

FY 2017 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

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



Evaluation Period: October 1, 2016 – September 30, 2017

Initial Approval Date: January 4, 1974
State Plan Certification Date: April 18, 2000
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
II.	State Plan Background.....	4
	A. Background.....	4
	B. Major New Issues	4
III.	Assessment of State Plan Progress and Performance.....	4
	A. Data and Methodology.....	4
	B. Review of State Plan Performance	6
	1. Program Administration.....	6
	2. Enforcement.....	7
	3. Review Procedures.....	11
	4. Standards and Federal Program Changes (FPCs) Adoption.....	15
	5. Variances.....	19
	6. State and Local Government Worker Program.....	19
	7. Whistleblower Program	20
	8. Complaint About State Program Administration (CASPA).....	21
	9. Voluntary Compliance Program	22
	10. State and Local Government 23(g) On-Site Consultation Program	22

Appendices

Appendix A – New and Continued Findings and Recommendations	A-1
Appendix B – Observations and Federal Monitoring Plans	B-1
Appendix C – Status of FY 2016 Findings and Recommendations	C-1
Appendix D – FY 2017 State Activity Mandated Measures (SAMM) Report	D-1
Appendix E – FY 2017 State OSHA Annual Report (SOAR)	E-1

I. Executive Summary

The purpose of this report is to assess Nevada's Occupational Safety and Health program for Fiscal Year (FY) 2017, and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) reports. The agency responsible for enforcing Nevada's regulations is the Nevada Occupational Safety and Health Administration (NVOSHA), under the Division of Industrial Relations (DIR).

This was the second year of a five-year strategic plan established for FY 2016 – 2020. The plan focuses on three areas: workplace safety and health, employer involvement, and staff professional development. The inspection goals were met with a total of 1,213 inspections conducted, which exceeded its annual goal of 1,200 inspections. The annual goal to award a Voluntary Protection Program (VPP) Star to an employer was not met as the program transitioned to the Nevada Safety Consultation and Training Section (SCATS). Several other indicators were met, such as the time to initiate a complaint investigation and complaint inspection, the time to issue citations, and the in-compliance rates. In addition to its enforcement focus, outreach provided safety and health information to prevent workplace fatalities. Innovation and creativity were incorporated into fieldwork in difficult locations with a new program using Unmanned Aerial Vehicles (UAV) or drones to collect photographs and aerial views of activities. Staff retention continued to be an issue. Despite these challenges, only three vacancies existed at the end of the year, and the performance outcome was positive.

Significant progress was made to complete the previous nine findings and four observations from the FY 2016 FAME report. As a result, seven findings were verified as completed and all four observations were closed. Two findings remain open for further corrective action. One relates to the average number of serious, willful, repeat and unclassified (SWRU) citations that are issued. The SWRU rate increased over the past three years, but continued to be below the national average further review level (FRL). The other relates to entry errors in the Web Integrated Management Information System (WebIMIS) for anti-retaliation investigations.

There were nine new findings, and two new observations noted. Findings related to including next-of-kin letters in fatality files, providing citations to unions, responding to notices of intent and adoptions for federal program changes and new standards timely, sending closing letters after the dismissal of whistleblower cases, and entering whistleblower data into the Web Integrated Management Information System. Additionally, the informal conference and settlement procedures were reviewed and determined to have several areas needing improvement.

Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective actions.

II. State Plan Background

A. Background

The state of Nevada, under an agreement with OSHA, operates an occupational safety and health program per Section 18 of the Occupational Safety and Health Act of 1970. Initial approval of the Nevada State Plan occurred on January 4, 1974, and final approval was established on April 18, 2000.

The Department of Business and Industry, Division of Industrial Relations (DIR) is the designated agency for administering the OSHA-funded enforcement program in Nevada through NVOSHA. Joseph Decker is the State Plan designee and administrator of DIR, and Jess Lankford is the Chief Administrative Officer (CAO). The consultation program is administered through Todd Schultz, CAO of the Nevada Safety Consultation and Training Section (SCATS). The program is headquartered in Henderson with an additional office located in Reno.

Both the enforcement and consultation programs have jurisdiction and provide services to approximately 79,796 public and private employers and nearly 1.3 million workers in the state except for federal workers, the United States Postal Service, (USPS), Tribal lands, military installations, and other areas of exclusive federal jurisdiction.

The enforcement program operates under the 23(g) grant, which also covers consultation and training for state and local government agencies. The grant agreement established a final base award to fund the program at \$1,457,900 in federal funds. The state matched this amount and contributed another \$4,853,508 for a total state and federal funds allocation of \$7,769,308.

B. Major New Issues

Beginning January 1, 2018, certain workers in the entertainment industry will be required to obtain the OSHA 10-hour and OSHA 30-hour General Industry Course training cards. Workers whose primary occupation falls into one of these categories: (1) theatrical scenery, rigging or props; (2) wardrobe, hair or makeup; and (3) audio, camera, projection, video or lighting equipment are covered. The requirement also applies to workers involved with any other items or parts related to these categories and that are used in conjunction with the presentation of live entertainment, filmmaking or photography, television programs, sporting events, and theatrical performances.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. The FY 2017 report is a comprehensive report where OSHA conducted an on-site program evaluation and case file review. The case file review was conducted at both offices in Henderson and Reno during the timeframe of November 27 – December 8, 2017. A total of 108 safety, health, and whistleblower retaliation investigation case files were reviewed. The safety and health

inspection files were randomly selected from 988 closed inspections conducted during the evaluation period (October 1, 2016 through September 30, 2017). The total selected case files included:

- 32 programmed/programmed-related safety and health files
- 57 unprogrammed/unprogrammed-related safety and health files
- 33 comprehensive safety and health inspections
- 60 partial safety and health inspections (including all fatalities)
- 7 fatality case files
- 14 safety and health complaint inspection case files

A total of 99 whistleblower retaliation investigations were closed and 106 administrative closures completed. A random selection of 15 percent of all 99 investigated cases were chosen by selecting closures from (1) different investigators and (2) different case determinations (dismissed, withdrawn, settled, and settled other) based on the percentage of case determinations closed. In addition, 5 percent of the administratively closed cases were selected for review. This resulted in 19 cases selected as follows:

- 9 dismissed cases
- 1 withdrawn
- 2 settled
- 2 settled other
- 5 administratively closed

The analyses and conclusions described in this report were based on information obtained from a variety of monitoring sources, including but not limited to the following:

- State Activity Mandated Measures Report (SAMM, dated 11/15/17)
- State Information Report (SIR, dated 11/13/17)
- Mandated Activities Report for Consultation (MARC, dated 11/17/17)
- State OSHA Annual Report (SOAR)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Comprehensive case file review
- Web Integrated Management Information System (Web IMIS)
- OSHA Information System (OIS)
- Bureau of Labor Statistics (BLS) data
- Complaint About State Program Administration (CASPA) investigation results

Each State Activity Mandated Measures (SAMM) report has an agreed-upon further review level (FRL) which can be either a single number, or a range of numbers above and below the national

average. SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2017 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

This section is an assessment of Nevada's progress in meeting mandated activities and program elements. The assessment of Nevada's progress in achieving their annual performance plan goals is addressed in their FY17 SOAR (Appendix E).

