

FY 2011 FAME REPORT  
ON THE  
STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT  
OCCUPATIONAL HEALTH AND SAFETY BUREAU

Covering the period  
October 1, 2010 - September 30, 2011

Plan Approval:	December 10, 1975
18(b) Certification:	December 04, 1984

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## Executive Summary

### A Summary of the Report

The four recommendations resulting from the onsite review conducted for FY 2011 and review of other program areas are addressed throughout the report, listed in Section III below, and included as Appendix A. The major recommendations include continuing improvements on case file documentation, reducing health citation lapse time, assigning appropriate abatement dates, and clarifying through rulemaking OHS regulation 11.5.1.21.E NMAC on private interviewing.

New Mexico made progress on all of the FY 2011 annual performance plan goals, and the program continues to meet all of its State Plan requirements, as detailed in Sections IV, V, and VI of this report. The Compliance Section conducted 482 inspections, and issued 724 total violations. The State met all but one of the Local Emphasis Program (LEP) goals for inspections in targeted industries, and responded timely to all unprogrammed activity.

Our review of performance data found many areas where State performance met or exceeded established internal or Federal goals, among them responding to complaints in a timely manner, initiating fatality investigations in a timely manner, average number of serious violations per inspection, violation and penalty retention prior to and subsequent to contest, and timely first level decisions subsequent to contest.

As detailed in Section III, there were nine recommendations in the FY 2010 FAME Report. Corrective action has now been completed on five of the recommendations. The State is continuing to make progress on the remaining four, which are repeated in this report.

Training sessions for Compliance Officers were conducted on several different occasions to address recommendations on case file documentation (FY 2011 FAME Recommendation 1). The Bureau is continuing to explore methods to further reduce citation lapse time (FY 2011 FAME Recommendation 2), and they have requested legal assistance in drafting and presenting corrections to the private interviewing regulations (FY 2011 FAME Recommendation 4). Compliance Officers will receive additional training on establishing appropriate abatement dates, and supervisory case file review will closely assess the issue (FY 2011 FAME Recommendation 3).

New Mexico is including all of these issues in their FY 2012 State Internal Evaluation Program (SIEP); we are addressing them on a continuing basis during our quarterly meetings and we will follow up on each issue during the FY 2012 onsite monitoring review.

The many different New Mexico partnerships and alliances are highlighted in the New Mexico Compliance and Cooperative Programs Combined Annual Report for Fiscal Year 2011 (State OSHA Annual Report (SOAR)), referenced in this report as Appendix F. The construction partnerships, along with the consultation visits to construction employers, have had a significant impact on the low TRC rate for construction and the in-compliance rate for construction programmed safety inspections.

## B State Plan Introduction

This is an annual evaluation of the operation of the State of New Mexico Occupational Health and Safety Plan under the 23(g) State Plan grant. This report was prepared under the direction of John M. Hermanson, Regional Administrator, Region VI, Occupational Safety and Health Administration, U.S. Department of Labor, and covers the period from October 1, 2010, to September 30, 2011. The New Mexico Occupational Health and Safety Program is administered by the Occupational Health and Safety Bureau (OHSB), which is part of the Environmental Protection Division of the New Mexico Environment Department. The State Designee is New Mexico Environment Department Secretary F. David Martin, and the Occupational Health and Safety (OHS) Bureau Chief is Mary Uhl.

The New Mexico program covers all private sector industries within the State, except maritime (longshoring, ship building, and ship breaking) employees and Federal civilian employees, who are under Federal OSHA jurisdiction for enforcement. State and local government employees are also covered. The New Mexico FY 2012 Annual Performance Plan notes that New Mexico has a total work force of 596,235 private sector and 189,653 public sector employees working for 54,820 businesses and public agencies throughout the State. Approximately 85% of the businesses within the State employ 15 or fewer employees.

The Federal share of the FY 2011 23(g) grant was \$1,027,300, and the State share was \$1,027,300, for a total program of \$2,054,600. Private sector consultation is provided by the Bureau under a 21(d) Cooperative Agreement, while public sector consultation is provided under the 23(g) grant.

The OHSB staff consists of the Bureau Chief; 3 Program Managers for Compliance, Consultation, and Administration; 7.5 Safety Compliance Officers; 3 Health Compliance Officers; 3 Safety Consultants; 2 Health Consultants; 2.5 Compliance Assistance Specialists; and 7 administrative staff members. Most of the staff members work out of the Santa Fe or Albuquerque offices, with one Compliance Officer stationed in Las Cruces. This has allowed the Bureau to provide more rapid response to reports of hazards, including imminent danger situations and accidents, as detailed in this report.

## C Data and Methodology

This report is based on several data sources, including State Plan Activity Measures (SAMM) Reports; State Indicator Reports (SIR); case file reviews; Occupational Health and Safety Review Commission (OHSRC) decisions; Automated Tracking System (ATS) Logs; review of State-transmitted documentation in response to Federal Program Changes, Federally-initiated standards, and State-initiated Plan Changes; and ongoing communication regarding legislative, regulatory, and other issues.

The onsite review was conducted February 21-24, 2012, and focused on enforcement and discrimination case file review. Eighty-four enforcement and 19 discrimination case files were reviewed. We also conducted a voluntary survey of all Compliance Officers and Compliance Assistance Specialists to obtain additional information on the impact the State's corrective actions in response to FAME recommendations has had on the program. All other issues were reviewed offsite.

## D Findings and Recommendations

This report contains no new recommendations. There were nine recommendations in the FY 2010 FAME report; corrective action has been completed on five of the nine, and we consider the recommendations closed. There are four remaining issues, which are included as repeat recommendations. These are discussed in Section III, Appendix A, and throughout the body of the report. New Mexico is continuing to address each of the four issues. We will discuss them at our quarterly meetings in FY 2012, and OHSB will include them in the State Internal Evaluation Program (SIEP) issues for 2012.

## II Major New Issues

No significant issues were identified during FY 2011.

## III State Response to FY 2010 FAME Recommendations

The New Mexico FY 2010 FAME contained nine recommendations as the result of the February 2011 onsite evaluation, which included enforcement and discrimination case file reviews, and our regular, ongoing monitoring. Following is a summary of each of the findings and recommendations and the actions the State has taken to respond to each of the recommendations.

*Finding 10-1: In the 12 fatality case files reviewed, we did not find documentation regarding contact with victims' family members. We understand that contact did take place in several cases, but this was not documented in the files.*

**Recommendation 10-1:** New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico FOM, and that these contacts are documented in the case files.

Corrective Action Plan: OHSB implemented a policy change which included letters and phone contact with victims' family members during all fatality investigations as part of the NM FOM revisions in November 2009, after the period covered by this OSHA evaluation.

The State Internal Evaluation Program (SIEP) review for FY 2009 contained a recommendation that OHSB staff members follow the new guidelines in the NMFOM, and that Compliance Officers receive instruction on the new guidelines.

During the FY 2010 SIEP review, which included following up on recommendations from the FY 2009 report, the reviewer found that the State policies and procedures for contacting family members in fatality inspections had been documented in the FOM, and all Compliance Officers had been trained to refer this task to the Compliance Program Manager.

Current Status: This issue was identified by OHSB in their FY 2009 State Internal Evaluation Program (SIEP) review, and a recommendation was made to ensure that the procedures in New Mexico Field Operations Manual, Chapter 11, Section II.G were followed. The documentation of the State's policy (revised NM FOM) was transmitted to the Region in November 2009 and is under review.

The FY 2011 SIEP report confirmed that in the six fatality investigation files reviewed, family members were appropriately contacted, and the appropriate documentation was included in fatality investigation files.

We reviewed 10 fatality inspection case files closed during FY 2011. One of the case files had an opening conference date of 2007, so we did not include it in our assessment of the States progress in relation to this recommendation.

Eight of the nine (89%) cases contained documentation of contact with the victims' families at appropriate points during the investigation and case file documentation. The remaining case, family members were contacted, but the contacts were not documented in the file.

The State has completed corrective action on this issue and we consider the recommendation closed.

*Finding 10-2: Case files reviewed were not always fully and accurately documented.*

**Recommendation 10-2 (Recommendation 11-1):** New Mexico OHSB should ensure that:

1. Each case file contains a diary sheet that documents all actions taken, when they were taken, and by whom.
2. Documentation of employee discussions relative to violations or complaint items is included in all case files.
3. Employee exposure to hazards is documented.
4. Employer knowledge is documented.
5. The four elements for a general duty clause violation are documented on the OSHA 1-B form: identify the hazard to which employees are exposed; state how the hazard is recognized (including industry recognition); state how the hazard would cause death or serious physical harm; and identify the feasible abatement methods.
6. OSHA-300 log data is documented and entered into the IMIS for all appropriate case files.

Corrective Action Plan:

1. The need for better use of diary sheets was detected during the FY 2009 SIEP, and a recommendation was made regarding diary sheets. OHSB has since developed a tracking sheet for use by Compliance Officers during and following inspections.
2. The Compliance Program Manager will instruct all Compliance Officers to document employee discussions relative to violations and complaint items. File review will include review for adequate documentation of discussions.
3. The need for more complete documentation of employee exposure was also noted during OHSB's FY 2010 State Internal Evaluation. The Compliance Program Manager responded to a similar recommendation from the SIEP by conducting training sessions that emphasized the requirement to fully document employee exposure, and by ensuring that supervisory case file reviews include checking the adequacy of such documentation.
4. During internal Compliance Officer training sessions, the Compliance Program Manager will continue to emphasize the need for proper documentation of employer knowledge. He will also ensure that case file reviews include checking the adequacy of such documentation.
5. All Compliance Officers have been instructed to adequately address each of the four elements of general duty clause violations in the citations. Supervisors will continue to monitor each case where general duty violations are identified to ensure that all necessary evidence is obtained and documented in the alleged violation description.
6. All Compliance Officers have been instructed to obtain, document, and enter OSHA-300 log data when it is required.

Current Status: The 2011 SIEP included review of case files to ensure appropriate documentation was included. Findings were mixed. Further review and corrective action is continuing.

1. Compliance Officers were instructed in the use of the diary sheet, and inclusion in all case files was in August 2010.

The FY 2011 SIEP addressed this issue and found that a diary sheet was included in each case file however, there was very little documentation on them.

Of the 50 cases opened after September 1, 2010, that we reviewed, 43 (86%) did contain diary sheets.

Our case file reviews confirmed the SIEP findings regarding documentation. We discussed our findings at the closing conference after our case file reviews were completed. The Compliance Program Manager stated that Compliance Officers' are now required to update him on the status of each case at least monthly, and this will be documented on the diary sheet. Compliance Officers performance evaluations will be changed to include performance assessment on this issue. This recommendation will be repeated for FY 2011.

2. Our case review identified seven cases with no or inadequate documentation of discussions with employees regarding violations or complaint items. This recommendation will be repeated for FY 2011.
3. Our case file reviews found that the majority of cases did include employee exposure documentation. In 4 of the 44 (9%) cases, there was either no documentation or inadequate documentation of employee exposure.

Although this is a small percentage of case files, because the SIEP review also found that additional corrective action was needed on case file documentation, this recommendation is being repeated for FY 2011.

4. Our case file reviews found that the majority of cases did include documentation of employer knowledge. In 3 of the 44 (7%) cases, there was either no documentation or inadequate documentation of employer knowledge.

Although this is a small percentage of case files, because the SIEP review also found that additional corrective action was needed on case file documentation, this recommendation is being repeated for FY 2011.

5. All of the general duty clause violations that were cited in the case files we reviewed contained the four required elements. The State has completed corrective action on this issue and we consider the recommendation closed.

6. Our case file reviews found that 85% either included the OSHA-300 log data or it was not required, and the information was entered into the IMIS. The State has completed corrective action on this issue and we consider the recommendation closed.

*Finding 10-3: Union representation was not documented in one case file, and documentation of union participation in the inspection and subsequent actions was not included in several case files.*

**Recommendation 10-3:** New Mexico OHSB should ensure that union representation is identified in the case file and documented on the OSHA-1 form, and that union representatives are appropriately involved during inspections and any subsequent review actions.

