2019, the State Information Report (SIR) measure 5A shows 2% (10/419) of violations vacated Pre-Contest for private sector inspections. SIR measure 5B shows 10% (9/88) of violations vacated after a contest had been filed for private sector inspections. SAMM 12 is the penalty retention percent penalty retained. OHSB retained 84% (\$435,387.50/516,250.00) of their penalties prior to contest.

Penalty Retention Percent Penalty Retained (SAMM 12)	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015
	84%	90%	82%	81%	95%

## b) Formal Review of Citations

Once an employer, employee, or employee representative has contested a citation, 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 3% (11/393) of violations reclassified Pre-Contest for private sector inspections and 6B shows 9% (7/79) 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 59% 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 78 days; the national data shows 147 days. Almost all cases result in formal settlement agreements in New Mexico; only a few each year reaches 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 2018 and none for FY 2019. 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. COs 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

##### a) Standards Adoption

In accordance with 29 CFR 1902, State Plans are required to adopt standards and federal program changes within a six-month period. 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 three final rules. OHSB adopted two identical to OSHA. All responses were transmitted prior to the due date. The table below identifies the OSHA-initiated standards.

**Federal Standards Adopted in 2018 and 2019**

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adoption Identical	Adoption Due Date	State Plan Adoption Date
Final Rule, Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	6/3/2019	Yes	Yes	11/14/2019	9/20/2019
Final Rule, Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	3/28/2019	Yes	No	7/23/2019	4/1/2019
Final Rule, Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	2/6/2019	Yes	Yes	5/9/2019	12/10/2018

##### b) Federal Program Change (FPC) Adoption

Six Federal Program Changes (FPCs) required a response and/or plan supplement in FY 2019. All responses were transmitted prior to the due date. OHSB was current on timely adoption of standards during FY 2019. OHSB adopted one of them identical to OSHA and three maritime standards do not apply to OHSB since New Mexico is landlocked.

**Status of Federal Program Changes (FPCs) Adoption**

<b>FPC Directive/Subject:</b>	<b>Response Due Date</b>	<b>State Plan Response Date</b>	<b>Intent to Adopt</b>	<b>Adopt Identical</b>	<b>Adoption Due Date</b>	<b>State Plan Adoption Date</b>
<i>Adoption Required</i>						
National Emphasis Program on Trenching and Excavation CPL 02-00-161 (10/1/2018)	11/30/2018	11/30/2018	Yes	Yes	4/1/2019	11/30/2018
<i>Equivalency Required</i>						
Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment CPL 02-01-061 (5/22/2019)	7/21/2019	7/2/2019	No	No	11/22/2019	N/A
Shipyard Employment "Tool Bag" Directive CPL 02-00-162 (5/22/2019)	7/21/2019	7/2/2019	No	No	11/22/2019	N/A
Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment CPL 02-01-060 (5/22/2019)	7/21/2019	7/2/2019	No	No	11/22/2019	N/A
Site-Specific Targeting 2016 (SST-16) CPL 02-18-01 (10/16/2018)	12/15/2018	12/17/2018	No	No	4/16/2019	1/2/2019
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019	3/19/2019	No	No	n/a adoption not required	No

**5. VARIANCES**

OHSB did not issue any permanent or temporary variances in FY 2018 or 2019. OHSB has only issued one temporary variance in its 44-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 2019 grant application, approximately 22% of workers in the state work in state and local government. For FY 2019, the State Plan projected they would conduct 30 state and local government inspections (15 safety and 15 health). According to the Inspection Summary Report for FY 2019, they conducted 23 inspections. Of those, 17 were safety and six were health.

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 7.08% (23/325) of the total inspections OHSB conducted were in the state and local government. OHSB’s goal is approximately 6%, based on the percentage of state and local government workers who are considered in a high hazard industry.

The FRL 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 7.92% to 8.75%. In the five years prior to 2018, the State Plan has exceeded their goal for this measure. In FY 2019, they increased their inspections by 19 over the previous year. OSHA will continue to discuss this measure during quarterly meetings with OHSB.

