

FY 2010 Federal Annual Monitoring and Evaluation (FAME) Report

on the

NEVADA OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (NvOSHA)



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Region IX



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I. Executive Summary

Introduction

The State of Nevada, under a plan approved by OSHA, operates an occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970. Initial approval of the Nevada State Plan was published on January 4, 1974, and final approval was published on April 18, 2000.

The Nevada State Plan is administered by the Department of Business and Industry, Division of Industrial Relations (DIR). Within the DIR, an enforcement section and consultation section have been established. Enforcement is provided by the Nevada Occupational Safety and Health Administration (NvOSHA), and Consultation is provided by the Nevada Safety Consultation and Training Section (SCATS). Donald Jayne is the State Plan Designee and Director of the Division of Industrial Relations. Steve Coffield is the Chief Administrative Officer (CAO) of NvOSHA and Joseph Nugent is the CAO of SCATS. NvOSHA has a total of 74 full time equivalent (FTE) enforcement positions and 35 FTE consultation positions.

NvOSHA and SCATS are headquartered in Henderson and also have offices in Reno and Elko. Nevada adopts federal OSHA standards by reference and enforces OSHA standards contained within 29 CFR, Parts 1910 (General Industry), 1926 (Construction) and 1928 (Agriculture). In addition, Nevada has adopted state specific requirements for: safety programs, cranes, steel erection, mandatory 10 and 30 hour training for construction projects, asbestos, explosives, ammonium perchlorate and photovoltaic system projects.

The Nevada State Plan enforcement and consultation programs have jurisdiction and provide services to approximately 67,000 public and private sector employers and 1.1 million workers in the state, with the exception of federal employees, the United States Postal Service (USPS), private sector maritime, employment on Tribal lands, and areas of exclusive federal jurisdiction. The state operates its programs under two federal grant agreements: the 23(g) operational program agreement that covers private and public sector enforcement in addition to public sector consultation services; and the 21(d) consultation program agreement that covers private sector consultation services. In federal fiscal year (FY) 2010, Nevada operated with a budget of \$6,542,826 for its 23(g) program and \$1,774,031 for its 21(d) program.

This report assesses the Nevada Occupational Safety and Health Administration (NvOSHA) progress toward completing their 2009 Special Study corrective action plan (CAP), the FY 2010 mandated activities and the six year state strategic plan. The state developed the CAP in response to the 57 recommendations from the October 20, 2009 Review of the Nevada Occupational Safety and Health Program (Special Study). Federal OSHA conducted the 2009 Special Study in response to rising concerns about the state's investigations of fatalities and complaints.

Report Summary

The state has completed corrective actions for 37 out of the 56 Special Study recommendations. NvOSHA corrective actions included the adoption and revision of policy and training for compliance officers and administrative staff. The remaining 19 recommendations in the CAP require the submission of documentation, training, procedural changes and an audit scheduled for August of 2011. The audit will evaluate the implementation of the CAP. There were four

corrective actions that were not accepted and were returned to the state for further action. These recommendations involved the organization and filing of case file documentation. The CAP is on schedule to be completed by September 30, 2011.

As a result of the Special Study and receipt of the “Review of the Nevada Occupational Safety and Health Program” report early in the fiscal year the state shifted priorities. Despite the shift, the state met all but one of their strategic goals.

There are an additional five recommendations associated with the mandated activities, other monitoring measures and the state’s goals. These recommendations include meeting the goals on timely notification to complainants, targeting of inspections, outstanding abatement actions and evaluation of inspection and VPP goals.

Over the past six years the state has focused efforts to reduce injuries and illnesses associated with Days Away and Restricted Time (DART rate) in the construction and manufacturing industries. The state is commended for the 24% drop in the construction DART rate and 35% drop in the rate for manufacturing.

The state’s ability to retain experienced compliance officers (CSHO’s) continues to be a challenge. There were four vacant CSHO positions through the end of September 2010. Almost a third of the compliance officers have less than 3 years experience and over half less than 5 years experience.

Monitoring Methodology

Monitoring efforts were primarily focused on the development and corrective actions of the Special Study CAP. Meetings and conference calls were held throughout the year to provide clarification in the development and implementation of the Corrective Action Plan and assistance was provided as requested.

II. Major New Issues

In response to a number of serious worker safety issues, including 12 construction related fatalities in southern Nevada in 2008, the Nevada state legislature passed two measures in 2009 to promote safety on construction sites and to assist families affected by fatal construction accidents. In FY 2010, NvOSHA and the Safety Consultation and Training Section (SCATS) developed and implemented programs to ensure construction workers and their supervisors completed an OSHA 10 and/or OSHA 30 hour construction safety class or an equivalent. In addition, NvOSHA adopted new policies in their Nevada Operations Manual (NOM) to ensure immediate families of workplace fatality victims are offered the opportunity to discuss the citation after the fatality investigation and the family's contact information is provided to the Occupational Safety and Health Review Board, in the event that the employer contests the citation.

III. Assessment of State Actions and Performance Improvements in Response to Recommendations from the FY 2009 Special Review of the NvOSHA.

Fatality Case File Reviews

Conclusion 09-I-1: Case files were not organized in a uniform manner and by a means which would reduce the possibility of important case file documentation being lost or misplaced.

Recommendation 09-I-1: *Provide clear guidance to all enforcement personnel on the organization of case files. It is recommended that correspondence not be filed throughout the investigative file but in one specific location in the file. This will help ensure all necessary correspondence is sent to employers, employees and family members of victims. The files should also be contained in file folders which will help ensure that all correspondence and investigation materials are maintained in the file.*

Corrective Action Plan

Develop written guidance for case file organization and train compliance staff on procedural changes. Each inspection will be assigned a single case file folder and correspondence will be in one location in the file.

Assessment and Finding 10-1 (formerly 09-I-1): Corrective action has not been completed. Documentation checklists were developed and printed on colored paper; however, written procedural guidance on how to organize case files had not been completed.

Note: A spot check of NvOSHA case files was conducted and correspondence was found scattered throughout the file and one file folder contained many different inspections.

In response, the NvOSHA District Managers have drafted case file procedures that are currently under review. The final procedures are due by 6/17/2011 and training is to be completed by 6/30/2011.

Recommendation 10-I (formerly 09-I-01):

Fully implement the corrective action plan by developing written guidance and training compliance staff on procedural changes. Ensure each inspection conducted will be assigned a single case file folder and correspondence will be in one location in the file.

Conclusion 09-I-2: The OSHA Case File Cover Sheets did not provide a ready record and summary of all actions relating to a case.

Recommendation 09-I-2: *The Case File Cover Sheets must be used in accordance with the NOM or a Diary Sheet should be added to ensure that all communications are documented in the case file.*

Corrective Action Plan

Revise case file coversheet (in accordance with the Nevada Operations Manual (NOM) page 116) and train compliance staff. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.

Assessment and Finding 10-2 (formerly 09-I-2): Corrective action has not been completed. A spot check of NvOSHA case files was conducted and the cover/diary sheet was found buried in the case file and all activity associated with the inspection after the citation was issued was not listed and/or was not in date sequential order.

In response, the NvOSHA District Managers drafted procedures on the use of the cover/diary sheets. The procedures are currently under review by the state and due to be final by June 17, 2011 and training is to be completed by June 30, 2011.

Recommendation 10-2 (formerly 09-I-2)

Fully implement the corrective action plan by revising the case file coversheet (in accordance with the NOM page 116) and train compliance staff on procedural changes. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.

Conclusion 09-I-3A: Families of victims are not always contacted when a fatality investigation is initiated and no additional communication is initiated by NvOSHA once the investigation has begun.

Recommendation 09-I-3A: *In accordance with the NOM, and the new Nevada Senate Bill 288, "families of victims should be contacted soon after the initiation of the investigation and provided timely and accurate information at all stages of the investigation."*

Corrective Action Plan

Update NOM to reflect fatality reporting procedures and develop and implement Fatality/Catastrophe (FAT/CAT) checklist.

Assessment and Finding 10-3A (formerly 09-I-3A): Completion of the corrective action is accepted. The NOM was updated and adopted on September 1, 2010 with the fatality reporting procedures. A FAT/CAT checklist was also developed and implemented.

Conclusion 09-I-3B: Families of victims are not always contacted when a fatality investigation is initiated and no additional communication is initiated by NvOSHA once the investigation has begun.

Recommendation 09-I-3B: *We suggest communication with families when the investigation is initiated, when citations are issued, when informal settlement agreements are signed, when the case is contested and when the case is closed. We also suggest a clear policy be developed indicating who should sign the initial correspondence to the family and any additional correspondence. Additionally, a tracking system should be developed and implemented to help ensure that required correspondence is sent to families of victims.*

Corrective Action Plan

Develop template letters in English and Spanish for communication with families.

Assessment and Finding 10-3B (formerly 09-I-3B): Completion of corrective action is accepted. Template letters were developed in English and Spanish and implemented on November 3, 2009. The FAT/CAT policy in the NOM was revised and adopted on September 1, 2010. A FAT/CAT checklist was implemented and correspondence is sent to the family of the victim and other required documentation and actions are completed.

Conclusion 09-I-4: The IMMLANG policy is not consistently followed.

Recommendation 09-I-4: *Review the current IMMLANG policy and make a determination regarding whether NvOSHA will adopt the policy. Once the decision has been made, ensure that all management and employees are informed of the policy and that the policy is consistently followed.*

Corrective Action Plan

Adopt FAT/CAT compliance (CPL) directive and train compliance staff on IMMLANG policy and investigation procedures. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of the FAT/CAT case files.

Assessment and Finding 10-4 (formerly 09-I-4): Corrective action has not been completed. The FAT/CAT Investigation Procedures CPL 02-00-137 was adopted on March 17, 2010 and training has been provided to all employees. When the joint federal/state audit (scheduled to be completed by September 30, 2011) of FAT/CAT case files has been completed a final determination will be made.

Recommendation 10-3 (formerly 09-I-4)

Conduct federal/state audit of FAT/CAT case files scheduled to be completed by September 30, 2011.

Conclusion 09-I-5: Willful violations are discouraged because of lack of management and legal counsel support.

Recommendation 09-I-5: *Work with legal counsel to develop training to improve the development of legally sufficient cases and increase the pursuit of willful violations. The training should be specific to NvOSHA and should address what is required by the Review Board*

to sustain a willful violation. With this training the NvOSHA cases containing willful violations should be legally sufficient and sustainable by the Review Board.

Corrective Action Plan

Provide willful case file documentation guidance from federal OSHA to legal counsel. Train compliance staff on NOM required documentation for willful violations.

Assessment and Finding 10-5 (formerly 09-I-5): Completion of corrective action is accepted. Legal counsel was provided willful guidance documentation developed by federal OSHA on September 1, 2010 and compliance staff was trained.

Conclusion 09-I-6: Union representation is not always present for opening, closing and informal conferences.

Recommendation 09-I-6: *NvOSHA must follow its current procedures and ensure that union representatives are provided the opportunity to participate in opening conferences, closing conferences and informal conferences.*

Corrective Action Plan

Revise the checklists for informal, opening and closing conferences to include union representation. Train compliance staff on updated checklists.

Assessment and Finding 10-6 (formerly 09-I-6): Completion of corrective action is accepted. The informal conference checklist was updated and implemented on April 6, 2010. The opening and closing conference checklist was updated and implemented on March 25, 2010. All compliance staff were trained on the updated checklists.

Conclusion 09-I-7: Copies of citations are only mailed to union representatives when they request information.

Recommendation 09-I-7: *Ensure that all union representatives are informed that they must request copies of citations or no copy will be sent to them.*

Corrective Action Plan

Revise closing conference checklists to include how union representatives may obtain copies of the citations and train compliance staff on updated checklist.

Assessment and Finding 10-7 (formerly 09-I-7): Completion of corrective action is accepted. The closing conference checklist was updated on December 14, 2009 and now includes the required notifications to union representatives. Enforcement personnel were trained on the updated checklist.

Conclusion 09-I-8: Files do not contain employee contact information such as home phone numbers and mailing addresses.

Recommendation 09-I-8: *Worker contact information must be obtained for all workers interviewed and exposed to hazards. This information will provide accessibility to witnesses for*

contested cases and ensure that information is maintained in the event that a discrimination complaint is filed.

Corrective Action Plan

Revise OSHA 1A form by removing OTHER PERSONS CONTACTED. Train compliance staff on OSHA 1A & 1B drop down menus in the NCR for worker contact, duration, and frequency.

Assessment and Finding 10-8 (formerly 09-I-8): Completion of corrective action is accepted. The OSHA 1A form was revised and OTHER PERSONS CONTACTED was removed on March 17, 2010. Compliance staff was trained on revised OSHA 1A and 1B forms.

Conclusion 09-I-9: OSHA 300 information is not obtained for the previous three years and entered into the IMIS system as required by OSHA Instruction CPL 02-00-135.

Recommendation 09-I-9: *NvOSHA must reconcile those differences between the NOM and OSHA Instruction CPL 02-00-135. Once those differences have been reconciled, employees must be trained on current policy and be provided copies of current policy documents.*

Corrective Action Plan

Adopt CPL 02-00-135 (Record Keeping Policy and Procedure Manual) and update NOM to reflect changes in policy. Train compliance staff on new record keeping procedures.

Assessment and Finding 10-9 (formerly 09-I-9): Completion of corrective action is accepted. The recordkeeping policies and procedure manual, CPL 02-00-135 was adopted on March 23, 2010. The NOM Chapters addressing recordkeeping were revised and adopted September 1, 2010. Compliance staff was trained on the new recordkeeping procedures.

Conclusion 09-I-10: All hazards identified were not addressed as citations, notices of violations or hazard alert letters.

Recommendation 09-I-10: *All hazards identified during inspections must be addressed. Case files must be reviewed more thoroughly including review of photographs for hazards not identified or addressed by the investigators.*

Corrective Action Plan

Provide hazard recognition training to all compliance staff. Reiterate to supervisors the importance of reviewing photos in each case file and to identify hazards that were not cited.

