

FY 2016 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

**Department of Business & Industry
Division of Industrial Relations, Nevada Occupational Safety & Health Administration
(NVOSHA)**



Evaluation Period: October 1, 2015 – September 30, 2016

Initial Approval Date: January 4, 1974
Program Certification Date: April 25, 1981
Final Approval Date: April 18, 2000

**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region IX
San Francisco, California**



Contents

I.	Executive Summary	3
	A. State Plan Activities, Trends, and Progress.....	3
	B. State Plan Introduction	3
	C. Data and Methodology	4
	D. Findings and Observations	4
II.	Assessment of State Plan Performance	4
	A. Major New Issues	4
	B. Assessment of State Plan Progress in Achieving Annual Performance Goals.....	5
	C. Highlights from the State Activity Mandated Measures (SAMM).....	7
III.	Assessment of State Plan Corrective Actions	8

Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations Subject to New and Continued Monitoring.....	B-1
Appendix C – Status of FY 2015 Findings and Recommendations.....	C-1
Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report.....	D-1

I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this report is to assess the Nevada Occupational Safety and Health Administration's (NVOSHA) activities for Fiscal Year (FY) 2016 and its progress in resolving outstanding recommendations from the FY 2015 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report. NVOSHA is the agency responsible for enforcement of regulations protecting workers from safety and health hazards in Nevada's workplaces.

This was the first year of NVOSHA's new Five-year Strategic Plan established for the fiscal years 2016-2020. Nevada's Strategic Plan focuses on three areas: workplace safety and health, employer involvement, and staff professional development. Overall, the program met their goals to reduce workplace injuries and illnesses, change workplace culture through outreach initiatives, and train their safety and health enforcement staff. The agency conducted a total of 1,468 inspections, which exceeded their goal of 1,200 inspections.

There were issues that prevented the achievement of certain performance goals. The average number of serious, repeat, willful, and unclassified citations was below the national average, the in-compliance rate was high for both safety and health inspections, and penalties assessed remain lower than the national average.

OSHA's standards and federal program changes are typically adopted timely except those requiring approval by the Nevada Legislature that only meets biennially. For example, the Department of Business and Industry (DBI) submitted a Bill Draft Request (BDR) to the Legislature to adopt the recordkeeping rule, but the legislation has not yet been signed by the Governor. This rule was finalized by OSHA on 9/9/2014 and State Plan adoption was due by March 2015. The schedule of the legislature does not allow the state plan to meet the mandatory six month adoption period of federal standard and program changes mandated by 29 CFR 1953 to which they agreed.

B. State Plan Introduction

The Division of Industrial Relations (DIR), under the DBI, is the designated agency for administering the OSHA-funded enforcement program in Nevada through NVOSHA. Bruce Breslow is the Director of DBI, Joseph Decker is the State Plan Designee and administrator of the DIR, and Jess Lankford is the Chief Administrative Officer for NVOSHA. The consultation program is administered through Todd Schultz, Chief Administrative Officer of the Nevada Safety Consultation and Training Section (SCATS). There are a total of 72 full-time equivalent (FTE) positions, of which SCATS has 14.5 FTE positions.

The state has adopted OSHA's standards and most of its interpretations and compliance policies identically. The grant agreement established the final award to fund the program at \$8,086,537 composed of \$1,457,900 federal funds, \$1,457,900 State Plan matching funds, and an additional \$5,170,737 from other State Plan funds.

C. Data and Methodology

OSHA established a two-year cycle for the FAME process. This is the follow-up year, and a case file review associated with a comprehensive FAME was not conducted. This strategy allows the State Plan to focus on correcting deficiencies identified in the FY2015 comprehensive FAME.

Information and data referenced in this report were derived from the computerized State Activity Mandated Measures (SAMM) dated November 14, 2016, OSHA Information System (OIS), Nevada's FY 2016 State OSHA Annual Report (SOAR), the Bureau of Labor Statistics (BLS) data, the FY 2016 23(g) grant, and Complaint About State Program Administration (CASPA) investigations. The review of the State Plan included information from the four quarterly meetings with the state during the period of review.

