

**FY 2012 Abridged Federal Annual Monitoring  
and Evaluation (FAME) Report**

**STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT  
OCCUPATIONAL HEALTH AND SAFETY BUREAU**

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## I. Executive Summary

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 F. David Martin, and the Occupational Health and Safety (OHS) Bureau Chief is Robert Genoway.

The New Mexico program covers all private sector industries within the State, except maritime (longshoring, ship building, and ship breaking) 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 638,028 private sector and 187,754 public sector employees working for 54,408 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 initial FY 2012 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 and one currently vacant Compliance Officer position assigned to Ruidoso. 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.

All of the recommendations resulting from the onsite review conducted for FY 2011 and review of other program areas are addressed throughout the body of this report, and are listed in Section III, 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. The State is continuing to make progress on the recommendations.

Training sessions for Compliance Officers were conducted on several different occasions to address the 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).

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). The Bureau requested legal assistance in drafting and presenting corrections to the private interviewing regulations (FY 2011 FAME Recommendation 4).

New Mexico is including all of these issues in their FY 2013 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 2013 onsite monitoring review.

New Mexico made progress on all of the FY 2012 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 377 inspections, and issued 443 total violations. The State met all but two 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, violation and penalty retention prior to and subsequent to contest, and timely first level decisions subsequent to contest.

Many different New Mexico partnerships and alliances are highlighted in the New Mexico Compliance and Cooperative Programs Combined Annual Report for Fiscal Year 2012 (State OSHA Annual Report (SOAR), referenced in this report as Appendix E. Construction partnerships, along with 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.

## II. Major New Issues

There were no major new issues impacting the program in FY 2012.

## III. State Progress in Addressing FY 2011 FAME Report Recommendations

The New Mexico FY 2011 FAME contained four recommendations as the result of an onsite evaluation in January 2012, 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 progress the State has made in responding to each of the recommendations.

*Finding 11-1: Case files reviewed were not always fully and accurately documented.*

**Recommendation 11-1** (formerly 10-2): 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. Following recommendations made in the FY 2010 FAME report, OHSB initiated changes to ensure improved use of case file diary sheets. These changes included a management review of individual files to compare documented activities such as receipt of correspondence with those documented in the diary, and amendment of employee performance evaluation forms to include requirements for communicating case file status to management. OHSB will continue to review individual files for thoroughness and consistency in diary sheet use. The 2012 State Internal Evaluation Program (SIEP) included a review of this subject. The Compliance Program Manager provided additional instruction to Compliance Officers during a meeting and training session on August 24, 2012.

The 2012 SIEP found that each file reviewed had an appropriate log detailing activities and dates. (SIEP Item C.1) We consider the corrective action complete and awaiting verification.

2. Following the recommendation contained in the FY 2010 FAME report, OHSB provided Compliance Officers with training to ensure relevant employee discussions were documented to support violations and address complaint items. Use of the OHSB field worksheet for documenting employee discussions was reviewed with Compliance Officers in several staff meetings in 2011. OHSB will continue to stress the importance of documenting employee discussions during inspections. The Compliance

Program Manager provided additional instruction to Compliance Officers in a meeting and training session on August 24, 2012. They will also conduct internal file reviews and include this item in the SIEP for FY 2013, to ensure that discussions are documented on an on-going basis.

The 2012 SIEP found only one case file where employee (SIEP contains a typo where 'employer' needs to be corrected to 'employee') discussions and interviews were not adequately documented; it was determined that the single case file did not warrant a finding or recommendation. (SIEP Item C.2) We consider the corrective action complete and awaiting verification.

3. OHSB continues to stress to compliance staff the importance of documenting employee exposure when establishing violations. OHSB identified this as an area needing improvement during the FY 2011 SIEP and is reviewing this item again during the 2012 SIEP. OHSB will continue to conduct training sessions that emphasize the requirement to fully document employee exposure and will ensure that case file reviews include checking the adequacy of such documentation. The Compliance Program Manager provided additional instruction to Compliance Officers in a meeting and training session on August 24, 2012. On an on-going basis, this issue will be reviewed periodically during internal Compliance Officer training sessions, employee evaluations, and future SIEP reviews.

The 2012 SIEP reviewed exposure documentation and found that all cases contained adequate documentation. (SIEP Item C.7) We consider the corrective action complete and awaiting verification.

4. OHSB continues to stress to compliance staff the importance of documenting employer knowledge when establishing violations. OHSB identified this as an area needing improvement during the FY 2011 SIEP and is reviewing this item again during the 2012 SIEP. The Compliance Program Manager provided additional instruction to Compliance Officers in a meeting and training session on August 24, 2012. He will also ensure that case file reviews include checking the adequacy of such documentation on an on-going basis. This issue will be reviewed periodically during internal Compliance Officer (CO) training sessions, employee evaluations, and future SIEP reviews.

An additional internal CO half-day training was conducted on January 28, 2013. The OHSB Bureau Chief and Compliance Manager presented information on establishing employer knowledge, actual and constructive, for violations. A recent NM Commission decision was used to describe elements necessary for establishing legal sufficiency.