Assessment and Finding 10-10 (formerly 09-I-10): Completion of corrective action is accepted. Supervisors have received verbal and written instruction to carefully review all case file documentation and photographs for hazards that were not cited. Hazard recognition training was provided to all compliance staff.

Conclusion 09-I-11: The Notice of Violation (NOV) policy is confusing to employers.

Recommendation 09-I-11: *NvOSHA must review its NOV policy, and if the policy is continued, make modifications necessary to eliminate confusion for employers and clarify the difference between NOVs and Other-Than-Serious violations. Once this policy has been reviewed and*

changes are made regarding the policy, compliance officers must receive training on how to convey this information to employers.

Corrective Action Plan

Withdraw NOV procedure and brief compliance staff.

Assessment and Finding 10-11 (formerly 09-I-11): Completion of corrective action is accepted. The NOV policy was canceled and the revised NOM was implemented on September 1, 2010. Compliance staff was briefed on the removal of NOV procedures.

Complaints About State Program Administration (CASPA's)

Conclusion 09-II-1: See Conclusion 09-I-5 under Fatality Case File Review section.

Recommendation 09-II-1: See Recommendation 09-I-5 under Fatality Case File Review section.

Assessment and Finding 10-12, (formerly 09-II-1): Completion of corrective action is accepted. See Assessment and Finding 10-5.

Conclusion 09-II-2: Notes of the first annual review of the Orleans settlement agreement were written but were not included in the case file.

Recommendation 09-II-2: *All notes and case file documentation must be included in the files and not kept on individual computers. This will ensure that files are effectively evaluated for abatement, debt collection, contest and any other actions being taken on the file.*

Corrective Action Plan

Train compliance staff and management on the documentation required to be in the inspection case files.

Assessment and Finding 10-13 (formerly 09-II-2): Completion of corrective action is accepted. Compliance staff was trained on procedures and the documentation that is required to be in the case file.

Conclusion 09-II-3: Through employee interviews it was determined that NvOSHA employees do not inform complainants of their discrimination rights unless the complainant alleges some type of discrimination and they do not always ask for the complainant's address.

Recommendation 09-II-3: *NvOSHA must follow established complaint procedures to ensure that all complainants are provided information about their rights and asked to provide their name, address and phone number. Discrimination rights must be communicated to the complainants when they call and file a complaint even if they don't allege discrimination at the time of the call.*

Corrective Action Plan

Revise NOM to include complaint procedures and develop a complaint/referral checklist. Train compliance staff on revised NOM, checklist and questionnaire in CPL 02-00-140.

Assessment and Finding 10-14 (formerly 09-II-3): Completion of corrective action is accepted. The NOM was revised and adopted September 1, 2010. A complaint/referral checklist was developed and includes discrimination rights. The checklist was implemented on June 14, 2010 and is required documentation for all complaint related case files. Compliance staff was trained on the new complaint/referral processes.

Conclusion 09-II-4: During a review of IMIS information, it was found that letters were only mailed to complainants who filed a formal complaint.

Recommendation 09-II-4: *The process outlined in the NOM and OSHA Instruction CPL 02-00-140 must be followed with regard to letters sent to the complainant.*

Corrective Action Plan

Develop checklist for processing of complaint letters and inquiries.

Assessment and Finding 10-15 (formerly 09-II-4):

Completion of corrective action is accepted. Checklist was developed and implemented on March 25, 2010.

Conclusion 09-II-5: The second inspection case file for Luxor showed that two sets of employees were interviewed together. Nevada regulations authorize the SHR/IH to question any employee privately during regular working hours in the course of an OSHA inspection.

Recommendation 09-II-5: *Ensure that interviews are conducted privately and that they cover the required information discussed in the current NOM.*

Corrective Action Plan

Train compliance staff on NOM interview policy and Nevada Revised Statute (NRS) requirements.

Assessment and Finding 10-16 (formerly 09-II-5): Completion of corrective action is accepted. Training on NOM interview policies and NRS requirements were provided to compliance staff.

Conclusion 09-II-6: Interview statements in the Luxor file, fatality files or settlement files did not contain language required by the NOM.

Recommendation 09-II-6: *Ensure that interview statements are taken and documented in accordance with the NOM.*

Corrective Action Plan

Develop and implement interview forms that include policy required language. Train compliance staff on how to conduct interviews and obtain statements in accordance with the NOM.

Assessment and Finding 10-17 (formerly 09-II-6): Corrective action has not been completed. Interview statement forms were updated but, have not been implemented. Compliance staff training on the use of the interview forms was scheduled for April 29, 2011.

Recommendation 10-4 (formerly 09-II-6)

Implement use of interview statement forms containing policy required language.

Conclusion 09-II-7: Clearly supportable repeat violations were not cited. In the Orleans Hotel and Casino case [the subject of one of the two Complaints About State Program Administration (CASPA)] NvOSHA issued serious rather than willful or repeat citations even though the owner/operator of this hotel had been previously cited for substantially similar conditions/hazards at other properties.

Recommendation 09-II-7: *NvOSHA should review its procedures and consider evaluating potentially repeat violations with the assistance of legal counsel.*

Corrective Action Plan

Provide documentation guidance for repeat violations to legal counsel. Update NOM and train compliance staff on documentation required for repeat violations.

Assessment and Finding 10-18 (formerly 09-II-7): Completion of corrective action is accepted. The NOM was revised and adopted on September 1, 2010 and compliance staff was trained on required documentation for repeat vs. willful violations. Legal counsel was provided guidance on repeat and willful violation documentation that was developed by federal OSHA.

Integrated Management Information System (IMIS)

Conclusion 09-III-1: NvOSHA offices have a significant number of draft and incomplete records on the IMIS system.

Recommendation 09-III-1: *NvOSHA must perform a review and clean-up of the IMIS database records to ensure that all draft forms are finalized and transmitted to the host computer as expeditiously as possible, except for OSHA-1Bs less than six months old, because they may still be modified before the citations are issued. A system must be developed to ensure that periodic reviews of draft and rejected IMIS forms are conducted to maintain a viable information system.*

Corrective Action Plan

Clean up of IMIS database and correct rejected IMIS forms daily. Save OSHA 1B's as final on the citation issuance date. Train compliance staff to save all other IMIS forms (except 1Bs) at time of data entry.

Assessment and Finding 10-19 (formerly 09-III-1): Completion of corrective action is accepted. The OSHA 1B forms are saved as final when citations are issued and rejected forms are corrected. Training on the NCR/IMIS was provided by federal OSHA to administrative staff.

The state made several attempts but was not able to delete the old draft “floating” forms. The OSHA National Office OIS Team Lead was consulted and it was determined that it was not necessary to delete the old forms. The transition to OIS will not be affected.

Conclusion 09-III-2: The majority of IMIS management reports are not being used effectively nor are they set up in the system for automatic generation and distribution.

Recommendation 09-III-2: *NvOSHA must establish a comprehensive system for the proper handling of the IMIS management reports system. An automated report set-up program will assist the agency in ensuring that the most widely used reports are automatically generated, reviewed and acted upon on a periodic basis (either weekly, bi-weekly or monthly) based on the importance of the specific report and its volume of cases to be reviewed and monitored.*

Corrective Action Plan

Set up and run the IMIS automated reports.

Assessment and Finding 10-20 (formerly 09-III-2): Completion of corrective action is accepted. IMIS reports for management are set to run on a regularly re-occurring schedule.

Conclusion 09-III-3: The IMIS system is not kept up-to-date and contains information which does not allow for effective internal evaluation of the NvOSHA program.

Recommendation 09-III-3: *NvOSHA must ensure that the IMIS system is kept up-to-date and is accurate. NvOSHA needs extensive IMIS training to include: review of OSHA Instruction ADM 1-1.31 IMIS Enforcement Data Processing Manual, data entry (all forms), pre- and post-citation processing, handling of incomplete (draft) and rejected forms and IMIS Management reports processing to effectively improve and maintain an effective IMIS Maintenance and Management Reports structure.*

Corrective Action Plan

Request NCR/IMIS training by federal OSHA.

Assessment and Finding 10-21 (formerly 09-III-3): Completion of corrective action is accepted. Federal OSHA provided two days of training on the NCR/IMIS system to NvOSHA management, program analyst and administrative staff.

General Inspection Statistics

Conclusion 09-IV-1: Fifty-two percent (52%) of all inspections resulted in citations. Of those 52%, over half of those cases (55%) resulted in only other-than-serious violations.

Recommendation 09-IV-1: *NvOSHA must evaluate its targeting system and make modifications to ensure that its limited resources are inspecting locations where serious hazards are present. NvOSHA must also ensure that violations are being classified in accordance with the NOM.*

Corrective Action Plan

Review and update targeting systems to ensure limited resources are inspecting locations where serious hazards are present. Train compliance staff on recognition and classification of hazards.

Assessment and Finding 10-22 (formerly 09-IV-1): Corrective action has not been completed. Hazard recognition training was provided to compliance staff. A representative from OSHA and NvOSHA met on February 23, 2011 to discuss targeting systems and the auditing of targeted emphasis programs; however, targeting system revisions have not been completed.

Recommendation 10-5 (formerly 09-IV-1)

NvOSHA should evaluate and if needed, revise targeting system to ensure limited resources are inspecting locations where serious hazards are present.

Conclusion 09-IV-2: The focus on simply getting a large number of inspections may lead to cutting corners to meet the requirement.

Recommendation 09-IV-2: *NvOSHA should work with the Nevada legislature to begin tracking outcome measures instead of just pure numbers of inspections. Emphasis should be placed on reducing fatalities, injuries and illnesses.*

Corrective Action Plan

Develop new or revise compliance staff work performance standards to reflect quality inspections.

Assessment and Finding 10-23 (formerly 09-IV-2): Corrective action has not been completed. Work performance standards have been drafted and pending approval.

Recommendation 10-6 (formerly 09-IV-2)

Implement revised work performance standards that reflect quality of inspections.

Conclusion 09-IV-3: NvOSHA groups its violations based on the location of the standards being cited in the code of State regulations rather than by the individual hazardous conditions.

Recommendation 09-IV-3: *NvOSHA must review its current citation grouping policies and procedures and issue citations in accordance with its NOM.*

Corrective Action Plan

Train enforcement staff on NOM policy for grouping violations. Audit citations with grouped violations to ensure NOM policy is followed. A joint federal/state audit is scheduled to be completed by September 30, 2011; to review case files with citations and grouped violations.

Assessment and Finding 10-24 (formerly 09-IV-3): Corrective action has not been completed. Compliance staff was trained on NOM grouping policies; however, the scheduled audit to review case files with grouped violations will not be completed until September 30, 2011.

Recommendation 10-7 (formerly 09-IV-3)

Complete scheduled audit of case files with citations and grouped violations.

Conclusion 09-IV-4: Only one willful violation was cited by NvOSHA during the evaluation period.

Recommendation 09-IV-4: *NvOSHA must conduct an internal review of its willful citation policy and take corrective action in order to be able to fully document and support willful violations so that they can be issued and successfully sustained/affirmed.*

Corrective Action Plan

Develop written policy and train compliance staff on required documentation for willful violations.

Assessment and Finding 10-25 (formerly 09-IV-4): Completion of corrective action is accepted. The NOM was revised to include a policy on willful violations and was adopted September 1, 2010. Training was conducted on the revised NOM policy.

Conclusion 09-IV-5: IMIS Reports are not utilized to identify cases requiring follow-up inspections to track abatement and to ensure abatement verification.

Recommendation 09-IV-5: *NvOSHA must begin using the “Candidates for Follow-up Inspections Report” and the “Violation Abatement Report” to identify and assign establishments that requires follow-up inspections.*

Corrective Action Plan

Run a weekly abatement report from the IMIS system. Employers that fail to provide abatement documentation/certification will be issued citations or a follow-up inspection will be conducted.

Assessment and Finding 10-26 (formerly 09-IV-5): Completion of corrective action is accepted. IMIS is set up to run a weekly abatement report and violations without abatement is appropriately followed-up.

Conclusion 09-IV-6: The list of most frequently cited standards shows limited hazard recognition with few hazards identified in the construction industry, which is where the majority of fatalities are occurring.

Recommendation 09-IV-6: *NvOSHA must review all available IMIS data reports and track the most frequently cited standards to determine what additional training, hazard recognition and case file documentation are necessary to increase the breadth of standards cited and the classification of such citations. Special emphasis should be placed on construction hazards in an effort to improve hazard recognition, which will result in workers being removed from hazards. This should be done for the agency as a whole as well as for each individual SHR/IH.*

Corrective Action Plan

Use Dodge listing for the construction targeting system and train compliance staff on hazard recognition. Audit construction files for frequently cited standards.

Assessment and Finding 10-27 (formerly 09-IV-6): Completion of corrective action is accepted. The Dodge listing is used for construction targeting and hazard recognition training for

compliance staff was completed. The state completed an audit of the most frequently cited construction violations for FY 2010.

Complaint Processing

Conclusion 09-V-1: No diary sheets or similar daily/chronological logs were found in any of the 21 case files reviewed.

Recommendation 09-V-1: *See Recommendation 09-I-2 under “Fatality Case File Reviews” section.*

Corrective Action Plan

Revise case file coversheet (in accordance with the (NOM) page 116) and train compliance staff. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.

Assessment and Finding 10-28 (formerly 09-V-1):

The state did not fully implement the corrective action. A spot check of NvOSHA case files was conducted and revealed the cover/diary sheet was buried in the case file and all activity associated with the inspection was not included and diary entries were not in date sequential order.

In response, the NvOSHA District Managers drafted procedures on the use of the cover/diary sheets that are currently under review by the state. The final procedures are due by June 17, 2011 and training is to be completed by June 30, 2011.

Recommendation 10-8 (formerly 09-V-1)

Fully implement the corrective action plan by revising the case file coversheet (in accordance with the NOM page 116) and train compliance staff on procedural changes. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.

Conclusion 09-V-2: No indication was found that the complainant was informed, in writing and/or recorded in IMIS, of the results of the inquiry/inspection.