SAMM 6	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015
Percent of Total Inspections in Local Government Workplaces	7.08%	1.83%	12.81%	5.26%	5.67%

The Bureau continued its compliance assistance activities in the state and local government during FY 2019 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 state and local government agencies, OHSB presented occupational safety and health information to a total of 25 county, city and state government agencies, reaching approximately 29,599 workers and impacting many more.

## 7. WHISTLEBLOWER PROGRAM

The FAME review included an evaluation of the New Mexico OHSB whistleblower program, including policy and procedures and investigative files. The Review Team evaluated 12 full field investigative case files from FY 2019, which included ten dismissed investigative case files, one case that was settled, and one merit finding.

In FY 2019, the Bureau received 57 retaliation complaints, opened 12 investigations, made 10 determinations, found merit in one case, and settled one case. Of the 57 cases the Review Team reviewed, 72% (44) 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, of the cases reviewed that required a Respondent (RP) Position Statement (PS), the information (RP PS) was provided to the Complainant so a rebuttal statement and/or interview could be conducted. In the cases that were reviewed, the Respondent Position Statement was disseminated to the Complainant.

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 the 30-day timeframe.

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 42% (5/12) of OHSB's retaliation investigations during the period were completed within 90 days. The further review level is 100% for all State Plans.

SAMM 15 shows an 8% (1/12) meritorious case rate for OHSB during FY 2019. The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%. The low percent of merit cases, when considered on its own, does not necessarily indicate an issue with the State Plan performance. OSHA will continue to monitor this measure during quarterly meetings.

SAMM 16 shows OHSB takes an average of 108 days to complete an 11c investigation, which is above the further review level of 90. OSHB has one investigator for the Whistleblower Program and the program is time intense.



<b>Five Year Performance Comparison Whistleblower Protection</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2017</b>	<b>FY 2016</b>	<b>FY 2015</b>	<b>FRL</b>
Percent of 11(c) investigations completed within 90 days (SAMM 14)	42% (5/12)	70% (7/10)	47% (8/17)	54% (7/13)	19% (3/16)	100%
Percent of 11(c) complaints that are meritorious (SAMM 15)	8% (1/12)	20% (2/10)	24% (4/17)	2% (2/13)	0% (0/16)	+/- 20% of 23%
Average number of calendar days to complete an 11(c) investigation (SAMM 16)	108	95	114	201	153	90

## **8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)**

There were no CASPAs filed against New Mexico OSHB in FY 2018 or 2019.

## **9. VOLUNTARY COMPLIANCE PROGRAM**

The Cooperative Programs in OHSB is administered under its 23(g) grant program. OHSB cooperative programs include eight Voluntary Protection Program (VPP) sites, six partnerships, and three alliances.

OHSB's Voluntary Protection Programs is called the Zia Star Voluntary Protection Programs (VPP). The OHSB continued to focus efforts on strengthening program quality and reviewing current VPP participants during the year. They lost three participants during FY 2019. One of the VPP sites shut down their operations in the state and withdrew from the program in December 2019. The additional two sites was due to an acquisition by another company. Overall, OHSB continues to operate VPP in a manner consistent with the VPP Policy Improvement Memorandums issued by OSHA.

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 New Mexico Construction Safety Coalition (CSC) 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 an 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 with the University of New Mexico (UNM) Medical School’s Occupational Medicine Rotation. 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 state and local government agencies 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 state and local government agencies, the OHSB presented occupational safety and health information to a total of 25 county, city and state government agencies, reaching 29,599 workers and impacting many more.

New Mexico continued to engage in outreach activities for SEPs within the industries of construction, primary and fabricated metals, oil and gas well drilling and servicing, and hospitals and nursing care during FY 2019. The Bureau continued its SEP for silica exposure in the construction and earth products manufacturing industries.

<b>Compliance Assistant Specialist Activity</b>		
<b>Type</b>	<b>FY 2019</b>	<b>FY 2018</b>
Email Alert	1	
Meeting	18	3
Newsletter	1	
Other Compliance Activities	1	1
Speech/Presentations	1	1
Technical Assistance	13	5
VPP Site Visit		1
<b>Total</b>	<b>35</b>	<b>11</b>
Number of Workers Attended	6,552	1,080
Number of Workers Affected	9,068	25,115

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

The State and Local Government Consultation Program conducted 44 consultation visits and 25 interventions visits throughout New Mexico reaching approximately 291,488 workers and impacting many more. Based on their FY 2019 grant proposal, New Mexico OHSB had established a goal of 30 consultation visits, exceeding their goal by 14 visits. Through these visits, they identified 302 hazards.