D. Findings and Observations

There are nine findings and four observations in this report. There was one new finding. Six findings from FY 2015 were completed but are awaiting verification by a casefile review, while one remains open. There was one new observation. One observation was closed and one observation was converted to a finding, while three observations will carry over. Details on the findings and observations being carried over from the FY 2015 FAME are provided in Section III of this report. Appendix A describes new and continued findings and recommendations. Appendix B describes new observations and the observations subject to continued monitoring. Appendix C describes the status of each FY 2015 finding in detail.

II. Assessment of State Plan Performance

A. Major New Issues

Maximum Penalty Increase

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016 and again increased penalties according to the Consumer Price Index (CPI) in January of 2017. As required by law, OSHA will continue to raise maximum penalties each year according to the CPI. State Plans are required to adopt both the catch-up increase and annual increase.

Jurisdiction

OSHA and NVOSHA agreed to transfer jurisdiction of all private contractors working on military bases in Nevada to OSHA. This transfer of jurisdiction was done to reduce confusion among employers on military installations and to eliminate any challenges with NVOSHA gaining entry to military sites to conduct inspections.

B. Assessment of State Plan Progress in Achieving Annual Performance Goals

This is the first year of the Five-Year Strategic Plan covering FY 2016-2020. The FY 2016 Annual Performance Plan was submitted as part of the grant application.

Strategic Goal #1: Workplace Safety and Health - Reduce workplace fatalities, injuries and illnesses within the state.

Five-year Strategic Goal 1.1: Reduce worker injury and illness DART (Days Away, Restricted, or Transferred) rate by five percent at the end of FY 2020.

Annual Performance Goal 1.1: Reduce Construction and Manufacturing DART rates by one percent each year.

- Conduct 480 construction, 200 manufacturing, and 520 other inspections
- Remove 18,000 employees from potential safety and health hazards
- Decrease state DART rate by 1% (baseline 2013 BLS DART Rate of 2.2)

Results:

- Conducted 556 construction, 214 manufacturing, and 702 additional inspections
- Removed 26,501 workers from exposure to potential safety and health hazards
- DART rate will be addressed in the FY 2017 report

Assessment: Annual Performance Goal 1.1 was partially achieved.

The total number of inspections in construction, manufacturing, and other industries were completed. The number of workers removed from hazards exceeded the goal of removing 18,000 workers from hazards. The DART goal could not be fully assessed this year because of the two year delay of Bureau of Labor (BLS) data.

Five-year Strategic Goal 1.2: Remove 90,000 employees from exposure to potential safety and health hazards by the end of FY 2020.

Annual Performance Goal 1.2: Remove 18,000 employees from exposure to potential safety and health hazards each year.

- Conduct 1,200 inspections
- Remove 18,000 employees from hazards

Results:

- Conducted 1,472 inspections
- Removed 26,501 workers from exposure to potential safety and health hazards
- DART rate will be addressed in the FY 2017 report

Assessment: Annual Performance Goal 1.2 was partially achieved

A total of 1,472 inspections were conducted which was more than the 1,200 planned. The goal of removing at least 18,000 workers from hazards was exceeded by removing 26,501 workers

from hazards. At this rate, the five-year goal of removing over 90,000 workers in Nevada from safety and health hazards should be achieved by year four. If the annual goal continues to be over-achieved in the second year of the plan, it is suggested that the State Plan review its five-year and annual goals to determine if it should be adjusted.

Strategic Goal #2: Employer Involvement - Change workplace culture through education, outreach and employer incentives.

Five-year Strategic Goal 2: Encourage employer participation in the Nevada Voluntary Protection Program and award at least five new VPP Star Certifications through FY 2020.

Annual Performance Goal 2: Award Nevada VPP Star Certification to at least one establishment each fiscal year.

- Provide VPP information for at least 10 outreach activities
- Receive and review at least two VPP applications
- Conduct at least one VPP audit
- Award at least one VPP Star Site

Results:

- Ten outreach activities were conducted where VPP information was distributed
- Two VPP applications were received and reviewed
- Three VPP audits were conducted
- One VPP Star Site was awarded

Assessment: Annual Performance Goal 2 was achieved.