Corrective Action Plan: OHSB will continue to stress to Compliance Officers the requirement to identify and document union representation and to appropriately involve union participation during inspections. They will continue to follow established policies for the posting of notices of meetings, and will continue to assure that the employer attests to posting of notices.

Current Status: The 2011 SIEP report indicates that very few inspections in New Mexico are at union sites; only one file was identified in the universe of files selected for review. In that case, the union representative was made aware of the progress on the case, and contact was documented in the file.

Federal OSHA case file reviews identified four cases where the OSHA-1 was correctly coded as “union.” Three of the four were opened prior to New Mexico’s receipt of the FY 2009 FAME report. In the one remaining case, union inclusion and employee discussion were documented in the file, but one of the sub-items was not checked on the OSHA-1.

State action has been completed on this issue and we consider the recommendation closed.

*Finding 10-4: Average health citation lapse time in New Mexico is significantly higher than the National average.*

**Recommendation 10-4 (Recommendation 11-2):** New Mexico OHSB should continue efforts to further reduce health citation lapse time.

Corrective Action Plan: OHSB will continue to utilize IMIS reports to identify open cases with prolonged lapse times, in order to minimize delays in citation issuance. They will continue to perform a monthly analysis of lapse times for individual Compliance Officers and will continue to use lapse times as a major factor during employee performance evaluations. They have instituted progressive administrative discipline for Compliance Officers whose performance in this area is substandard. In addition, they are

investigating alternative sources for performing analyses of samples obtained during health inspections in an attempt to find a provider with quicker response times than the Salt Lake Technical Center (SLTC).

Current Status: This has been a focus of State efforts for several years, and was identified in the 2008 State Internal Evaluation Program (SIEP) review. Steps were taken at that time and are continuing, in an effort to reduce the lapse time. We saw reductions in both safety and health lapse times at that time.

The 2011 SIEP included review of this issue. At the time the SIEP review was conducted, the average health citation lapse time had increased to 80.3 days. The Compliance Program Manager and Bureau Chief are continuing to closely monitor the issue. We also discuss progress at each quarterly meeting.

Average health citation lapse time increased to 89.0 calendar days in FY 2011. This is a 25% increase from the FY 2010 average of 71.3 calendar days. The State FY 2011 average of 89.0 calendar days is 37% higher than the nationwide average of 64.8 calendar days.

We will continue to discuss strategies to reduce health citation lapse times at quarterly meetings. The specific steps OHSB has taken over the years to address this issue are described in the documentation of each quarterly meeting. This recommendation is repeated in this report.

*Finding 10-5: In a very small number of instances (4 of 225), violations were not properly classified in accordance with the severity of the potential injuries/illnesses that could result. These included asphyxia, systemic poisoning, and electrical shock being noted as minimal severity.*

**Recommendation 10-5:** New Mexico OHSB should ensure that Compliance Officers appropriately record the severity of all injuries and illnesses identified as violations.

Corrective Action Plan: OHSB has conducted training for Compliance Officers to ensure that potential injuries and illnesses associated with identified hazards are appropriately described.

Current Status: Training to ensure that potential injuries and illnesses associated with identified hazards are appropriately described was provided to compliance staff on May 10, 2010, and August 9, 2010.

This issue was covered in the 2011 SIEP review, and there were two case files with questionable severity ratings. The Compliance Program Manager has reviewed these cases, and discussed them with the Compliance Officers.

Our onsite case file reviews found only one violation where the severity classification was not in accordance with the potential injury of falling 14 feet to the ground.

The State has completed corrective action on this issue and we consider the recommendation closed.

*Finding 10-6: In a very small number of case files (6 of 84), our review identified hazards that were not addressed.*

**Recommendation 10-6:** New Mexico OHSB should ensure that potential hazards are assessed through appropriate sampling and that all hazards are addressed through either a citation or, if no standard exists and the elements of a general duty clause violation are not present, a hazard alert or 5(a)(1)/general duty clause letter is sent to the employer.

Corrective Action Plan: OHSB will continue to evaluate Compliance Officers' competency in hazard identification through individual case review and monthly analysis of citation rates. They will continue to evaluate the experience level and training histories of Compliance Officers and attempt to enroll them in appropriate training courses to improve their ability to properly recognize and cite hazards. They will review sample hazard alert letters provided by the Region for possible use.

Current Status: Sample hazard alert letters from the IMIS standard letters were provided to OHSB on December 21, 2010. The Compliance Program Manager responded that they will use the template in a Word document if/when the need arises.

The issue of hazard alert letters was addressed in the 2011 SIEP review. No instances were found where a letter in lieu of a general duty clause violation would have been appropriate.

In 43 of the 44 (98%) case files we reviewed, all apparent violations were cited. In one case, it appears a violation of 1926.50 could have been cited.

The State has completed corrective action on this issue and we consider the recommendation closed.

*Finding 10-7: Nine of 57 (16%) of the case files we reviewed had at least one violation with abatement dates we considered longer than necessary. For example, guardrails on scaffolds should be assigned abatement dates of a few days, rather than several weeks; separation of oxygen and fuel gas cylinders was given a 2 week abatement period; and a 17 day abatement period was given for controlling carbon monoxide exposure.*

**Recommendation 10-7 (Recommendation 11-3):** New Mexico OHSB should ensure that, in accordance with NMFOM Chapter 5, Section II.C.2.k, "The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation."

Corrective Action Plan: The Compliance Program Manager has emphasized to Compliance Officers the need to consider the abatement period for violations based on

the circumstances in each individual case in order to achieve optimum results in abatement time intervals.

Current Status: Training on assessing the shortest timeframe within which the employer can reasonably be expected to correct the violation was conducted on May 10, 2010, for all compliance staff.

We reviewed the State Indicator Report (SIR) Measure C.4, which shows the following regarding assigned abatement periods.

<b>State Indicator Report (SIR) Measure C.4</b>				
	<b>Safety violations with assigned abatements greater than 30 days</b>		<b>Health violations with assigned abatements greater than 60 days</b>	
	New Mexico OHSB	Federal OSHA	New Mexico OHSB	Federal OSHA
FY 2010	6.4%	17.7%	6.2%	8.5%
FY 2011	14.1%	17.9%	16.9%	9.4%

This issue was included in the 2011 SIEP review. In the universe of 24 case files, the reviewer identified four cases where abatement dates might have been shorter. The Compliance Manager reviewed the cases, and discussed them with the Compliance Officers.

Fifteen of the 44 (34%) case files we reviewed had at least one violation with abatement dates we considered longer than necessary. For example, a defective extension cord was assigned a two week abatement period, and an employer was given two weeks to remove four 55 gallon barrels blocking an exit and mark the load rating on a crane. An employer was given three weeks to put a tongue guard and a work rest on a grinder. The employer abated the hazards within one week of the inspection and approximately six months prior to the citation being issued. These violations are high severity because death can result from being struck in the abdomen by fragments of the grinding stone.

This recommendation is repeated in this report.

*Finding 10-8: The reasons why a violation was changed as the result of an informal conference were not always documented in the case files.*

**Recommendation 10-8:** New Mexico OHSB should ensure that the reasons why violations and/or penalties are changed at the informal conference are documented in the case file, in accordance with Chapter 8, Section I.A.5 of the New Mexico Field Operations Manual.

Corrective Action Plan: The Compliance Program Manager will ensure that NMFOM Chapter 8, Section I.A.5 is being followed for decisions resulting from an informal conference.

Current Status: This issue was included in the 2011 SIEP review. Ten cases with amended citations were reviewed; all 10 included a memo adequately describing the reasons for the changes.

We reviewed 44 cases with citations, two of which had Informal Conferences. Both (100%) contained adequate documentation of reasons for the changes.

The State has completed corrective action on this issue and we consider the recommendation closed.

*Finding 10-9: There are apparent inconsistencies in language and interpretation within the State's private interviewing regulations.*

**Recommendation 10-9 (Recommendation 11-4):** New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).

Corrective Action Plan: OHSB has requested legal assistance in drafting and presenting appropriate corrections of the regulations to the Environmental Improvement Board. The proposed regulatory changes will be presented to the Environmental Improvement Board for consideration.

Current Status: New Mexico managers are discussing proposed regulatory changes with New Mexico Environment Department (NMED) legal staff. We will continue to monitor progress on this issue, and the recommendation is repeated in this report. Our Department of Labor Regional Solicitor is available to assist as requested.

#### **IV Assessment of State Performance**

Appendix C is a summary of enforcement indicators, showing New Mexico performance compared to nationwide Federal performance. Most of the issues in the chart are also addressed through measures in the State Activity Mandated Measures (SAMM) Report and/or the State Indicator Report (SIR). New Mexico performance as indicated in Appendix C, contained in the SAMM report, contained in the SIR report, addressed in the State Internal Evaluation Report for 2011, and discussed during quarterly meetings and ongoing communication, is addressed under each topic below.

New Mexico conducted a total of 482 enforcement inspections in FY 2011 (379 (79%) safety and 103 (21%) health). Construction accounted for 197 (41%) of the total 482 inspections.

In response to OSHA's revised Field Operations Manual, New Mexico transmitted a revised NMFOM and comparison document in November 2009. Unless noted below, New Mexico's enforcement policies and procedures are identical to Federal OSHA's.

## A Enforcement

As detailed in Section III and Appendix B of this report, the FY 2010 FAME report included a recommendation on six aspects of case file documentation – use of diary sheets, documentation of employee discussions relative to violations or complaint items, employee exposure, employer knowledge, general duty clause violation elements requirement, and OSHA-300 log data. The State has completed corrective action on two of the six items – general duty clause violations and OSHA-300 data – and the remaining four items are included as a repeated recommendation in this report. (See Appendix A, Recommendation 11-1.)

### 1 Complaints and Referrals

New Mexico has interpreted the State OHS Act to define complaints only as those signed notices of alleged hazards filed by current employees or their representatives. All other notices of alleged hazards, including those from former employees and unsigned notices from current employees or employee representatives, are classified as referrals. All complaints are responded to by inspection, in accordance with the New Mexico OHS Act and regulations. Referrals may be handled by phone/fax, letter, or inspection, as determined by the Compliance Program Manager. Appendix C shows that there were 9 complaint inspections conducted in New Mexico in FY 2011, accounting for 2% of inspection activity. Referral inspections accounted for 39% (187/482) of inspection activity.

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

State Activity Mandated Measure (SAMM) 4 shows that all 10 (100%) of the imminent danger complaints and referrals responded to during the period were inspected within one working day. SAMM measure 1 shows that New Mexico averaged 3.9 working days to respond to all other complaints by inspection; the State goal is no more than 5 working days.

Because the New Mexico Act so narrowly defines complaints, we have historically also reviewed at our quarterly meetings the State's response to referrals alleging serious hazards. The Bureau also addressed the issue by establishing a goal in the strategic and annual performance plans to respond to 95% of referrals alleging serious hazards within 10 working

days. New Mexico responded to 84.7% of referrals alleging serious hazards within 10 working days. The average lapse time was 6.2 days. One specific health referral response was delayed for reasons beyond the Bureau's control; the Department was coordinating a multi-agency inspection of the site. In addition, preparation for this inspection required an extensive amount of research.

The goal for SAMM 3 is to notify 100% of complainants of inspection results within 20 working days of citation issuance or 30 working days of the closing conference for cases without citations. There were 13 complaint inspections where complainants were notified of inspection results during the period; 11 of the 13 (84.6%) had timely notification. In one case, the complainant did not provide contact information, so no response could be sent. In the other case the response to the complainant was not timely.

One of the allegations in CASPA 10-1 was that there are no written procedures for referrals, and that referrals from New Mexico Consultants to the Compliance Section have been ignored. Our review found that written referral procedures do exist in the NMFOM, but there appeared to be confusion within the Bureau regarding these policies in relation to the different roles of compliance and consultation. Our recommendations were to ensure that all notices of alleged hazards or violations are referred to a Compliance Officer and documented on an OSHA-7 complaint form or OSHA-90 referral form, and that all Bureau staff receive refresher training on policies and procedures for reviewing and processing complaints and referrals.

On May 10, 2010, the Compliance Manager conducted training with Compliance Officers instructing them to include all allegations of safety and health hazards by using the OSHA-7 or OSHA-90.