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 44 visits statewide. Of the 44 visits conducted, 42 were initial visits and two were follow-up visits.

The MARC metric 3 indicates OHSB consulted with workers in 100% of the state and local government sector initial visits. OHSB conferred with employees on 100% (17/17) of initial visits and 100% (1/1) of the follow-up visits.

MARC 4 has several subsections, two of which have goals. The first is to ensure that 100% of serious hazards are verified to have been corrected within 14 days of the original correction due date. OHSB verified correction of 100% (49/49) of identified serious hazards within this timeframe. The second goal is to verify correction of at least 65% of serious hazards either on site or by the original correction due date. OHSB verified correction of 57% (28/49) of identified serious hazards either on site or by the original correction due date. This resulted in 43% (21/49) of the serious hazards not being corrected onsite or in the original timeframe. Instead, these worksites were given extensions with established interim protection.

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

## **11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM**

Private sector consultation services are provided in New Mexico under a 21(d) Cooperative Agreement, and state and local government agencies 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 2019 New Mexico Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2019-01	In 19% (10/54) of the case files reviewed, employees were not interviewed and 35% (19/54) of these case files lacked documentation of employee interviews.	OHSB should ensure basic employee interview documentation is 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.	FY 2018-01 FY 2018-OB-01
FY 2019-02	OHSB conducted 54 health inspections, which was 53% below their goal of 115. The range of acceptable data not requiring further review is from 109.25 to 120.75 for health.	The State Plan should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach their health inspection goals.	FY 2018-05

## Appendix B – Observations Subject to New and Continued Monitoring

FY 2019 New Mexico Comprehensive FAME Report

Observation # FY 2019-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
	FY 2018-OB-01	Basic employee interview documentation should be consistently documented in the case file and narrowly used to explain what occurred during the inspection or why citations were or were not recommended, as required by the OSHB Field Operations Manual (FOM).	OSHA will continue to effectively monitor the OHSB's performance in this area during quarterly meetings and through case file review in FY 2021.	Converted to a Finding and Combined with FY 2019-01

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2019 New Mexico Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2018-01	20% (14/69) of the non-fatality case files reviewed in FY 2017, 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.	During FY2018 OHSB developed the following strategies to enhance citation documentation: 1. Consolidated supervisory staff in October 2018. 2. Increased enforcement support staff in January 2019. 3. Trained Compliance Officers in FY2018 to enhance investigation and interviewing skills and will provide a two-day internal course in interviewing techniques prior to the end of FY2019.		Open
FY 2018-02	During FY 2018, SAMM 11 shows the average safety citation lapse time for OHSB is higher than the national average. OHSB has a lapse time of 56.26 for safety and 71.00 for health compared to the high end of the further review level range of	OHSB should review processes and policies to identify roadblocks and inefficiencies causing high safety lapse times.	In FY 2018 and FY2019, OHSB instituted internal measures to aid staff in timely closing inspection files. During FY2019, OHSB has maintained citation lapse times at or below the nationwide average.	9/30/2019	Completed

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2019 New Mexico Comprehensive FAME Report

	55.44 for safety and 67.87 for health.				
FY 2018-03	OHSB conducted 64 health inspections. According to the Sampling Scan Enforcement Report in OIS, 53 (83%) 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.	In FY2019, OHSB reviewed its health-related state emphasis programs to aid industrial hygiene staff in identifying sampling opportunities. OHSB also provided training to health Compliance Officers to ensure that sampling was conducted to determine exposure levels.	9/30/2019	Completed
FY 2018-04	The in-compliance rate of 54.07% for safety exceeded the high end of the further review level range of 35.88.	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.	During FY2019 and FY2020 OHSB will implement the following measures: 1. Develop a site-specific targeting (SST) state emphasis program (SEP), to be implemented on October 1, 2019. 2. Request to increase its budget for the 2021 state fiscal year for Compliance Officer training.	9/30/2019	Completed
FY 2018-05	OHSB conducted 155 safety and 64 health for 219 inspections. This represents 55% of OHSB's annual performance goal of conducting 400 inspections during this period. (SAMM 7)	OHSB should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach inspection goals.	During FY2019, OHSB filled staff vacancies and provided training to conduct inspections. The current vacancy rate among compliance staff is 9%. OHSB will continue to train new Compliance Officers during the remainder of FY2019 and expects to meet inspection goals in FY2020.		Open