Ten outreach events were successful in encouraging employers to participate in the Nevada VPP Start Program. Two new VPP applications were reviewed, three audits were conducted and one new site was awarded the Nevada VPP Star Certification.

Strategic Goal #3: Staff Professional Development - Enhance compliance officers' knowledge, skills, and abilities through formal and informal training.

Five-year Strategic Goal 3: Conduct field training and evaluate the performance of field-assigned compliance officers every year.

Annual Performance Goal 3: Conduct field training and evaluate the performance of at least 80% of field-assigned compliance officers.

Results:

- 31 of the average number of 39 (80%) compliance officers were trained and evaluated

Assessment: Annual Performance Goal 3 was achieved.

Training and evaluation was conducted for 31 out of 39 (80%) officers to ensure a qualified staff. The state is on track to meet its five-year goal.

C. Highlights from the State Activity Mandated Measures (SAMM)

Average Number of Work Days to Initiate Complaint Inspections (SAMM 1)

It took an average of 8.5 days to respond to a complaint with an inspection which was beyond the negotiated further review level of 7 days.

Observation 2016-OB-01: The time to initiate complaints averaged 8.5 days exceeding the 7 day negotiated further review level for SAMM 1.

Federal Monitoring Plan 2016-OB-01: OSHA will monitor and review this measure during the quarterly meetings that complaint inspections are conducted within the seven day response time.

Number of denials where entry not obtained (SAMM 4)

There was one denial of entry during this period for an inspection conducted in response to an alleged workplace violence complaint. An opening conference was conducted, but the inspector departed after being denied access to paperwork or employee interviews. Based on guidance from NV Legal Counsel, a decision was made to refer the complaint to the whistleblower unit for investigation. An alleged whistleblower complaint was filed that was later dismissed.

Average Number of Violations Per Inspection (SAMM 5)

In the fourth quarter of FY 2015, NVOSHA changed its inspection procedure for multi-employer worksites, increased the number of programmed inspections, and changed their complaint, referral and fatality policies. Although progress was made, the average number of serious, willful, repeat and unclassified (SWRU) violations continued to be below the further review level. An average of 1.3 SWRU violations was issued per inspection; as compared to the further review level of 1.5 violations per inspection (-20% of national average, 1.82). The average number of violations classified as other-than-serious, 1.28 per inspection, was higher than the further review level of 0.79 per inspection (- 20% of national average, 1.0).

Finding FY 2016-01: The average number of violations classified as serious, willful, repeat or unclassified (SWRU) was significantly lower than the national average.

Recommendation FY 2016-01: NVOSHA should continue current efforts and monitor progress toward improving this indicator.

Average Current Penalty Per Serious Violation (SAMM 8)

Nevada OSHA's average current penalty per serious violation in private sector (SAMM 8: 1-250+ workers) was \$1,151.17 in FY 2016. The Further Review Level (FRL) is -25% of the National Average (\$2,279.03) which equals \$1,709.27. Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies and procedures that are "at least as effective" (ALAE) as those contained in OSHA's FOM, which was revised on August 2, 2016, to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection. OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

In all employer size categories of companies, penalties were below the national average. Table 2 reflects the NVOSHA average penalty per employer size to the national average.

Table 2
Average Current Penalty per Serious Violation (SAMM 8)

Average Penalty (\$) per Employer Size	1-25 Workers	26-100 Workers	101-250 Workers	>250 Workers	Total All Combined
NVOSHA	\$621	\$1,208	\$1,689	\$3,315	\$1,151
National	\$1,559	\$2,549	\$3,494	\$4,436	\$2,279

Percent in Compliance (SAMM 9)

The state made changes in 2015 to reduce the in-compliance rate, including changing its inspection approach with multi-employers at construction sites. As a result, the in-compliance rates from last year declined. However, NVOSHA’s in-compliance rates of 47.89% for health and 52.38% for safety, remain well above the further review level of 34.62% for safety (+20% of the national average, 28.85%) and 42.82% for health (+20% of the national average, 35.68%). As a result, Observation FY 2015-OB-01 has been converted to a finding.

Finding 2016-02: The percentage of in-compliance inspections for both safety and health cases was significantly above the further review level for SAMM 9.