Recommendation 09-V-2: *NvOSHA must ensure that all complainants are responded to in accordance with the Complaint Policies and Procedures directive, OSHA Instruction CPL 02-00-140. Complainant responses must be consistent with complaint handling procedures. All complaint inquiries must be responded to using IMIS Letter G—Employer Response to Complainant, and complaint inspections must be responded to using IMIS Letter H—Formal Complaint Inspection Results.*

Corrective Action Plan

Develop a checklist for processing of complaint inspection and inquiries and train administrative staff responsible for complaint processing.

Assessment and Finding 10-29 (formerly 09-V-2): Completion of corrective action is accepted. Use of a complaint checklist was implemented for the processing of complaint inspections and inquiries. In addition, the NOM was revised to reflect appropriate changes and administrative staff was trained on updated procedures.

Conclusion 09-V-3: The majority of complaints did not have the complainant's contact information in the IMIS.

Recommendation 09-V-3: *NvOSHA must make every attempt to acquire, document and enter into IMIS complainants' identification, including name, address and phone number unless complainant explicitly requests to remain anonymous. All requests to remain anonymous must be documented in the case file.*

Corrective Action Plan

Revise NOM to include complaint procedures. Develop a checklist for receiving complaints/referrals and train compliance staff on revised procedures and use of questionnaire in CPL 02-00-140.

Assessment and Finding 10-30 (formerly 09-V-3): Completion of corrective action is accepted. The NOM was revised and adopted on September 1, 2010. A complaint/referral checklist was implemented on June 14, 2010 and compliance staff was trained on the revised complaint/referral processes.

Conclusion 09-V-4: Inadequate abatement was received and accepted as adequate.

Recommendation 09-V-4: *NvOSHA must ensure that adequate abatement is obtained for all complaint items found valid, regardless of whether they are being handled via an inquiry or an inspection.*

Corrective Action Plan

Ensure abatement is obtained and documented in accordance with NOM prior to closing of case files. Train compliance staff. Conduct joint federal/state audit for adequate abatement and complaint documentation in case file.

Assessment and Finding 10-31 (formerly 09-V-4): Corrective action has not been completed. Initial training was received from federal OSHA and compliance staff has been trained; however, the joint federal/state audit is scheduled but will not be completed until September 30, 2011.

Recommendation 10-9 (formerly 09-V-4)

The joint federal/state audit scheduled to be completed by September 30, 2011 will include a review of abatement documentation in the closed case files.

Conclusion 09-V-5: As per the information in the case files, complaint items were found to be valid, but no citations were issued to address the hazards.

Recommendation 09-V-5: *NvOSHA must ensure that hazards identified during complaint inspections are addressed with the employer through citation, notification of violation or some other method.*

Corrective Action Plan

Provide hazard recognition training for compliance staff. Reiterate to supervisors, the importance of reviewing photos in each case file for additional hazards.

Assessment and Finding 10-32 (formerly 09-V-5): Completion of corrective action is accepted. Supervisors have received verbal and written instruction to carefully review all case file documentation and photographs for hazards that were not cited. Hazard recognition training was provided to all compliance staff.

Conclusion 09-V-6: There were cases in which the complainant disputed the employer's response yet no inspection took place and there was no acknowledgement of the disputed findings.

Recommendation 09-V-6: *All disputed complaints must be handled in accordance with OSHA Instruction CPL 02-00-140, including the complainant's right to request an inspection and/or the agency's responsibility to respond whether an inspection will or will not be conducted and the reasons why.*

Corrective Action Plan

Revise NOM to include complaint procedures. Train compliance staff on revised NOM, and compliant processes in CPL 02-00-140 (Complaint Directive adopted September 1, 2006).

Assessment and Finding 10-33 (formerly 09-V-6): Completion of corrective action is accepted. The NOM was revised and adopted on September 1, 2010, and all compliance staff has been trained on complaint procedures.

Conclusion 09-V-7: There were cases in which the complaint was classified improperly.

Recommendation 09-V-7: *NvOSHA must ensure that complaint allegations are properly evaluated and classified and that such classification will ensure proper handling of the complaint items, either via an inquiry or an inspection.*

Corrective Action Plan

Train enforcement supervisors and managers on complaint hazard evaluation process in accordance with revised NOM. Conduct joint federal/state audit of complaint case files for hazard evaluations.

Assessment and Finding 10-34 (formerly 09-V-7): Corrective action has not been completed. Compliance supervisors and District Managers were trained on the complaint hazard evaluation processes and revised NOM procedures. However, the joint federal/state audit is not scheduled to be completed until September 30, 2011.

Recommendation 10-10 (formerly 09-V-7)

Include a review of complaint inquiry and inspection case files in the joint federal/state audit scheduled to be completed by September 30, 2011.

Specific Cases

Conclusion 09-VI-1: Case files did not contain diary sheets and were held together with a binder clip or rubber band, with correspondence that was intermingled throughout the investigation file.

Recommendation 09-VI-1: *See Recommendation 09-I-1 under “Fatality Case File Reviews” section.*

Corrective Action Plan: See Corrective Action Plan under Fatality Case File Review section 09-I-1.

Assessment and Finding 10-35 (formerly 09-VI-1): See Assessment and Finding under Fatality Case File Review section 09-I-1.

Conclusion 09-VI-2: Only one willful violation was proposed for any of the files reviewed. Interviews with investigators and supervisors indicated that willful violations were discouraged.

Recommendation 09-VI-2: *See Recommendation 09-I-5 under “Fatality Case File Reviews” section.*

Corrective Action Plan

See Corrective Action Plan under “Fatality Case File Reviews” section 09-I-5.

Assessment and Finding 10-36 (formerly 09-VI-2): Completion of corrective action is accepted. See Assessment and Finding under Fatality Case File Review section 09-I-5.

Conclusion 09-VI-3: The Henderson Office leaves violations in draft in the IMIS until after informal and formal settlement agreements are reached and then amended citations are issued. If all informal conference violation reclassifications are updated in this fashion, the IMIS data used for monitoring will be incorrect because it will not accurately reflect how many violations are reclassified during informal conferences.

Recommendation 09-VI-3: *Change the policy of leaving violations in draft to ensure that all citation history is maintained. Once this is in place, then a thorough evaluation of the informal settlement practices and procedures should take place and changes implemented if deficiencies are identified.*

Corrective Action Plan

Save 1B's as final at citation issuance date. Evaluate the informal settlement practices and procedures and implement changes if deficiencies are identified.

Assessment and Finding 10-37 (formerly 09-VI-3): Completion of corrective action is accepted. The 1B forms are saved final at citation issuance date and informal settlement practices were reviewed, revised and tested.

Conclusion 09-VI-4: Deficiencies were noted on the OSHA 1B supporting documentation including: no contact information for workers interviewed and exposed to hazards; duration and frequency listed as “as needed” on the majority of the violations; missing equipment identifiers such as manufacturer, model number and serial number, and employer knowledge listed as “with due diligence.”

Recommendation 09-VI-4: *NvOSHA must ensure that OSHA 1Bs are fully documented. Provide additional training to investigators on case file documentation and the importance of having each OSHA 1B fully documented. This training should also fully explain the legal process in Nevada, which will help them develop a more legally sufficient case.*

Corrective Action Plan

Train compliance staff on violation documentation and the OSHA-1B drop down menus for worker contact, duration and frequency of hazard and completion of OSHA 1B worksheet to include documentation of hazard, equipment, location, injury/illness and employer knowledge.

Assessment and Finding 10-38 (formerly 09-VI-4): Corrective action has not been completed. Compliance staff was trained on the OSHA-1B drop down menus and worksheet documentation however, requested documentation of training has not been provided.

Recommendation 10-11 (formerly 09-VI-4)

Provide documentation of compliance staff training on the OSHA 1B form.

Conclusion 09-VI-5: Excessive and inappropriate grouping issues were identified in these files, as well as the fatality files and complaint inspections files that were reviewed. Interviews with supervisors and investigators indicated that violations were grouped if they were in the same subpart regardless of hazard, contrary to guidance in the NOM.

Recommendation 09-VI-5: *See Recommendation 09-IV-3 under “General Inspection Statistics” section.*

Corrective Action Plan

See Corrective Action Plan under “General Inspection Statistics” section 09-IV-3.

Assessment and Finding 10-39 (formerly 09-VI-5): See Assessment and Finding under “General Inspection Statistics” section 09-IV-3.

Conclusion 09-VI-6: Some files contained the abatement verification form and others included the abatement verification form with additional documentation. Interviews with supervisors and investigators indicated that there was no clear policy conveyed indicating what abatement information employers were required to submit.

Recommendation 09-VI-6: *The abatement verification policy must be reviewed with all supervisors and investigators to ensure the supporting information and documentation required for abatement verification is present in the case files.*

Corrective Action Plan

Obtain proof of abatement in accordance with NOM prior to closing of case files. Conduct a joint federal/state audit of case files for adequate abatement documentation of complaint items.

Assessment and Finding 10-40 (formerly 09-VI-6): Corrective action has not been completed. All compliance staff and supervisors have been trained on the abatement verification policy and required case file documentation. The joint federal/state audit of abatement verification/certification in closed case files is scheduled to be completed by September 30, 2011.

Recommendation 10-12 (formerly 09-VI-6)

Include a review of case file documentation of abatement verification/certification in the joint federal/state audit scheduled to be completed by September 30, 2011.

Programmed Inspection Targeting System

Conclusion 09-VII-1: The IMIS LEP codes do not match current LEP practices and LEP and Strategic Initiative codes are not always updated appropriately.

Recommendation 09-VII-1: *NvOSHA must update its IMIS coding database to list only those local emphasis and strategic initiative codes that are currently active. This will prevent inconsistencies and discrepancies in the tracking, monitoring and evaluation of these programs. NvOSHA must decide if one or both codes will be used by the state and provide appropriate IMIS training to secure adherence to this data entry policy.*

Corrective Action Plan

Update IMIS database with agreed upon coding and train compliance staff on appropriate coding of OSHA forms.

Assessment and Finding 10-41 (formerly 09-VII-1): Corrective action has not been completed. A meeting with NvOSHA and OSHA representatives was held on February 23, 2011 to discuss targeting and the IMIS coding database. IMIS coding and compliance staff training was scheduled to be completed by April 4, 2011. Documentation of coding update and staff training has been requested.

Recommendation 10-13 (formerly 09-VII-1)

Provide documentation of coding update and staff training on the coding of OSHA forms.

Conclusion 09-VII-2: IMIS coding is not available for all General Industry targeting systems.

Recommendation 09-VII-2: *Work with the Office of Management and Data Systems (OMDS) to ensure that targeting codes are available and ready for use.*

Corrective Action Plan

Work with OMDS and federal OSHA to determine availability of targeting codes and train staff with responsibility for maintaining the IMIS code database.

Assessment and Finding 10-42 (formerly 09-VII-2): Corrective action has not been completed. IMIS training, including coding was provided by federal OSHA to administrative and compliance staff. NvOSHA has been requested to provide information on the updated codes and administrative staff training record for the IMIS class.

Recommendation 10-14 (formerly 09-VII-2)

Provide documentation of coding update and compliance and administrative staff training on code of IMIS forms and database maintenance.

Conclusion 09-VII-3: NvOSHA is entering OSHA 1s for every construction employer on multi-employer worksites, which directly impacts the in-compliance rate experienced for the construction industry.

Recommendation 09-VII-3: *Discuss current federal OSHA policy with Region IX and make any necessary changes to multi-employer worksite policies and IMIS data entry requirements.*

Corrective Action Plan

Discuss multi-employer worksite policy with Region IX and discontinue practice of entering OSHA-1 form for each employer on a construction site.

Assessment and Finding 10-43 (formerly 09-VII-3): Completed corrective action is accepted. The practice of entering an OSHA-1 for each employer on a construction site was discontinued on November 4, 2009.

Conclusion 09-VII-4: The low percentage of serious violations and the high percentage of in-compliance inspections for programmed inspections indicate a need for an improved targeting system.

Recommendation 09-VII-4: *Perform an evaluation of the effectiveness of active LEPs and targeting programs. Once the evaluation is complete, make any necessary changes to more effectively target high hazard industries and facilities. One tool that could be used to assist with the evaluation of targeting programs is Appendix A of OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs).*

Corrective Action Plan

Audit 2010 Local Emphasis and Targeting Program inspection data in accordance with CPL 04-00-001 and discontinue or modify targeting programs that are not effective. State audit of targeting programs is scheduled to be completed by June 1, 2011.

Assessment and Finding 10-44 (formerly 09-VII-4): Corrective action has not been completed. NvOSHA Program Coordinator has scheduled to audit the targeted emphasis programs after codes and targeting program revisions, if any, are in place.

Recommendation 10-15 (formerly 09-VII-4)

Provide summary of audit findings and targeted emphasis program revisions, if any.

Conclusion 09-VII-5: **NvOSHA has agreed to conduct 2,900 inspections per year as part of its budgeting process and this information is used by the legislature to determine if the program is meeting their goals. This translates to 95 to 115 inspections per year per investigator.**

Recommendation 09-VII-5: *Work with the Nevada legislature to utilize more outcome measures to evaluate the effectiveness of the program. Educate the legislature on the importance of quality inspections versus a large quantity of inspections.*

Corrective Action Plan

Modify inspection goals and revise compliance staff work performance standards to emphasize quality inspections.

Assessment and Finding 10-45 (formerly 09-VII-5): Corrective action has not been completed. The state modified the 2008 inspection goals from a high of 2900 to 2565 inspections per year. However, work performance standards that were drafted on February 17, 2011 have not been finalized and implemented.

Recommendation 10-16 (formerly 09-VII-5)

Complete review of staff work performance standards and implement standards that emphasize quality inspections.