The State instructed Consultation, Compliance Assistance, and Administrative staff to forward all complaints to the Compliance staff.

The State sends a letter to all current employees who file a complaint or referral, informing them of the results of an inspection or inquiry. The Bureau has changed their practice to include all members of the public making complaints or referrals, and will provide verbal feedback to the Bureau's staff regarding internal referrals.

Another allegation in CASPA 10-1 was that an imminent danger excavation hazard was called in to the Compliance Section by Consultants, and it took the Compliance Officer an hour and a half to arrive at the site. Our review found that both the New Mexico Field Operations Manual and the Federal OSHA Field Inspectors Reference

Manual (FIRM) provided that imminent danger investigations will be scheduled the same day that the report is received, if possible, but not later than the employer's next working day after receipt of the report. The Bureau Chief stated that the Compliance Officer arrived at the site approximately 20 minutes after the phone call was received. However, we were unable to determine from the inspection file the exact time of the phone calls or the exact time of the site entry. Our recommendation was to ensure that Compliance Officers enter the time of entry on the OSHA-1 form.

On May 10, 2010, the State instructed all Compliance Officers to enter all required fields on the OSHA-1 form, including the inspection site entry time.

2 Fatalities

New Mexico experienced a decrease in the fatality rate per 100,000 workers, from 5.3 in 2009 to 4.9 in 2010. There were 12 transportation incidents and 10 assaults or other violent acts.

Between 2009 and 2010, total Recordable Case (TRC) rates for Public and Private Sectors, and the DART rate for the Public Sector decreased in New Mexico. The Private Sector DART rate showed a slight increase. The Public Sector TRC rate decreased from 6.2 to 4.3 (30.6%); the Private Sector TRC rate decreased from 4.1 to 3.7 (9.8%). The Public Sector DART rate decreased from 3.1 to 2.0 (35.5%); and the Private Sector DART rate increased from 1.8 to 1.9 (5.6%).

TRC rates for all industries, including State and local governments, decreased from 4.8 cases per 100 employees to 4.3. The private sector only rate decreased from 4.1 to 3.7.

The following table shows the three year trend for these rates.

	<b>New Mexico 2007 Total Case Rate (TRC)</b>	<b>New Mexico 2010 Total Case Rate (TRC)</b>	<b>% change from 2007 to 2010</b>	<b>National Total Case Rate (TRC)</b>
Public Sector	6.9	4.3	-37.7%	5.7
Private Sector	4.6	3.7	-19.6%	3.5
	<b>New Mexico 2007 DART rate</b>	<b>New Mexico 2010 DART rate</b>	<b>% change from 2007 to 2010</b>	<b>National DART rate</b>
Public Sector	2.9	2.0	-31.0%	2.5
Private Sector	2.3	1.9	-17.4%	1.8

The micro-to-host All Fatalities Received Report for New Mexico shows that 20 fatalities were reported to the Occupational Health and Safety Bureau (OHSB) in FY 2011. There were three heart attacks; one auto accident; one case of hypothermia; and one determined to be natural causes. There was one instance of a double fatality event. There were 14 deaths in 13 incidents under OHSB jurisdiction.

Of the 13 fatal incidents that were inspected, the investigation began within one day in 12 of the 13 (92.3%) cases. In the one case where the inspection was begun within two working days, the initial report stated the cause as “hypertensive and atherosclerotic cardiovascular disease.” Later information pointed to additional potential factors that may have contributed to the fatality. Six of the 14 deaths were in the construction industry; 3 were in oil/gas well drilling and servicing; and 5 were in other industries.

As detailed in Section III and Appendix B of this report, the FY 2010 FAME report included a recommendation to ensure that family members are contacted early on and at appropriate times during fatality investigations. Our February 2012 onsite review found that eight of the (89%) fatality inspection case file contained the required documentation. State corrective action has been completed, and we consider the recommendation closed.

### 3 Targeting and Programmed Inspections

New Mexico uses the high hazard industry list based on Dun and Bradstreet listings, which is provided by OSHA’s Directorate of Evaluation and Analysis, to target high hazard manufacturing and general industry sites. They use Dodge reports to target programmed construction inspections. In FY 2011, seven Local Emphasis Programs (LEPs) were in place in conjunction with the strategic and annual performance plans, to address the industries in New Mexico that experience the highest injury and illness rates and/or fatalities. These seven LEPs are All Construction; Fabricated Metal Products; Oil and Gas Well Drilling and Servicing; Refineries; Silica; Warehouse Industry; and Waste Management.

OHSB adopted the provisions of the National Emphasis Program (NEP) on Refineries in their LEP, and is using its procedures for conducting programmed refinery inspections. New Mexico has also adopted the following NEPs: Hexavalent Chromium, Injury and Illness Recordkeeping Program, Primary Metals, and PSM Covered Chemical Facilities.

The FY 2011 State Plan Enforcement Activity Report shows that 53% (257/482) of New Mexico's inspections were programmed; the Federal OSHA rate was 58%.

State Indicator Report (SIR) measures C.1 and D.1 show that New Mexico's programmed inspections were 61.8% (212/343) of their private sector safety inspections; 22.1% (19/86) of their private sector health inspections; 42.3% (11/26) of their public sector safety inspections; and 47.1% (8/17) of their public sector health inspections. New Mexico inspects a large percentage of referrals with alleged serious or imminent danger hazards. Many of these are in industries that are included in the high hazard listing, an LEP, or an NEP.

State Activity Mandated Measure (SAMM) 8, which includes both private and public sector data for the State, shows Compliance Officers identified serious, willful, and/or repeats violations in 32.6% of programmed safety and 46.2% of programmed health inspections. The Federal rates are 58.5% for safety and 51.7% for health.

Many companies in industries covered by Local Emphasis Programs have requested and received consultation services prior to programmed inspections being scheduled and conducted. We expect Compliance Officers to find few, if any, violations at these sites.

Most of the in-compliance safety inspections are in construction. One factor is that OHSB did not adopt Federal OSHA's focused construction inspection policy. New Mexico Compliance Officers complete an OSHA-1 Inspection form for every contractor inspected at a construction site, and many of these are in-compliance. Federal OSHA Compliance Officers do not complete an inspection form for in-compliance contractors when a focused inspection is conducted. A second factor is that New Mexico conducted inspections under an American Recovery and Reinvestment Act (ARRA) grant during late FY 2010. Most of these inspections did not result in citations for several reasons, including problems identifying current construction sites; the stage of construction at the time of the inspection; and problems with the Department of Transportation (DOT) site listing. For example, the DOT listing did not identify the type of road improvement project, and several of these were for landscaping projects.

The construction partnerships and alliances that have existed in New Mexico for several years also affect the construction in-compliance rate. The Total Recordable Case (TRC) rate of 3.9 and Days Away from Work, Restricted, or Transferred (DART) rate of 2.1 for construction, reflect the Bureau's efforts in this area. However, 6 of the 14 fatalities inspected in FY 2011 occurred in the construction industry, which indicates the need to continue the All Construction Local Emphasis Program.

We discussed the higher health in-compliance rate at our quarterly meetings in FY 2011. One factor affecting this is that Health Compliance Officers focus on health issues and make referrals to safety for possible safety violations. Federal OSHA Health Compliance Officers often cite safety hazards on health inspections. The Compliance Manager noted that over-exposure is confirmed in approximately 20-30% of analyzed samples.

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

4 Citations and Penalties

The New Mexico Occupational Health and Safety Bureau Compliance Section cited a total of 724 violations in FY 2011.

The Enforcement Statistics micro-to-host report run for FY 2011 shows the following working day lapse times from opening conference to citation issuance.

	<b>New Mexico</b>	<b>Federal OSHA</b>
Safety	53.3	43.2
Health	67.9	54.8

Reducing citation lapse time has been a focus of State efforts for several years.

We review State Activity Mandated Measures (SAMM) measure 7, which used calendar day lapse time rather than working day lapse time, each quarter and at the end of each year.

Between FY 2009 and FY 2010, health citation lapse time decreased 14% from 83.7 to 71.3 calendar days. However, between FY 2010 and FY 2011, the lapse time increased 25% from 71.3 to 89.0 calendar days, and is 37% higher than the 64.8 nationwide average.

The OHSB has taken several steps to address this issue, and these are described in the documentation of each quarterly meeting. We will continue to discuss strategies to reduce health citation lapse time at quarterly meetings in FY 2012. (See Appendix A, Recommendation 11-2.)

As detailed in Section III and Appendix B of this report, the FY 2010 FAME Report included a recommendation to ensure that Compliance

Officers appropriately record the severity of all injuries and illnesses identified as violations. Our onsite case file reviews found only one instance where the severity classification was not in accordance with potential injury. The State corrective action has been completed, and we consider the recommendation closed.

State Activity Mandated Measure (SAMM) measure 9 shows that the average number of violations per inspection with violations was 3.0 in New Mexico and 3.3 nationwide. New Mexico identified 2.1 serious violations per inspection with violations; the National (Federal OSHA and all State Plans) average was also 2.1.

Appendix C shows that New Mexico Compliance Officers identified a total of 724 violations during FY 2011 – 479 (66%) serious, 13 repeat (2%), and 229 (32%) other-than-serious. No willful violations were issued by New Mexico during the period, and none of the case files we reviewed indicated a willful violation was appropriate. The Federal OSHA percentages were 73% serious and 22% other-than-serious.

One of allegations in CASPA 10-1 was that a violation which was issued as serious should have been issued as repeat violation. Our investigation substantiated the allegation and the OHSB agreed. Our recommendation was to ensure that Compliance Officers have reviewed the inspection/violation history of a company before issuing citations and are trained on the NMFOM definition of a repeat violation, and that repeat violations are cited when appropriate.

On May 10, 2010, the Compliance Manager had a staff meeting with the Compliance Officers. He discussed the FOM criteria when determining how to correctly classify repeat violations.

As detailed in Section III and Appendix B of this report, the FY 2010 FAME included a recommendation to ensure that all hazards are addressed either through a citation or a hazard alert letter.

In 43 of 44 (98%) case files we reviewed during our onsite visit, all apparent violations were cited. In one case it appears a violation of 1926.50 could have been cited.

The State corrective action has been completed, and we consider this recommendation closed.

State Activity Mandated Measure (SAMM) measure 10 shows the average **initial** penalty per private sector serious violation was \$1,007.12; the National average (Federal OSHA and all State Plans) was \$1,679.60. The average **current** penalty per private sector serious violation in New

Mexico was \$1,016.00; the Federal OSHA average was \$2,132.60. The SAMM report and Appendix C use different timeframes and different selection criteria, which explains why the current average penalty is slightly higher than the initial average penalty in New Mexico.

## 5 Abatement

State Activity Mandated Measure (SAMM) 6 shows that New Mexico verified abatement of 100% (199/199) of the private sector and 74.3% (55/74) of the public sector serious, willful, and repeat violations within 30 days of the final abatement date. We found that 16 of the 19 Public Sector violations that the IMIS showed were not timely abated, were actually abated prior to or on the established abatement date. The information was not entered into the IMIS prior to the date the FY 2011 SAMM report was run. The remaining three were for Hazard Communications Program violations; the employer did not complete the written program by the established abatement date.

State Indicator Report (SIR) measure C.4 shows that New Mexico assigned abatement dates longer than 30 days for 14.1% of safety violations, while Federal OSHA did so for 17.9% of safety violations. New Mexico assigned abatement dates longer than 60 days in 16.9% of health violations, while Federal OSHA did so for 9.4% of health violations. The IMIS Enforcement Statistics Report used to compile the data for Appendix C, shows that New Mexico had 10 open, non-contested cases with incomplete abatement greater than 60 days past due.

As discussed in Sections I and III and Appendices A and B of this report, assigned abatement dates is the subject of repeat Recommendation 11-3. Although SIR measure C.4 shows that New Mexico assigns a smaller percentage of violations abatement dates over 30 days for safety violations. Federal case file reviews found several instances of abatement dates we considered too long. In some cases, the same abatement date was assigned for all cited violations. The gravity of a hazard did not appear to be reflected in determining an appropriate abatement date. Some examples are included in Appendix B.