Recommendation 2016-02: NVOSHA should continue its current efforts in improving this indicator, determine additional causes, and take action to improve low performance.

III. Assessment of State Plan Corrective Actions

This section details the corrective action taken to address the findings and observations from FY 2015.

Finding FY 2015-01: Complainants were not provided with information on the results of the inspection in 121 of the 468 (25.8%) complaint inspections conducted.

Recommendation FY 2015-01: NVOSHA should ensure that complainants have been notified of inspection results.

Status: Awaiting Verification

Staff was trained on December 6, 2016 on the requirement to generate correspondence on formal/non-formal complaints. Supervisors were retrained to check all casefiles to ensure that compliance officers’ correspondence was located in casefiles.

Finding FY 2015-02: There was no evidence that employee interviews were conducted in 12 out of 102 case files (12%) reviewed.

Recommendation FY 2015-02: NVOSHA should ensure that employee interviews are conducted in all inspections.

Status: Awaiting Verification

NVOSHA conducted an internal case file review on November 2, 2016. The analysis showed some improvement in the number of casefiles with documented worker interviews. Management worked with compliance staff to ensure interviews were conducted on all inspections, and appropriately documented and entered in OIS.

Finding FY 2015-03: In three of seven dismissed/non-merit cases reviewed, information gathered during workplace retaliation investigations was not consistently shared between the respondent and complainant.

Recommendation FY 2015-03: NVOSHA should ensure that complainant and respondent documents are exchanged to allow for any additional information given by either party that is pertinent to the resolution of the complaint.

Status: Awaiting Verification

Investigator training was completed on August 3, 2016. The Whistleblower Investigation Manual (WIM) requires information provided by the complainant and respondent be shared between the parties, with appropriate redactions discussed in Chapter 23 of the Federal WIM. NVOSHA Management responded to this recommendation by reiterating to investigators that this information must be shared between the parties in all retaliation cases.

Finding FY 2015-04: In two of twelve cases reviewed that either were coded as settled or settled other, closing letters were not sent for two settled worker retaliation cases.

Recommendation FY 2015-04: NVOSHA should ensure that closing letters are sent in all settled and settled other cases.

Status: Awaiting Verification

The whistleblower manual requires a closing letter be sent in all cases that are settled. Training was conducted on August 3, 2016, to ensure that a closure letter is sent in all settled and settled other cases, and a copy of the letter is placed in the case file.

Finding FY 2015-05: In three of seven dismissed/non-merit cases reviewed, closing letters for dismissed worker retaliation cases did not document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation.

Recommendation FY 2015-05: NVOSHA should ensure that closing letters document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation.

Status: Awaiting Verification

The whistleblower manual requires that NVOSHA send complainants a closure letter, which includes the findings of the investigation. Training was conducted on Dec 6, 2016 to ensure that a closure letter is sent which includes the above items, and that a copy of the letter is placed in the case file.

Finding FY 2015-06: In eight of 25 cases reviewed, information on workplace retaliation investigations was not accurately entered into Web IMIS (Integrated Management Information System).

Recommendation FY 2015-06: NVOSH should enter information into Web IMIS in an accurate manner.

Status: Open

NVOSHA management has been reviewing investigative case files to ensure the correct dates were entered into Web IMIS. Ongoing training is being held where investigators are informed and retrained on the requirement to ensure data is timely and correctly entered into Web IMIS.

Finding FY 2015-07 (FY 2014-08): Three safety and health retaliation files did not contain documentation of worker statements obtained during the interview process as required by the WIM Chapter 3(III), 3(VI)(D)(3), 3(VI)(E)(10), 3(VI)(H)(5), and 3(VI)(L)(1).

Recommendation FY 2015-07 (FY 2014-08): NVOSHA should develop procedures to ensure that safety and health enforcement files document worker statements in the case file and insert in the draft manual.

Status: Awaiting Verification

Investigators were retrained on the requirement to include witness interview statements and documentation in investigatory files on December 6, 2016. In addition, prior to approving a determination, management will conduct a review to ensure documentation of witness statements is appropriately maintained in case files.