Conclusion 09-VII-6: **NvOSHA is not properly coding programmed-related inspections in the IMIS system.**

Recommendation 09-VII-6: *NvOSHA must properly and accurately classify its programmed inspections based on NOM instructions on Page I-3 of 93. Programmed [Planned] inspections should only be used for the “initial” establishment and any high hazard employers at the worksite, while Programmed-Related inspections should be used for all other low-hazard establishments found at that multi-employer worksite.*

Corrective Action Plan

Train enforcement personnel on difference between program planned and program related inspections during IMIS training. (See revised NOM Chapter 2 Program Planning).

Assessment and Finding 10-46 (formerly 09-VII-6): Completed corrective action is accepted. Initial training on IMIS was provided by federal OSHA and included a discussion on the difference between program planned and program related inspections.

Communication with Family Members of Deceased Employees

Conclusion 09-VIII-1: **Sections 12.5 and 47 of Bill 288 contain new responsibilities for the Division of Industrial Relations of the Department of Business and Industry regarding contact with family members of employees who were killed on the job.**

Recommendation 09-VIII-1: *A policy must be developed and incorporated into the NOM which outlines the procedures to be followed in order to comply with NvOSHA's new*

responsibilities. Because this amends the underlying state plan legislation, the state plan must submit a state plan change in accordance with 29 CFR 1953.4(d)(2).

In addition, a tracking system should be developed to ensure that all necessary communications with family members are accomplished. In the development of the process to meet the requirements of Section 47 of the bill, include a step for confirming that contact information for the family is still accurate. NvOSHA should also look into developing a form to be completed which will ensure that the information provided to the Occupational Safety and Health Review Board will be consistent. NvOSHA should consider how it will handle multiple family members. For example: A deceased son/daughter of a father and mother who are divorced or a brother/sister with multiple siblings. Will they be providing letters to all family members or just one? How will they decide whom to communicate with? Will they be providing contact information to the Board for all family members or just for one?

Due to the sensitive nature of this issue, it is also suggested that a uniform method of letter completion and signature be developed to ensure that all letters are uniform and signed by the appropriate official.

Corrective Action Plan

Update NOM to reflect fatality reporting procedures and submit state initiated plan change. Establish procedures to ensure the appropriate family member(s) have been designated and contacted. Develop a FAT/CAT checklist that can be included in the case file and used as a reference to ensure all necessary information is communicated to designated family members. Also develop template letters to help ensure uniformity and signatures from appropriate state officials.

Assessment and Finding 10-47 (formerly 09-VIII-1): Completed action is accepted. The NOM was updated and adopted on September 1, 2010 and includes fatality policy and procedures to determine designated family members. The state-initiated change was submitted on March 5, 2010. A FAT/CAT checklist and template letters were also developed and implemented.

NvOSHA's 10/30 Hour Courses

Conclusion 09-IX-1: Assembly Bill 148 contains new requirements for NvOSHA.

Recommendation 09-IX-1: *Because this new law amends the underlying state plan legislation, the state plan must submit a State Plan Change in accordance with 29 CFR 1953.4(d)(2).*

Corrective Action Plan

Submit state plan program change.

Assessment and Finding 10-48 (formerly 09-IX-1): Completed corrective action is accepted. A state plan initiated change (AB 148) was submitted on March 5, 2010.

Conclusion 09-IX-2: Regulations are currently under development to address this new legislation.

Recommendation 09-IX-2: *Work closely with OTI and Region IX to ensure that the regulations under development do not conflict with federal OSHA Outreach 10- and 30-hour courses.*

Corrective Action Plan

Consult with the OSHA Training Institute (OTI) on training policies related to 10/30 hour courses and adopt regulation consistent with OTI training policies for 10/30 hour courses.

Assessment and Finding 10-49 (formerly 09-IX-2): Completed corrective action is accepted. On November 4, 2009, OTI reviewed the Nevada Revised Statute containing the requirement for 10/30-hour courses and it was determined to be at least as effective. (Note: The Nevada Administrative Code (NRS) 618.990 thru .990 is now a regulation and waiting for numbering.)

Conclusion 09-IX-3: The new legislation is silent regarding who is required to pay for the required worker training.

Recommendation 09-IX-3: *NvOSHA needs to contact the U.S. Department of Labor's Wage and Hour Division to ascertain and get clarification regarding the conditions under which employers must pay wages to employees during training.*

Corrective Action Plan

Contact state equivalent to the U.S. Department of Labor, Wage and Hour Division for clarification regarding the conditions under which employers must pay wages to employees during training.

Assessment and Finding 10-50 (formerly 09-IX-3): Completed corrective action is accepted. On November 4, 2009, the Nevada Labor Commission provided clarification and a copy of Nevada Administrative Code that addressed payment for travel and training. NAC 608.130(3)(b) exempts the employer from paying wages if the training is required by an agency entity other than the employer.

Personnel and Training

Conclusion 09-X-1: Records indicate that NvOSHA is currently not in compliance with OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel.

Recommendation 09-X-1: *NvOSHA must follow OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel, dated November 3, 2008, adopted by the state on January 3, 2009.*

Corrective Action Plan

Audit compliance staff training records and schedule OTI classes for compliance officers with incomplete training records.

Assessment and Finding 10-51 (formerly 09-X-1): Completed corrective action is accepted. The state developed and implemented an Employee Training Log in July of 2009. The log is used to track all compliance officer required and professional development training.

Conclusion 09-X-2: Employees are assigned fatality investigations prior to completing the Accident Investigation course.

Recommendation 09-X-2: *The state should not send investigators to conduct fatality/accident investigations until they have completed the accident investigation course.*

Corrective Action Plan

Provide list of compliance officers that have received accident investigation training to District Managers. Only qualified compliance officers that have completed accident investigation training will be assigned to investigate accidents.

Assessment and Finding 10-52 (formerly 09-X-2): Completed corrective action is accepted. A list of compliance officers, that have successfully completed accident investigation training, was provided to District Managers on November 3, 2009. Only compliance officers on the list will be assigned inspections involving a fatality and/or catastrophe.

Conclusion 09-X-3: NvOSHA maintains an emergency response team; however, training records for emergency response training are incomplete.

Recommendation 09-X-3: *Emergency response training records must be maintained to ensure that all response team members receive the required training.*

Corrective Action Plan

Ensure training is completed and keep all training certificates on file for members of the emergency response team.

Assessment and Finding 10-53 (formerly 09-X-3): Completed corrective action is accepted. Training certificates are kept on file as of July 2, 2009 and emergency response duties will only be assigned to compliance officers that have received the required training.

Retention of Staff

Conclusion 09-XI-1: Employees with 3 years of safety and health experience have left the employment of NvOSHA for higher paying safety positions.

Recommendation 09-XI-1: *Evaluate all safety positions in Nevada state government and work to re-classify positions to higher paying safety classifications.*

Corrective Action Plan

Work with legislature to increase safety and health compliance officer salaries and explore other available options that may impact staff retention.

Assessment and Finding 10-54 (formerly 09-XI-1): Corrective action has not been completed. NvOSHA has requested but has not received approval of pay increases for safety and health staff through the state personnel system and legislative process.

Recommendation 10-17 (formerly 09-XI-1)

Continue to pursue all available options to increase the salaries of NvOSHA safety and health compliance officers.

Conclusion 09-XI-2: Lack of clear guidance and support could be leading to low employee morale.

Recommendation 09-XI-2: *Explore ways to identify whether employee morale is leading to the desire to leave employment with NvOSHA.*

Corrective Action Plan

Improve training and emphasize high quality inspections to boost employee morale.

Assessment and Finding 10-55 (formerly 09-XI-2): Completed corrective action is accepted. The state has established and hired a trainer for the NvOSHA program. This position is located in the Henderson office and will be used to improve staff training and emphasize the commitment to quality inspections.

IV. FY 2010 State Enforcement

State Activity Mandated Measure (SAMM)

Complaints (SAMM 1, 2 and 3)

NvOSHA met the mandated activity for timely responses to complaints with an on-site inspection and/or inquiry letter (SAMM 1 and 2). The state did not meet SAMM 3 for timely notification to complainants after an inspection (20 days if citations are issued and 30 workdays after the closing conference if no citation is issued) (SAMM 3).

There were 511 complaints filed with NvOSHA for FY 2010. There were 17 instances in which the complainant was not timely notified of the results of the inspection or inquiry. In most cases, citations were not issued.

Table 1

Complaints (SAMM 1, 2, 3)				
	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2010</i>	<i>Goal</i>
Days to Initiate Insp (SAMM 1)	5 Days	5 Days	5 Days	14 Days
Days to Initiate Invest (SAMM 2)	1 Days	1 Days	2 Days	5 Days
Cmplts Notified Timely (SAMM 3)	99.43%	100%	96.67%	100%

Recommendation 10-18: Ensure complainants are timely notified after an investigation or inquiry.

Imminent Danger (SAMM 4)

NvOSHA met this mandated activity. There were 15 complaints in FY 2010 that were considered to be imminent danger. All imminent danger complaints were responded to within one day.

Denial of Entry (SAMM 5)

NvOSHA met this mandated activity. The state had one inspection marked as a denial of entry. The inspection was initiated from an anonymous complainant and involved the railroad industry. There were discussions with the OSHA Area Office and the state determined they did not have jurisdiction and the case was referred to federal OSHA.

Abatement of Serious/Willful/Repeat Violations (SAMM 6)

NvOSHA partially met this mandated activity. The state timely verified abatement for public employers, but did not meet (94.67% violations were verified) for private employers receiving citations with serious, willful or repeat violation.

A spot check of five inspections revealed that three of the five inspections had been settled at an informal conference and closed without abatement verification. Recognized serious hazards without abatement verification unnecessarily put employees at risk of injury, illness or death.

Recommendation 10-19: NvOSHA should investigate all cases with outstanding abatement and implement corrective actions to ensure employees are not exposed to ongoing serious hazards that have not been abated.

Citation Lapse Time (SAMM 7)

NvOSHA met this mandated activity. Safety citations had a lapse time of 43 days and health citations were on average issued in 61 days. The mandated activity set by national data was an average of 47 and 62 days respectively. The state has continued a long standing trend of timely issuance of citations.

Table 2. Calendar Days from Opening Conference to Citation Issuance

Inspections with Citations	Days to Issue Citation	Goal Est. by National Data
Safety	43.5	47.3
Health	61.2	62

Programmed Inspections with S/W/R Violations (SAMM 8)

NvOSHA did not meet this mandated activity. In FY 2010, the state improved their Serious/Willful/Repeat (S/W/R) rate of violations for programmed inspections to 39.5% for safety and 40.3% for health. However, the state did not meet the established mandated activity of 58.4%. This issue was also addressed, in part, by the 2009 Nevada Special Study. Efforts to meet this mandated activity included hazard recognition, for compliance officers and use of Dodge reports for the targeting of construction inspections.

Table 3. Percent of Programmed Insp. with Serious/Willful/Repeat Violations

Programmed Inspection	FY 2007	FY 2008	FY 2010	Goal Est. by National Data
Safety	23.3%	20.8%	39.5%	58.4%
Health	35%	32.9%	40.3%	50.9%

Recommendation 10-20: NvOSHA should continue to evaluate and improve their targeting mechanisms and ensure serious hazards are recognized and citations issued in accordance with enforcement policy.

Average Number of Violations per Inspection (SAMM 9)

NvOSHA did not meet this mandated activity. However, as reflected in the above Table 3, the Program has almost doubled the number of S/W/R violations per inspection over the past two years (Table 4). Per the above Recommendation 10-18, the state should continue to improve their targeting systems and ensure serious hazards are recognized and citations are issued in accordance with policy.

Table 4. Average Number of Violations per Inspection (SAMM 9)

Type of Violation	FY 2007	FY 2008	FY 2010	Goal Est. by National Data
S/W/R	0.92	0.85	1.69	2.1
Other	1.82	1.57	1.68	1.2

Average Penalty per Serious Violation (SAMM 10)

NvOSHA met this mandated activity. For FY 2010, the average penalty per serious violation was \$1,407.

Table 5. Average Penalty per Serious Violation (SAMM 10)

Violation Type	FY 2007	FY 2008	FY 2010	Goal Est. by National Data
Serious	\$1648	\$1509	\$1407	\$1360

Public Employee Coverage (SAMM 11)

NvOSHA met this mandated activity. The state conducted 4.2% of inspection activity in the public sector, which exceeds the established mandated activity of 2.6%.

Contest Lapse Time (SAMM 12)

NvOSHA met this mandated activity. The mandated activity established by the average national data is 218 days. The state's contest lapse time on average is 163 days.

Whistleblower Cases Completed in 90 Days, Percent of Merit and Settled Cases (SAMM 13, 14 and 15)

NvOSHA partially met this mandated activity. For FY 2010, 100% of the state's 52 whistleblower cases were completed within 90 days. The program has a Merit rate of 29% which exceeds the national data average of 21%. NvOSHA is able to settle 80% of the meritorious cases.

State Indicator Report (SIR)

Enforcement (Private Sector)

Programmed Inspections (SIR 1A&B)

NvOSHA conducted 27.8% programmed safety inspections and 10.7% programmed health inspections. These percentages represent a significant drop from previous years when approximately 96% of inspections were coded as programmed. The percentage of programmed inspections was addressed in the Review of the Nevada Occupational Safety and Health Program report dated October 20, 2009 where it was determined that inspections were not properly coded.

Compliance staff was trained on the appropriate coding of programmed vs. program related inspections by federal OSHA during the second quarter of the fiscal year.

Programmed Inspections with Violations (SIR 2A&B)

NvOSHA programmed safety inspections resulted in issuance of citations 73% of the time and 53.7% health programmed inspections resulted in citations. These percentages represent an increase of programmed inspections with violations. This issue was addressed in the Review of the Nevada Occupational Safety and Health Program report dated October 20, 2009 where 54% of programmed inspections had violations. Compliance officers were trained on the appropriate coding for programmed inspections and received hazard recognition training during the fiscal year.

Serious Violations (SIR 3A&B)

Citations with serious violations were cited in 42.8% of safety inspections and 51.7% of health inspections. In comparison, 81% of federal safety inspections and 70.2% of federal health inspections resulted in citations with serious violations. Further analysis of this indicator was not performed during this fiscal year.