The 2012 SIEP reviewed employer knowledge documentation and found that all cases were properly documented (SIEP item C.12). We consider the corrective action completed and awaiting verification.

5. No corrective action plan necessary; corrective action was completed and verified during our FY 2011 case file reviews.
6. No corrective action plan necessary; corrective action was completed and verified during our FY 2011 case file reviews.

*Finding 11-2: Average health citation lapse time in New Mexico is significantly higher than the National average.*

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

Corrective Action Plan: There are a number of factors which have resulted in excessive lapse times for OHSB health citations. These include high case loads for health officers, inefficiencies in prioritization of duties by officers, and a health file tracking process which has not facilitated improvements. Corrective action was initiated when the issue was first identified and has been on-going since that time. OHSB will continue to utilize IMIS reports to identify open cases with prolonged lapse times in order to minimize delays in citation issuance. OHSB will closely monitor health inspection assignments to ensure caseloads are reasonable. The Compliance Program Manager will review assignment reports and compare these with open inspection reports weekly. OHSB will also more closely review health referrals alleging serious hazards to identify those where an initial investigation by inquiry may be appropriate. OHSB 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. Performance reviews will include an analysis of task prioritization to identify potential improvements, and Compliance Officers will be coached on task prioritization. OHSB will continue to utilize progressive administrative discipline for Compliance Officers whose performance in this area is substandard. OHSB will continue to use IMIS reports and has initiated additional methods tracking the progress of health case files, including a tracking board. The Compliance Program Manager will check file progress weekly and meet with Compliance Officers at least monthly on open cases.

Current Status: The first quarter of 2013 shows a reduction in lapse times within the target variance provided for in State Activities Mandated Measures. OHSB will continue to monitor closely, and we will include the issue in our FY 2013 quarterly meetings agenda.

*Finding 11-3: During case file reviews in FY 2011, nine of the 57 (16%) 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 11-3** (formerly 10-7): 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: OHSB has continued to work on evaluating abatement periods to ensure they are as short as reasonable. Abatement timeframes have been discussed with Compliance Officers in monthly staff meetings. Officers are trained to discuss abatement at the time of inspection and, in many cases, abatement is completed prior to citation issuance.

OHSB also monitors SIR data for “Abatement Periods for Violations” to compare New Mexico data with Federal data and ensure that the number of safety violations with abatement periods greater than 30 days and health violations with abatement periods greater than 60 days, are minimized.

The Compliance Program Manager provided additional instruction to Compliance Officers in a meeting and training session on August 24, 2012. The Compliance Program Manager will continue to emphasize to Compliance Officers at staff meeting and during review of individual case files, the need to consider abatement periods for violations based on the circumstances in each individual case, in order to achieve optimum results in abatement time intervals.

Current Status: Corrective action completed; awaiting verification.

*Finding 11-4: There are apparent inconsistencies in language and interpretation within the State’s private interviewing regulations.*

**Recommendation 11-4** (formerly 10-9): 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 acknowledges the inconsistency in language and interpretation of the private interviewing regulations that were adopted by the Environmental Improvement Board (EIB). As noted in the FY 2011 FAME report, OHSB attempted to resolve the issue in 2009 by proposing statutory changes, but was unsuccessful.



The Environment Department's Office of General Counsel is currently reviewing the regulation, and recommendations for changes are forthcoming to present to the EIB for adoption. They anticipate that the proposed regulatory changes will be presented to the EIB for consideration in FY 2013.

Current Status: OHSB projects the regulation change will be presented to the EIB in FY 2013. The recommendation remains open.

## IV Assessment of FY 2012 State Performance on Mandated Activities

Appendix D is the State Activity Mandated Measures (SAMM) Report, which provides statistics on State performance measures for enforcement and discrimination.

### A Enforcement

New Mexico conducted a total of 377 inspections in FY 2012; 79.8% (301/377) safety and 20.2% (76/377) health. Construction accounted for 183 (48.5%) of the total 377 inspections.

As detailed in Section III and Appendix B of this report, the FY 2011 FAME included a recommendation on four aspects of case file documentation – use of case file diary sheets, employee discussions relative to violations or complaint items, employee exposure, and employer knowledge. The State took corrective action and progress is continuing on each of these issues, as documented below. Based on the FY 2012 SIEP findings and our quarterly discussions, recommendation 11-1 is repeated as recommendation 12-1. We plan to review case files closed in FY 2013 to confirm that sufficient progress has been made to eliminate the recommendation in future years.

#### 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 D shows that there were 13 complaint inspections conducted in New Mexico in FY 2012, accounting for

3% of inspection activity. Referral inspections accounted for 36% (136/377) 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) 1 shows that New Mexico averaged 3.5 working days to respond to all serious and/or other than serious complaints by inspection; the State goal is no more than five working days. SAMM 4 shows that both (100%) of the imminent danger complaints and referrals responded to during the period were inspected within one working day.