1. PROGRAM ADMINISTRATION

a) Training

Both the Mandatory Training Program for OSHA Compliance Personnel (2014) TED 01-00-019 and Mandatory Training Program for OSHA Whistleblower Investigators (2015) TED 01-00-020 were adopted and implemented. The Operations Support Unit (OSU) leads the training activities and ensures all enforcement instruction is occurring for every compliance safety and health officer (CSHO). In addition to the required training courses, the OSU staff ensure other internal issues and trends are conveyed to the district managers (DMs) to train their staff during day-to-day operations. At least six months of training is provided prior to conducting inspections independently. This is a combination of the initial formal classroom training and on-the-job training with a senior compliance officer for shared experience and knowledge information. On-the-job evaluations are conducted prior to the CSHO being released into the field.

The initial formal classroom training is an 8-week course held in-house utilizing the same coursework as OSHA's Training Institute (OTI). In addition, OSU brought in multiple OTI courses and third party-led training that included Asbestos Inspector Licensing, Asbestos Contractor/Supervisor Licensing, OTI 1230 Accident Investigation, OTI 3080 Principles of Scaffolding, OTI 3110 Fall Protection, OTI 3400 Hazard Analysis in the Chemical Processing Industry, Confined Space in Construction, OTI 3190 Power Generation Transmission and Distribution, and Trench and Excavation Competent Person Training. Other specialized training courses were attended by CSHOs at OTI in Chicago.

b) OSHA Information System (OIS)

All State Plan and federal enforcement and whistleblower investigation data continue to be captured in OIS and WebIMIS. OIS and WebIMIS reports were used to assess the effectiveness of the program. The data retrieved from the system provides indicators that help identify potential performance deficiencies, analyze trends, and formulate corrective action. The results are discussed in regularly scheduled meetings with the DMs.

c) State Internal Evaluation Program (SIEP) Report

The two DMs exchanged random case files from each of their offices and conducted internal case file reviews. A database of required Nevada Operations Manual (NOM) items was used as a tool to evaluate and assess the inspection case files. Findings were discussed with the CAO and among the management team regarding areas of improvement. Corrective actions were implemented and communicated with the staff for areas needing improvement. It was noted that

aspects of case file evidence for employer knowledge and how to ensure a legally sufficient case were addressed with the enforcement staff at one of the recent staff meetings following the internal case file review.

Management took the initiative to focus on interviewing techniques and documentation. A new interview checklist and documentation form was updated mid-year and provided to the staff for use. Post contest procedures in the case files were reviewed by upper management for program and process improvement. Though a report of the findings and recommendations has not yet been addressed in a written SIEP Report, interviews with management determined the corrective actions were communicated well. As a result, improved documentation and overall quality of the investigations were noted. Many of the findings from the internal review were similar to what OSHA had found in previous years and during the onsite review.

d) Staffing

There were 34 compliance officers at the end of the fiscal year with three vacancies. Staffing continued to be a challenge with a 36% turnover rate for compliance officers. Salaries tend to be lower in Nevada for state employment versus the private sector. Many compliance officers are enticed by private industry seeking knowledgeable safety and health program management personnel. When turnover is high, the experience level of staff goes down, and it may affect the complexity of the inspections, increase the prevalence of hazard recognition errors, and reduce targeted inspection accomplishments.

2. ENFORCEMENT

a) Complaints

Complaint inquiries and complaint inspections were initiated well within the negotiated timeframe of five and seven days, respectively. In FY 2016, the timeliness to initiate complaint inspections was 8.5 days, above the negotiated timeframe (Observation FY 2016-OB-01). Immediate action was taken to ensure complaints were being initiated timely. The time to initiate complaint inspections significantly improved to 5.7 days (SAMM 1A). This item no longer needs to be monitored as an observation, and it is considered closed. The time to respond to complaint inquiries was also significantly reduced from 4 days to 2.2 days (SAMM 2A). This performance resulted in a greater impact on worker safety and health by initiating actions to reduce workplace hazards below the negotiated timeframes.

Previously, complainants were not being provided the results following an inspection in 35% of complaint inspections conducted. An immediate corrective action was taken to include a review of inspection practices and training provided to enforcement staff. Out of the 14 complaint case files reviewed, two cases were anonymous, seven were non-formal complaints, and five were formal complaints. Under the NOM, complainants are to be provided with the results of the inspection initiated from formal complaints. Four of the five formal complaint inspections included evidence that the complainants were sent the results of the inspection. There was only one case where the file did not include evidence that the inspection results were sent to the complainant. It appeared to be an isolated instance, and the finding is considered complete (Finding FY 2016-03).

All imminent danger complaints and referrals were responded to timely (SAMM 3). There were no denials of entry for any inspection (SAMM 4).

b) Fatalities

All fatalities investigated continued to be opened within one day (SAMM 10). There were seven fatality case files reviewed during the case file review. All seven files did not contain a next-of-kin final letter. One file, in particular, had several deficiencies such as not including a fatality report in the file and two reporting violations were identified that would have been appropriate in this case, but were not cited.

Finding FY 2017-01: In all 7 (100%) fatality investigation case files reviewed, required fatality investigation documentation was missing including a final next-of- kin letter and a fatality report.

Recommendation FY 2017-01: NVOSHA should ensure all required documentation is contained in each fatality investigation case file such as the OIS fatality report and next-of-kin letter.

Case files reviewed included several issues regarding jurisdiction to open an inspection. In 3 of 88 (3%) inspections, the case files indicated the entity being inspected was not an employer by OSHA’s definition or the entity did not have any employees. One fatality investigation case file was identified where a sole proprietor died when removing a tree and he had no employees. This case should have been designated in OIS as a “no inspection.” A second case involved a homeowner performing his own home improvement projects. A third instance found the establishment inspected was a limited liability corporation (LLC) where the owner never worked at the property and had no employees at any time. In all three of these cases, the case file did not show that jurisdiction existed as required in the NOM. These cases were a small fraction of the cases reviewed and will be monitored.