Violations Vacated (SIR 7)

On average the state vacates 3.1% of cited violations. In comparison, federal OSHA vacates 4.7% of cited violations.

Violations Reclassified (SIR 8)

On average the state reclassifies 2.5% of cited violations. In comparison, federal OSHA reclassifies 4% of cited violations.

Penalty Retention (SIR 9)

On average the state retains 69.3% of penalties which is higher than the federal OSHA penalty retention rate of 63%.

Review Procedures

Penalty Retention (SIR 3)

On average the state retains 69.6% of penalties which is higher than the federal OSHA penalty retention rate of 58.1%.

V. Other

The following measures are indicators that are not mandated activities, but are part of the grant and routinely included in the monitoring of state plans:

Inspections

NvOSHA did not meet its goal of 2,565 inspections for FY 2010. A total of 1,611 safety and health inspections were conducted statewide (53.5% of goal).

The state conducted 685 inspections; 49.6% of the projected goal of 1,381 construction inspections. Achieving this inspection goal was impacted by the rapid decline in the Nevada

construction industry and the state’s response to the OSHA Special Study. Compliance officers were taken out of the field for mandatory training.

NvOSHA’s ability to retain experienced CSHOs continues to be a challenge; four CSHO positions were vacant through the end of September 2010. Almost a third (31%) of compliance officers have less than three years with the agency and over half (59%) have less than five years experience.

A total of 1,050 safety and 561 health inspections were conducted. Of the total number of inspections completed, 695 were in construction, 164 were in manufacturing and 122 were in hotels/casinos (See Table 6).

Table 6 FFY 2010 Targeted Inspections

Industry	FY 2010 Goal	FY 2010 Inspections	Percent Accomplished
Construction (SIC 1500-1799)	1381	695	50%
Manufacturing (SIC 2000-3999)	166	164	99%
Hotels/Casinos	100	122	122%
Total	1647	981	60%

OSHA acknowledges that NvOSHA has focused on program improvements by changing/adopting policies and compliance officer training for FY 2010.

Recommendation 10-21: Evaluate inspection goals and if appropriate, modify to reflect changes in policy and declining industries in the state.

VI. State Progress in Achieving Annual Performance Goals

For FY 2010, NvOSHA opted to extend their five-year strategic plan to a six-year plan as provided for in Section VII of the FY 2010 Grant instructions. However, the Program shifted priorities as a result of the special study and upon receipt of the “Review of the Nevada Occupational Safety and Health Program” report early in the fiscal year. Despite the shift in priorities, NvOSHA met all but one of their strategic goals. The following is an assessment of NvOSHA’s progress toward achieving its six-year plan:

Strategic Goal 1: Improve Workplace Safety and Health for All Workers
Reduce injuries and illnesses by 12.5 % in five years focusing on those workplaces with high rates of injuries and illnesses. (Goal modified in FY 2010 to reduce injuries and illnesses by 12.5% in six years.)

FY 2010 Performance Goal 1.1: *Reduce injuries and illnesses in the manufacturing and construction industries by 2.5% per year while continuing to provide limited service consultation services to the hotel/casino industry.*

NvOSHA met this goal. To meet this goal, NvOSHA had a strategic objective to reduce injuries and illnesses in two high hazard industries by 12.5% by focusing inspection activity in the construction (SIC 1500-1799) and manufacturing (2000-3999) industries. The 2003 DART rate of 4.2 was used as the baseline for construction and 3.7 was the baseline rate for manufacturing.

The 2008 DART rate for construction was 3.2 (24% reduction in the construction DART rate) and manufacturing had a 2008 DART rate of 2.4 (35% reduction in the manufacturing DART rate).

FY 2010 Performance Goal 1.2: *Initiate an investigation of fatalities and catastrophes within 1 day of notification of the occurrence to prevent further injuries or deaths.*

NvOSHA met this goal. During FY 2010, the State of Nevada had 12 workplace fatalities and all 12 fatality investigations were initiated within one day of notification.

FY 2010 Performance Goal 1.3: *Resolve 100 percent of all discrimination complaint cases within 90 days.*

NvOSHA met this goal. The Program had 57 whistleblower cases for 2010 and all cases (100 percent) were resolved. The number of cases varies each year but this year saw a significant increase in the number of cases filed.

Table 7 Total 11(c) Discrimination Cases

Year	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
# of Cases	43	46	44	24	25	39	57

Strategic Goal 2: Change Workplace Culture

Performance Goal 2.2: *Provide a Voluntary Protection Star Program (VPP Star) to the General Industry employers of Nevada. This program is designed for employers who go above and beyond the laws and regulations set forth by the Federal and State programs with regards to the safety and health of their employees.*

NvOSHA did not meet this goal. One VPP site participant was awarded the VPP Star. Nevada did not receive new applications in FY 2010 for VPP consideration. Some of the companies with sites in Nevada that had achieved merit status are now under new management and they have not been interested in devoting the necessary resources to achieve star status.

Recommendation 10-22: The VPP goals should be re-evaluated and the necessary resources allocated to meet the goal.

Performance Goal 3.2: *Ensure that 92 percent of stakeholders surveyed rate their treatment during inspections by NvOSHA as professional.*

NvOSHA met this goal. A total of 130 employer surveys were returned (less than 10 percent return rate) with an average of 98% approval rating for compliance officer professionalism. The surveys are given to the employers by the compliance officer as part of the inspection closing conference.

**Appendix A – Nevada State Plan (NVOSHA)
Summary of New and Continuing Findings and Recommendations**

No.	Findings	Recommendations	Related FY 2009 No.
10-1	Case files were not organized in a uniform manner and by a means which would reduce the possibility of important case file documentation being lost or misplaced.	Fully implement the corrective action plan by developing written guidance and training compliance staff on procedural changes. Ensure each inspection conducted will be assigned a single case file folder and correspondence will be in one location in the file.	09-I-1 (Fatality Case File Reviews) 09-VI-1
10-2	The OSHA Case File Cover Sheets did not provide a ready record and summary of all actions relating to a case.	Fully implement the corrective action plan by revising the case file coversheet (in accordance with the NOM page 116) and train compliance staff on procedural changes. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.	09-I-2 (Fatality Case File Reviews)
10-3	The IMMLANG policy is not consistently followed.	Conduct federal/state audit of FAT/CAT case files scheduled to be completed by September 30, 2011.	09-I-4 (Fatality Case File Reviews)
10-4	Interview statements in the Luxor file, fatality files or settlement files did not contain language required by the NOM.	Implement use of interview statement forms containing policy required language.	09-II-6 (Complaints About State Program Administration)
10-5	Fifty-two percent (52%) of all inspections resulted in citations. Of those 52%, over half of those cases (55%) resulted in only other-than-serious violations.	NvOSHA should evaluate and if needed, revise targeting system to ensure limited resources are inspecting locations where serious hazards are present.	09-IV-1 (General Inspection Statistics)
10-6	The focus on simply getting a large number of inspections may lead to cutting corners to meet the requirement.	Implement revised work performance standards that reflect quality of inspections.	09-IV-2 (General Inspection Statistics)
10-7	NvOSHA groups its violations based on the location of the standards being cited in the code of State regulations rather than by the individual hazardous conditions.	Complete scheduled audit of case files with citations and grouped violations.	09-IV-3 (General Inspection Statistics) 09-VI-5
10-8	No diary sheets or similar daily/chronological logs were found in any of the 21 case files reviewed.	Fully implement the corrective action plan by revising the case file coversheet (in accordance with the NOM page 116) and train compliance staff on procedural changes. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.	09-V-1 (Complaint Processing)
10-9	Inadequate abatement was received and accepted as adequate.	The joint federal/state audit scheduled to be completed by September 30, 2011 will include a review of abatement documentation in the closed case files.	09-V-4 (Complaint Processing)
10-10	There were cases in which the complaint was classified improperly.	Include a review of complaint inquiry and inspection case files in the joint federal/state audit scheduled to be completed by September 30, 2011.	09-V-7 (Complaint Processing)

No.	Findings	Recommendations	Related FY 2009 No.
10-11	Deficiencies were noted on the OSHA 1B supporting documentation including: no contact information for workers interviewed and exposed to hazards; duration and frequency listed as “as needed” on the majority of the violations; missing equipment identifiers such as manufacturer, model number and serial number, and employer knowledge listed as “with due diligence.”	Provide documentation of compliance staff training on the OSHA 1B form.	09-VI-4 (Specific Cases)
10-12	Some files contained the abatement verification form and others included the abatement verification form with additional documentation. Interviews with supervisors and investigators indicated that there was no clear policy conveyed indicating what abatement information employers were required to submit.	Include a review of case file documentation of abatement verification/certification in the joint federal/state audit scheduled to be completed by September 30, 2011.	09-VI-6 (Specific Cases)
10-13	The IMIS LEP codes do not match current LEP practices and LEP and Strategic Initiative codes are not always updated appropriately.	Provide documentation of coding update and staff training on the coding of OSHA forms.	09-VII-1 (Programmed Inspection Targeting System)
10-14	IMIS coding is not available for all General Industry targeting systems.	Provide documentation of coding update and training of compliance and administrative staff on coding of IMIS forms and database maintenance.	09-VII-2 (Programmed Inspection Targeting System)
10-15	The low percentage of serious violations and the high percentage of in-compliance inspections for programmed inspections indicate a need for an improved targeting system.	Provide summary of audit findings and targeted emphasis program revisions, if any.	09-VII-4 (Programmed Inspection Targeting System)
10-16	NvOSHA has agreed to conduct 2,900 inspections per year as part of its budgeting process and this information is used by the legislature to determine if the program is meeting their goals. This translates to 95 to 115 inspections per year per investigator.	Complete review of staff work performance standards and implement standards that emphasize quality inspections.	09-VII-5 (Programmed Inspection Targeting System)
10-17	Employees with 3 years of safety and health experience have left the employment of NvOSHA for higher paying safety positions.	Continue to pursue all available options to increase the salaries of NvOSHA safety and health compliance officers.	09-XI-1 (Retention of Staff)
10-18	Complainant was not timely notified of the results of the inspection or inquiry.	Ensure complainants are timely notified after an investigation or inquiry.	New
10-19	Abatement verification/certification was not provided for all serious violations.	NvOSHA should investigate all cases with outstanding abatement and implement corrective actions to ensure employees are not exposed to ongoing serious hazards that have not been abated.	New
10-20	The percent serious/willful/repeat violation rate for programmed inspections was not met.	NvOSHA should continue to evaluate and improve their targeting mechanisms and ensure serious hazards are recognized and citations issued in accordance with enforcement policy.	New
10-21	Inspection goals were not met. The state completed 56.5% of projected inspection goals.	Evaluate inspection goals and if appropriate, modify to reflect changes in policy and declining industries in the state.	New
10-22	State strategic objective and performance goal of 3 VPP Star sites was not met. Only one application was awarded a VPP Star site and there were no new applications submitted.	The VPP goals should be re-evaluated and the necessary resources allocated to meet the goal.	New

Appendix B
Status of FY 2009 EFAME Findings and Recommendations (NvOSHA Special Review)

Fatality Case File Reviews

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-I-1	Case files were not organized in a uniform manner and by a means which would reduce the possibility of important case file documentation being lost or misplaced.	Provide clear guidance to all enforcement personnel on the organization of case files. It is recommended that correspondence not be filed throughout the investigative file but in one specific location in the file. This will help ensure all necessary correspondence is sent to employers, employees and family members of victims. The files should also be contained in file folders which will help ensure that all correspondence and investigation materials are maintained in the file.	Develop written guidance for case file organization and train compliance staff on procedural changes. Each inspection will be assigned a single case file folder and correspondence will be in one location in the file.	A spot check of NvOSHA case files was conducted and the cover/diary sheet was found buried in the case file and all activity associated with the inspection after the citation was issued was not listed and/or was not in date sequential order. In response, the NvOSHA District Managers drafted procedures on the use of the cover/diary sheets. The procedures are currently under review by the state and due to be final by June 17, 2011 and training is to be completed by June 30, 2011.	Pending
09-I-2	The OSHA Case File Cover Sheets did not provide a ready record and summary of all actions relating to a case.	The Case File Cover Sheet must be used in accordance with the Nevada Operations Manual (NOM) or a Diary Sheet should be added to ensure that all communications are documented in the case file.	Revise case file coversheet (in accordance with the Nevada Operations Manual (NOM) page 116) and train compliance staff. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.	A spot check of NvOSHA case files was conducted and the cover/diary sheet was found buried in the case file and all activity associated with the inspection after the citation was issued was not listed and/or was not in date sequential order. In response, the NvOSHA District Managers drafted procedures on the use of the cover/diary sheets. The procedures are currently under review by the state and due to be final by June 17, 2011 and training is to be completed by June 30, 2011.	Pending