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 has an internal strategic goal of responding to 95% of referrals alleging serious hazards within 10 working days. New Mexico responded to 318 of 349 (91%) referrals alleging serious hazards within 10 working days.

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 12 complaint inspections where complainants were notified of inspection results during the period; all 12 (100%) had timely notification.

## 2 Fatalities

New Mexico has experienced a leveling-off of Days Away, Restricted, or Transferred (DART) rate reduction. This recent trend mirrors that of nationwide statistics over the past several years. From 2009 through 2011, the national DART rate has remained flat at 1.9 cases per 100,000 workers. The national rate decreased continuously over previous years from a rate of 2.5 in 2004. Similarly, the New Mexico rate has remained relatively flat from 2009 (2.1) through 2011 (2.2), compared to a rate of 2.7 in 2004. Although short-term rates have been flat, long-term reductions continue to indicate the positive effect of OHSB programs.

The micro-to-host All Fatalities Received Report for New Mexico shows that 29 fatalities were reported to the Bureau in FY 2012. There were five heart attacks; five over-the-road vehicle accidents;

one homicide; and one fatality on a small farm exempt under the OSHA appropriations rider. There was one instance of a double fatality event. There were 17 deaths in 16 incidents under OHSB jurisdiction.

Of the 16 fatal events that were inspected, the investigation began within one working day in 13 of the 16 (81%) cases. Two were investigated within two working days and one within three working days. Six of the 17 deaths were in the construction industry; 1 was in the oil and gas industry; 2 were in manufacturing; and 8 were in various other industries. New Mexico has Local Emphasis Programs for the construction and oil and gas industries, as well the fabricated metal manufacturing process.

Between 2010 and 2011, 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 increased from 4.3 to 6.4 (+48.8%); the Private Sector TRC rate increased from 3.7 to 4.2 (+13.5%). The Public Sector DART rate decreased from 2.0 to 1.5 (-25.0%); and the Private Sector DART rate decreased from 1.9 to 1.3 (-31.6%).

The following table shows the five-year trend for these rates.

	<b>New Mexico 2007 Total Case Rate (TRC)</b>	<b>New Mexico 2011 Total Case Rate (TRC)</b>	<b>% change from 2007 to 2011</b>	<b>National Total Case Rate (TRC)</b>
Public Sector	6.9	6.4	-7.2%	5.7
Private Sector	4.6	4.2	-8.7%	3.5
	<b>New Mexico 2007 DART rate</b>	<b>New Mexico 2011 DART rate</b>	<b>% change from 2007 to 2011</b>	<b>National DART rate</b>
Public Sector	2.9	2.6	-10.3%	2.5
Private Sector	2.3	2.1	-19.2%	1.8

### 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 2012, eight 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 eight are All Construction; Fabricated Metal Products; Oil and Gas Well Drilling and Servicing; Refineries; Silica; Warehouse Industry; Waste Management; and Hospitals, Nursing Care Facilities, and Residential Care Facilities.

OHSB adopted the provisions of the National Emphasis Programs (NEPs) on Refineries and Nursing Homes in their LEPs on these subjects, and they are using these procedures for conducting programmed inspections. New Mexico has also adopted the following NEPs: Hexavalent Chromium, Injury and Illness Recordkeeping Program, Primary Metals, and PSM Covered Chemical Facilities.

In FY 2012, 47% (174/377) of New Mexico's inspections were programmed. New Mexico also inspects a large percentage of referrals with alleged serious or imminent danger hazards, and 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 that Compliance Officers identified serious, willful, and/or repeat violations in 30.4% of programmed safety inspections and 14.3% of programmed health inspections.

Many companies that were inspected had requested and received consultation services and/or compliance assistance 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.

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 5.3 and Days Away from Work, Restricted, or Transferred rate of 2.2 for construction, reflect the Bureau's efforts in this area. However, 6 of the 17 fatalities that were inspected in FY 2012 were in the construction industry, which indicates the need to continue the All Construction Local Emphasis Program.

One factor affecting the high health in-compliance rate for programmed inspections is that Health Compliance Officers focus on health issues and make referrals to safety for possible safety violations. The Compliance Program Manager noted that over-exposure is confirmed in approximately 20-30% of analyzed samples. Another factor is the large number of health referrals which allege serious hazards that the Bureau receives and responds to by inspection. This limits the number of programmed health inspections that can be conducted.

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 443 violations in FY 2012.

The micro-to-host Inspection Report for FY 2012 shows average citation lapse times of 41.1 working days for safety and 72.3 working days for health. SAMM 7 shows average citation lapse times of 59.2 calendar days for safety and 99.1 calendar days for health. The Federal comparison lapse days on the SAMM are 55.9 calendar days for safety and 67.9 calendar days for health.

Reducing citation lapse time has been a focus of State efforts for several years. We review SAMM 7 data each quarter and at the end of the year. The OHSB has taken several steps to address this issue; 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 2013. (See Appendix A, Recommendation 12-2.)