During FY 2010, a Complaint About State Plan Administration (CASPA) was filed regarding abatement issues in a specific enforcement case. One of the four allegations was substantiated. The complainant alleged that the employer's abatement method was not objective, in that the training program was reviewed by the same person who had developed it. The State responded that any future settlement agreements that incorporate a requirement for review/audit of any program, process, etc., will clearly specify in the terms of the settlement that such review/audit must be conducted by an "independent" outside authority.

The Compliance Program Manager uses the “Candidates for Follow-Up” standard micro management report to schedule appropriate follow-up inspections. OHSB conducted seven follow-up inspections in FY 2011.

## 6 Employee and Union Involvement

The New Mexico Field Operations Manual (NMFOM), pages 3-7, Section D and 7-2, Sections C.1 and C.2 afford employees and/or employee representatives the opportunity to participate in every phase of the inspection process. IMIS Inspection (INSP) reports show that approximately 9.6% (46/482) of New Mexico inspections conducted in FY 2011 were at union sites.

As detailed in Section III and Appendix B of this report, the FY 2010 FAME report included a recommendation to ensure union representation was identified in case files where employees are represented by a union, and that union representatives are involved during inspections and any subsequent review actions.

We reviewed four cases closed during FY 2011 where the OSHA-1 was coded as “union.” Three of the four had opening conference dates prior to the date the FY 2010 FAME report was sent to the State. In the one remaining case, union inclusion and employee discussion were documented in the file. State corrective action has been completed, and we consider the recommendation closed.

## B Review Procedures

### 1 Informal Conferences

The informal conference process in New Mexico allows for either amendments to citations or entering into Informal Settlement Agreements. The Bureau documents these changes in the OSHA Integrated Management Information System (IMIS) with the codes AMEND or ISA. State Indicator Report (SIR) measures C.7 and C.8 provide State and Federal data on violations vacated and reclassified prior to contest. These measures show that 1.9% of New Mexico violations and 7.0% of Federal violations were vacated, and 1.3% of New Mexico violations and 4.8% of Federal violations were reclassified prior to contest. SIR measure C.9 shows that 89.6% of New Mexico penalties and 62.8% of Federal penalties were retained prior to contest.

As detailed in Section III and Appendix B of this report, the FY 2010 FAME report included a recommendation to ensure that the reason why

violations and/or penalties were changed at the Informal Conference are documented in the file.

During our February 2012 onsite evaluation, we reviewed 44 cases with citations, two of which had Informal Conferences. Both (100%) contained adequate documentation of reasons for the changes. The State has completed corrective action on this issue, and we consider the recommendation closed.

## 2 Formal Review of Citations

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

State Indicator Report (SIR) measures E.1, E.2, and E.3 address changes to citations and penalties subsequent to contest. These include changes made through formal settlement, OHS Review Commission decisions, and court decisions. SIR measures E.1 and E.2 show that 13.4% of New Mexico violations and 23.5% of Federal violations were vacated, and 15.5% of New Mexico and 13.3% of Federal violations were reclassified subsequent to contest. SIR measure E.3 shows that 56.6% of New Mexico penalties and 62.3% of Federal penalties were retained subsequent to contest.

State Activity Mandated Measures (SAMM) measure 12 is the average lapse time from receipt of contest to first level decision. The New Mexico average was 104.4 days; the National (Federal OSHA and all State Plans) average was 199.7 days. Almost all cases result in formal settlement agreements in New Mexico; only a few each year are sent to the Review Commission.

The New Mexico Occupational Health and Safety Review Commission (NMOHSRC) is made up of three members appointed by the Governor for terms of six years. There is also a Commission Secretary who handles all administrative matters such as correspondence and scheduling. The NMOHSRC meets on an as-needed basis. All settlement agreements subsequent to contest are sent to the NMOHSRC for approval. All such settlements during the period were approved. There were no adverse Review Commission decisions issued in FY 2011.

Review Commission decisions are not available on either the OHS Review Commission or the OHS Bureau website. They are available upon request to the Review Commission.

## C Standards and Federal Program Changes Adoption

### 1 Standards Adoption

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

New Mexico was current on timely adoption of standards at the start of FY 2011. Three Federal standards or amendments to standards were published in FY 2010 which required State response and/or adoption in FY 2011. As detailed in Appendix K, the State adopted identical general industry and construction standards amendments by reference. New Mexico does not cover maritime industries. The amended standards became effective in New Mexico on the date they were published in the Federal Register.

No State-initiated standards were adopted in FY 2011.

As detailed in Section III and Appendix B of this report, the FY 2010 FAME report contained a recommendation to continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).

New Mexico OHSB managers have discussed proposed regulatory changes with New Mexico Environment Department (NMED) legal staff. We will continue to monitor progress on this issue at our quarterly meetings during FY 2012, and the recommendation is repeated in this report.

### 2 Federal Program/State Initiated Changes

There were 10 Federal program changes for which a response and/or plan supplement was due in FY 2011. Appendix I includes the details of the State responses. All 10 responses due in FY 2011 were transmitted prior to the due date.

New Mexico transmitted eight State-initiated plan changes during FY 2011, as detailed in Appendix J, regarding Local Emphasis Programs. All eight State-initiated changes have been approved.

New Mexico's penalty calculation procedures are detailed in NMFOM Chapter 6. When the revised Federal OSHA penalty policy is incorporated into the Federal FOM New Mexico will respond to the Federal program change.

D Variances

New Mexico did not issue any permanent or temporary variances in FY 2011. New Mexico has only issued one temporary variance in its 36 year history. The Bureau honors all multi-state variances that have been issued by Federal OSHA.

E Public Employee Program

The New Mexico State Plan FY 2011 Enforcement Activity table (Appendix C) shows that 11% (53/482) of the total inspections New Mexico conducted were in the public sector. The State's goal is approximately 10%, based on the percentage of public sector employers who are considered high hazard.

Penalties are assessed for violations in the public sector, but penalties for serious violations are deemed "paid" (waived) if abatement is verified by the established abatement date.

F Discrimination Programs – Special Study

New Mexico's policies and procedures for discrimination complaints under the OHS Act are identical to Federal OSHA's with one exception. The New Mexico Act provides that discrimination complaints must be filed in writing. If a complainant contacts the Bureau by phone within 30 days of the discriminatory activity and follows up in writing after the 30-day period has expired, the complaint is deemed to have been filed within that 30-day timeframe. The States policies and procedures are contained in NMFOM Chapter 13, and are at least as effective as Federal OSHA's.

The Federal onsite review included a special study of the State's discrimination program. We reviewed a total of 19 investigation cases, and we found all to be well reasoned, with recommendations based on evidentiary content and sound legal reasoning.

New Mexico has two staff members who are trained to conduct discrimination investigations, but one person conducted all of the FY 2011 investigations. The main investigator is fully trained, and the Federal Regional Supervisory Investigator (RSI) and he frequently discuss cases and issues. The staff resources are adequate to ensure timely response and thorough investigations, as shown in SAMM 13 and discussed below.

Complainants are notified in writing of their right to dually file, and complainants opted to dually file in almost all cases.

Merit, settlement, and litigation rates are comparable to Federal OSHA's, as shown in SAMM measures 14 and 15.

The Discrimination Investigator is aware of the available data management reports, but he manages the small number of cases without the need for them.

New Mexico procedures do provide for appealing complaint dismissals. No complaints were officially appealed in FY 2011.

Cases that were administratively closed were properly handled, and complainants were correctly referred to Federal OSHA or other agencies where appropriate.

State Activity Mandated Measures (SAMM) measure 14, shows a 9.1% (2/22) meritorious rate for cases investigated during the period; the nationwide rate was 23.0%. A change to require data entry of all screened out complaints was implemented in Region 6, including New Mexico, but was not implemented nationwide until FY 2012. This accounts for the large percentage difference between New Mexico and National data.

SAMM measure 15 shows that New Mexico had a 100% (2/2) settlement rate for meritorious discrimination complaints; the nationwide rate was 87.5%.

SAMM measure 13 shows that 100% (22/22) of New Mexico's discrimination investigations during the period were completed within 90 days.

We have no recommendation for corrective action after our review, but we do have several suggestions which may further enhance the program.

1. One case file contained global settlement language regarding waiver of respondent liability; this may not have been appropriate in this case. The program may benefit from additional training on settlement language and public policy issues.
2. We suggest that the final determination reason and date be entered into the web IMIS application before the IMIS Case File Summary Report is printed for inclusion in the case file.
3. The program may benefit from using a standard complaint screening form.
4. The Bureau Chief may wish to consider changes to the policy on requiring complaints to be in writing.

## G Complaints About State Program Administration (CASPA's)

No Complaints About State Program Administration (CASPA's) were received by Federal OSHA regarding New Mexico in FY 2011. Two CASPA's from FY 2010 were closed during FY 2011; both were determined to have valid allegations.

The State's initial responses to both CASPA's were timely and provided important information regarding the allegations. CASPA 10-01 involved sixteen various and complex issues. Our investigation included extensive interviewing and analysis. The States response to our investigative findings was also timely and appropriate. CASPA 10-02 involved four allegations. The State's initial and final responses were timely and appropriate.

Discussion of the recommendations in relation to the CASPA's is included within the body of this report under the appropriate sections. The State's follow-up actions adequately addressed each of our recommendations in both cases.

## H Voluntary Compliance Programs

New Mexico adopted the Federal policy and procedures manuals for Partnerships, Alliances, and the Voluntary Protection Program (VPP). The State has many partnerships and alliances, as detailed in Appendix F.

New Mexico currently has 12 cooperative programs: the Zia Star Voluntary Protection Program, 6 partnerships, and 5 alliances. Descriptions of each program and member companies are included in New Mexico State OSHA Annual Report (SOAR), which is available on the New Mexico OHSB website at [www.nmenv.state.us/Ohsb\\_Website/ComplianceAssistance](http://www.nmenv.state.us/Ohsb_Website/ComplianceAssistance).

The five partnerships held a series of summit meetings with New Mexico OHSB for the purposes of creating uniformity among partnership agreements and sharing verification process information. Both goals were achieved during the fourth quarter of FY 2011. The group has decided to continue meeting on an annual or as needed basis. A mission statement and goals are being developed.

Through a reciprocity agreement signed on April 7, 2003, Federal OSHA will honor partnership provisions if/when inspecting Associated General Contractors (AGC) or Associated Builders and Contractors (ABC) partnership member companies on New Mexico worksites under Federal OSHA jurisdiction; i.e., military bases, Indian reservations, and areas of exclusive Federal jurisdiction.

One of the allegations in CASPA 10-1 was that certain partnership agreements are treated differently than others, including requirements for onsite verification visits. Our review found that the onsite verification requirements were not

consistent with the provisions of OSHA Instruction CSP 03-02-002 in some of the partnerships.

On April 10, 2010, the State concluded its review of all partnerships. The Bureau made modifications to the partnership language regarding verification. The modification ensured consistent and effective verification for all partnerships.

During FY 2011, the Bureau conducted annual reviews for three VPP members and preapproval visits for two VPP applicants.

Compliance Assistance Specialists and Compliance Officers conducted many various interventions during FY 2011 as follow.

<b>FY 2011 Interventions</b>	
<b>Intervention Type</b>	<b>Number of Interventions</b>
Focused Assistance	20
Formal Training	18
Partnership Leveraging	112
Program Review	1
Speech	14
Strategic Planning	2
Technical Assistance	11
VPP Annual Review	6
VPP Evaluation Visit	4
VPP Preapproval Visit	2
Other	57
<b>Total</b>	<b>247</b>

I Public Sector Onsite Consultation Program

Appendix H is the Mandated Activities Report for Consultation (MARC) for the public sector in New Mexico.

New Mexico projected a total of 20 public sector consultation visits (10 safety and 10 health) for FY 2011. The Bureau conducted 13 public sector visits (10 initial and 3 training and assistance). The MARC contains five performance measures, but MARCs 1 and 2 do not apply to the public sector.

MARC 3 shows that New Mexico consulted with employees in 100% (10/10) of the public sector visits which required it.