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2019 New Mexico Comprehensive FAME Report

FY 2018-06	Percent of enforcement presence is 0.63%, significantly lower than the 0.92% in FY 2017 and lower than the FRL of 0.93% to 1.55%.	OHSB should continue efforts to understand and address its high turnover rate and fill staff vacancies.	During FY2019, OHSB filled staff vacancies and provided training to conduct inspections. The current vacancy rate among compliance staff is 9%. OHSB will continue to train new Compliance Officers during the remainder of FY2019 and expects to meet goals for enforcement presence in FY2020.	9/30/2019	Completed
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**Appendix D – FY 2019 State Activity Mandated Measures (SAMM) Report  
FY 2019 New Mexico Comprehensive FAME Report**

<b>U.S. Department of Labor</b>				
<b>Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)</b>				
<b>State Plan: New Mexico – OHSB</b>			<b>FY 2019</b>	
<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	38	5	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	38	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	8	0	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	5	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.78	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
		Other: 0.61	+/- 20% of Other: 0.97	
<b>6</b>	Percent of total inspections in state and local government workplaces	7.08%	+/- 5% of 8.33%	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 7.92% to 8.75%.
<b>7</b>	Planned v. actual inspections – safety/health	S: 271	+/- 5% of S: 245	The further review level is based on a number negotiated

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		H: 54	+/- 5% of H: 115	by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 232.75 to 257.25 for safety and from 109.25 to 120.75 for health.
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$2,207.27	+/- 25% of \$2,871.96	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$1,501.48	+/- 25% of \$1,915.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$2,301.41	+/- 25% of \$3,390.30	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$3,405.59	+/- 25% of \$4,803.09	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$3,368.91	+/- 25% of \$5,938.59	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.
<b>9</b>	Percent in compliance	S: 43.46%	+/- 20% of S: 30.30%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
		H: 33.33%	+/- 20% of H: 36.12%	

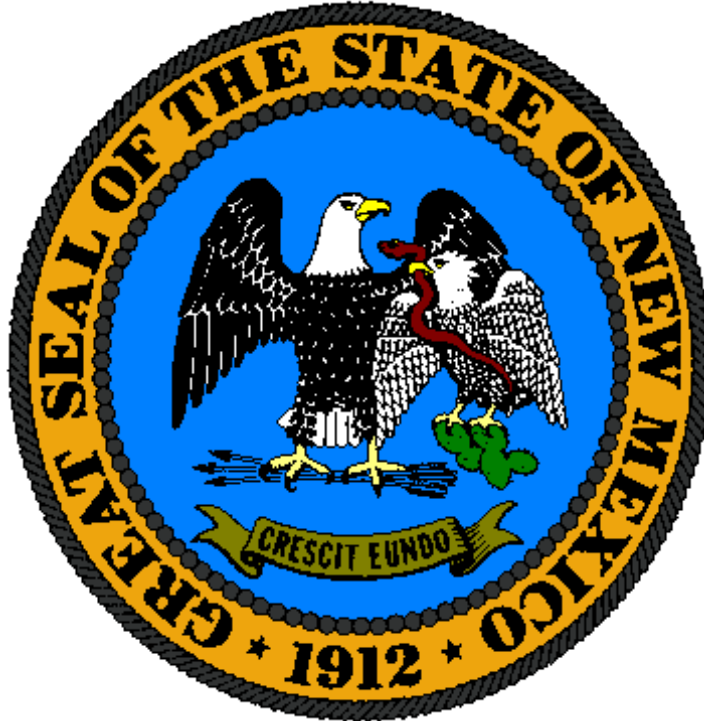
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<b>10</b>	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 51.59	+/- 20% of S: 47.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health.
		H: 52.44	+/- 20% of H: 57.23	
<b>12</b>	Percent penalty retained	84.34%	+/- 15% of 66.38%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	42%	100%	The further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	8%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	108	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	0.93%	+/- 25% of 1.23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.