Citations for safety inspections were issued in an average of 41.3 days, and citations for health inspections were issued in an average of 41.4 days, both well within or below the acceptable FRL range. The two-year national average is 45.8 days for safety, and 54.5 days for health (SAMM 11). Table 1 shows the trend for the past three years.

**Table 1
Citation Lapse Time (SAMM 11)**

	FY 2015	FY 2016	FY 2017	Two-Year National Average
Safety	40.7 days	35.6 days	41.3 days	45.3 days
Health	45.9 days	43.5 days	41.4 days	56.0 days

c) Targeting and Programmed Inspection

A total of 1,213 enforcement inspections were conducted exceeding the projected goal of 1,200 (SAMM 7). The outcome of targeting was the removal of 23,846 workers from safety and health hazards at their workplace of which 5,765 were serious hazards. This exceeded the goal of removing 18,000 workers from hazards. Most National Emphasis Programs (NEPs) were

adopted identically with few exceptions. Local Emphasis Programs (LEPs) were based on the Bureau of Labor Statistics (BLS) for industries with high injury and illness rates.

Due to the risk of serious worker injuries and illnesses in both the construction and manufacturing industries, targeting efforts continued to focus on increasing inspections in these particular industries. Of the total number of inspections conducted, there were 195 (16%) in manufacturing and 494 (41%) construction inspections. Serious hazards were identified in 56% of manufacturing inspections and in 32% of construction inspections (SOAR).

The average number of serious, willful, repeat, or unclassified (SWRU) violations continued to be below the FRL (Table 2). An average of 1.3 SWRU violations were issued per inspection in FY 2016, and an average of 1.4 SWRU violations were issued per inspection in FY 2017 (SAMM 5). In FY 2016, this issue was raised as a finding in the FAME Report and will be continued for this period until indicators for this measure show improvement.

Finding FY 2017-02 (FY 2016-01): The average number of violations classified as serious, willful, repeat, or unclassified (SWRU) was below the further review level.

Recommendation FY 2017-02 (FY 2016-01): NVOSHA should improve the average number of serious, willful, repeat, or unclassified violations to be within the further review level.

The average number of violations classified as other-than-serious (OTS) continued to increase for the past three years. In FY 2017, an average of 1.3 OTS violations were issued per inspection, which exceeded the FRL (SAMM 5).

Table 2
Average Number Violations per Inspection with Violations (SAMM 5)

	FY 2015	FY 2016	FY 2017	SAMM 5 FRL
S/W/R/U	1.2	1.3	1.4	1.46-2.2
OTS	1.2	1.3	1.3	0.79-1.19

For the past three years, the in-compliance rate is not within the FRL for safety and health inspections (SAMM 9). There were several factors that contributed to the increasing values for in-compliance inspections, such as opening inspections with every employer at multi-employer construction sites, regardless of whether they have workers exposed to a hazard; not expanding the scope of complaints, referrals, and fatalities when situations warrant; and the policy to inspect all non-formal complaint allegations of serious hazards even when not formalized.

To improve the in-compliance rate, a review of the targeting program was conducted and improvements were made. Supervisors provided closer oversight by conducting on-the-job training and evaluations with compliance officers. This resulted in a significant decrease in the in-compliance rates for safety and health. The health in-compliance rate is within the FRL. Although the safety in-compliance rate is above the FRL, there was a significant improvement over the past three years. In light of the continued downward trend in the in-compliance rate for safety and since the health in-compliance rate is currently within the FRL (Table 3), Finding FY 2016-02 is considered complete.

Table 3
Percent In-Compliance Inspections (SAMM 9)

	FY 2015	FY 2016	FY 2017	SAMM 9 FRL
Safety	58%	48%	38%	23.62%-35.44%
Health	56%	52%	33%	28.62%-42.94%

d) Citations and Penalties

Based on information found in the case file review, there was generally sufficient evidence to support violations. However, there were 9 of 59 (15%) case files with violations reviewed where the severity or probability assigned was not justified and/or the violations were not appropriately classified for the severity of the injury. Three of these cases included violations for emergency egress where serious injury or death is reasonably anticipated in the event of an incident. Two cases included violations for exposure to falls where serious injury or death is reasonably anticipated in the event of an incident. Two cases did not include documentation in the file required to justify the severity (such as the fall height). Two cases did not document either the probability or severity in the file as required by the NOM. It is important to ensure proper classification to calculate the appropriate gravity-based penalty and therefore, impose a deterrent effect on the employer for the future. One case had several other-than-serious violations that could have been grouped as a serious violation because when combined, there is a greater possibility of serious or chronic health effects. One case used the same justification for all serious and other-than-serious violations giving the appearance the determination for what was considered serious was arbitrary. In one case, the probability was greater for a violation where an employee using a respirator voluntarily was not provided the Appendix D information of the respirator standard.

Observation FY 2017-OB-01: There were 9 of 59 (15%) case files with violations where the severity and probability assigned to at least one of the violations was not justified and/or the violations were not appropriately classified for the severity of the injury that could occur as related to the hazard.

Federal Monitoring Plan FY 2017-OB-01: OSHA will monitor both probability and severity determinations for violations to ensure the appropriate classification is justified and supported.

The average current penalty per serious violation in private sector (1 to greater than 250 workers) (SAMM 8) increased from \$1,151 in FY 2016 to \$1,279 in FY 2017, but is still below the FRL range of \$1,887.60 to \$3,146.00. Penalties are one component of effective enforcement and serves as a deterrent for non-compliance.

During the case file review, it was noted that in all 37 (100%) case files with multiple penalty adjustment factors, the calculation used was incorrect, and was not applied serially as described in the NOM. As a result, lower penalties were assessed to employers. This issue had been discovered by the state who worked with the OIS team to correct the algorithms for the penalty calculations. The issue was corrected on September 1, 2017 and was not reflected in the SAMM data.

Observation FY 2017-OB-02: In all 37 (100%) files with multiple penalty adjustment factors, the calculation used was incorrect and was not applied serially as described in the NOM.

Federal Monitoring Plan FY 2017-OB-02: OSHA will monitor this issue to ensure all penalties are correctly calculated by applying penalty reductions serially.