Observation FY 2015-OB-01: The in-compliance rate of all inspections was 57.9% for safety and 56% for health.

Federal Monitoring Plan 2015-OB-01: OSHA will monitor the high in-compliance rate.

Status: Converted to Finding

The in-compliance rates remain well above the further review level of 35.68% for safety and 42.82% for health. This observation was converted to Finding FY2016-02 described in Section II of this report.

Observation FY 2015-OB-02: Four of 29 case files (13.8%) where citations were issued did not have evidence of abatement in the case file.

Federal Monitoring Plan 2015-OB-02: OSHA will monitor that abatement certification documents received from the employer are in each case file.

Status: Open

Supervisory personnel will review abatement documentation and ensure it is consistently included in each casefile.

Observation FY 2015-OB-03: The state did not adopt 29 CFR 1904 Occupational Injury and Illnesses Recording and Reporting Requirements (9/19/2014) within the six month timeframe.

Federal Monitoring Plan 2015-OB-03: OSHA will monitor the adoption of 29 CFR 1904 Occupational Injury and Illnesses Recording and Reporting Requirements (9/19/2014).

Status: Open

Legislation to adopt this rule has been passed and awaits the Governor's signature. Standards approvals that are deemed to require approval by the Nevada Legislature continue to not be adopted within six months. The state initiated appropriate corrective action to take this matter to the legislature for adoption in January 2017.

Observation FY 2015-OB-04: The state's response to Federal Program Changes for two directives has not been submitted.

Federal Monitoring Plan 2015-OB-04: OSHA will monitor response on the State's intent to adopt. If the intent is to adopt equivalent but not identical, submit the federal program changes.

Status: Completed

NVOSHA has adopted all of the OSHA directives where adoption was required.

Observation FY 2015-OB-05: Documentation of damage analysis was missing and/or incomplete in discrimination case files as required by WIM Chapters 5(IV)(B)(5) and 6(II).

Federal Monitoring Plan 2015-OB-05: OSHA will monitor procedures to ensure the documentation of damage analysis is within the case file.

Status: Open

During next year's FAME cycle, a comprehensive case file review will be conducted and include this element to determine if the case files continue to lack evidence of damage analysis and if this problem continues to trend.

**Appendix A – New and Continued Findings and Recommendations
FY 2016 Nevada OSHA Follow-up FAME Report**

FY 2016-#	Finding	Recommendation	FY 2015-# or FY 2015-OB-#
FY 2016-01	The average number of violations classified as serious, willful, repeat or unclassified (SWRU) was significantly lower than the national average.	NVOSHA should continue current efforts and monitor progress toward improving this indicator.	New
FY 2016-02	The percentage of in-compliance inspections for both safety and health cases was significantly above the national average.	NVOSHA should continue its current efforts in improving this indicator, determine additional causes, and take action to improve low performance.	FY 2015-OB-01
FY 2016-03	Complainants were not provided with information on the results of the inspection in 121 of the 468 (25.8%) complaint inspections conducted.	NVOSHA should ensure that complainants have been notified of inspection results. <i>Corrective action complete; awaiting verification.</i>	FY-2015-01
FY 2016-04	There was no evidence that worker interviews were conducted in 12 out of 102 case files (12%) reviewed.	NVOSHA should ensure that worker interviews are conducted in all inspections	FY-2015-02
FY 2016-05	In three of seven dismissed/non-merit cases reviewed, information gathered during workplace retaliation investigations was not consistently shared between the respondent and complainant.	NVOSHA should ensure that complainant and respondent documents are exchanged to allow for any additional information given by either party that is pertinent to the resolution of the complaint. <i>Corrective action complete; awaiting verification.</i>	FY-2015-03
FY 2016-06	In two of twelve cases reviewed that either were coded as settled or settled other, closing letters were not sent for two settled worker retaliation cases.	NVOSHA should ensure that closing letters are sent in all settled and settled other cases. <i>Corrective action complete; awaiting verification.</i>	FY-2015-04
FY 2016-07	In three of seven dismissed/non-merit cases reviewed, closing letters for dismissed worker retaliation cases did not document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation.	NVOSHA should ensure that closing letters document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation. <i>Corrective action complete; awaiting verification.</i>	FY-2015-05
FY 2016-08	In 8 of 25 cases reviewed, information on workplace retaliation investigations was not accurately entered into Web IMIS.	NVOSHA should enter information into Web IMIS in an accurate manner.	FY-2015-06