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**New Mexico Environment Department  
Occupational Health and Safety Bureau**

**State OSHA Annual Report**



**Fiscal Year 2019  
October 1, 2018 – September 30, 2019**

Michell Lujan Grisham, Governor  
James C. Kenney, Cabinet Secretary  
Robert Genoway, Bureau Chief

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### I. Executive Summary

In the fiscal year 2019, 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, and hospitals and nursing care during FY2019. 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 continued work with established Alliances including the New Mexico Chapter of the American Society of Safety Engineers, 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.

The Bureau received recognition from the Occupational Safety and Health State Plan Association in FY2019. Butch Tongate, former OHSB Chief, was presented with the Doug Earle Award of Excellence at the Spring 2019 OSHSPA meeting in Chicago. The award is given to state plan representatives who have made significant contributions to the Association’s efforts. While representing New Mexico, Mr. Tongate advocated for state programs and was instrumental in bringing state issues to Congress and federal OSHA. He is the seventh recipient of the award since its inception more than 20 years ago.



*Kevin Beauregard, OSHSPA Chair, and Butch Tongate*

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The OHSB continued to experience significant staff turnover throughout 2019 but reduced the average compliance officer vacancy rate from 35% in 2018 to 20% in 2019. The Bureau also hired a new Compliance Program Manager in 2019 and is working to ensure new staff are provided training needed to meet inspection goals.

### II. Progress toward Strategic Plan Accomplishment

Through strategic planning and regular meetings among management, compliance, and cooperative programs staff, OHSB coordinated efforts to reach industries and employees where the greatest potential for injuries and illness exist. The Bureau's performance plan for FY2019 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 OHSB 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 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.



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 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. OHSB focused resources toward enforcement in the oil and gas industry in FY2019 based on the continuing high rate of fatalities within the industry as compared to rates in all industry within the Bureau's jurisdiction.

*May 2019 inspection of oil drilling rig*

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

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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 for maintaining safe workplaces.

### B. Whistleblower Protection

The OHSB continued to build upon the success of its whistleblower discrimination investigation program. In FY2019, the Bureau received 55 discrimination complaints, opened 12 investigations, made 12 determinations, and found merit in 1 case.

### 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 Bureau conducted recertification evaluations but also lost three participants.

#### 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 Bureau currently has partnerships with industry groups such as the Associated General Contractors (photo), the Associated Contractors of New Mexico, the Associated Builders and Contractors, the New Mexico Utility Contractors Association, the Mechanical Contractors Association, and the American Subcontractors Association. OHSB and partner members focus work on common safety issues.



*AGC Construction Health & Safety Excellence (CHASE) partnership awards ceremony in August 2019*

The New Mexico Construction Safety Coalition held quarterly meetings in FY2019. The Coalition is composed of OHSB representatives and representatives for each of the six OSPC partnership associations.

#### 3. Compliance Assistance and Outreach

**Public Utilities Assistance** – OHSB and the New Mexico Utility Contractors Association, through a longstanding partnership, presented awards to member



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companies for outstanding performance in providing safety for construction workers. These compliance assistance partnerships are designed to encourage, assist, and recognize efforts to eliminate serious hazards and achieve a high degree of employee safety and health. Members of the partnership share resources to focus on common safety issues.

**ASSE Outreach** – During the New Mexico Chapter of the American Society of Safety Engineers (NM ASSE) Annual Professional Development Conference (PDC), OHSB compliance assistance specialists and consultants presented construction safety and industrial hygiene topics. This alliance provides New Mexico employees and employers with guidance, access to information and training resources, industry-specific hazard prevention.

**Career Fair** – OHSB provided information on the field of occupational health and safety at the College Career Connection Day in Albuquerque in 2019. The APS-sponsored event was targeted to Native American high school students and included workshops and presentations by colleges, businesses, and agencies including OHSB and State Forestry.



**Public Sector Training** – OHSB contracted with the University of Texas at Arlington in 2019 to provide safety training for public workers. Courses included principles of scaffolding, fall protection and excavation safety. The State experienced three fatal accidents among public workers during the year.