During the case file review, there were 5 of 59 (8%) cases with citations where the penalty for recordkeeping violations was not properly assessed in accordance with the requirements of NOM which indicated that violations cited under Part 1904 will be addressed in accordance with CPL 02-00-135. These cases represent a small fraction of cases reviewed and will be monitored.

e) Abatement

Abatement periods and overall timeliness were appropriate as verified during the case file review. All 59 (100%) case files with citations showed evidence of abatement. However, there were two case files where the evidence of abatement was incomplete. In one case, an OSHA 300 log and 300a summary sheet was provided for only one of three years that were cited. There was no evidence in the file indicating that the other two years cited were received, nor evidence that the information was requested from the employer prior to closing the violation. In another case, the employer was cited as not providing personal protective equipment (PPE), but submitted information on worker training on proper use of a knife as proof of abatement. Dialogue with employers and attention to case file documentation prior to closure could have resolved the issues. Observation FY 2016-OB-02 is considered closed.

f) Worker and Union Involvement

The NOM provides adequate policies and procedures addressing worker involvement during the inspection process. Finding FY 2016-04 determined that worker interviews were not being conducted within the guidelines of the NOM, and documentation was not completed by the compliance officer. The recommendation was to ensure that employee interviews were conducted in all inspections. Management worked with the compliance staff to ensure interviews were conducted in all inspections and appropriately documented and entered in OIS as required by the NOM. An internal review was conducted at the end of FY 2016 and improvement was noted for employee interviews conducted in 99% of inspections (SAMM 13). During the case file review, this issue was identified to be significantly improved with only three case files identified where an employee interview was not documented in the case file. The corrective action was sufficient, and this finding is now complete.

There were 15 inspection case files reviewed where a union was identified to represent employees. In 9 of 15 (60%) case files, there was no evidence in the file or in OIS that citations were sent to the union. It is important to ensure that unions are sent citations per the NOM, as they represent workers and their involvement may be critical to resolving the matter.

Finding FY 2017-03: There was no evidence the union was sent citations in 9 of 15 (60%) safety and health case files reviewed where a union was identified to represent employees.

Recommendation FY 2017-03: NVOSHA should ensure citations are provided to all employee representatives and/or unions and document this information in OIS.

3. REVIEW PROCEDURES

a) Informal Conferences

For the most part, informal conference procedures in the NOM are similar to OSHA's. However, during the program review, there were several instances where informal conferences and informal settlement agreements (ISA) were not administered per the NOM.

Case files were reviewed to determine the adequacy of informal conference procedures. In 59 case files with citations issued, 22 cases were identified as having changes made to the citations and/or penalties resulting from an informal conference. ISA letters were sent to the employer in 16 out of the 22 (80%) case files. The letter indicated the employer was allowed an additional two weeks in which to sign the ISA. It was observed that 10 ISAs were signed and returned after the 15 working days to contest had passed and became a final order. When the signed ISA was returned, an amended citation was sent to the employer with the changes reflected on an amended citation document. The amended citation gave provisions to the employer for an additional contest period for the amended citations. The document sent to the employer reads, *"The employer has 15 working days from the date of receipt of this amended citation to contest those portions of the original citation which have been amended. The contest period is not extended for the unamended portions of the original citation."* Although interviews with managers indicated the intent was not to afford the employer an additional timeframe to contest, it could be challenged by the employer. When receipt of the amended citation was confirmed, the administrative support staff updated OIS with the date of the signed ISA which was the new final order date.

There were several reasons why this practice is of concern. First, the letters may pose a liability because the employer may not have properly understood what the discussion terms and the verbal agreement would look like in writing, and may demand changes that were not agreed upon *after* the contest period expired. Next, the contest period may have expired by the time the employer signed and returned the ISA, and in that case, the citations would have become a final order. Case file reviews noted 10 of 19 (53%) cases with a signed ISA where the ISAs were not signed until after the final order date. In addition, sending the amended citation to the employer was not necessary, and an additional step that may prolong abatement.

There were 3 of 22 (14%) files with changes made as part of an informal conference that did not include a signed copy of the ISA in the file at all. In 4 of 19 (21%) cases that had a signed ISA in the file, the DM signed the ISA before the employer. This was not in accordance with the NOM. The NOM states that an ISA is effective upon signature by both the District Manager and the employer representative as long as the contest period has not expired. The NOM also states that the Citation/Notice of Penalty and abatement date become a final order of the Review Board on the date the 15-working day contest period expires. The ten ISAs described above are therefore not valid and pose a liability in that changes included collecting reduced penalty amounts, and vacating violations (thus not requiring abatement) were already a final order. NVOSHA could face legal challenges for final orders that were modified after the final order date; especially should a situation arise where an individual is injured as a result of failing to require abatement for a violation that was vacated after it became a final order.

Finding FY 2017-04: There were 3 of 22 (14%) cases with changes made to a citation resulting from an informal conference where the informal settlement agreement was not maintained in the file.

Recommendation FY 2017-04: NVOSHA should ensure all informal settlement agreements are maintained in the case file.

Finding FY 2017-05: There were 10 of 19 (53%) cases reviewed where informal settlement agreements were received and signed, after the 15-working day contest period.

Recommendation FY 2017-05: NVOSHA should ensure all informal settlement agreements are signed by all appropriate parties prior to the 15-working day contest period per the NOM Chapter 15.

Finding FY 2017-06: There were 4 of 19 (21%) cases with a signed informal settlement agreement in the file where the District Manager signed before the employer.

Recommendation FY 2017-06: NVOSHA should ensure all informal settlement agreements are signed first by the employer, and last by the District Manager per the NOM Chapter 8.

Finding FY 2017-07: Employers were provided an additional right to contest of 15-working days after receipt of an amended citation.

Recommendation FY 2017-07: NVOSHA should ensure employers are not afforded any additional contest period beyond the initial 15-working days past receipt of the original citation.

In one ISA that was reviewed, the agreement allowed the employer to train workers to avoid the point of operation utilizing distance in lieu of a machine guard. This case is noteworthy as the directive only allows guarding by distance when no other form of guarding is feasible. It was determined through interviews that guarding was feasible.

During the informal conference for another case, the employer contended that part of the language in the alleged violation description (AVD) was not factually accurate and when this was confirmed the citation was "withdrawn and re-issued under a new inspection number to reflect the changes." Instead, the ISA should have amended the language of the violations in question. The manner in which this was handled resulted in two inspections being counted for one inspection activity.

There were two other cases reviewed where the contents of confidential employee statements were used as part of the informal conference. In one case, the employer tried to argue an employee misconduct defense, but the NVOSHA supervisor was able to end the argument by showing the interview statement of one of the workers to the employer. The employee interview statement included confidentiality language that should have been honored and not shared with the employer.

In another case, the ISA indicated the employer was provided copies of worker statements as part of an affirmative defense. The workers' names were redacted, but the name of the supervisor for each worker was released. In this case, there were only two workers interviewed during the inspection, and each statement could be matched to a specific employee simply by identifying the supervisor. These statements were released to the employer before the informal conference.