MARC 4 shows that 100% (102/102) of identified serious hazards were verified corrected in a timely manner (within 14 days of the latest correction due date), and MARC 5 shows that there were no serious hazards with correction more than 90 days past due.

One of the allegations in CASPA 10-1 was that the Compliance Section reviews confidential consultation information before conducting some inspections. Our review found that in one case, an administrative staff member ran a report of pending consultation visits to determine whether a large municipality located several hundred miles away, had an open consultation visit. The report did not show that a visit was in progress; however, three days later a Consultant did conduct an opening conference with the municipality. A team of four Compliance Officers traveled to the site and, after the opening conference, was informed that a consultation visit was in progress. The inspection was terminated. Ambiguous language in the NMFOM that was in effect at that time contributed to the incident; the language has since been amended. Our recommendation was to ensure that the confidentiality of consultation information is maintained in accordance with the Consultation Policies and Procedures Manual.

OHSB maintains that Compliance Section staff did not review any confidential consultation information. Notwithstanding this, all staff members were reminded of the requirements of the Consultation Policies and Procedures Manual (CPPM) and the New Mexico Field Operations Manual (NMFOM) regarding confidential consultation information.

J Private Sector Onsite Consultation Program

Private sector consultation services are provided in New Mexico under a 21(d) Cooperative Agreement.

K Program Administration

1 23(g) State Plan Grant

A review of New Mexico's 23(g) grant financial issues was conducted during our February 2012 onsite review. There were no significant findings.

In FY 2011, the Federal share of the New Mexico 23(g) grant was \$1,027,300 and the State share was \$1,027,300, for a total grant amount of \$2,054,600.

New Mexico abides by the exemptions and limitation on Federal OSHA appropriations, so no inspections are conducted outside of those guidelines with 100% State funding.

2 Staffing

As of March 1, 2012, the Bureau has three vacancies – one Safety Compliance Officer, one Health Consultant, and a Management Analyst. The Safety Compliance Officer's salary, 10% of the Health Consultant's

salary, and 90% of the Management Analyst's salary are included in the 23(g) grant. The State is interviewing candidates for the Health Consultant position and has requested to advertise the vacant management analyst and safety compliance officer positions.

The Compliance Officer benchmarks for a fully effective program in New Mexico are 7 Safety and 3 Health Compliance Officers. There are currently 7.5 allocated Safety Compliance Officer and 3 allocated Health Compliance Officer positions in the Bureau.

3 Internal Training

New Mexico transmitted their plan supplement in response to OSHA Instruction TED 01-00-018, Initial Training Program for Compliance Officers, on November 3, 2008. It contains some slight differences, which were detailed in the State's transmittal letter, but it is substantially identical in content.

At each quarterly meeting and at the end of each fiscal year, the Bureau Chief provides updates on training received by all staff during the period. A summary of training received in FY 2011 is included as Appendix L.

One of the allegations in CASPA 10-01 was that a Compliance Officer who had not received Process Safety Management (PSM) training conducted a refinery inspection. Our investigation found that the Compliance Officer had received PSM training, but Consultants who had conducted a consultation visit at a refinery had not. Our recommendation was to ensure that Bureau staff members, whether Compliance Officers conducting inspections or Consultants conducting visits, receive appropriate PSM training prior to conducting inspections or visits at refineries that involved process safety management issues.

New Mexico responded that they will continue to ensure that a sufficient number of Compliance Officers are trained to conduct inspections involving process safety management, including refineries. Two Compliance Officers are currently trained to the level of team leader and two others are trained to conduct process safety management inspections as team members, in accordance with the OSHA Refinery NEP. OHSB also will ensure that consultation visits at refineries are limited to areas within the scope of training provided to the assigned Consultant.

4 18(e) Determination Status

The New Mexico Environment Department first indicated interest in seeking final State Plan approval (18(e) determination) in 1999.

We started with a review of the 29 CFR 1902 regulations criteria and indices of effectiveness, and began compiling the 18(e) determination outline. The 18(e) outline was provided to the State for input, and the former Bureau Chief began working on the State response.

Much progress has been made, but the issue of private interviewing is still problematic. There are apparent inconsistencies in language and interpretation within the State's private interviewing regulations themselves. The issue was addressed through proposed changes to the State regulations. The New Mexico Environmental Improvement Board (EIB) did not adopt the changes as proposed. The Department then drafted legislation to change the OHS Act to ensure private interviewing. The legislation was introduced in the 2009 legislative session, but did not pass. The Bureau is now working with the Department's legal staff to determine the appropriate next steps. This was the subject of a recommendation in the FY 2009 EFAME report and the FY 2010 E-FAME Follow Up Report, and is a continuing recommendation in this report. (See Appendix A, Recommendation 11-4.) We will follow its progress each quarter, and will continue to work together toward achieving the goal of 18(e) final determination.

## 5 Information Management

New Mexico uses all of the micro management reports appropriate to the program, to manage enforcement activities. The reports are set to run automatically overnight every Friday, and are printed on Mondays. The State Compliance Program Manager is appropriately using the reports to manage the enforcement program.

New Mexico Compliance Officers and IMIS staff members enter data in a timely and accurate manner, with few exceptions. The Compliance Program Manager is addressing the problem of delayed data entry in a few cases, with individual Compliance Officers.

Another allegation in CASPA 10-01 was that Compliance Officers spend more time in the office than in the field conducting inspections. We reviewed IMIS Program Activity Reports for fiscal year 2009, and found that New Mexico Compliance Officers spent a slightly lower percentage of time on travel to or conducting onsite inspections than Federal OSHA CSHOs. We also noted that time spent on administrative and professional duties was significantly higher in New Mexico than for Federal OSHA. Several years ago there was some confusion regarding how to report time for inspection preparation, working with the Salt Lake City Lab on samples, technical support, and litigation/other conference. This time should be reported against an individual inspection, not as administrative or professional time.

Our recommendation was to provide refresher training on completing the OSHA-31 time report for all enforcement, compliance assistance, and other staff who reports time via the IMIS.

On May 10, 2010, the Compliance Program Manager conducted a staff meeting where Compliance Officers were instructed on current federal direction for time allocation on the OSHA-31 Time Report.

The micro Debt Collection Tracking reports are designed for Federal OSHA and do not facilitate the State's debt collection process. The IMIS System Administrator uses the Open Inspections Report to track cases, ensure the NM FOM procedures are followed, and collect penalties.

The State uses the standard IMIS form letters, modified for State use, for addressing some referrals that are not inspected, communicating inspection results to complainants, etc.

6 State Internal Evaluation Program (SIEP)

New Mexico developed and implemented a comprehensive State Internal Evaluation Program (SIEP) in FY 2008. All issues in the evaluation program are reviewed at least once every five years. The results of the 2011 internal evaluation were provided to the region at our fourth FY 2011 quarterly meeting. Findings and recommendations have been incorporated in this report under the appropriate subject.

The FY 2011 SIEP focused on the issues identified for the fourth year of the SIEP (fatality/catastrophe investigations, assurance of abatement, citation processing, contested cases, and personnel), as well as progress on actions taken in response to the previous FAME recommendations.

V Assessment of State Progress in Achieving Annual Performance Goals

New Mexico made progress on all of their FY 2011 annual performance plan goals, as detailed in Attachment F, the New Mexico FY 2011 State OSHA Annual Report (SOAR), and discussed below.

The OHSB conducted inspections in seven local emphasis programs to address the high hazard industries identified in their strategic plan and industries where fatalities have occurred. They are Oil and Gas Well Drilling and Servicing; Construction; Fabricated Metal Products; Silica; Refineries; Waste Management; Warehousing. An internal OHSB directive was issued for each LEP, outreach was conducted, consultation and training services were offered, and programmed-planned inspections were initiated.

New Mexico transmitted their FY 2011 Annual Performance Plan and appropriate financial documentation during the FY 2011 grant application process. The Regional Office reviewed and concurred with the annual performance goals for FY 2011. The FY 2011 Annual Performance Plan was officially approved by the Assistant Secretary when the FY 2011 23(g) grant was awarded.

Details of the State’s performance in relation to the FY 2011 Annual Performance Plan are included in Appendix F, the State OSHA Annual Report (SOAR). Highlights include:

- Goal 1.1: The strategic goal is to reduce the total injury and illness DART rate by 8% by 2014 through focusing on targeted safety and health hazards. The DART rates for 2011 will not be available until October 2012. However, the 2010 overall DART rate of 2.0 is a decrease of 16.7% from the 2007 baseline rate. The State has met the 5 year strategic goal for this measure.
- Goal 1.2: The New Mexico FY 2011 annual performance goal was to experience fewer than 12 workplace fatalities requiring OHSB investigation. There were 14 such fatalities in FY 2011. OHSB conducted 49.4% (238/482) of the total inspections in construction and oil and gas well drilling and servicing. These two industries accounted for 9 of the 14 (77%) workplace deaths reported in 13 incidents in FY 2011.
- Goal 1.3: This goal was deleted during FY 2011.
- Goal 1.4: New Mexico exceeded the annual performance goal for increasing participants in strategic partnerships. The goal was 59; at the end of FY 2011 there were 72 members in OHSB partnership programs.
- Goal 1.5: The goal was to have 10 approved VPP members by the end of FY 2011, and there were 11 companies approved as Zia Star VPP members by that time.
- Goal 1.6: The following chart details the goals and accomplishments for educating employers and employees by increasing materials available in languages other than English and by conducting workshops and conferences in growth industries.

<b>Goal</b>	<b>Results</b>
1. Participate in 13 workshops.	OHSB staff participated in 17 workshops in FY 2011.
2. Participate in 9 speaking engagements	OHSB staff participated in 13 speaking engagements in FY 2011.
3. Participate in 3 outreach activities in a language other than English.	OHSB staff participated in 3 outreach activities conducted in Spanish during FY 2011.

4. Participate in 2 home health care or health care support activities.	OHSB staff participated in 3 health care support activities in FY 2011.
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- Goal 2.1: New Mexico responded to 12 of 13 (92.3%) incidents of workplace fatalities within one working day of notification. One investigation required two days due to uncertainty of the cause of death.
- Goal 2.2: New Mexico’s goal is to respond by inspection to 95% of referrals alleging serious hazards within 10 working days. The average number of working days to respond was 6.2, and 84.7% (171/202) were inspected within 10 working days. This issue is also discussed in Section IV.A.1 of this report.
- Goal 2.3: New Mexico’s goal is to complete 95% of discrimination investigations within 60 days. (This is a more ambitious goal than that established in State Activity Mandated Measure (SAMM) 13, which is to complete 100% of discrimination investigations within 90 days.) New Mexico completed investigation of 22 of 22 (100%) discrimination complaints within 60 days.