*OHSB Compliance Officer and Consultant assist with public sector scaffold safety training in June 2019*

**Oil and Gas Outreach** – OHSB participated in an annual meeting of the Southeast New Mexico Service, Transmission, Exploration and Production Safety (STEPS) Network. A compliance assistance specialist presented information on OSHA programs including the Safe + Sound campaign. The Bureau also signed an alliance renewal with the STEPS Network to promote safety in the industry during the event. The Network is comprised of representatives from government and operators, contractors, vendors, and suppliers engaged in oil and gas industry activities in the Permian Basin.

**Medical Resident Training** – OHSB continued its participation in the University of New Mexico (UNM) Medical School's Occupational Medicine Rotation. The Bureau has coordinated occupational medicine rotations with the UNM Center for Occupational and Environmental Health Promotion since 2007 with the purpose of providing information about health and safety hazards in the workplace as well as OSHA regulations, including reporting and recordkeeping requirements and OHSB's State Emphasis Program for hospitals, nursing and residential care facilities.

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**Governor’s Community Cabinet** – In August 2019 the OHSB Consultation Program Manager and a compliance assistance specialist provided constituents with information on workplace health and safety at Governor Michelle Lujan Grisham’s Community Cabinet outreach event at the carpenters’ union hall in Albuquerque.

**Office Ergonomics** – The Bureau launched an ergonomics training program for the New Mexico Environment Department. An OHSB staff member received train-the-trainer certification through the State’s Risk Management Division to provide instruction for additional ergonomics assessors.

*Governor Lujan Grisham supports OHSB outreach*



#### 4. Public Sector Consultation

The OHSB Consultation Program conducted 45 visits in the public sector during FY2019 and removed more than 5,000 government workers from occupational 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 continues to use the OSHA Information System (OIS) for all enforcement 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 FY2017 and FY2018 FAME, OSHA made several recommendations for improvement of the New Mexico state plan. The following summarize OHSB progress toward implementing the federal recommendations during FY2019.

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### **A. Recommendation 18-1:**

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.

In FY2019 OHSB worked with compliance staff to enhance documentation of employer knowledge when establishing violations. OHSB developed additional strategies to enhance documentation of violations:

4. The internal file review system was restructured to consolidate enforcement supervisory staff in FY2019.
5. Enforcement support staff allocation was increased to include additional resources in OIS report tracking.
6. Inspection interview recording capabilities were upgraded to ensure employee and employer discussions and interviews are captured in support of violations.
7. A compliance officer training plan was revamped for FY2019 to include significant coursework at the OSHA Training Institute and an internal training series specific to documentation of employer knowledge for violations.

### **B. Recommendation 18-2:**

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

In FY2019 OHSB instituted internal measures to aid staff in closing inspections and issuing citations. Supervisors reviewed assignment data to compare with inspection reports weekly and closely reviewed assignments to ensure manageable caseloads. Performance reviews included an analysis of task prioritization to identify areas for improvement and supervisors worked closely with Compliance Officers on task prioritization. During FY2019 OHSB maintained citation lapse times at or below the nationwide average.

### **C. Recommendation 18-3:**

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.

In FY2019 OHSB reviewed its health-related state emphasis programs to aid industrial hygiene staff in identifying sampling opportunities and provided training to health compliance officers to ensure that when potential overexposure to noise and airborne contaminants (chemical, radiological, etc.) were identified, sampling was conducted to determine exposure levels.

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### **D. Recommendation 18-4:**

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 training and hazard identification efforts.

During FY2019 OHSB gathered national and state data to analyze causative factors for the state's high in-compliance rate and implemented the following:

1. OHSB initiated development of a site-specific targeting (SST) state emphasis program (SEP), which it plans to implement in FY2020.
2. OHSB requested an increase in its base budget for the 2021 state fiscal year to include a specific appropriation for compliance officer training.

### **E. Recommendation 18-5:**

OHSB should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach inspection goals.

During FY2019 OHSB filled many staff vacancies and provided newly hired staff with training needed to conduct inspections. The Bureau completed 325 inspections during the year, which was 90 percent of the performance plan goal.