Care must be taken to ensure worker interviews are kept confidential, so that workers are protected from possible retaliatory action for their participation in and statement regarding the NVOSHA inspection.

Finding FY 2017-08: Confidential worker interview statements taken during the course of the inspection were shared with the employer during an informal conference.

Recommendation FY 2017-08: NVOSHA should ensure confidential worker interview statements are not released or shared with an employer at any time during an open investigation.

Violations were reclassified 3.5% of the time which is similar to the national average rate of 3.3% (SIR 6A). Pre-contest violations were vacated at 3.9% compared to the national average of 2.7% (SIR 5A).

During the informal conference, penalties on average were only slightly reduced providing a deterrent effect with employers. The percent of penalty retained was 72.8% (SAMM 12) which is well above the two-year national average of 67.4% (Table 4).

Table 4
Average Current Percent Penalty Retained (SAMM 12)

FY 2015	FY 2016	FY 2017	Two-Year National Average
56.4%	68.6%	72.8%	67.4%

b) Formal Review of Citations

There are five members of the Occupational Safety and Health Review Board appointed by the Governor – two members are from management, two from labor, and a representative of the general public. Hearings are open to the general public and Review Board decisions are available to the public upon request.

Nevada’s Administrative Rules contain procedures that afford employers the right to administrative and judicial review of alleged violations, initial penalties and abatement periods. These procedures also provide workers and their representatives the opportunity to participate in Review Board proceedings and to contest citation abatement dates.

The Review Board provides administrative review of appeals for contested citations issued by NVOSHA. There is an additional provision that gives the employer the opportunity to have the case reviewed by the CAO prior to a review board hearing. Affected workers are entitled to participate in hearings before the Review Board. Decisions of the Review Board may be appealed to the appropriate State District Court. Appeals from the Nevada District Courts go up to the State Supreme Court. At the end of the fiscal year, there were 17 cases scheduled for hearing through the third quarter FY 2018.

Overall, NVOSHA performed very well post-contest. The average lapse time from receipt of a contest to a first level decision was 92.8 workdays, which is fewer than the OSHA’s lapse time of 162.3 workdays and the national average of 136.6 workdays (SIR 8). NVOSHA’s post-contest performance was better overall than the national average. Private sector violations were vacated 12.8% of the time as compared with OSHA’s rate of 20.8%, and the national average of

14.6% (SIR 5B). The reclassification rate of private sector violations was 10.3% compared with 22.1% for OSHA, and 12.6% for the national average (SIR 6B). Although the reclassification performance was notable, penalties were retained at a slightly lower rate at 54% compared with 64.8% for OSHA, and 63% for the national average (SIR 7B).

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

The Nevada Revised Statutes (NRS) 618 has acceptable procedures for promulgating standards that are at least as effective as those issued by OSHA. The statute provides for the emergency adoption of standards and adopts by reference all federal occupational safety and health standards, which the Secretary of Labor promulgates, modifies or revokes, and any amendments unless the state opts to provide an alternative standard that allows for equal protection.

Standard and federal program changes were typically adopted identically and on time, except those requiring approval by the Nevada Legislature who only meet biennially. The infrequency of which the legislature meets does not always allow for timely adoption of standards. In FY 2015, OSHA's rule for Occupational Recordkeeping became effective after the Nevada Legislature had already met. While NVOSHA adopted and implemented the new changes under this rule on January 1, 2015, the provisions for reporting fatalities, amputations, and the loss of an eye were not included yet as it required the NV Legislature to approve Assembly Bill 54. This resulted in the full adoption of this standard being delayed until the legislature met again in January 2017 where the bill passed and awaited the Governor's signature. When the passing of the bill occurred, identical adoption of this standard became effective on October 1, 2017. There were three standards issued by OSHA that required a notification of intent of adoption in FY 2016 and three due in FY 2017. NVOSHA responded with its intent to adopt timely 67% of the time in FY 2016 and 67% of the time in FY 2017. NVOSHA provided its notification of intent to adopt the Final Rule on Walking Working Surfaces and Personal Protective Equipment and the Final Rule on Beryllium timely, and recently notified its intent to adopt an equivalent approach to the 2017 Annual Adjustment to Civil Penalties for Inflation Rule. Plans are to submit language to the NV Legislature by March 2018 regarding edits to the existing penalty structure including a higher ceiling for maximum penalty increase. The NV Legislature meets in early 2019 and will make its decision based on its approval to the changes to the statute. As part of the structure of penalty changes, willful, repeat, failure-to-abate, and egregious violations will not receive any initial penalty reductions including size, which is different and more stringent than OSHA.

Two standards were due to be adopted in FY 2016 followed by five due in FY 2017. In FY 2016, both standards were adopted timely. In FY 2017, three of five (60%) standards were adopted timely.

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016. As required by law, OSHA then increased maximum penalties annually, on January 1, 2017 and January 1, 2018, according to the Consumer Price Index (CPI). State Plans are required to adopt both initial increase and subsequent annual increases. NVOSHA has not yet completed the legislative changes to increase maximum penalties. However, a bill was submitted in Nevada for consideration in 2019 for full adoption of

the Interim Final Rule on Maximum Penalty Increases. This bill is anticipated to obtain approval by the legislature when it next meets.

The table below represents NVOSHA’s response to federal standards.

**Table 5
Standards**

Standard	State Response Date	Intent to Adopt	Adopt Identical	State Adoption Date
1903.2560.2575 Final Rule on the Implementation of the 2017 Annual Adjustment to Civil Penalties for Inflation FR Standard Date 1/18/17 Response Due Date 3/18/17 Adoption Due Date 7/18/17 Adoption Required	2/6/18	No	No	Anticipated adoption date is 7/1/19 Adoption Not Timely
1910.1915.1926 Final Rule on Occupational Exposure to Beryllium FR Standard Date 1/9/17 Response Due Date 3/9/17 Adoption Due Date 7/9/17 Adoption Required	3/9/17	Yes	Yes	7/9/17
1910 Final Rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Services) FR Standard Date 11/18/16 Response Due Date 1/18/17 Adoption Due Date 5/18/17 Adoption Required	1/18/17	Yes	Yes	5/18/17
1902, 1903 Interim Final Rule on Maximum Penalty Increases FR Standard Date 7/1/16 Response Due Date 9/1/16 Adoption Due Date 1/1/17 Adoption Required	8/22/16	Yes	Yes	Anticipated adoption is 7/1/19 Adoption Not Timely
1902, 1904 Final Rule to Improve Tracking of Workplace Injuries and Illnesses (ITA Application) FR Standard Date 5/12/16 Response Due Date 7/12/16 Adoption Due Date 11/14/16 Adoption Required	7/21/16	Yes	Yes	11/14/16
1910,1915,1926 Final Rule for Occupational Exposure to Respirable Crystalline Silica Standard FR Standard Date 3/25/16 Response Due Date 5/25/16 Adoption Due Date 9/26/16 Adoption Required	4/20/16	Yes	Yes	9/26/16