SAMM 9 shows that the average number of violations per inspection with violations was 2.6 in New Mexico and 3.3 Nationwide. New Mexico identified 1.8 serious violations per inspection with violations; the Nationwide average was 2.1.

The micro-to-host Inspection Report for FY 2012 shows that New Mexico Compliance Officers identified a total of 443 violations – 285 (64.3%) serious; 1 (0.3%) willful; 10 (2.3%) repeat; and 147 (33.1%) other-than-serious.

SAMM 10 shows the average **initial** penalty per private sector serious violation in New Mexico was \$1070.59; the Nationwide average was \$1,990.50.

5 Abatement

SAMM 6 shows that New Mexico verified abatement of 95.8% (115/120) of the private sector and 85.1% (40/47) of the public sector serious, willful, and repeat violations within 30 days of the final abatement date.

The issue of assigned abatement dates was the subject of a Recommendation in the FY 2011 FAME report.

6 Employee and Union Involvement

The New Mexico Field Operations Manual (NMFOM) pages 3-7, Section D and pages 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.

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. A host State Indicator Report (SIR) contains several measures that address State and Federal data on violations vacated and reclassified prior to contest. These measures show that 6.5% of New Mexico violations and 7.1% of Federal violations were vacated, and 2.3% of New Mexico violations and 4.9% of Federal violations were reclassified prior to contest. It also shows that 84.4% of New Mexico penalties and 59.1% of Federal penalties were retained prior to contest.

## 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 (NMOHSRC). The Bureau Chief or his designee may conduct the Informal Administrative Review.

The host SIR report addresses changes to citations and penalties subsequent to contest. These include changes made through formal settlement, NMOHSRC decisions, and court decisions. The report shows that 11.1% of New Mexico violations and 22.5% of Federal violations were vacated, and 4.3% of New Mexico and 12.4% of Federal violations were reclassified subsequent to contest. It also shows that 67.7% of New Mexico and 50.2% of Federal penalties were retained subsequent to contest.

State Activity Mandates Measures (SAMM) measure 12 is the average lapse time from receipt of contest to first level decision. The New Mexico average was 135.7 days; the National (Federal OSHA and all State Plans) average was 187.0 days. Almost all cases result in formal settlement agreements in New Mexico; only a few each year reach the Review Commission level.

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 and all such settlements during the period were approved. Review Commission decisions are available upon request to the Review Commission.

## C Standards and Federal Program Changes Adoption

### 1 Standards

New Mexico 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 2012. Three Federal standards or amendments to standards had State adoption due dates in FY 2012. As detailed in Appendix F, the State adopted identical standard amendments by reference on two of the three, and State adoption was not required on the third because 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 2012.

As detailed in Section IV and Appendix A, FY 2011 report contained a recommendation to continue efforts to clarify the apparent inconsistencies within the New Mexico 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 2013, and the recommendation is repeated in this report.

## 2 Federal Program/State Initiated Changes

There were seven Federal program changes for which a response and/or plan supplement was due in FY 2012. Appendix G includes the details of the State responses. Five of the seven responses were transmitted prior to the due date, and we have received responses on all seven.

New Mexico transmitted nine State-initiated plan changes during FY 2012, as detailed in Appendix H, regarding Local Emphasis Programs. All nine have been approved.

## D Variances

New Mexico did not issue any permanent or temporary variances in FY 2012. New Mexico has only issued one temporary variance in its 37-year history. The Bureau honors all multi-state variances that have been issued by Federal OSHA.



## E Public Employee Program

SAMM measure 11 shows that New Mexico conducted 35 of the total 377 inspections (9.3%) 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.

New Mexico projected a total of 20 public sector consultation initial visits (10 safety and 10 health) for FY 2012. The Bureau conducted 32 public sector visits (14 initial, 16 training and assistance, and 2 follow up).

The Mandated Activities Report for Consultation (MARC), an available computerized report on public sector consultation activities, this measure shows that New Mexico consulted with employees in 100% (14/14) of the public sector initial visits. The MARC shows employees were consulted on one of the two (50%) follow up inspections. An input error has since been corrected to show employees were consulted on both follow up visits.

MARC 4 shows that 100% (48/48) 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.

## F Discrimination Program

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 State policies and procedures are contained in NMFOM Chapter 13, and are at least as effective as Federal OSHA's. Complainants are notified in writing of their right to dually file with Federal OSHA. New Mexico policies and procedures include an internal appeal process.

State Activity Mandates Measures (SAMM) measure 14 shows a 40% (2/5) meritorious case rate for New Mexico; the National rate was 23.4%. SAMM measure 15 also shows that New Mexico had a 50% (1/2) settlement rate for meritorious cases; the Nationwide rate was 89.2%.

SAMM measure 13 shows that 100% (5/5) of New Mexico’s discrimination investigations during the period were completed within 90 days.

One Complaints About State Program Administration (CASPA) relating to a 50-9-25 discrimination complaint was filed during the period. Our investigation did not result in recommendations for corrective action.

**G Voluntary Compliance Program**

New Mexico adopted the Federal policy and procedures manuals for Partnerships, Alliances, and the Voluntary Protection Program (VPP).