**APPENDIX A**  
**FY 2011 FINDINGS AND RECOMMENDATIONS**

Rec #	Findings	Recommendations	Related FY 10 Rec #
11-1	Case files reviewed were not always fully and accurately documented.	New Mexico OHSB should ensure that: <ol style="list-style-type: none"> <li>1. The case file diary sheets document all actions taken, when they were taken, and by whom.</li> <li>2. Documentation of employee discussions relative to violations or complaint items is included in all case files.</li> <li>3. Employee exposure to hazards is documented.</li> <li>4. Employer knowledge is documented.</li> </ol>	10-2
11-2	Average health citation lapse time in New Mexico is significantly higher than the National average, and increased 25%, from 71.3 to 89.0 calendar days, from FY 2010 to FY 2011. This has been a focus of State efforts for several years, and was identified in the 2011 State Internal Evaluation Program (SIEP) review. Steps were taken at that time and are continuing, in an effort to reduce the lapse time.	New Mexico OHSB should continue efforts to reduce health citation lapse time.	10-4
11-3	This issue was included in the 2011 SIEP review. In the universe of 24 case files, the reviewer identified four cases where abatement dates might have been shorter. The Compliance Manager reviewed the cases, and discussed them with the Compliance Officers.  Fifteen of the 44 (34%) of the case files we reviewed had at least one violation with abatement dates we considered longer than necessary.	New Mexico OHSB should ensure that, in accordance with NMFOM Chapter 5, Section II.C.2.k, "The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation."	10-7
11-4	There are apparent inconsistencies in language and interpretation within the State's private interviewing regulations. New Mexico managers are discussing proposed regulatory changes with New Mexico Environment Department (NMED) legal staff. We will continue to monitor progress on this issue.	New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).	10-9

**APPENDIX B  
STATUS OF STATE ACTIONS IN RESPONSE TO  
FY 2010 EFAME FOLLOW-UP RECOMMENDATIONS**

Rec #	Findings	Recommendation	Corrective Action Plan	State Action Taken	Status
10-1	<p>In the 12 fatality case files reviewed, we did not find documentation regarding contact with victims' family members. We understand that contact did take place in several cases, but this was not documented in the files. This issue was identified by OHSB in their FY 2009 State Internal Evaluation Program (SIEP) review, and a recommendation was made to ensure that the procedures in New Mexico Field Operations Manual (NMFOM) Chapter 11, Section II.G are followed.</p>	<p>New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico FOM, and that these contacts are documented in the case files.</p>	<p>OHSB implemented a policy change which included letters and phone contact with victims' family members during all fatality investigations as part of the NMFOM revisions in November 2009, after the period covered by this OSHA evaluation. The policy remains in effect. All documents received or created as part of a fatality investigation are included in case files.</p> <p>The State Internal Evaluation Program (SIEP) review for FY 2009 contained a recommendation that OHSB staff members follow the new guidelines in the NMFOM, and that Compliance Officers receive instruction on the new guidelines.</p>	<p>During the FY 2010 SIEP review, which included following up on recommendations from the FY 2009 report, the reviewer found that the State policies and procedures for contacting family members in fatality inspections had been documented in the NMFOM, and all Compliance Officers had been trained to refer this task to the Compliance Program Manager.</p>	<p>The FY 2011 SIEP report confirmed that in the six fatality investigation files reviewed, family members were appropriately contacted, and the appropriate documentation was included in fatality investigation files.</p> <p>We reviewed 10 fatality inspection case files closed during FY 2011. One of the case files had an opening conference date of 2007, so we did not include it in our assessment of the States progress in relation to this recommendation.</p> <p>Eight of the nine (89%) cases contained documentation of contact with the victims' families at appropriate points during the investigation and case file documentation.</p>

					The State has completed corrective action on this issue and we consider the recommendation closed.
10-2	Case files reviewed were not always fully and accurately documented.	<p>New Mexico OHSB should ensure that:</p> <p>1. Each case file contains a diary sheet that documents all actions taken, when they were taken, and by whom.</p> <p>2. Documentation of employee discussions relative to violations or complaint items is</p>	<p>1. The need for better use of diary sheets was detected during the FY 2009 SIEP, and a recommendation was made regarding diary sheets. OHSB has since developed a tracking sheet for use by Compliance Officers during and following inspections.</p> <p>2. The Compliance Program Manager will instruct all Compliance Officers to document</p>	<p>1. Compliance Officers were instructed in the use of the diary sheet, and inclusion in all case files was implemented in August 2010.</p> <p>2. Training on documentation of employee statements was provided to</p>	<p>The 2011 SIEP included review of case files to ensure appropriate documentation was included. Findings were mixed. Further review and corrective action is continuing.</p> <p>1. Of the 50 cases opened after September 1, 2010, that we reviewed, 43 (86%) did contain diary sheets.</p> <p>The 2011 SIEP findings were that entries made on the diary sheet were only monthly and little detail was included. Our case file reviews agreed with these findings.</p> <p>This recommendation will be repeated for FY 2011.</p> <p>2. Our case review identified seven cases with no or inadequate documentation of</p>

		<p>included in all case files.</p> <p>3. Employee exposure to hazards is documented.</p> <p>4. Employer knowledge is documented.</p>	<p>employee discussions relative to violations and complaint items. File review will include review for adequate documentation of discussions.</p> <p>3. The need for more complete documentation of employee exposure was also noted during the execution of OHSB's FY 2010 State Internal Evaluation Program (SIEP). The Compliance Program Manager responded to a similar recommendation from the SIEP by conducting training sessions that emphasized the requirement to fully document employee exposure, and by ensuring that supervisory case file reviews include checking the adequacy of such documentation.</p> <p>4. During internal Compliance Officer training sessions, the Compliance Program Manager will continue to emphasize the</p>	<p>compliance staff on August 9, 2010, and August 30, 2010.</p> <p>3. Training on employee exposure documentation was provided to compliance staff on August 9, 2010, and August 30, 2010</p> <p>4. Training on employer knowledge was provided to compliance staff on August 9, 2010.</p>	<p>discussions with employees regarding violations or complaint items.</p> <p>This recommendation will be repeated for FY 2011.</p> <p>3. Our case file reviews found that the majority of cases did include employee exposure documentation. In 4 of the 44 (9%) cases, there was either no documentation or inadequate documentation of employee exposure.</p> <p>Although this is a small percentage of case files, because the SIEP review also found that additional corrective action was needed on case file documentation, this recommendation is being repeated for FY 2011.</p> <p>4. Our case file reviews found that the majority of cases did include documentation of employer knowledge. In 3 of the 44</p>
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		<p>5. The four elements for a general duty clause violation are documented on the OSHA-1B form: identify the hazard to which employees are exposed; state how the hazard is recognized (including industry recognition); state how the hazard would cause death or serious physical harm; and identify the feasible abatement methods.</p>	<p>5. All Compliance Officers have been instructed to adequately address each of the four elements of general duty clause violations in the citations. Supervisors will continue to monitor each case where general duty violations are identified to ensure that all necessary evidence is obtained and documented in the alleged violation description.</p>	<p>5. Training on general duty clause descriptions was provided to compliance staff on May 10, 2010.</p>	<p>(7%) cases, there was either no documentation or inadequate documentation of employer knowledge.</p> <p>Although this is a small percentage of case files, because the SIEP review also found that additional corrective action was needed on case file documentation, this recommendation is being repeated for FY 2011.</p> <p>5. All of the general duty clause violations that were cited in the case files we reviewed contained the four required elements.</p> <p>The State has completed corrective action on this issue and we consider the recommendation closed.</p>
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		6. OSHA-300 log data is documented and entered into the IMIS for all appropriate case files.	6. All Compliance Officers have been instructed to obtain, document, and enter OSHA-300 log data when it is required.	6. Training has been completed for all on board Compliance Officers, and will be ongoing as new Compliance Officers are hired.	6. Our case file reviews found that 85% either included the OSHA-300 log data or it was not required, in the information was entered into the IMIS.  The State has completed corrective action on this issue and we consider the recommendation closed.
10-3	Union representation was not documented in one case file, and documentation of union participation in the inspection and subsequent actions was not always included in several case files.	New Mexico OHSB should ensure that union representation is identified in the case file and documented on the OSHA-1 form, and that union representatives are appropriately involved during inspections and any subsequent review actions.	OHSB will continue to stress to Compliance Officers the requirement to identify and document union representation and to appropriately involve union participation during inspections. They will continue to follow established policies for the posting of notices of meetings, and will continue to assure that the employer attests to posting of notices.	Compliance Officers have been reminded to identify and document union participation in inspection activities.	The 2011 SIEP report indicates that very few inspections in New Mexico are at union sites. Only one file was identified in the universe of files selected for review. In that case, the union representative was made aware of the progress on the case, and contact was documented in the file.  Federal OSHA case file reviews identified four cases where the OSHA-1 was correctly coded as "union." Three of the four were opened prior to New Mexico receipt of the FY 2009 FAME report. In the one remaining case, union

					<p>inclusion and employee discussion were documented in the file, but one of the sub-items was not checked on the OSHA-1.</p> <p>State action has been completed on this issue and we consider the recommendation closed.</p>
10-4	<p>Average health citation lapse time in New Mexico is significantly higher than the National average. This has been a focus of State efforts for several years, and was identified in the 2008 State Internal Evaluation Program (SIEP) review. Steps were taken at that time and are continuing, in an effort to reduce the lapse time. We have seen reductions in both safety and health citation lapse times as a result.</p>	<p>New Mexico OHSB should continue efforts to further reduce health citation lapse time.</p>	<p>OHSB will continue to utilize IMIS reports to identify open cases with prolonged lapse times, in order to minimize delays in citation issuance. They will continue to perform a monthly analysis of lapse times for individual Compliance Officers and will continue to use lapse times as a major factor during employee performance evaluations. They have instituted progressive administrative discipline for Compliance Officers whose performance in this area is substandard. In addition, they are investigating alternative sources for performing</p>	<p>This has been a focus of State efforts for several years, and was identified in the 2008 State Internal Evaluation Program (SIEP) review. Steps were taken at that time and are continuing, in an effort to reduce the lapse time. We have seen reductions in both safety and health lapse times as a result.</p> <p>The 71.3 calendar day average health citation lapse time is a 38% reduction from the high of 116.5 calendar days in FY 2007 and a 14% reduction from the FY</p>	<p>The 2011 SIEP included review of this issue. At the time the SIEP review was conducted, the average health citation lapse time had increased to 80.3 days. The Compliance Program Manager and Bureau Chief are continuing to closely monitor the issue. We also discuss progress at each quarterly meeting.</p> <p>Average health citation lapse time increased to 89.0 calendar days in FY 2011. This is a 25% increase from the FY 2010 average of 71.3 calendar days. The State FY 2011 average of 89.0 calendar days is 37% higher than the nationwide average</p>

			analyses of samples obtained during health inspections in an attempt to find a provider with quicker response times than the Salt Lake Technical Center (SLTC).	2009 average of 83.7 calendar days. The State FY 2010 average of 71.3 calendar days is 15% higher than the nationwide average of 61.9 calendar days.	of 64.8 calendar days.  We will continue to discuss strategies to reduce health citation lapse times at quarterly meetings. The specific steps OHSB has taken over the years to address this issue are described in the documentation of each quarterly meeting.
10-5	In a very small number of instances (4 of 225), violations were not properly classified in accordance with the severity of the potential injuries/illnesses that could result. These included asphyxia, systemic poisoning, and electrical shock being noted as minimal severity.	New Mexico OHSB should ensure that Compliance Officers appropriately record the severity of all injuries and illnesses identified as violations.	OHSB has conducted training for Compliance Officers to ensure that potential injuries and illnesses associated with identified hazards are appropriately described.	Training to ensure that potential injuries and illnesses associated with identified hazards are appropriately described was provided to compliance staff on May 10, 2010, and August 9, 2010.  Violation description and/or classification was a question in only four (1.7%) of the 225 violations we reviewed for the FY 2009 FAME report. OHSB believes that the errors were in	This issue was covered in the 2011 SIEP review, and there were two case files with questionable severity ratings. The Compliance Program Manager has reviewed these cases, and discussed them with the Compliance Officers.  Our onsite case file reviews found only one violation where the severity classification was not in accordance with the potential injury of falling 14 feet to the ground.