Standard	State Response Date	Intent to Adopt	Adopt Identical	State Adoption Date
1926.1200 Final Rule for Confined Spaces in Construction FR Standard Date 5/4/15 Response Due Date 7/4/15 Adoption Due Date 2/4/16 Adoption Required	9/25/15 Response Not Timely	Yes	Yes	2/4/16
1904 Occupational Injury and Illness Recording and Reporting Requirements - NAICS Update and Reporting Revisions FR Standard Date 9/19/14 Response Due Date 11/19/14 Adoption Due Date 3/19/15 Adoption Required	12/5/14	Yes	Yes	1/1/15 (except reporting requirements for fatalities, amputations, and loss of eye.) Full adoption on 10/1/17

Six federal program changes (FPCs) in FY 2016 and two FPCs in FY 2017 required notification of intent of adoption or equivalency within 60 days following issuance. In FY 2016, 1 of 6 (17%) FPCs was responded to timely. In FY 2017, 1 of 2 (50%) FPCs was responded to timely.

Nine FPCs required adoption or equivalency of the policies to be implemented in FY 2016 with two required to be adopted in FY 2017. In FY 2016, all eight (100%) FPCs were adopted timely. The Emphasis Program for Shipbreaking does not apply to Nevada. In FY 2017, both the Enforcement Procedures and Scheduling for Occupational Workplace Violence Directive and an alternate, but equivalent version of the Field Operations Manual Directive were adopted timely.

Finding FY 2017-09: In FY 2016 and FY 2017, NVOSHA did not respond to notices of intent and adoptions for Federal Program Changes and Standards timely.

Recommendation FY 2017-09: NVOSHA should ensure timely response of intent to adopt, and date of adoption for Federal Program Change and Promulgation of Standards.

Table 6 below represents NVOSHA’s response to FPCs for the past two years and any other items that remained pending that have been addressed since the FY 2015 FAME Report.

**Table 6
Federal Program Changes**

FPC Directive/Subject	State Response Date	Intent to Adopt	Adopt Identical	State Adoption Date
CPL 02-01-058 Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence Date of Directive 1/10/17 Response Due Date 3/10/17 Adoption Due Date 7/10/17 Adoption Not Required Equivalency Not Required	1/25/17	Yes	Yes	4/1/17

FPC Directive/Subject	State Response Date	Intent to Adopt	Adopt Identical	State Adoption Date
CPL 02-00-160 Field Operations Manual Date of Directive 08/02/16 Response Due Date 10/1/16 Adoption Due Date 2/2/17 Adoption Not Required Equivalency Required	2/6/18	Yes	No	1/1/17 Awaiting Plan Change Supplement
CPL 03-00-020 National Emphasis Program on Shipbreaking Date of Directive 3/7/16 Response Due Date 5/6/16 Adoption Due Date 9/7/16 Adoption Required Equivalency Not Required	8/29/16	No	NA	NA
CPL 02-03-007 Whistleblower Investigations Manual Date of Directive 1/28/16 Response Due Date 4/27/16 Adoption Due Date 7/28/16 Adoption Not Required Equivalency Required	4/27/16	Yes	No	9/8/16
TED 01-00-020 Mandatory Training Program for OSHA Whistleblower Investigators Date of Directive 10/8/15 Response Due Date 12/8/15 Adoption Due Date 4/8/16 Adoption Not Required Equivalency Required	12/9/15	Yes	Yes	4/1/16
CPL 02-00-159 Field Operations Manual Directive Date of Directive 10/1/15 Response Due Date 12/1/15 Adoption Due Date 4/1/16 Adoption Not Required Equivalency Required	12/7/15	Yes	No	2/1/13 NVOSHA continued to use 2/13 NOM.
CPL 02-03-006 Alternative Dispute Resolution Process for Whistleblower Protection Program Date of Directive 8/18/15 Response Due Date 12/7/15 Adoption Due Date 2/18/16 Adoption Not Required Equivalency Not Required	12/9/15	No	NA	NA

FPC Directive/Subject	State Response Date	Intent to Adopt	Adopt Identical	State Adoption Date
CPL 02-02-079 Inspection Procedures for the Hazard Communication Standard Date of Directive 7/9/15 Response Due Date 9/9/15 Adoption Due Date 1/11/16 Adoption Not Required Equivalency Required	9/25/15	Yes	Yes	1/9/16
CPL 02-02-078 Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis Date of Directive 6/30/15 Response Due Date 8/30/15 Adoption Due Date 12/31/15 Adoption Not Required Equivalency Required	9/25/15	Yes	Yes	12/30/15
CPL 03-00-019 National Emphasis Program on Amputations Date of Directive 6/30/15 Response Due Date 8/30/15 Adoption Due Date 12/31/15 Adoption Required Equivalency Not Required	9/24/15	Yes	Yes	12/30/15
CPL 02-01-057 Compliance Directive for Cranes and Derricks in Construction Standard Date of Directive 10/17/14 Response Due Date 12/17/14 Adoption Due Date 4/17/15 Adoption Not Required Equivalency Required	9/25/15	Yes	Yes	4/17/15
CPL 03-00-018 Revision – National Emphasis Program – Primary Metal Industries Date of Directive 10/20/14 Response Due Date 12/20/14 Adoption Due Date 4/20/15 Adoption Required Equivalency Not Required	12/19/14	Yes	Yes	4/1/15

5. VARIANCES

There were no permanent and/or temporary variances granted during this evaluation period.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

The process and procedure for conducting inspections in the state and local government sector are the same as the private sector, including the issuance of penalties. Public Administration

comprises five percent of the state's employment. A total of 22 inspections (1.8% of total inspections) were conducted in the state and local government sector, down from 2.5% the previous year (SAMM 6). This number of inspections was fewer than the projected goal of 40 and was less than the negotiated reference standard of 3 percent.

OSHA continued to discuss increasing the numbers of local and state government inspections with NVOSHA. The state indicated it was possible that several factors contributed to the low numbers of inspections in the state and local government workplaces including few complaints and referrals. Although injury and illness rates in Nevada were mostly consistent with specific targeted locations, more can be done to increase the percentage of inspections in this area. Since this issue has previously and is currently being addressed, it is not considered a new observation though OSHA will continue to closely monitor results.