The State 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 the 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).

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.

Compliance Assistance Specialists and Compliance Officers conducted numerous interventions during FY 2012 as follow.

<b>FY 2012 Interventions</b>	
<b>Intervention Type</b>	<b>Number of Interventions</b>
Focused Assistance	17
Formal Training	9
Partnership Leveraging	71
Program Review	0
Speech	20
Strategic Planning	2
Technical Assistance	12
VPP Annual Review	3
VPP Evaluation Visit	8
VPP Preapproval Visit	2
Other	35
<b>Total</b>	<b>179</b>

## H Program Administration

### 1 23(g) State Plan Grant

A review of New Mexico's 23(g) grant financial issues was conducted in February 2012, and there were no significant findings.

In FY 2012, 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 limitations on Federal OSHA appropriations, and no inspections were conducted outside of those guidelines with 100% State funding.

### 2 Staffing

As of January 31, 2013, the Bureau has four vacancies – the Compliance Program Manager, one Safety Compliance Officer, one Compliance Assistance Specialist, and one Health Consultant. The 23(g) grant covers the Compliance Program Manager, Safety Compliance Officer, Compliance Assistance Specialist, as well as 10% of the Health Consultation salary.

The State expects to fill the Compliance Program Manager, Compliance Assistance Specialist, and Health Consultant positions within the next two months. The Safety Compliance Officer position is awaiting approval to move the position from Ruidoso to Roswell, and they hope to fill it by April 2013.

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

### 3 Internal Training

New Mexico transmitted a 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 2012 is included as Appendix I.

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 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 past FAME reports and is a continuing recommendation in this report. (See Appendix A, Recommendation 12-4.) We will follow progress on this issue each quarter and will continue to work together toward achieving the goal of 18(e) final determination.

5 Integrated Management Information System (IMIS)

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

New Mexico Compliance Officers, Compliance Assistance Specialists, 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 entry in a few cases with individual Compliance Officers.

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 New Mexico Field Operations Manual (NMFOM) procedures are followed, and ensure penalties are collected.

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, contacting victims' family members, 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 2012 internal evaluation were provided to regional representatives at our fourth FY 2012 quarterly meeting. Findings and recommendations have been incorporated in this report under the appropriate subject.

The FY 2012 SIEP focused on the issues identified for the fifth year of the SIEP (Un-Programmed Inspections, Programmed Safety and Health Inspections, Case File Documentation, Settlement of Cases, OSHA Discrimination Activities (NMSA 50-9-25), Standards, and Education) as well as progress on actions taken in response to the previous FAME recommendations.

## V. State Progress in Achieving Annual Performance Goals

New Mexico made progress on all of their FY 2012 Annual Performance Plan goals, as detailed in Appendix E, the New Mexico FY 2012 State OSHA Annual Report (SOAR) and discussed below.

The OHSB conducted inspections in eight 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; and Hospitals, Nursing Care Facilities, and Residential Care Facilities. 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 2012 Annual Performance Plan and appropriate financial documentation during the FY 2012 grant application process. The

Regional Office reviewed and concurred with the annual performance goals for FY 2012. The FY 2012 Annual Performance Plan was officially approved by the Assistant Secretary when the FY 2012 23(g) grant was awarded.

Details of the State’s performance in relation to the FY 2012 Annual performance plan are included in Appendix E. 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 2012 will not be available until October 2013; however the 2011 overall DART rate of 2.2 is a decrease of 8.3% from the 2007 baseline rate. The State has met the 5-year strategic goal for this measure.

Goal 1.2: The New Mexico FY 2012 annual performance goal is to experience fewer than 12 workplace fatalities requiring OHSB investigation. There were 16 such fatalities in FY 2012. OHSB conducted 51.5% (194/377) of the total inspections in construction and oil and gas well drilling and servicing. These two industries accounted for 6 of the 17 (37.5%) workplace deaths reported in 16 incidents in FY 2012.

Goal 1.3: Goal was deleted during FY 2011.

Goal 1.4: New Mexico exceeded the annual performance goal for increasing participants in strategic partnerships. The goal is 75; at the end of FY 2012 there were 79 members in OHSB partnership programs.

Goal 1.5: The goal is to increase VPP from 11 to 13 approved VPP members by the end of FY 2012, and there were 13 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.

Goal	Results
1. Participate in 13 workshops.	OHSB staff participated in 21 workshops in FY 2012.
2. Participate in 9 speaking engagements	OHSB staff participated in 8 speaking engagements in FY 2012.
3. Participate in 3 outreach activities in a language other than English.	OHSB staff participated in 8 outreach activities conducted in Spanish during FY 2012.

Goal 1.7: The chart below details the goals and accomplishments for educating employers and employees regarding the value of occupational safety and health in the nursing and residential care facility industries by increasing outreach activities.