				<p>the description of the violations rather than their classification. This is supported by the data in State Indicator Report (SIR) measures C.8 and E.2, show a lower percentage of violations reclassified both prior to and post-contest in FY 2009 and FY 2010.</p>	<p>The State has completed corrective action on this issue and we consider the recommendation closed.</p>
10-6	<p>In a very small number of case files (6 of 84), our review identified hazards that were not addressed.</p>	<p>New Mexico OHSB should ensure that potential hazards are assessed through appropriate sampling, and that all hazards are addressed through either a citation or, if no standard exists and the elements of a general duty clause violation are not present, a hazard alert or 5(a)(1)/general duty clause letter is sent to the employer.</p>	<p>OHSB will continue to evaluate Compliance Officers' competency in hazard identification through individual case review and monthly analysis of citation rates. They will continue to evaluate the experience level and training histories of Compliance Officers and attempt to enroll them in appropriate training courses to improve their ability to properly recognize and cite hazards. They will review sample hazard alert letters provided by the Region for possible use.</p>	<p>Sample hazard alert letters from the IMIS standard letters were provided to OHSB on December 21, 2010. The Compliance Program Manager responded that they will use the template in a Word document if/when the need arises.</p>	<p>The issue of hazard alert letters was addressed in the 2011 SIEP review. No instances were found where a letter in lieu of a general duty clause violation would have been appropriate.</p> <p>In 43 of the 44 (98%) case files we reviewed, all apparent violations were cited.</p> <p>In one case, it appears a violation of 1926.50 could have been cited.</p> <p>The State has completed corrective action on this</p>

					issue and we consider the recommendation closed.
10-7	Nine of 57 (16%) of the case files we reviewed had at least one violation with abatement dates we considered longer than necessary. For example, guardrails on scaffolds should be assigned abatement dates of a few days, rather than several weeks; separation of oxygen and fuel gas cylinders was given a 2 week abatement period; and a 17 day abatement period was given for controlling carbon monoxide exposure.	New Mexico OHSB should ensure that, in accordance with NMFOM Chapter 5, Section II.C.2.k, “The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation.”	The Compliance Program Manager has emphasized to Compliance Officers the need to consider the abatement period for violations based on the circumstances in each individual case in order to achieve optimum results in abatement time intervals.	<p>Training on assessing the shortest timeframe within which the employer can reasonably be expected to correct the violation was conducted on May 10, 2010, for all compliance staff.</p> <p>We reviewed the State Indicator Report (SIR) Measure C.4, for FY 2010, which shows that fewer violations are assigned longer abatement dates in New Mexico than in Federal OSHA.</p> <p>Safety violations with assigned abatement dates greater than 30 days constituted 6.4% of total violations in New Mexico vs. 17.7% in Federal OSHA.</p> <p>Health violations with assigned abatement dates greater than 60 days constituted 6.2%</p>	<p>This issue was included in the 2011 SIEP review. In the universe of 24 case files, the reviewer identified four cases where abatement dates might have been shorter. The Compliance Manager reviewed the cases, and discussed them with the Compliance Officers.</p> <p>Fifteen of the 44 (34%) case files we reviewed had at least one violation with abatement dates we considered longer than necessary. For example, a defective extension cord was assigned a two week abatement period and an employer was given two weeks to remove four 55 gallon barrels blocked an exit and mark the load rating on a crane.</p> <p>An employer was given three weeks to put a tongue guard and a work rest on a grinder. The employer</p>

				of total violations in New Mexico vs. 8.5% in Federal OSHA.	abated the hazards within one week of the inspection and approximately six months prior to the citation being issued. These violations are high severity because death can result from being struck in the abdomen by fragments of the grinding stone.  This recommendation will be repeated for FY 2011.
10-8	The reasons why a violation was changed as the result of an informal conference were not always documented in the case files.	New Mexico OHSB should ensure that the reasons why violations and/or penalties are changed at the Informal Conference are documented in the case file, in accordance with Chapter 8, Section I.A.5 of the New Mexico Field Operations Manual.	New Mexico's review process is slightly different than the Federal process.  The New Mexico FOM, Chapters 5, 7, and 8, discuss changes to citations.  Chapter 5, Section X.D.1 states, "Withdrawal of, or modifications to, the citation and notification of penalty shall normally be accomplished by means of an informal or formal settlement agreement."  Chapter 8, Section I.A.5 regarding informal settlement states, "The	The Compliance Program Manager is ensuring that NMFOM Chapter 8, Section I.A.5 is being followed for decisions resulting from an informal conference.	This issue was included in the 2011 SIEP review. Ten cases with amended citations were reviewed; all 10 included a memo adequately describing the reasons for the changes.  We reviewed 44 cases with citations, two of which had Informal Conferences. Both (100%) contained adequate documentation of reasons for the changes.  The State has completed corrective action on this issue and we consider the recommendation closed.

			Compliance Program Manager will document and maintain records reflecting the basis for any decisions resulting from the informal conference.”		
10-9	There are apparent inconsistencies in language and interpretation within the State’s private interviewing regulations.	New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).	OHSB has requested legal assistance in drafting and presenting appropriate corrections of the regulations to the Environmental Improvement Board. The proposed regulatory changes will be presented to the Environmental Improvement Board for consideration.	This has been and will continue to be an issue addressed at each quarterly meeting. Our Department of Labor Regional Solicitor is available to assist as requested.	New Mexico managers are discussing proposed regulatory changes with New Mexico Environment Department (NMED) legal staff. We will continue to monitor progress on this issue, and the recommendation is repeated in this report.

**APPENDIX C  
ENFORCEMENT COMPARISON**

	NM	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>482</b>	<b>52,056</b>	<b>36,109</b>
Safety	379	40,681	29,671
<i>% Safety</i>	79%	78%	82%
Health	103	11,375	6,438
<i>% Health</i>	21%	22%	18%
Construction	197	20,674	20,111
<i>% Construction</i>	41%	40%	56%
Public Sector	53	7,682	N/A
<i>% Public Sector</i>	11%	15%	N/A
Programmed	257	29,985	20,908
<i>% Programmed</i>	53%	58%	58%
Complaint	9	8,876	7,523
<i>% Complaint</i>	2%	17%	21%
Accident	13	2,932	762
Insp w/ Viols Cited	208	31,181	25,796
<i>% Insp w/ Viols Cited (NIC)</i>	43%	60%	71%
<i>% NIC w/ Serious Violations</i>	82%	63.7%	85.9%
<b>Total Violations</b>	<b>724</b>	<b>113,579</b>	<b>82,098</b>
Serious	479	50,036	59,856
<i>% Serious</i>	66%	44%	73%
Willful	-	295	585
Repeat	13	2,014	3,061
Serious/Willful/Repeat	492	52,345	63,502
<i>% S/W/R</i>	68%	46%	77%
Failure to Abate	3	333	268
Other than Serious	229	60,896	18,326
<i>% Other</i>	32%	54%	22%
Avg # Violations/ Initial Inspection	2.9	3.4	2.9
<b>Total Penalties</b>	<b>\$ 551,025</b>	<b>\$ 75,271,600</b>	<b>\$ 181,829,999</b>
Avg Current Penalty / Serious Violation	\$ 1,016.00	\$ 963.40	\$ 2,132.60
% Penalty Reduced	42.1%	46.6%	43.6%
<b>% Insp w/ Contested Viols</b>	<b>28.4%</b>	<b>14.8%</b>	<b>10.7%</b>
Avg Case Hrs/Insp- Safety	13.2	17.1	19.8
Avg Case Hrs/Insp- Health	14.7	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	53.3	35.6	43.2
Lapse Days Insp to Citation Issued- Health	67.9	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	10	1,387	2,436

*Note: Federal OSHA does not include OIS data.  
The total number of inspections for Federal OSHA is 40,684.*

**APPENDIX D**  
**FY 2011 STATE ACTIVITY MANDATED**  
**MEASURES (SAMMS) REPORT**

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	31 3.87 8	0 0	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	0 0	0 0	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	7 87.50 8	0 0	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	10 100.00 10	1 100.00 1	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	199 100.00 199	6 100.00 6	100%
Public	55 74.32 74	0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	13855 72.16 192	1674 55.80 30	2631708 51.9 50662
Health	5516 88.96 62	488 122.00 4	767959 64.8 11844
8. Percent of Programmed Inspections with S/W/R Violations			

	83	19	90405	
Safety	32.55	59.38	58.5	National Data (3 years)
	255	32	154606	
	18	0	10916	
Health	46.15		51.7	National Data (3 years)
	39	0	21098	
9. Average Violations per Inspection with Vioations				
	537	75	419386	
S/W/R	2.12	2.14	2.1	National Data (3 years)
	253	35	198933	
	217	22	236745	
Other	.85	.62	1.2	National Data (3 years)
	253	35	198933	
10. Average Initial Penalty per Serious Violation (Private Sector Only)	438100	56475	611105829	
	1007.12	1026.81	1679.6	National Data (3 years)
	435	55	363838	
11. Percent of Total Inspections in Public Sector	53	1	211	
	11.00	3.57	12.1	Data for this State (3 years)
	482	28	1741	
12. Average lapse time from receipt of Contest to first level decision	6058	181	3533348	
	104.44	90.50	199.7	National Data (3 years)
	58	2	17693	
13. Percent of llc Investigations Completed within 90 days	22	1	100%	
	100.00	100.00		
	22	1		
14. Percent of llc Complaints that are Meritorious	2	0	1517	
	9.09	.00	23.0	National Data (3 years)
	22	1	6591	
15. Percent of Meritorious llc Complaints that are Settled	2	0	1327	
	100.00		87.5	National Data (3 years)
	2	0	1517	

**APPENDIX E**  
**STATE INDICATOR REPORT (SIR)**

CURRENT MONTH = SEPTEMBER 2011

INTERIM STATE INDICATOR REPORT (SIR)

STATE = NEW MEXICO

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
<b>C. ENFORCEMENT (PRIVATE SECTOR)</b>								
<b>1. PROGRAMMED INSPECTIONS (%)</b>								
A. SAFETY	3694	68	8169	85	18137	212	40070	539
	61.3	64.2	61.4	55.2	62.5	61.8	63.7	63.9
	6026	106	13312	154	29042	343	62876	843
B. HEALTH	480	3	1020	5	2126	19	4357	66
	39.7	17.6	36.4	14.7	34.6	22.1	34.7	31.3
	1208	17	2806	34	6150	86	12569	211
<b>2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)</b>								
A. SAFETY	3378	13	7266	33	14959	91	32614	163
	73.7	27.1	72.4	35.9	70.1	32.7	69.1	26.2
	4583	48	10036	92	21330	278	47196	622
B. HEALTH	456	2	890	5	1723	16	3487	29
	57.0	50.0	57.2	38.5	56.2	39.0	55.3	33.7
	800	4	1555	13	3068	41	6309	86
<b>3. SERIOUS VIOLATIONS (%)</b>								
A. SAFETY	11703	61	23768	131	48704	344	109064	596
	79.6	70.9	77.4	71.2	76.7	68.9	78.4	67.7
	14698	86	30703	184	63528	499	139117	881
B. HEALTH	2634	15	5290	19	10266	51	21598	97
	66.6	51.7	64.7	39.6	64.4	45.1	66.7	48.0
	3957	29	8180	48	15930	113	32380	202
<b>4. ABATEMENT PERIOD FOR VIOLS</b>								
A. SAFETY PERCENT >30 DAYS	2394	0	4978	18	10776	57	23693	72
	16.6	.0	16.8	11.9	17.9	14.1	17.9	10.4

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
	14465	67	29573	151	60243	403	132414	691
	259	0	711	1	1451	12	3159	25
B. HEALTH PERCENT >60 DAYS	6.5	.0	8.6	4.0	9.4	16.9	10.0	16.6
	4006	19	8234	25	15507	71	31619	151
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	505479	0	1258835	900	2803637	3150	5086228	4550
OTHER-THAN-SERIOUS	1181.0	.0	1195.5	900.0	1126.9	1050.0	1055.2	1137.5
	428	0	1053	1	2488	3	4820	4
B. HEALTH								
	219203	0	441915	100	853346	100	1667151	100
OTHER-THAN-SERIOUS	1184.9	.0	1077.8	100.0	980.9	100.0	958.7	100.0
	185	0	410	1	870	1	1739	1
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	133	15417	192	33850	421	73070	1039
	6.0	12.1	5.6	6.4	5.5	5.8	5.4	5.9
	1138	11	2730	30	6145	72	13476	176
B. HEALTH								
	1458	22	3330	43	7311	118	14958	278
	2.4	2.2	2.2	2.3	2.2	3.1	2.0	3.7
	615	10	1501	19	3390	38	7404	75
7. VIOLATIONS VACATED %								
	1270	1	3026	4	6577	9	12352	29
	5.6	1.0	6.6	2.2	7.0	1.9	6.2	3.4
	22608	99	46128	183	93448	473	200310	855
8. VIOLATIONS RECLASSIFIED %								
	737	0	1997	2	4456	6	9147	8
	3.3	.0	4.3	1.1	4.8	1.3	4.6	.9
	22608	99	46128	183	93448	473	200310	855
9. PENALTY RETENTION %								
	19478404	64550	40012395	108550	77322520	199025	134938244	405724
	61.0	90.7	61.6	90.3	62.8	89.6	62.8	89.3
	31918969	71150	65001782	120250	123124542	222025	214845679	454375

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	68	3	85	3	212	11	539	41
	64.2	50.0	55.2	25.0	61.8	42.3	63.9	60.3
	106	6	154	12	343	26	843	68
B. HEALTH	3	0	5	0	19	8	66	10
	17.6	.0	14.7	.0	22.1	47.1	31.3	23.8
	17	1	34	3	86	17	211	42
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	61	10	131	46	344	51	596	162
	70.9	83.3	71.2	79.3	68.9	76.1	67.7	79.4
	86	12	184	58	499	67	881	204
B. HEALTH	15	0	19	27	51	33	97	52
	51.7	.0	39.6	87.1	45.1	80.5	48.0	72.2
	29	2	48	31	113	41	202	72
<hr/> <hr/>								
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	579	5	1131	13	2220	31	4270	59
	22.8	6.6	23.4	9.7	23.5	13.4	23.0	13.3
	2542	76	4834	134	9442	232	18586	445
2. VIOLATIONS RECLASSIFIED %	328	16	620	20	1259	36	2360	53
	12.9	21.1	12.8	14.9	13.3	15.5	12.7	11.9
	2542	76	4834	134	9442	232	18586	445
3. PENALTY RETENTION %	3616720	54025	9500018	85375	16062961	207637	28079915	283116
	56.1	68.4	62.4	66.1	62.3	56.5	60.6	57.4
	6443756	78950	15212620	129100	25766759	367700	46371522	493575

**APPENDIX F**  
**FY 2011 STATE OSHA ANNUAL REPORT (SOAR)**

The New Mexico State OSHA Annual Report (SOAR) is available on the OHSB website at [www.nmenv.state.us/Ohsb\\_Website/ComplianceAssistance](http://www.nmenv.state.us/Ohsb_Website/ComplianceAssistance).