7. WHISTLEBLOWER PROGRAM

Claims of workplace retaliation for reporting occupational safety and health issues are investigated under N.R.S. §618.445. Claims of workplace retaliation for reporting occupational safety and health issues are investigated under NVOSHA's Whistleblower Investigations Manual (NWIM). In FY 2017, 99 whistleblower retaliation investigations were closed, and 106 cases were administratively closed.

Whistleblower retaliation claims were investigated from their offices in Henderson and Reno, Nevada. In the Henderson office, three staff—one supervisor who oversaw two whistleblower investigators—exclusively investigated cases. In the Reno office, two staff—one whistleblower investigator and one CSHO who spent most of his time on whistleblower cases—investigated cases and reported to a different supervisor.

Overall the policies and procedures were followed when conducting whistleblower retaliation investigations. Items of special note include the settlement and merit rates. In FY 2017, 31 of 99 (31%) cases were settled, resulting in one of the highest percentages among all State Plans (SAMM 15). The reinstatement of two employees through settlement efforts accounted for 20% of all reinstatements among all State Plans. Almost half of the whistleblower retaliation investigations (46%) were completed within 90 days (SAMM 14) with the average number of days to complete investigations at 117 days. These measures indicated performance better than the average state data where 41% of cases were investigated within 90 days (SAMM 14), and investigations are completed at an average of 224 days (SAMM 16).

The case file review resulted in two continued findings and one new finding. Progress was made toward corrective action for three previous open findings regarding the exchange of documents between respondents and complainants (Finding FY 2016-05), ensuring closing letters include the appropriate information regarding the findings and determinations (Finding FY 2016-07), and documentation of worker statements (Finding FY 2016-09). All three recommendations were verified as corrected and were considered complete. The observation (Observation FY 2016-OB-04), that addressed the documentation of damage analysis for merit/litigation cases, could not be evaluated as no applicable litigation/merit cases were closed in FY 2017. Because data is limited, this observation will be considered closed, and damage analysis will continue to

be reviewed on a case-by-case basis.

In 2 of 8 (25%) dismissals reviewed, there was no evidence in the file to document whether the Respondent was either sent or received a closing letter as required by NWIM. This is a similar finding identified in the FY 2015 comprehensive on-site review where closing letters were not sent in all “settled” and “settled other” cases. However, the previous finding only applied to Complainants not receiving the closing letter. Following receipt of the FY 2015 FAME Report, corrective action was taken to ensure all Complainants were provided closing letters. This was verified during this year’s case file review, and the recommendation is considered complete. This new finding and recommendation refers to case files not having evidence documented in the file whether Respondents were sent or received closing letters.

Finding FY 2017-10: In two of eight (25%) whistleblower retaliation investigations that were dismissed, there was no evidence documented in the file that Respondents were either sent or received a closing letter.

Recommendation FY 2017-10: NVOSHA should ensure closing letters are sent to all appropriate parties after a determination is made.

During the case file review, it was found that information in WebIMIS was not accurately entered, as required by NWIM in 10 of 19 (53%) cases reviewed. In nine cases, the date of adverse action entered into WebIMIS could not be verified by the evidence in the file. In three cases, the date of filing entered into WebIMIS could not be verified by the evidence in the file. Not accurately entering data into the database creates an opportunity for information to be lost and could negatively impact the management of the program or could affect complainants’ rights. This finding remains open.

Finding FY 2017-11 (FY 2016-08): In 10 of 19 (53%) cases reviewed, information on workplace retaliation investigations was not accurately entered into WebIMIS.

Recommendation FY 2017-11 (FY 2016-08): NVOSHA should ensure information is entered into WebIMIS in an accurate manner.

In two of five administrative closures reviewed, there was no evidence in the file that a supervisor reviewed and approved the decision to administratively close the complaint, as required by NWIM. Although no other issues were found with the decision or the case files, proper supervisory oversight and review of cases before administrative closure is important to ensure the decision is appropriate.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

There were no new CASPAs filed in FY 2017. There was one CASPA investigation (NV 2016-31) opened in FY 2016 and closed in FY 2017 that related to a whistleblower protection investigation. There were five recommendations for program improvement that resulted from this CASPA. One recommendation included that certain language regarding notification of all appropriate parties in a whistleblower investigation be revised in the NWIM to parallel the OSHA WIM. Another recommendation was to ensure that all retaliation investigative staff is aware of the process for issuing subpoenas when appropriate in anti-retaliation cases. Other

recommendations included ensuring proper documentation in the file when a closing conference is conducted, ensuring the respondent's position statements are shared appropriately with complainants, and ensuring that appropriate overall management and oversight of whistleblower investigations is achieved. In response to the recommendations, additional training was provided to the whistleblower staff and management to assure each future whistleblower investigation case would adhere to established policies and procedures.

9. VOLUNTARY COMPLIANCE PROGRAM

Management of the Nevada Voluntary Protection Program (VPP) was successfully transferred over to the Safety Consultation and Training Section (SCATS) midyear in July 2017. SCATS has a broader range of resources, including more opportunities for outreach and fewer staff turnover issues than NVOSHA. Although the annual performance goal to award a new VPP Star was not attained this year, two sites were recertified. The five-year strategic goal to award five VPP Star Certifications by the end of FY 2020 remains in place and actions are being taken to meet this goal. Currently, there are 10 VPP sites with 3 current applications, 3 projected applicants, 4 projected renewals, and 12 projected Safety and Health Recognition Program (SHARP) members possibly transferring to VPP.

During the transition, it was determined that the VPP directive CSP 03-01-003 in 2008 or CSP 03-01-004 (2015) on Special Government Employee administration for VPP were not adopted. The Nevada VPP manual was recently revised and will be submitted to OSHA for review.

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

Consultation services to state and local government agencies are provided through SCATS. The private sector consultation program is evaluated separately. This section covers consultation services provided solely to state and local government sector employers that are funded under Section 23(g) of the OSH Act.

In FY 2017, 13 initial consultation visits were conducted in the local and government sector. Of these, 92.3% (12 out of 13) were in high hazard industries, exceeding the goal of 90% (MARC 1).

Of the 13 visits conducted, 10 (76.9%) were to smaller businesses with fewer than 250 employees (MARC 2A), and 9 visits (69.2%) were conducted at establishments with fewer than 500 employees. Both measures were below the goal of 90% (MARC 2B). In all consultation visits, the consultant conferred with employees 100% of the time (MARC 3).