**Appendix A – New and Continued Findings and Recommendations
FY 2016 Nevada OSHA Follow-up FAME Report**

FY 2016-9	Three safety and health retaliation files did not contain documentation of worker statements obtained during the interview process as required by the WIM chapter 3(III), 3(VI)(D)(3), 3(VI)(E)(10), 3(VI)(H)(5), and 3(VI)(L)(1).	NVOSHA should develop procedures to ensure that safety and health enforcement files document worker statements in the case file and insert in the draft manual. <i>Corrective action complete; awaiting verification.</i>	FY 2015-07 FY 2014-08
-----------	--	---	--------------------------

**Appendix B – Observations Subject to New and Continued Monitoring
FY 2016 Nevada OSHA Follow-up FAME Report**

Observation # 2016	Observation# 2015	Observation	Federal Monitoring Plan	Current Status
FY 2016-OB-01		The time to initiate complaints averaged 8.5 days exceeding the 7 day negotiated response time.	OSHA will monitor that complaint inspections are conducted within the seven day response time.	New
FY 2016-OB-02	FY 2015-OB-02	Four of 29 case files (13.8%) where citations were issued did not have evidence of abatement in the case file.	OSHA will monitor that abatement certification documents received from the employer are in each case file.	Open
FY 2016-OB-03	FY 2015-OB-03	The state did not adopt 29 CFR 1904 Occupational Injury and Illness Recording and Reporting Requirements (9/19/2014) within the six months timeframe.	OSHA will monitor the adoption of 29 CFR 1904 Occupational Injury and Illnesses Recording and Reporting Requirements (9/19/2014).	Open
FY 2016-OB-04	FY 2015-OB-05	Documentation of damage analysis was missing and/or incomplete in discrimination case files as required by WIM Chapters 5(IV)(B)(5) and 6(II).	OSHA will monitor procedures to ensure the documentation of damage analysis is within the case file.	Open

**Appendix C - Status of FY 2015 Findings and Recommendations
FY 2016 Nevada OSHA Follow-up FAME Report**

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2015-01	Complainants were not provided with information on the results of the inspection in 121 of the 468 (25.8%) complaint inspections conducted.	NVOSHA should ensure that complainants have been notified of inspection results.	Staff was trained on December 6, 2016 on the requirement to generate correspondence on formal/non-formal complaints. Supervisors were retrained to check all casefiles to ensure that compliance officers' correspondence was located in casefiles.		Awaiting Verification 3/15/2017
FY 2015-02	There was no evidence that employee interviews were conducted in 12 out of 102 case files (12%) reviewed.	NVOSHA should ensure that employee interviews are conducted in all inspections.	NVOSHA conducted an internal case file review on November 2, 2016. The analysis showed some improvement in the number of casefiles with documented worker interviews. Management worked with compliance staff to ensure interviews were conducted on all inspections, and appropriately documented and entered in OIS.		Awaiting Verification 3/15/2017
FY 2015-03	In three of seven dismissed/non-merit cases reviewed, information gathered during workplace retaliation investigations was not consistently shared between the respondent and complainant.	NVOSHA should ensure that complainant and respondent documents are exchanged to allow for any additional information given by the either party that is pertinent to the resolution of the complaint.	Investigator training was completed on August 3, 2016. The Whistleblower Investigation Manual (WIM) requires information provided by the complainant and respondent be shared between the parties, with appropriate redactions discussed in Chapter 23 of the Federal WIM. NVOSHA Management responded to this recommendation by reiterating to investigators that this information must be shared between the parties in all retaliation cases.		Awaiting Verification 3/15/2017
FY 2015-04	In two of twelve cases reviewed that either were coded as settled or settled other, closing letters were not sent for two settled worker retaliation cases.	NVOSHA should ensure that closing letters are sent in all settled and settled other cases.	The whistleblower manual requires a closing letter be sent in all cases that are settled. Training was conducted on August 3, 2016, to ensure that a closure letter is sent in all settled and settled other cases, and a copy of the letter is placed in the case file.		Awaiting Verification 3/15/2017