**APPENDIX G  
FY 2011 23(g) CONSULTATION DATA**

	NM Public Sector	Total State Plan Public Sector
<b>Requests</b>	<b>14</b>	<b>1,328</b>
<i>Safety</i>	6	576
<i>Health</i>	8	560
<i>Both</i>	-	192
<b>Backlog</b>	<b>2</b>	<b>123</b>
<i>Safety</i>	1	51
<i>Health</i>	1	58
<i>Both</i>	-	14
<b>Visits</b>	<b>13</b>	<b>1,632</b>
<i>Initial</i>	10	1,336
<i>Training and Assistance</i>	3	175
<i>Follow-up</i>	-	121
<i>Percent of Program Assistance</i>	100%	67%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%
<b>Employees Trained</b>	<b>127</b>	<b>5,030</b>
<i>Initial</i>	99	2,144
<i>Training and Assistance</i>	28	2,886
<b>Hazards</b>	<b>104</b>	<b>6,063</b>
<i>Imminent Danger</i>	-	3
<i>Serious</i>	102	4,804
<i>Other than Serious</i>	-	1,171
<i>Regulatory</i>	2	85
<i>Referrals to Enforcement</i>	-	6
<b>Workers Removed from Risk</b>	<b>2,388</b>	<b>171,075</b>
<i>Imminent Danger</i>	-	55
<i>Serious</i>	2,068	136,884
<i>Other than Serious</i>	-	26,046
<i>Regulatory</i>	320	8,090

**APPENDIX H**  
**FY 2011 MANDATED ACTIVITIES REPORT**  
**FOR CONSULTATION (MARC)**  
**FOR THE PUBLIC SECTOR**

OSHA MARC REPORT      @0693500@  
 REPORT ENDING DATE: SEP 2010  
 QUARTER: 4 FY: 2010

U. S. D E P A R T M E N T O F L A B O R  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

OCT 08, 2010  
 PAGE 1 OF 2

PROJECT NAME: New Mexico

PUBLIC SECTOR

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
TOTAL VISITS	0	13	
1. Percent of Initial Visits in High Hazard Establishments			Not Less than 90%
Number High Hazard Visits	0	11	
Percent		100.00	
Number of Initial Visits	0	11	
2. Percent of Initial Visits to Smaller Businesses			Not Less than 90%
Initial Visits	0	11	
Visits <= 250 Employees in Estab	0	11	
Percent		100.00	
Visits <= 500 Employees CB by Empr	0	11	
Percent		100.00	
3. Percent of Visits where Consultant Conferred with Employees			100%
Initial			
Number with Empe Conferences	0	11	
Percent		100.00	
Number of Initial Visits	0	11	
Follow-Up	0	1	
Number with Empe Conferences		100.00	
Percent	0	1	
Number of Follow-Up Visits			
Training & Assistance Visits with Compliance Assistance ONLY			
Number with Empe Conferences	0	0	
Percent			
Number of T&A Visits	0	0	

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

OSHA MARC REPORT 006935002  
 REPORT ENDING DATE: SEP 2010  
 QUARTER: 4 FY: 2010

U. S. DEPARTMENT OF LABOR  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

OCT 08, 2010  
 PAGE 2 OF 2

PROJECT NAME: New Mexico PUBLIC SECTOR

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
4A Thru 4D based on Closed Cases ONLY			
4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date)			100%
Number Verified Timely	35	148	
Percent	100.00	100.00	
Total Serious Hazards	35	148	
Number of Serious Hazards Verified Corrected:	35	148	
On-Site	1	1	
Within Original Time Frame	26	114	
Within Extension Time Frame	8	33	
Within 14 Days of Latest Correction Due Date	0	0	
4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date)			
Number NOT Verified Timely	0	0	
Percent	.00	.00	
Total Serious Hazards	35	148	
4C. Percent of Serious Hazards Referred to Enforcement			
Number Referred to Enforcement	0	0	
Percent	.00	.00	
Total Serious Hazards	35	148	
4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE)			65%
NUMBER VERIFIED	27	115	
Percent	77.14	77.70	
Total Serious Hazards	35	148	

Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE)	27	115	
On-Site	1	1	
Within Original Time Frame	26	114	
5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter)			0

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

**APPENDIX I  
FEDERAL PROGRAM CHANGES AND STATE RESPONSES**

<b>Date</b>	<b>Number</b>	<b>Title</b>	<b>Date Response Due/Adoption Required?</b>	<b>State Response Date/ State Adoption Date and status</b>
6/13/11	CPL 02-00-151	Commercial Diving Operations	8/16/11 NO	7/20/11 8/1/11 – NM adopted identical procedures.
5/20/11	CPL 02-01-051	Confined Spaces in Shipyards	7/24/11 NO	5/26/11 N/A – NM does not cover the maritime industry; see 29 CFR 1952.365(a)(2).
5/19/11	CPL 03-00-013	NEP Primary Metals	8/1/11 YES	7/19/11 7/19/11 – NM adopted identical provisions.
4/22/11	CPL 02-00-150	Revisions to Field Operations Manual – April 2011	7/2/11 YES	5/17/11 5/17/11 – NM made changes to the NMFOM corresponding to the changes in the Federal FOM. The plan supplement is under review in the Regional Office
2/10/11	CPL 02-01-050	PPE in General Industry	4/16/11 NO	2/16/11 2/16/11 – NM adopted identical procedures.
1/18/11	CPL 03 (11-01)	NEP Microwave Popcorn Processing Plants	4/16/11 YES	2/17/11 N/A – NM does not have any popcorn processing plants; therefore, they did not adopt this directive.
12/16/10	STD 03-11-002	Compliance Guidance for Residential Construction	2/26/11 NO	1/10/11 1/10/11 – NM adopted identical procedures.
11/4/10	CPL 02-02-049	PPE in Shipyard Employment	1/11/11 NO	11/18/10 N/A – NM does not cover the maritime industry; see 29 CFR 1952.365(a)(2).
9/28/10	CPL 02 (10-07)	Recordkeeping NEP – September 2010 Changes	12/19/10 NO	10/21/10 10/21/10 – NM adopted identical procedures.
8/18/10	CPL 02 (10-06)	SST-10	12/19/10 NO	10/20/10 N/A – NM will continue using the high hazard lists provided by the Directorate of Evaluation and Analysis, in accordance with the NMFOM, to schedule programmed inspections.

**APPENDIX J  
STATE-INITIATED PLAN CHANGES**

<b>Date of State Adoption</b>	<b>Description</b>	<b>Date Transmitted to Region</b>
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards in for Warehouse Industry (NAICS 493)	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards in the Manufacture of Fabricated Metal Products (NAICS 331-333 and 335-336)	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards in for Construction Industry (NAICS 236, 237, and 238)	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards in for Oil & Gas Well Drilling and Servicing Industry (NAICS 211 and 213)	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Silica Exposures (NAICS 236-238 and 327)	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards in for Refineries	10/13/10
10/01/10	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Waste Management and Remediation (NAICS 5621, 5622, and 562920)	10/13/10

**APPENDIX K  
FEDERAL STANDARDS AND STATE RESPONSES**

<b>Date</b>	<b>Number</b>	<b>Title</b>	<b>State Adoption Due Date</b>	<b>State Response</b>
8/9/10	29 CFR 1926	Cranes and Derricks in Construction – Final Rule	11/8/10	New Mexico adopted identical standards that became effective 11/8/10.
5/17/10	29 CFR 1926.54	Safety Standards for Steel Erection – Technical Amendment	11/17/10	New Mexico adopted this standard on 5/17/10, and it became effective that date.
5/14/10	29 CFR 1910, 1915, and 1926	Hexavalent Chromium – Direct Final Rule	11/14/10	New Mexico adopted the changes for 29 CFR 1910 and 1926, but not for 1915, as they do not cover shipyard employment. The standards became effective on 5/15/10.

**APPENDIX L  
FY 2011 INTERNAL TRAINING**

<b>Description</b>	<b>Administration</b>	<b>Compliance</b>	<b>Consultation</b>	<b>Total</b>
Accident Investigation (OTI)		1		1
Affordable Care Act Whistleblower Webinar	1	1		2
Confidentiality Training	4			4
CPR/AED		4		4
Electrical Standards (UTA #3095)		2		2
Evacuation and Emergency Planning (UTA #7105)		1		1
Excavation, Trenching and Soil Mechanics (Blended) (UTA #3010)			1	1
Fall Arrest Systems (OTI #3110)		1		1
Fall Protection in Residential Construction Webinar	2	7	3	12
Flammable and Combustible Liquid Compliance	1	12	3	16
Fundamentals of Supervision		1		1
Guarding Conveyor Belts		1	1	2
Hazardous Waste Operations and Emergency Response	3	4		7
Industrial Hygiene (OTI #521)		1		1
Initial Compliance (OTI #1000)		1		1
Inspection Techniques and Legal Aspects (OTI #1410)		1		1
Interest Based Bargaining	1			1
Introduction to Environmental Compliance and Management (UTA)			1	1
Introduction to Health Standards for Industrial Hygienists			2	2
Introduction to Incident Command System	1			1

<b>Description</b>	<b>Administration</b>	<b>Compliance</b>	<b>Consultation</b>	<b>Total</b>
Investigative Interviewing Techniques (OTI #1310)	1	6		7
Lead Training Program		2		2
Machinery and Machine Guarding Standards (Blended) (UTA #2045)		1		1
Managing Employee Performance		1		1
National Incident Management System	1			1
OSHApedia Webinar	1	2	3	6
Overview of Hydraulic Fracturing	2	4		6
Permit-Required Confined Space (UTA #2264)		2	1	3
Permit-Required Space Entry Options Specified in 29 CFR 1910.146 Webinar	1	9	5	15
Principles of Ergonomics in Work-Related Musculoskeletal and Nerve Disorders (UTA #2250)		2	1	3
Principles of Scaffolding (OTI #3080)		1		1
Program Planning for Construction Webinar	1	2		3
Recordkeeping Rules Seminar	2	1		3
Standards for General Industry		3		3
Trainer Course in OSH Standards for the Construction Industry (UTA #500)		1		1
Trainer Course in Standards for General Industry (UTA #501)		5		5
Trench Awareness	6			6
Update for Construction Industry Outreach Trainers (UTA #502)			1	1
Whistleblower IMIS Training Webinar	1	1		2
<b>Totals</b>	<b>29</b>	<b>81</b>	<b>22</b>	<b>132</b>