### **F. Recommendation 18-6:**

OHSB should continue efforts to understand and address its high turnover rate and fill staff vacancies.

The Bureau reduced its compliance officer vacancy rate from 30% to 10% in FY2019.

## **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 with continued staffing shortages. 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 Days Away, Restricted, or Transferred (DART) rates significantly lower than nationwide rates. The state DART rate of 1.4 for 2018 was 18 percent below the national rate of 1.7, following a 2017 difference of 19 percent. Long-term rates continue to reflect the positive influence of OHSB programs.

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### Appendix A – Summary of FY2019 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 2019. 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.			
FY2019 Performance Goal 1.1: Experience a total injury and illness DART rate of less than 1.6 for CY2019 by conducting 360 enforcement inspections and 240 consultation visits, 50 21d outreach activities, and 100 compliance assistance activities (including VPP, alliances, and Partnership activities)			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> <li>• Number of enforcement inspections</li> <li>• Number of consultation visits</li> <li>• Number of 23g compliance assistance activities</li> <li>• Number of 21d outreach activities</li> </ul>	OHSB conducted 325 inspections in FY2019	OHSB completed 90% of the performance plan goal
Primary Outcome Measure	Injury and illness DART rate of less than 1.6 for CY2019	The New Mexico DART rate was 1.4 for 2018	BLS rates for 2019 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.			
FY2019 Performance Goal 1.2: Experience fewer than 11 workplace fatalities requiring OHSB investigations in FY2019.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> <li>• Number of enforcement inspections in Oil &amp; Gas</li> <li>• Number of enforcement inspections in Construction</li> <li>• Number of fatalities in Oil &amp; Gas</li> <li>• Number of fatalities in Construction</li> <li>• 23g compliance assistance activities in the SEPs</li> <li>• 21d outreach activities in the SEPs</li> </ul>	<ul style="list-style-type: none"> <li>• 17 oil &amp; gas industry inspections</li> <li>• 126 construction inspections</li> <li>• No oil &amp; gas industry fatalities</li> <li>• 3 construction fatalities</li> <li>• 30 compliance assistance activities</li> <li>• 58 consultation outreach activities</li> </ul>	
Primary Outcome Measures	Record fewer than 11 NM OSHA investigated fatalities in FY2019	OHSB investigated 10 fatal accidents in FY2019	

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5 Year Strategic Goal 1.3: Increase the number of new participants in SHARP by 5.
FY2019 Performance Goal 1.3*: Increase the number of new participants in SHARP by 2 employers. *Goal 1.3 applies to 21(d) Consultation. The FY2019 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.
FY2019 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	35 verification activities	
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. 2019 data will be collected and analyzed during 2020

5 Year Strategic Goal 1.5: Increase the number of VPP participants by 5.
FY2019 Performance Goal 1.5: Increase the number of VPP participants from 12 to 15.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of candidates for VPP	OHSB received no new applications and lost three VPP site in FY2019	OHSB VPP coordinator position vacant first half of 2019
Intermediate Outcome Measures	Number of new VPP members	There were no new VPP members added in 2019	
Primary Outcome Measures	Have 15 VPP participants	New Mexico had 8 VPP participant worksites at the end of FY2019	

5 Year Strategic Goal 2.1: Initiate inspections for reported fatalities within 1 working day 100% of the time.
FY2019 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 35 fatal accidents reported in FY2019	

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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 10 fatal accidents under OHSB jurisdiction in FY2019  OHSB responded to all 10 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	

5 Year Strategic Goal 2.2: Conduct investigations for referrals alleging serious hazards within 10 working days 95% of the time.

FY2019 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  Number of investigations for these referrals responded to within 10 days	NA	OHSB discontinued tracking of this measure in 2018 following changes to state legislative tracking for NMED
Primary Outcome Measures	Percent of investigations conducted within 10 working days	NA	

5 Year Strategic Goal 2.3: Complete discrimination investigations within 60 days 95% of the time.

FY2019 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 12 discrimination cases in FY2019	
Primary Outcome Measures	Percent of discrimination cases completed within 60 days	OHSB completed 42% of FY2019 cases within 60 days	OHSB completed 5 of 12 total cases within 60 days