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-I-3A	Families of victims are not always contacted when a fatality investigation is initiated and no additional communication is initiated by NvOSHA once the investigation has begun.	In accordance with the NOM, and the new Nevada Senate Bill 288, "families of victims should be contacted soon after the initiation of the investigation and provided timely and accurate information at all stages of the investigation."	Corrective Action Plan Update NOM to reflect fatality reporting procedures and develop and implement Fatality/Catastrophe (FAT/CAT) checklist.	The NOM was updated and adopted on September 1, 2010 with the fatality reporting procedures. A FAT/CAT checklist was also developed and implemented.	Completed 09/14/2010
09-I-3B	Families of victims are not always contacted when a fatality investigation is initiated and no additional communication is initiated by NvOSHA once the investigation has begun.	We suggest communication with families when the investigation is initiated, when citations are issued, when informal settlement agreements are signed, when the case is contested and when the case is closed. We also suggest a clear policy be developed indicating who should sign the initial correspondence to the family and any additional correspondence. Additionally, a tracking system should be developed and implemented to help ensure that required correspondence is sent to families of victims.	Develop template letters in English and Spanish for communication with families.	Template letters were developed in English and Spanish and implemented on November 3, 2009. The FAT/CAT policy in the NOM was revised and adopted on September 1, 2010. A FAT/CAT checklist was implemented and correspondence is sent to the family of the victim and other required documentation and actions are completed.	Completed 05/21/2010
09-I-4	The IMMLANG policy is not consistently followed.	Review the current IMMLANG policy and make a determination regarding whether NvOSHA will adopt the policy. Once the decision has been made, ensure that all management and employees are informed of the policy and that the policy is consistently followed.	Adopt FAT/CAT compliance (CPL) directive and train compliance staff on IMMLANG policy and investigation procedures. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of the FAT/CAT case files.	The FAT/CAT Investigation Procedures CPL 02-00-137 was adopted on March 17, 2010 and training has been provided to all employees. When the joint federal/state audit (scheduled to be completed by September 30, 2011) of FAT/CAT case files has been completed a final determination will be made.	Pending
09-I-5	Willful violations are discouraged because of lack of management and legal counsel support.	Work with legal counsel to develop training to improve the development of legally sufficient cases and increase the pursuit of willful violations. The training should be specific to NvOSHA and should address what is required by the Review Board to sustain a willful violation. With this	Provide willful case file documentation guidance from federal OSHA to legal counsel. Train compliance staff on NOM required documentation for willful violations.	Legal counsel was provided willful guidance documentation developed by federal OSHA on September 1, 2010 and compliance staff was trained.	Completed 02/03/2011

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
		training the NvOSHA cases containing willful violations should be legally sufficient and sustainable by the Review Board.			
09-I-6	Union representation is not always present for opening, closing and informal conferences.	NvOSHA must follow its current procedures and ensure that union representatives are provided the opportunity to participate in opening conferences, closing conferences and informal conferences.	Revise the checklists for informal, opening and closing conferences to include union representation. Train compliance staff on updated checklists.	The informal conference checklist was updated and implemented on April 6, 2010. The opening and closing conference checklist was updated and implemented on March 25, 2010. All compliance staff were trained on the updated checklists.	Completed 05/21/2010
09-I-7	Copies of citations are only mailed to union representatives when they request information.	Ensure that all union representatives are informed that they must request copies of citations or no copy will be sent to them.	Revise closing conference checklists to include how union representatives may obtain copies of the citations and train compliance staff on updated checklist	The closing conference checklist was updated on December 14, 2009 and now includes the required notifications to union representatives. Enforcement personnel were trained on the updated checklist..	Completed 05/21/2010
09-I-8	Files do not contain employee contact information such as home phone numbers and mailing addresses.	Worker contact information must be obtained for all workers interviewed and exposed to hazards. This information will provide accessibility to witnesses for contested cases and ensure that information is maintained in the event that a discrimination complaint is filed.	Revise OSHA 1A form by removing OTHER PERSONS CONTACTED. Train compliance staff on OSHA 1A & 1B drop down menus in the NCR for worker contact, duration, and frequency.	The OSHA 1A form was revised and OTHER PERSONS CONTACTED was removed on March 17, 2010. Compliance staff was trained on revised OSHA 1A and 1B forms.	Completed 05/21/2010
09-I-9	OSHA 300 information is not obtained for the previous three years and entered into the IMIS system as required by OSHA Instruction CPL 02-0.131.	NvOSHA must reconcile these differences between the NOM and OSHA Instruction CPL 02-0-131. Once those differences have been reconciled, employees must be trained on current policy and be provided copies of current policy documents.	Adopt CPL 02-00-135 (Record Keeping Policy and Procedure Manual) and update NOM to reflect changes in policy. Train compliance staff on new record keeping procedures.	The recordkeeping policies and procedure manual, CPL 02-00-135 was adopted on March 23, 2010. The NOM Chapters addressing recordkeeping were revised and adopted September 1, 2010. Compliance staff was trained on the new	Completed 09/14/2010

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
				recordkeeping procedures.	
09-I-10	All hazards identified were not addressed as citations, notices of violations or hazard alert letters.	All hazards identified during inspections must be addressed. Case files must be reviewed more thoroughly including review of photographs for hazards not identified or addressed by the investigators.	Provide hazard recognition training to all compliance staff. Reiterate to supervisors the importance of reviewing photos in each case file and to identify hazards that were not cited.	Supervisors have received verbal and written instruction to carefully review all case file documentation and photographs for hazards that were not cited. Hazard recognition training was provided to all compliance staff.	Completed 05/24/2010
09-I-11	The NOV policy is confusing to employers.	NvOSHA must review its NOV policy, and if the policy is continued, make modifications necessary to eliminate confusion for employers and clarify the difference between NOVs and Other-Than-Serious violations. Once the policy has been reviewed and changes are made regarding the policy, compliance officers must receive training on how to convey this information to employers. (Item I-12 was renumbered to item I-11 in final special study report)	Withdraw Notice of Violation (NOV) procedure and brief enforcement staff.	The NOV policy was canceled and the revised NOM was implemented on September 1, 2010. Compliance staff was briefed on the removal of NOV procedures.	Completed 09/14/2010

Complaints About State Program Administration (CASPs)

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-II-1	Willful violations are discouraged because of lack of management and legal counsel support.	Work with legal counsel to develop training to improve the development of legally sufficient cases and increase the pursuit of willful violations. The training should be specific to NvOSHA and should address what is required by the Review Board to sustain a willful violation. With this training the NvOSHA cases containing willful violations should be legally sufficient and sustainable by the Review	Provide willful case file documentation guidance from Federal OSHA to legal counsel. Train enforcement staff on required documentation for willful violations.	Legal counsel was provided willful guidance documentation developed by federal OSHA on September 1, 2010 and compliance staff was trained.	Completed 02/03/2011

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
		Board.			
09-II-2	Notes of the first annual review of the Orleans settlement agreement were written but not included in the case file.	All notes and case file documentation must be included in the files and not kept on individual computers. This will ensure that files are effectively evaluated for abatement, debt collection, contest and any other actions being taken on the file.	Train compliance staff and management on the documentation required to be in the inspection case files.	Compliance staff was trained on procedures and the documentation that is required to be in the case file.	Completed 09/14/2010
09-II-3	Through employee interviews it was determined that NvOSHA employees do not inform complainants of their discrimination rights unless the complainant alleges some type of discrimination and they do not always ask for the complainant's address.	NvOSHA must follow established complaint procedures to ensure that all complainants are provided information about their rights and asked to provide their name, address and phone number. Discrimination rights must be communicated to the complainants when they call and file a complaint even if they don't allege discrimination at the time of the call. (V-3)	Revise NOM to include complaint procedures and develop a complaint/referral checklist. Train compliance staff on revised NOM, checklist and questionnaire in CPL 02-00-140.	The NOM was revised and adopted September 1, 2010. A complaint/referral checklist was developed and includes discrimination rights. The checklist was implemented on June 14, 2010 and is required documentation for all complaint related case files. Compliance staff was trained on the new complaint/referral processes.	Completed 02/14/2011
09-II-4	During a review of IMIS information, it was found that letters were only mailed to complainants who filed a formal complaint.	The process outlined in the NOM and OSHA Instruction CPL 02-00-140 must be followed with regard to letters sent to the complainant.	Develop checklist for processing of complaint letters and inquiries.	Checklist was developed and implemented on March 25, 2010.	Completed 02/03/2011
09-II-5	The second inspection case file for Luxor showed that two sets of employees were interviewed together. Nevada regulations authorize the SHR/IH to question any employee privately during regular working hours in the course of an OSHA inspection.	Ensure that interviews are conducted privately and that they cover the required information discussed in the current NOM.	Train compliance staff on NOM interview policy and Nevada Revised Statute (NRS) requirements.	Training on NOM interview policies and NRS requirements were provided to compliance staff.	Completed 02/03/2011
09-II-6	Interview statements in the Luxor file, fatality files or settlement files did not contain language required by the NOM.	Ensure that interview statements are taken, and documented, in accordance with the NOM.	Develop and implement interview forms that include policy required language. Train compliance staff on how to conduct interviews and	Interview statement forms were updated but, have not been implemented. Compliance staff training on the use of the interview forms was scheduled for April 29,	Pending

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
			obtain statements in accordance with the NOM.	2011.	
09-II-7	Clearly supportable repeat violations were not cited. In the Orleans Hotel and Casino case [the subject of one of the two Complaints About State Program Administration (CASPA)] NvOSHA issued serious rather than willful or repeat citations even though the owner/operator of this hotel had been previously cited for substantially similar conditions/hazards at other properties.	NvOSHA should review its procedures and consider evaluating potentially repeat violations with the assistance of legal counsel. (See conclusion II-7 in October 20, 2009 report)	Provide documentation guidance for repeat violations to legal counsel. Update NOM and train compliance staff on documentation required for repeat violations.	The NOM was revised and adopted on September 1, 2010 and compliance staff was trained on required documentation for repeat vs. willful violations. Legal counsel was provided guidance on repeat and willful violation documentation that was developed by federal OSHA.	Completed 05/24/2010

Integrated Management Information System

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-III-1	NvOSHA offices have a significant number of draft and incomplete records on the IMIS system.	NvOSHA must perform a review and cleanup of the IMIS database records to ensure that all draft forms are finalized and transmitted to the host computer as expeditiously as possible, except for OSHA-1B's less than six months old, because they may still be modified before the citations are issued. A system must be developed to ensure that periodic reviews of draft and rejected IMIS forms are conducted to maintain a viable information system.	Clean up of IMIS database and correct rejected IMIS forms daily. Save OSHA 1B's as final on the citation issuance date. Train compliance staff to save all other IMIS forms (except 1Bs) at time of data entry.	The OSHA 1B forms are saved as final when citations are issued and rejected forms are corrected. Training on the NCR/IMIS was provided by federal OSHA to administrative staff.	Completed 04/01/2011
09-III-2	The majority of IMIS management reports are not being used effectively nor are they set up in the system for automatic generation and distribution.	NvOSHA must establish a comprehensive system for the proper handling of the IMIS management reports system. An automated report setup program will assist the agency in ensuring that the most widely used reports are automatically generated,	Set up and run the IMIS automated reports.	IMIS reports for management are set to run on a regularly re-occurring schedule.	Completed 05/24/2010

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
		reviewed and acted upon on a periodic basis (either weekly, bi-weekly or monthly) based on the importance of the specific report and its volume of cases to be reviewed and monitored.			
09-III-3	The IMIS system is not kept up-to-date and contains information which does not allow for effective internal evaluation of the NvOSHA program.	NvOSHA must ensure that the IMIS system is kept up-to-date and is accurate. NvOSHA needs extensive IMIS training to include: review of OSHA Instruction ADM 1-1.31 IMIS Enforcement Data Processing Manual, data entry (all forms), pre- and post-citation processing, handling of incomplete (draft) and rejected forms and IMIS Management reports processing to effectively improve and maintain an effective IMIS Maintenance and Management Reports structure. (III-1)	Request NCR/IMIS training by federal OSHA.	Federal OSHA provided two days of training on the NCR/IMIS system to NvOSHA management, program analyst and administrative staff.	Completed 05/24/2010

General Inspection Statistics

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-IV-1	Fifty-two percent (52%) of all inspections resulted in citations. Of those 52%, over half of those cases (55%) resulted in only other-than-serious violations.	NvOSHA must evaluate its targeting system and make modifications to ensure that its limited resources are inspecting locations where serious hazards are present. NvOSHA must also ensure that violations are being classified in accordance with the NOM.	Review and update targeting systems to ensure limited resources are inspecting locations where serious hazards are present. Train compliance staff on recognition and classification of hazards.	Hazard recognition training was provided to compliance staff. A representative from OSHA and NvOSHA met on February 23, 2011 to discuss targeting systems and the auditing of targeted emphasis programs; however, targeting system revisions have not been completed.	Pending
09-IV-2	The focus on simply getting a large number of inspections may lead to cutting corners to meet the requirement.	NvOSHA should work with the Nevada legislature to begin tracking outcome measures instead of just pure numbers of inspections. Emphasis should be placed on reducing fatalities, injuries and illnesses.	Develop new or revise compliance staff work performance standards to reflect quality inspections.	Work performance standards have been drafted and pending approval.	Pending
09-IV-3	NvOSHA groups its violations	NvOSHA must review its current citation	Train enforcement staff on	Compliance staff was trained	Pending

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
	based on the location of the standards being cited in the code of State regulations rather than by the individual hazardous conditions.	grouping policies and procedures and issue citations in accordance with its NOM.	NOM policy for grouping violations. Audit citations with grouped violations to ensure NOM policy is followed. A joint federal/state audit is scheduled to be completed by September 30, 2011; to review case files with citations and grouped violations.	on NOM grouping policies; however, the scheduled audit to review case files with grouped violations will not be completed until September 30, 2011.	
09-IV-4	Only one willful violation was cited by NvOSHA during the evaluation period.	NvOSHA must conduct an internal review of its willful citation policy and take corrective action in order to be able to fully document and support willful violations so that they can be issued and successfully sustained/affirmed.	Develop written policy and train compliance staff on required documentation for willful violations.	The NOM was revised to include a policy on willful violations and was adopted September 1, 2010. Training was conducted on the revised NOM policy.	Completed 02/03/2011
09-IV-5	IMIS Reports are not utilized to identify cases requiring follow-up inspections to track abatement and to ensure abatement verification.	NvOSHA must begin using the "Candidates for Follow-up Inspections Report" and the "Violation Abatement Report" to identify and assign establishments that requires follow-up inspections.	Run a weekly abatement report from the IMIS system. Employers that fail to provide abatement documentation/certification will be issued citations or a follow-up inspection will be conducted.	IMIS is set up to run a weekly abatement report and violations without abatement is appropriately followed-up.	Completed 05/24/2010
09-IV-6	The list of most frequently cited standards shows limited hazard recognition with few hazards identified in the construction industry, which is where the majority of fatalities are occurring.	NvOSHA must review all available IMIS data reports and track the most frequently cited standards to determine what additional training, hazard recognition and case file documentation are necessary to increase the breadth of standards cited and the classification of such citations. Special emphasis should be placed on construction hazards in an effort to improve hazard recognition, which will result in workers being removed from hazards. This should be done for the agency as a whole as well as for each individual SHR/IH.	Use Dodge listing for the construction targeting system and train compliance staff on hazard recognition. Audit construction files for frequently cited standards.	The Dodge listing is used for construction targeting and hazard recognition training for compliance staff was completed. The state completed an audit of the most frequently cited construction violations for FY 2010.	Completed 02/17/2011