Goal	Results
1. Conduct 15 enforcement inspections at healthcare facilities	OHSB conducted 2 inspections at healthcare facilities during FY2012
2. Conduct 5 compliance assistance activities including establishing an alliance within the industry	OHSB conducted no compliance assistance activities within the healthcare industry in FY2012

Goal 2.1: New Mexico responded to 13 of 16 (81%) incidents of workplace fatalities within one working day of notification. Two were investigated within two working days and one within three working days. This issue is also discussed in Section IV.A.2 of this report.

Goal 2.2: New Mexico's goal is to respond to 95% of referrals alleging serious hazards within 10 working days. They responded to 91% (318/349). This issue is also discussed in Section IV 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 with 90 days.) New Mexico completed 100% (5/5) discrimination complaint investigations within 60 days.

## VI. Other Areas of Note

The Bureau entered into several notable settlement agreements during FY 2012. Navajo Refining over citations issued following the investigation of an accident at the Artesia refinery in March of 2010. The settlement, finalized on September 25, 2012, included Willful violations for trenching and the largest penalty ever collected by the state program. The accident involved an explosion and fire that killed two contractor employees and seriously injured two others during welding operations on a tank at the refinery.

In February 2012, OHSB entered into a settlement agreement with the City of Las Vegas, New Mexico, following an excavation cave-in that killed two city workers. The settlement required the City to instruct employees on their right to stop work when unsafe conditions exist, provide employees with excavation

safety training, designate additional safety staff in all departments, and notify the Bureau of excavation work prior to entry for a period of three years. The city also accepted a willful violation. Subsequent outreach and publicity of the accident raised awareness of trench hazards statewide, resulting in referrals from the media and other sources identifying potentially hazardous excavations at public sector sites. OHSB conducted several inspections and issued citations to other municipal governments, including repeat trench violations for the City of Santa Fe.

Then in July 2012, OHSB entered into a settlement agreement with Public Service Company of New Mexico (PNM) following an investigation involving an employee who fell to his death during a pole-top rescue exercise. As part of settlement, PNM agreed to provide fall protection equipment beyond the minimum standard for pole-climbing operations. PNM also agreed to provide seminars on evaluation of climbing equipment to rural electric cooperatives statewide.

During FY 2012 New Mexico experienced a number of wildfires during the summer of 2012, including the Little Bear Fire, which destroyed more than 250 homes and businesses near Ruidoso. The Bureau provided health and safety information, instruction, and protective equipment to volunteers and residents re-entering burned areas.



## Appendix A – New and Continued Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11
12-1	<i>Case files reviewed were not always fully and accurately documented.</i>	<p><i>New Mexico OHSB should ensure that:</i></p> <ol style="list-style-type: none"> <li><i>1. The case file diary sheets document all actions taken, when they were taken, and by whom.</i></li> <li><i>2. Documentation of employee discussions relative to violations or complaint items is included in all case files.</i></li> <li><i>3. Employee exposure to hazards is documented.</i></li> <li><i>4. Employer knowledge is documented.</i></li> </ol> <p><i>Corrective action completed; awaiting verification.</i></p>	11-1
12-2	<i>Average health citation lapse time in New Mexico is significantly higher than the National average, and increased 46% from 89.0 to 99.0 calendar days, from FY 2011 to FY 2012. 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.</i>	<p><i>New Mexico OHSB should continue efforts to reduce health citation lapse time.</i></p> <p><i>Corrective action completed; awaiting verification.</i></p>	11-2
12-3	<i>Fifteen of the 44 (34%) case files we reviewed had at least one violation with abatement dates we considered longer than necessary.</i>	<p><i>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.”</i></p> <p><i>Corrective action completed; awaiting verification.</i></p>	11-3
12-4	<i>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.</i>	<p><i>New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).</i></p>	11-4

**Appendix B - Observations Subject to Continued Monitoring**  
FY 2012 New Mexico State Plan Abridged FAME Report

New Mexico does not have any new or continued observations.

## Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-1	Case files reviewed were not always fully and accurately documented.	<p>New Mexico OHSB should ensure that:</p> <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>	<p>OHSB will continue to review individual files for thoroughness and consistency in diary use. The 2012 State Internal Evaluation Program (SIEP), which is on-going, includes a review of this subject. The Compliance Program Manager provided additional instruction to Compliance Officers during a meeting and training session on August 24, 2012.</p>	<ol style="list-style-type: none"> <li>1. The 2012 SIEP found that each file reviewed had an appropriate log detailing activities and dates. (SIEP Item C.1)</li> <li>2. The 2012 SIEP found only one case file where employee discussions and interviews were not adequately documented. (SIEP Item C.2)</li> <li>3. The 2012 SIEP reviewed exposure documentation and found that all cases contained adequate documentation. (SIEP Item C.7)</li> <li>4. The 2012 SIEP reviewed employer knowledge documentation and found that all cases were documented.</li> </ol>	Open - Awaiting verification

## Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

11-2	<p>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.</p>	<p>New Mexico OHSB should continue efforts to reduce health citation lapse time.</p>	<p>Corrective action was initiated when the issue was first identified and has been on-going since that time. OHSB will continue to utilize IMIS reports to identify open cases with prolonged lapse times in order to minimize delays in citation issuance.</p> <p>OHSB will closely monitor health inspection assignments to ensure caseloads are reasonable. The Compliance Manager will review assignment reports and compare these with open inspection reports weekly. OHSB will also more closely review health referrals alleging serious hazards to identify those where an initial investigation by inquiry may be appropriate.</p> <p>OHSB 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. Performance reviews will include an analysis of task prioritization to identify potential improvements, and Compliance Officers will be coached on task prioritization. OHSB will</p>	<p>The first quarter of 2013 shows a reduction in lapse times to within target variance provided for in State Activities Mandated Measures. OHSB will continue to monitor closely.</p>	<p>Open - Awaiting verification</p>
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## Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

			<p>continue to utilize progressive administrative discipline for Compliance Officers whose performance in this area is substandard.</p> <p>OHSB will continue to use IMIS reports and has initiated additional methods for tracking the progress of health case files, including a tracking board. The Compliance Manager will check file progress weekly and meet with Compliance Officers at least monthly on open cases.</p>		
11-3	<p>This issue was included in the 2011 SIEP review. In the universe of 24 case files, the reviewed identified 4 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%) of the case files we reviewed had at least one violation with</p>	<p>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.”</p>	<p>The Compliance Program Manager provided additional instruction to Compliance Officers during a meeting and training session on August 24, 2012. The Compliance Program Manager will continue to emphasize to Compliance Officers at staff meetings and during review of individual case files, the need to consider abatement periods for violations based on the circumstances in each individual case in order to achieve optimum results in abatement time intervals.</p>	<p>OHSB also monitors SIR data for “Abatement Periods for Violations” to compare New Mexico data with Federal data and ensure that the number of safety violations with abatement periods greater than 30 days and health violations with abatement periods greater than 60 days, are minimized.</p> <p>The Compliance Program Manager</p>	<p>Open - Awaiting verification</p>

## Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

	abatement dates we considered longer than necessary.			provided additional instruction to Compliance Officers during a meeting and training session on August 24, 2012. The Compliance Program Manager will continue to emphasize to Compliance Officers at staff meeting and during review of individual case files, the need to consider abatement periods for violations based on the circumstances in each individual case, in order to achieve optimum results in abatement time intervals.	
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 OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).	The Environment Department's Office of General Counsel is currently reviewing the regulation, and recommendations for changes are forthcoming to present to the Environmental Improvement Board. We anticipate that the proposed regulatory changes will be presented to the Environmental Improvement Board for consideration in FY 2013.	The Environment Department's Office of General Counsel is currently reviewing the regulation, and recommendations for changes are forthcoming to present to the EIB for adoption. We anticipate that the proposed	Open

## Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 New Mexico State Plan Abridged FAME Report

	New Mexico Environment Department (NMED) legal staff. We will continue to monitor progress on this issue.			regulatory changes will be presented to the EIB for consideration in FY 2013.	
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## Appendix D - FY 2012 State Activity Mandated Measures (SAMB) Report

### FY 2012 New Mexico State Plan Abridged FAME Report

NOV 09, 2012  
 State: NEW MEXICO  
 RID: 0653500

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	46 3.53 13	7 3.50 2	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	12 100.00 12	2 100.00 2	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	2 100.00 2	0 0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	115 95.83 120	1 16.67 6	100%
Public	40 85.11 47	2 100.00 2	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	8000 59.25 135	899 112.37 8	2032800 55.9 36336 National Data (1 year)
Health	4360 99.09 44	89 44.50 2	647235 67.9 9527 National Data (1 year)

0\*NM FY12

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION



## Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report

### FY 2012 New Mexico State Plan Abridged FAME Report

NOV 09, 2012  
RID: 0653500

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
Safety	56 30.43 184	1 20.00 5	76860 58.5 131301
Health	2 14.29 14	0 .00 3	9901 53.0 18679
9. Average Violations per Inspection with Violations			
S/W/R	327 1.81 180	26 2.60 10	367338 2.1 175950
Other	142 .78 180	25 2.50 10	216389 1.2 175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	279425 1070.59 261	32800 1312.00 25	624678547 1990.5 313826
11. Percent of Total Inspections in Public Sector	35 9.28 377	4 28.57 14	156 10.1 1552
12. Average lapse time from receipt of Contest to first level decision	5156 135.68 38	117 117.00 1	3197720 187.0 17104
13. Percent of 11c Investigations Completed within 90 days*	5 100.00 5	1 100.00 1	100%
14. Percent of 11c Complaints that are Meritorious*	2 40.00 5	0 .00 1	1619 23.4 6921
15. Percent of Meritorious 11c Complaints that are Settled*	1 50.00 2	0 0 0	1444 89.2 1619

\*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/2013

**Appendix E - FY 2012 State OSHA Annual Report (SOAR)**  
FY 2012 New Mexico State Plan Abridged FAME Report

*[Available Upon Request]*

## Appendix F – Federal Standards and State Responses

FY 2012 New Mexico State Plan Abridged FAME Report

Date	Number	Title	State Adoption Due Date	State Response
3/26/12	29 CFR 1910, 1915, 1917, 1918, and 1926	Hazard Communication – Globally Harmonized System of Classification	9/26/12	New Mexico adopted identical changes that became effective 3/26/12.
6/8/11	29 CFR 1910, 1915, 1918, 1926, and 1928	Standards Improvement Project, Phase III	12/8/11	New Mexico adopted identical changes that became effective on 6/8/11.
5/2/11	29 CFR 1910 and 1915	Working Conditions in Shipyards – Final Rule	11/21/11	New Mexico does not cover employment in maritime industries.