**Appendix C - Status of FY 2015 Findings and Recommendations
FY 2016 Nevada OSHA Follow-up FAME Report**

FY 2015-05	In three of seven dismissed/non-merit cases reviewed, closing letters for dismissed worker retaliation cases did not document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation.	NVOSHA should ensure that closing letters document the factual findings, narrate the events relevant to the determination, and document the analysis of the elements of a violation.	The whistleblower manual requires that NVOSHA send complainants a closure letter, which includes the findings of the investigation. Training was conducted on Dec 6, 2016 to ensure that a closure letter is sent which includes the above items, and that a copy of the letter is placed in the case file.		Awaiting Verification 3/15/2017
FY 2015-06	In eight of 25 cases reviewed, information on workplace retaliation investigations was not accurately entered into Web IMIS.	NVOSHA should enter information into Web IMIS in an accurate manner.	NVOSHA management has been reviewing investigative case files to ensure the correct dates were entered into Web IMIS. Ongoing training is being held where investigators are informed and retrained on the requirement to ensure data is timely and correctly entered into Web IMIS.		Open 3/15/2017
FY 2015-07	Three safety and health retaliation files did not contain documentation of worker statements obtained during the interview process as required by The WIM Chapter 3(III), 3(VI)(D)(3), 3(VI)(E)(10), 3(VI)(H)(5), and 3(VI)(L)(1).	NVOSHA should develop procedures to ensure that safety and health enforcement files document worker statements in the case file and insert in the draft manual.	Investigators were retrained on the requirement to include witness interview statements and documentation in investigatory files on December 6, 2016. In addition, prior to approving a determination, management will conduct a review to ensure documentation of witness statements is appropriately maintained in case files.		Awaiting Verification 3/15/2017

**Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 Nevada OSHA Follow-up FAME Report**

Fiscal Year 2016 is the first year since the transition from the NCR (OSHA’s legacy data system) began that all State Plan enforcement data has been captured in OSHA’s Information System (OIS). All State Plan and federal whistleblower data continues to be captured in OSHA’s WebIMIS System. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report and State Plan WebIMIS report run on November 14, 2016, as part of OSHA’s official end-of-year data runs. The further review levels for SAMMs 5, 8, 9, 11, 12, 15, and 17 have been negotiated to rely on a three-year national average. However, due to the recent transition to OIS, the further review levels for these SAMMs will rely on a one-year national average for one more year.

**Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 Nevada OSHA Follow-up FAME Report**

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Nevada – NEVADA OSHA			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	8.50	14	Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	4.36	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	4.06	5	Further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	1.85	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	1	0	Further review level is fixed for all State Plans.
5	Average number of violations per inspection	SWRU: 1.30	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.

**Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 Nevada OSHA Follow-up FAME Report**

	with violations by violation type	Other: 1.28	+/- 20% of Other: .99	
6	Percent of total inspections in state and local government workplaces	2.52%	+/- 5% of 3.33%	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 1,039	+/- 5% of S: 840	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 429	+/- 5% of H: 360	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,151.17	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	a. Average current serious penalty in private sector (1-25 workers)	\$620.87	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,207.05	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,688.70	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,315.14	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
9	Percent in compliance	S: 47.89%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 52.38%	+/- 20% of H: 35.68%	

**Appendix D – FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 Nevada OSHA Follow-up FAME Report**

10	Percent of work-related fatalities responded to in one workday	100%	100%	Further review level is fixed for all State Plans.
11	Average lapse time	S: 35.62	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 43.46	+/- 20% of H: 57.28	
12	Percent penalty retained	68.56%	+/- 15% of 69.86%	Further review level is based on a one-year national rate.
13	Percent of initial inspections with worker walk around representation or worker interview	99.05%	100%	Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	52%	100%	Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	32%	+/- 20% of 24%	Further review level is based on a three-year national average.
16	Average number of calendar days to complete an 11(c) investigation	147	90	Further review level is fixed for all State Plans.
17	Percent of enforcement presence	3.15%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.