Complaint Processing

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-V-1	No diary sheets or similar daily/chronological logs were found in any of the 21 case files reviewed.	The Case File Cover Sheet must be used in accordance with the Nevada Operations Manual (NOM) or a Diary Sheet should be added to ensure that all communications are documented in the case file.	Revise case file coversheet (in accordance with the (NOM) page 116) and train compliance staff. The joint federal/state audit scheduled to be completed by September 30, 2011; will include a review of case file organization and use of coversheets.	A spot check of NvOSHA case files was conducted and revealed the cover/diary sheet was buried in the case file and all activity associated with the inspection was not included and diary entries were not in date sequential order. In response, the NvOSHA District Managers drafted procedures on the use of the cover/diary sheets that are currently under review by the state. The final procedures are due by June 17, 2011 and training is to be completed by June 30, 2011.	Pending
09-V-2	No indication was found that the complainant was informed, in writing and/or recorded in IMIS, of the results of the inquiry/inspection.	NvOSHA must ensure that all complainants are responded to in accordance with the Complaint Policies and Procedures directive, OSHA Instruction CPL 02-00-140. Complainant responses must be consistent with complaint handling procedures. All complaint inquiries must be responded to using IMIS Letter G - Employer Response to Complainant, and complaint inspections must be responded to using IMIS Letter H - Formal Complaint Inspection Results. (II-4)	Develop a checklist for processing of complaint inspection and inquiries and train administrative staff responsible for complaint processing.	Use of a complaint checklist was implemented for the processing of complaint inspections and inquiries. In addition, the NOM was revised to reflect appropriate changes and administrative staff was trained on updated procedures.	Pending
09-V-3	The majority of complaints did not have the complainant's contact information in the IMIS.	NvOSHA must make every attempt to acquire, document and enter into IMIS complainants' identification, including name, address and phone number, unless complainant explicitly requests to remain anonymous. All requests to remain anonymous must be documented in the case file. (II-3)	Revise NOM to include complaint procedures. Develop a checklist for receiving complaints/referrals and train compliance staff on revised procedures and use of questionnaire in	The NOM was revised and adopted on September 1, 2010. A complaint/referral checklist was implemented on June 14, 2010 and compliance staff was trained on the revised complaint/referral processes.	Completed 02/03/2011

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-V-4	Inadequate abatement was received and accepted as adequate.	NvOSHA must ensure that adequate abatement is obtained for all complaint items found valid, regardless of whether they are being handled via an inquiry or an inspection.	CPL 02-00-140. Ensure abatement is obtained and documented in accordance with NOM prior to closing of case files. Train compliance staff. Conduct joint federal/state audit for adequate abatement and complaint documentation in case file.	Initial training was received from federal OSHA and compliance staff has been trained; however, the joint federal/state audit is scheduled but will not be completed until September 30, 2011.	Pending
09-V-5	IMIS Reports are not utilized to identify cases requiring follow-up inspections to track abatement and to ensure abatement verification.	NvOSHA must ensure that hazards identified during complaint inspections are addressed with the employer through citation, notification of violation or some other method (1-10).	Provide hazard recognition training for compliance staff. Reiterate to supervisors, the importance of reviewing photos in each case file for additional hazards.	Supervisors have received verbal and written instruction to carefully review all case file documentation and photographs for hazards that were not cited. Hazard recognition training was provided to all compliance staff.	Completed 05/24/2010
09-V-6	There were cases in which the complainant disputed the employer's response yet no inspection took place and there was no acknowledgement of the disputed findings.	All disputed complaints must be handled in accordance with OSHA Instruction CPL 02-00-140, including the complainant's right to request an inspection and/or the agency's responsibility to respond whether an inspection will or will not be conducted and the reasons why.	Revise NOM to include complaint procedures. Train compliance staff on revised NOM, and compliant processes in CPL 02-00-140 (Complaint Directive adopted September 1, 2006).	The NOM was revised and adopted on September 1, 2011 and all compliance staff has been trained on complaint procedures.	Completed 04/27/2011
09-V-7	There were cases in which the complaint was classified improperly.	NvOSHA must ensure that complaint allegations are properly evaluated and classified and that such classification will ensure proper handling of the complaint items, either via an inquiry or an inspection.	Train enforcement supervisors and managers on complaint hazard evaluation process in accordance with revised NOM. Conduct joint federal/state audit of complaint case files for hazard evaluations.	Compliance supervisors and District Managers were trained on the complaint hazard evaluation processes and revised NOM procedures. However, the joint federal/state audit is not scheduled to be completed until September 30, 2011.	Pending

Specific Cases

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-VI-1	Case files did not contain diary sheets and were held together with a binder clip or rubber band, with correspondence that was intermingled throughout the investigation file.	Provide clear guidance to all enforcement personnel on the organization of case files. It is recommended that correspondence not be filed throughout the investigative file but in one specific location in the file. This will help ensure all necessary correspondence is sent to employers, employees and family members of victims. The files should also be contained in file folders which will help ensure that all correspondence and investigation materials are maintained in the file. (I-1)	Develop written guidance for case file organization and train compliance staff on procedural changes. Each inspection will be assigned a single case file folder and correspondence will be in one location in the file.	Documentation checklists were developed and printed on colored paper; however, written procedural guidance on how to organize case files had not been completed. Note: A spot check of NvOSHA case files was conducted and correspondence was found scattered throughout the file and one file folder contained many different inspections. In response, the NvOSHA District Managers have drafted case file procedures that are currently under review. The final procedures are due by 6/17/2011 and training is to be completed by 6/30/2011.	Pending
09-VI-2	Only one willful violation was proposed for any of the files reviewed. Interviews with investigators and supervisors indicated that willful violations were discouraged.	Work with legal counsel to develop training to improve the development of legally sufficient cases and increase the pursuit of willful violations. The training should be specific to NvOSHA and should address what is required by the Review Board to sustain a willful violation. With this training the NvOSHA cases containing willful violations should be legally sufficient and sustainable by the Review Board. (I-5).	Provide willful case file documentation guidance from federal OSHA to legal counsel. Train compliance staff on NOM required documentation for willful violations.	Legal counsel was provided willful guidance documentation developed by federal OSHA on September 1, 2010 and compliance staff was trained.	Completed 02/03/2011
09-VI-3	The Henderson Office leaves violations in draft in the IMIS until after informal and formal settlement agreements are reached	Change the policy of leaving violations in draft to ensure that all citation history is maintained. Once this is in place, then a thorough evaluation of the informal	Save 1B's as final at citation issuance date. Evaluate the informal settlement practices and	The 1B forms are saved final at citation issuance date and informal settlement practices were reviewed, revised and	Completed 02/17/2011

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
	and then amended citations are issued. If all informal conference violation reclassifications are updated in this fashion , the IMIS data used for monitoring will be incorrect because it will not accurately reflect how many violations are reclassified during informal conferences.	settlement practices and procedures should take place and changes implemented if deficiencies are identified. (III-1 & III-3)	procedures and implement changes if deficiencies are identified.	tested.	
09-VI-4	Deficiencies were noted on the OSHA 1B supporting documentation including: no contact information for workers interviewed and exposed to hazards; duration and frequency listed as “as needed” on the majority of the violations; missing equipment identifiers such as manufacturer, model number and serial number, and employer knowledge listed as “with due diligence.”	NvOSHA must ensure that OSHA 1Bs is fully documented. Provide additional training to investigators on case file documentation and the importance of having each OSHA 1B fully documented. This training should also fully explain the legal process in Nevada, which will help them develop a more legally sufficient case. (1-8.)	Train compliance staff on violation documentation and the OSHA-1B drop down menus for worker contact, duration and frequency of hazard and completion of OSHA 1B worksheet to include documentation of hazard, equipment, location, injury/illness and employer knowledge.	Compliance staff was trained on the OSHA-1B drop down menus and worksheet documentation however, requested documentation of training has not been provided.	Pending
09-VI-5	Excessive and inappropriate grouping issues were identified in these files, as well as the fatality files and complaint inspections files that were reviewed. Interviews with supervisors and investigators indicated that violations were grouped if they were in the same subpart regardless of hazard, contrary to guidance in the NOM.	NvOSHA must review its current citation grouping policies and procedures and issue citations in accordance with its NOM.	Train enforcement staff on NOM policy for grouping violations. Audit citations with grouped violations to ensure NOM policy is followed. A joint federal/state audit is scheduled to be completed by September 30, 2011; to review case files with citations and grouped violations.	Compliance staff was trained on NOM grouping policies; however, the scheduled audit to review case files with grouped violations will not be completed until September 30, 2011.	Pending
09-VI-6	Some files contained the abatement verification form and others included the abatement verification form with additional documentation. Interviews with	The abatement verification policy must be reviewed with all supervisors and investigators to ensure the supporting information and documentation required for abatement verification is present in the case	Obtain proof of abatement in accordance with NOM prior to closing of case files. Conduct a joint federal/state audit of case	All compliance staff and supervisors have been trained on the abatement verification policy and required case file documentation. The joint	Pending

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
	supervisors and investigators indicated that there was no clear policy conveyed indicating what abatement information employers were required to submit.	files.	files for adequate abatement documentation of complaint items.	federal/state audit of abatement verification/certification in closed case files is scheduled to be completed by September 30, 2011.	

Programmed Inspection Targeting System

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-VII-1	The IMIS LEP codes do not match current LEP practices and LEP and Strategic Initiative codes are not always updated appropriately.	NvOSHA must update its IMIS coding database to list only those local emphasis and strategic initiative codes that are currently active. This will prevent inconsistencies and discrepancies in the tracking, monitoring and evaluation of these programs. NvOSHA must decide if one or both codes will be used by the state and provide appropriate IMIS training to secure adherence to this data entry policy.	Update IMIS database with agreed upon coding and train compliance staff on appropriate coding of OSHA forms.	A meeting with NvOSHA and OSHA representatives was held on February 23, 2011 to discuss targeting and the IMIS coding database. IMIS coding and compliance staff training was scheduled to be completed by April 4, 2011. Documentation of coding update and staff training has been requested.	Pending
09-VII-2	IMIS coding is not available for all General Industry targeting systems.	Work with the Office of Management and Data Systems (OMDS) to ensure that targeting codes are available and ready for use.	Work with OMDS and federal OSHA to determine availability of targeting codes and train staff with responsibility for maintaining the IMIS code database..	IMIS training, including coding was provided by federal OSHA to administrative and compliance staff. NvOSHA has been requested to provide information on the updated codes and administrative staff training record for the IMIS class.	Pending
09-VII-3	NvOSHA is entering OSHA is for every construction employer on multi-employer worksites, which directly impacts the in-compliance rate experienced for the construction industry.	Discuss current Federal OSHA policy with Region IX and make any necessary changes to multi-employer worksite policies and IMIS data entry requirements.	Discuss multi-employer worksite policy with Region IX and discontinue practice of entering OSHA-1 form for each employer on a construction site.	The practice of entering an OSHA-1 for each employer on a construction site was discontinued on November 4, 2009.	Completed 05/24/2010

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-VII-4	The low percentage of serious violations and the high percentage of in-compliance inspections for programmed inspections indicate a need for an improved targeting system.	Perform an evaluation of the effectiveness of active LEPs and targeting programs. Once the evaluation is complete, make any necessary changes to more effectively target high hazard industries and facilities. One tool that could be used to assist with the evaluation of targeting programs is Appendix A of OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs). (IV-1)	Audit 2010 Local Emphasis and Targeting Program inspection data in accordance with CPL 04-00-001 and discontinue or modify targeting programs that are not effective. State audit of targeting programs is scheduled to be completed by June 1, 2011.	NvOSHA Program Coordinator has scheduled to audit the targeted emphasis programs after codes and targeting program revisions, if any, are in place.	Pending
09-VII-5	NvOSHA has agreed to conduct 2,900 inspections per year as part of its budgeting process and this information is used by the legislature to determine if the program is meeting their goals. This translates to 95 to 115 inspections per year per investigator.	Work with the Nevada legislature to utilize more outcome measures to evaluate the effectiveness of the program. Educate the legislature on the importance of quality inspections versus a large quantity of inspections.	Modify inspection goals and revise compliance staff work performance standards to emphasize quality inspections.	The state modified the 2008 inspection goals from a high of 2900 to 2565 inspections per year. However, work performance standards that were drafted on February 17, 2011 have not been finalized and implemented.	Pending
09-VII-6	NvOSHA is not properly coding programmed-related inspections in the IMIS system.	NvOSHA must properly and accurately classify its programmed inspections based on NOM instructions on Page I-3 of 93. Programmed [Planned] inspections should only be used for the "initial" establishment and any high hazard employers at the worksite, while Programmed-Related inspections should be used for all other low-hazard establishments found at that multi-employer worksite.	Train enforcement personnel on difference between program planned and program related inspections during IMIS training. (See revised NOM Chapter 2 Program Planning)	Initial training on IMIS was provided by federal OSHA and included a discussion on the difference between program planned and program related inspections.	Completed 05/24/2010

Communication with Family Members of Deceased Employees

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-VIII-1	Sections 12.5 and 47 of Bill 288 contain new responsibilities for the Division of Industrial	A policy must be developed and incorporated into the NOM which outlines the procedures to be followed in order to	Update NOM to reflect fatality reporting procedures and submit	The NOM was updated and adopted on September 1, 2010 and includes fatality policy	Completed 09/14/2010