## Appendix G – Federal Program Changes and State Responses

FY 2012 New Mexico State Plan Abridged FAME Report

<b>Date</b>	<b>Number</b>	<b>Title</b>	<b>Date Response Due/Adoption Required</b>	<b>State Response</b>
4/17/12	CPL 02-00-153	Communicating OSHA Fatality Inspection Procedures to a Victim’s Family	6/18/12 NO	8/14/12 – NM adopted identical procedures.
4/5/12	CPL 03-00-016	Nursing Home NEP	6/5/12 YES	8/7/12 – NM adopted an “at least as effective” LEP on 10/1/11.
11/29/11	CPL 03-00-014	National Emphasis Program – PSM Covered Chemical Facilities	3/3/12 YES	1/2/12 – NM adopted identical procedures.
10/27/11	CPL 02-01-053	Compliance Policy for Manufacture, Storage, Sale, Handling, Use, and Display of Pyrotechnics	12/31/11 YES	11/8/11 – NM adopted identical procedures.
9/20/11	CPL 02-03-003	Whistleblower Investigations Manual	11/21/11 YES	10/4/11 – NM adopted similar procedures via NMFOM Chapter 13, which is under review in the Regional Office.
9/9/11	CPL 02-11-03	Site-Specific Targeting 2011	11/12/11 NO	9/13/11 – NM will continue to use the previously approved high hazard targeting system outlined in NM FOM Chap. 2.
9/8/11	CPL 02-01-052	Enforcement Procedures for Incidents of Workplace Violence	11/12/11 NO	9/20/11 – NM adopted identical procedures.

**Appendix H – State Initiated Plan Changes**  
 FY 2012 New Mexico State Plan Abridged FAME Report

<b>Date of State Adoption</b>	<b>Description</b>	<b>Date Transmitted to Region</b>
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards in for Warehouse Industry (NAICS 493)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards in the Manufacture of Fabricated Metal Products (NAICS 331-333 and 335-336)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards in for Construction Industry (NAICS 236, 237, and 238)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards in for Oil & Gas Well Drilling and Servicing Industry (NAICS 211, 213111, and 213112)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Silica Exposures (NAICS 236-238 and 327)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards in for Refineries (NAICS 32411)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Waste Management and Remediation (NAICS 5621, 5622, and 562920)	8/25/11
10/1/11	Local Emphasis Program (LEP) for Hospitals, Nursing Care Facilities, and Residential Care Facilities (NAICS 622110, 62311, and 623311)	8/25/11
10/26/11	Modification to LEP on Warehousing to add NAICS 424	10/26/11

**Appendix I State FY 2012 Annual Internal Training**  
 FY 2012 New Mexico State Plan Abridged FAME Report

<b>Description</b>	<b>Administration</b>	<b>Compliance</b>	<b>Consultation</b>	<b>Total</b>
Accident Investigation (OTI 1230)		1		1
Applied Spray Finishing & Coating Principles (Blended)		1		1
BLS Confidentiality Training for NM	3			3
Defensive Driving	3	2		5
Excavation Trenching and Soil Mechanics (UTA)		1		1
Hazard Analysis in the Chemical Processing Industries (OTI 3400)		1		1
Hazardous Waste Operations & Emergency Response Refresher		3		3
Introduction to Health Standards for Industrial Hygienists (OTI 1250)			1	1
Investigative Interview Techniques (OTI 1310)		2		2
Living in a Union Environment (SPO)	1			1
Managing Employee Performance	1			1
National OSH Training 2012	3			3
Principles of Industrial Ventilation (Blended) (OTI 2210)		1		1
Safety and Health in the Chemical Processing Industries (OTI 3300)		1		1
Susan Hardwood Grant Training Seminar AGCA	1			1
1530 State Plan Monitoring	1			1
Webex Encountering and Addressing Reluctance Training	1			1
Webex OSH Non Response Training	1			1
Webex Soil Introduction	1			1
Workshop OSHS Coding Workshop	1			1
Webinar Electronic Resources	1			1
Webinar Lead -Based Paint in Bridge Demolition #0062	1	4		5
Webinar Noise Monitoring	4			4
Webinar Occupational Medicine	5			5
Webinar Workplace Violence	5			5
<b>Total</b>	<b>33</b>	<b>17</b>	<b>1</b>	<b>51</b>