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
	<p>Relations of the Department of Business and Industry regarding contact with family members of employees who were killed on the job.</p>	<p>comply with NvOSHA's new responsibilities. Because this amends the underlying state plan legislation, the state plan must submit a state plan change in accordance with 29 CFR 1953.4(d)(2).</p> <p>In addition, a tracking system should be developed to ensure that all necessary communications with family members are accomplished. In the development of the process to meet the requirements of Section 47 of the bill, include a step for confirming that contact information for the family is still accurate. NvOSHA should also look into developing a form to be completed which will ensure that the information provided to the Occupational Safety and Health Review Board will be consistent. NvOSHA should consider how it will handle multiple family members. For example: A deceased son/daughter of a father and mother who are divorced or a brother/sister with multiple siblings. Will they be providing letters to all family members or just one? How will they decide whom to communicate with? Will they be providing contact information to the Board for all family members or just for one? Due to the sensitive nature of this issue, it is also suggested that a uniform method of letter completion and signature be developed to ensure that all letters are uniform and signed by the appropriate official. (1-3a and b.)</p>	<p>state initiated plan change. Establish procedures to ensure the appropriate family member(s) have been designated and contacted. Develop a FAT/CAT checklist that can be included in the case file and used as a reference to ensure all necessary information is communicated to designated family members. Also develop template letters to help ensure uniformity and signatures from appropriate state officials.</p>	<p>and procedures to determine designated family members. The state-initiated change was submitted on March 5, 2010. A FAT/CAT checklist and template letters were also developed and implemented.</p>	

NvOSHA's 10/30 Hour Courses

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-IX-1	Assembly Bill 148 contains new requirements for NvOSHA.	Because this new law amends the underlying state plan legislation, the state plan must submit a state plan change in accordance with 29 CFR 1953.4(d)(2).	Submit state plan program change.	A state plan initiated change (AB 148) was submitted on March 5, 2010.	Completed 05/24/2010
09-IX-2	Regulations are currently under development to address this new legislation.	Work closely with OTI and Region IX to ensure that the regulations under development do not conflict with Federal OSHA Outreach 10- and 30- hour courses.	Consult with the OSHA Training Institute (OTI) on training policies related to 10/30 hour courses and adopt regulation consistent with OTI training policies for 10/30 hour courses..	On November 4, 2009, OTI reviewed the Nevada Revised Statute containing the requirement for 10/30-hour courses and it was determined to be at least as effective. (Note: The Nevada Administrative Code (NRS) 618.990 thru .990 is now a regulation and waiting for numbering.)	Completed 05/24/2010
09-IX-3	The new legislation is silent regarding who is required to pay for the required worker training.	NvOSHA needs to contact the U.S. Department of Labor's Wage and Hour Division to ascertain and get clarification regarding the conditions under which employers must pay wages to employees during training.	Contact state equivalent to the U.S. Department of Labor, Wage and Hour Division for clarification regarding the conditions under which employers must pay wages to employees during training.	On November 4, 2009, the Nevada Labor Commission provided clarification and a copy of Nevada Administrative Code that addressed payment for travel and training. NAC 608.130(3)(b) exempts the employer from paying wages if the training is required by an agency entity other than the employer.	Completed 05/24/2010

Personnel and Training

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-X-1	Records indicate that NvOSHA is currently not in compliance with OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel.	NvOSHA must follow OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel, dated November 3, 2008, adopted by the state on January 3, 2009.	Audit compliance staff training records and schedule OTI classes for compliance officers with incomplete training	The state developed and implemented an Employee Training Log in July of 2009. The log is used to track all compliance officer required	Completed 02/03/2011

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
			records.	and professional development training.	
09-X-2	Employees are assigned fatality investigations prior to completing the Accident Investigation course.	The State should not send investigators to conduct fatality/accident investigations until they have completed the accident investigation course.	Provide list of compliance officers that have received accident investigation training to District Managers. Only qualified compliance officers that have completed accident investigation training will be assigned to investigate accidents.	A list of compliance officers, that have successfully completed accident investigation training, was provided to District Managers on November 3, 2009. Only compliance officers on the list will be assigned inspections involving a fatality and/or catastrophe.	Completed 05/24/2010
09-X-3	NvOSHA maintains an emergency response team; however, training records for emergency response training are incomplete.	Emergency response training records must be maintained to ensure that all response team members receive the required training.	Ensure training is completed and keep all training certificates on file for members of the emergency response team.	Training certificates are kept on file as of July 2, 2009 and emergency response duties will only be assigned to compliance officers that have received the required training.	Completed 05/24/2010

Retention of Staff

No.	Conclusion	Recommendation	Corrective Action	State Action Taken	Status
09-XI-1	Employees with 3 years of safety and health experience have left the employment of NvOSHA for higher paying safety positions.	Evaluate all safety positions in Nevada State Government and work to reclassify positions to higher paying safety classifications.	Work with legislature to increase safety and health compliance officer salaries and explore other available options that may impact staff retention.	NvOSHA has requested but has not received approval of pay increases for safety and health staff through the state personnel system and legislative process.	Pending
09-XI-2	Lack of clear guidance and support could be leading to low employee morale.	Explore ways to identify whether employee morale is leading to the desire to leave employment with NvOSHA.	Improve training and emphasize high quality inspections to boost employee morale.	The state has established and hired a trainer for the NvOSHA program. This position is located in the Henderson office and will be used to improve staff training and emphasize the commitment to quality inspections.	Completed 02/03/2011

**Appendix C—Enforcement Comparison
Nevada State Plan
FY 2010 Enforcement Activity**

	NV	State Plan Total	Federal OSHA
Total Inspections	1,525	57,124	40,993
Safety	942	45,023	34,337
<i>% Safety</i>	62%	79%	84%
Health	583	12,101	6,656
<i>% Health</i>	38%	21%	16%
Construction	570	22,993	24,430
<i>% Construction</i>	37%	40%	60%
Public Sector	64	8,031	N/A
<i>% Public Sector</i>	4%	14%	N/A
Programmed	317	35,085	24,759
<i>% Programmed</i>	21%	61%	60%
Complaint	510	8,986	8,027
<i>% Complaint</i>	33%	16%	20%
Accident	39	2,967	830
Insp w/ Viols Cited	802	34,109	29,136
<i>% Insp w/ Viols Cited (NIC)</i>	53%	60%	71%
<i>% NIC w/ Serious Violations</i>	63.6%	62.3%	88.2%
Total Violations	2,831	120,417	96,742
Serious	1,241	52,593	74,885
<i>% Serious</i>	44%	44%	77%
Willful	1	278	1,519
Repeat	21	2,054	2,758
Serious/Willful/Repeat	1,263	54,925	79,162
<i>% S/W/R</i>	45%	46%	82%
Failure to Abate	19	460	334
Other than Serious	1,549	65,031	17,244
<i>% Other</i>	55%	54%	18%
Avg # Violations/ Initial Inspection	3.6	3.4	3.2
Total Penalties	\$2,198,364	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 1,197.90	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 1,184.60	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	32.7%	47.7%	40.9%
% Insp w/ Contested Viols	16.0%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	25.9	16.2	18.6
Avg Case Hrs/Insp- Health	17.6	26.1	33
Lapse Days Insp to Citation Issued- Safety	34.1	33.6	37.9
Lapse Days Insp to Citation Issued- Health	45.3	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	33	1,715	2,510

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.9.2010.

Appendix D—FY 2010 State Activity Mandated Measures (SAMM) Report

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)
 State: NEVADA

NOV 12, 2010
 PAGE 1 OF 2

RID: 0953200

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	2970 5.45 544	266 7.18 37	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	313 2.05 152	37 3.08 12	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	494 96.67 511	47 100.00 47	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	15 100.00 15	1 100.00 1	100%
5. Number of Denials where entry not obtained	1	0	0
6. Percent of S/W/R Violations verified			
Private	888 94.67 938	16 72.73 22	100%
Public	14 100.00 14	0 0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	29253 43.46 673	3968 66.13 60	2624646 47.3 55472
Health	13098 61.20 214	789 56.35 14	750805 61.9 12129

*NV 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
 PAGE 2 OF 2

State: NEVADA

RID: 0953200

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	149	11	93201
Safety	39.52	68.75	58.4 National Data (3 years)
	377	16	159705
	27	1	10916
Health	40.30	50.00	50.9 National Data (3 years)
	67	2	21459
9. Average Violations per Inspection with Violations			
	1506	143	428293
S/W/R	1.69	1.93	2.1 National Data (3 years)
	887	74	201768
	1497	131	240266
Other	1.68	1.77	1.2 National Data (3 years)
	887	74	201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	2042750	246800	509912690
	1407.82	1801.45	1360.4 National Data (3 years)
	1451	137	374823
11. Percent of Total Inspections in Public Sector	64	2	182
	4.20	1.82	2.6 Data for this State (3 years)
	1525	110	7124
12. Average lapse time from receipt of Contest to first level decision	6359	0	3826802
	163.05		217.8 National Data (3 years)
	39	0	17571
13. Percent of 11c Investigations Completed within 90 days	52	3	100%
	100.00	100.00	
	52	3	
14. Percent of 11c Complaints that are Meritorious	15	0	1461
	28.85	.00	21.2 National Data (3 years)
	52	3	6902
15. Percent of Meritorious 11c Complaints that are Settled	12	0	1256
	80.00		86.0 National Data (3 years)
	15	0	1461

*NV 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E—State Indicator Report (SIR)

Q4 SIR32 101007 093259 PROBLEMS - CALL Yvonne Goodhall 202 693-1734

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = NEVADA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	11	11403	65	21912	248	43788	1860
	62.4	6.1	63.8	16.3	65.1	27.8	65.9	57.8
	8493	181	17860	398	33647	893	66434	3219
B. HEALTH	488	9	1094	27	2232	57	4202	273
	30.6	7.1	33.7	10.3	35.0	10.7	35.1	22.6
	1597	126	3249	263	6378	534	11960	1206
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	16	9421	85	17649	294	34350	1156
	72.7	88.9	71.2	87.6	69.1	73.0	67.1	58.7
	6413	18	13232	97	25525	403	51214	1969
B. HEALTH	451	6	880	21	1756	36	3238	149
	57.8	42.9	53.9	58.3	55.4	53.7	53.4	50.2
	780	14	1632	36	3168	67	6066	297
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	188	33678	448	62211	905	117447	1759
	81.6	53.0	81.5	51.1	81.0	42.8	80.1	33.3
	21261	355	41304	877	76839	2114	146593	5285
B. HEALTH	3233	150	6183	222	11743	335	21554	547
	69.6	59.1	70.5	59.8	70.2	51.7	69.6	38.7
	4645	254	8776	371	16725	648	30947	1415
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	3054	10	6515	27	12732	59	25040	224
	15.0	5.3	16.3	5.7	17.2	5.9	17.7	8.6
	20398	190	39855	470	74010	1007	141219	2605
B. HEALTH PERCENT >60 DAYS	255	0	633	0	1406	0	2977	10
	5.6	.0	7.3	.0	8.5	.0	9.6	.9
	4548	169	8681	248	16580	422	30862	1053

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 2

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = NEVADA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	46000	1106734	108450	2038916	147250	3500911	231650
OTHER-THAN-SERIOUS	837.5	613.3	803.1	586.2	894.3	525.9	967.6	528.9
	701	75	1378	185	2280	280	3618	438
B. HEALTH								
	249175	34500	434447	39750	732953	48700	1039303	63200
OTHER-THAN-SERIOUS	817.0	932.4	801.6	828.1	835.8	749.2	842.2	665.3
	305	37	542	48	877	65	1234	95
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	197	20529	431	38849	975	76136	3354
	5.8	2.1	5.7	2.3	5.5	3.0	5.5	5.9
	1679	92	3593	185	7112	325	13925	565
B. HEALTH								
	1864	137	3844	286	7547	588	14276	1325
	2.1	3.4	2.0	3.4	1.9	3.7	1.8	4.7
	908	40	1940	84	3898	158	8070	282
7. VIOLATIONS VACATED %								
	1123	9	2474	36	5103	84	10425	201
	3.7	1.6	4.3	3.1	4.7	3.1	5.0	2.4
	29962	573	57441	1153	108213	2712	207527	8230
8. VIOLATIONS RECLASSIFIED %								
	844	2	1978	32	4276	67	9196	196
	2.8	.3	3.4	2.8	4.0	2.5	4.4	2.4
	29962	573	57441	1153	108213	2712	207527	8230
9. PENALTY RETENTION %								
	15767907	193464	30073309	388281	57457651	879694	111052615	1837674
	64.5	71.7	63.9	68.3	63.0	69.3	62.8	66.0
	24439885	269950	47032897	568095	91194322	1269550	176868726	2783522

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = NEVADA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	11	0	65	0	248	2	1860	2
	6.1	.0	16.3	.0	27.8	7.7	57.8	4.5
	181	4	398	8	893	26	3219	44
B. HEALTH	9	1	27	1	57	1	273	8
	7.1	16.7	10.3	6.3	10.7	2.7	22.6	10.3
	126	6	263	16	534	37	1206	78
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	188	1	448	8	905	11	1759	22
	53.0	33.3	51.1	40.0	42.8	36.7	33.3	47.8
	355	3	877	20	2114	30	5285	46
B. HEALTH	150	3	222	3	335	9	547	13
	59.1	42.9	59.8	42.9	51.7	30.0	38.7	22.8
	254	7	371	7	648	30	1415	57

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = NEVADA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610 22.5 2709	51 42.9 119	1134 23.2 4888	82 33.1 248	2052 21.9 9366	144 28.9 498	3827 23.0 16668	254 27.9 909
2. VIOLATIONS RECLASSIFIED %	306 11.3 2709	15 12.6 119	585 12.0 4888	34 13.7 248	1100 11.7 9366	73 14.7 498	2217 13.3 16668	141 15.5 909
3. PENALTY RETENTION %	4940512 65.3 7563023	90076 78.3 115075	7526155 62.3 12074308	165076 77.1 214195	12856359 58.1 22143463	255274 69.6 366620	23378285 58.4 40052611	415063 67.3 616685

APPENDIX F

NEVADA STATE OSHA ANNUAL REPORT (SOAR) FY 2010

(available separately)