During this evaluation period, 40 serious hazards were identified and all (100%) were corrected in a timely manner. Twenty-one (21) serious hazards were corrected on-site, 18 within the original time, and one within the extension time frame. Of these, 97.5% (39/40) were corrected within the original timeframe or on-site, exceeding the goal of 65%. No employers were referred to enforcement (MARC 4A-4D).

Appendix A – New and Continued Findings and Recommendations

FY 2017 Nevada Comprehensive FAME Report

FY 2017-#	Finding	Recommendation	FY 2016-#
FY 2017-01	In all 7 (100%) fatality investigation case files reviewed, required fatality investigation documentation was missing including a final next-of-kin letter and a fatality report.	NVOSHA should ensure all required documentation is contained in each fatality investigation case file such as the OIS fatality report and next-of-kin letter.	
FY 2017-02	The average number of violations classified as serious, willful, repeat, or unclassified (SWRU) was below the further review level.	NVOSHA should improve the average number of serious, willful, repeat, or unclassified violations to be within the further review level.	FY 2016-01
FY 2017-03	There is no evidence the union was sent citations in 9 of 15 (60%) safety and health case files reviewed where a union was identified to represent employees.	NVOSHA should ensure citations are provided to all employee representatives and/or unions and document this information in OIS.	
FY 2017-04	There were 3 of 22 (14%) cases with changes made to a citation resulting from an informal conference where the informal settlement agreement was not maintained in the file.	NVOSHA should ensure all informal settlement agreements are maintained in the case file.	
FY 2017-05	There were 10 of 19 (53%) cases reviewed where informal settlement agreements were received and signed, after the 15-working day contest period.	NVOSHA should ensure all informal settlement agreements are signed by all appropriate parties prior to the 15-working day contest period per the NOM Chapter 15.	
FY 2017-06	There were 4 of 19 (21%) cases with a signed informal settlement agreement in the file where the District Manager signed before the employer.	NVOSHA should ensure all informal settlement agreements are signed first by the employer, and last by the District Manager per the NOM Chapter 8.	
FY 2017-07	Employers were provided an additional right to contest of 15-working days after receipt of an amended citation.	NVOSHA should ensure employers are not afforded any additional contest period beyond the initial 15-working days past receipt of the original citation.	

Appendix A – New and Continued Findings and Recommendations

FY 2017 Nevada Comprehensive FAME Report

FY 2017-#	Finding	Recommendation	FY 2016-#
FY 2017-08	Confidential worker interview statements taken during the course of the inspection were shared with the employer during an informal conference.	NVOSHA should ensure confidential worker interview statements are not released or shared with an employer at any time during an open investigation.	
FY 2017-09	In FY 2016 and FY 2017, NVOSHA did not respond to notices of intent and adoptions for Federal Program Changes and Standards timely.	NVOSHA should ensure timely response of intent to adopt and date of adoption for Federal Program Change and Promulgation of Standards.	
FY 2017-10	In 2 of 8 (25%) eight whistleblower retaliation investigations that were dismissed, there was no evidence documented in the file that Respondents were either sent or received a closing letter.	NVOSHA should ensure closing letters are sent to all appropriate parties after a determination is made.	
FY 2017-11	In 10 of 19 (53%) cases reviewed, information on workplace retaliation investigations was not accurately entered into WebIMIS.	NVOSHA should ensure information is entered into WebIMIS in an accurate manner.	FY 2016-08

Appendix B – Observations Subject to New and Continued Monitoring

FY 2017 NV OSHA State Plan FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB-#	Observation	Federal Monitoring Plan	Current Status
FY 2017-OB-01		There were 9 (15%) of 59 case files with violations where the severity and probability assigned to at least one of the violations was not justified and/or the violations were not appropriately classified for the severity of the injury that could occur as related to the hazard.	OSHA will monitor both probability and severity determinations for violations to ensure the appropriate classification is justified and supported.	New
FY 2017-OB-02		In all 37 (100%) files with multiple penalty adjustment factors, the calculation used was incorrect and was not applied serially as described in the NOM.	OSHA will monitor this issue to ensure all penalties are correctly calculated by applying penalty reductions serially.	New
	FY 2016-OB-01	The time to initiate complaints averaged 8.5 days exceeding the 7-day negotiated response time.	At the end of FY 2017, SAMM 1A indicated the time to initiate complaints had greatly improved to 5.74 days.	Closed
	FY 2016-OB-02	Four of 29 case files (13.8%) where citations were issued did not have evidence of abatement in the case file.	The onsite case file review indicated this issue had greatly improved finding only three cases out of 59 case files where there was inadequate abatement documented in the case file. These cases appeared to be isolated instances where additional training and supervisory review would eliminate the issue.	Closed
	FY 2016-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.	Legislative action was required for the State Plan to adopt the new reporting requirements. Identical adoption of this standard was completed and effective October 1, 2017.	Closed

Appendix B – Observations Subject to New and Continued Monitoring
 FY 2017 Nevada Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB-#	Observation	Federal Monitoring Plan	Current Status
	FY 2016-OB-04	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 could not evaluate this issue during the onsite case file review as no applicable litigation/merit cases were closed in FY 2017. Since cases that include damage analysis may not be common and data is limited, this observation will be considered closed, and damage analysis will continue to be reviewed on a case-by-case basis during the next comprehensive review.	Closed

Appendix C - Status of FY 2016 Findings and Recommendations

FY 2017 Nevada Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
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.	NVOSHA surveys its targeting program and developed new lists for targeting workers that are at high risk for injuries and illnesses. Examples include firing ranges and metal working facilities. Violations classified as SWRU are expected to increase utilizing the new targeting lists.	8/25/2017	Open
FY 2016-02	The percentage of incompliance 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.	NVOSHA implemented a review of its targeting program and made improvements to include additional work segments where high hazards exist. Practices associated with investigations and inspection work related to hazard recognition was reviewed with staff. Closer oversight of field hazard recognition practices was completed by directing supervisors to conduct accompanied visits with CSHOs.	8/25/2017	Completed
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.	NVOSHA management conducted a review of inspection practices to include definitions and policy associated with formal/non-formal complaints followed by a reminder to staff to notify complainants of inspection results. In addition, the Operations Support Unit (OSU) conducted a survey of case files to ensure proper notification of investigation results to complainants is being followed.	3/31/2017	Completed

Appendix C - Status of FY 2016 Findings and Recommendations

FY 2017 Nevada Comprehensive FAME Report

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.	It is policy to interview workers during an inspection. NVOSHA conducted a case file review finding similar issues as the federal monitoring review. The policy was readdressed with staff to ensure worker interviews are conducted. Case files are reviewed by management prior to closure to ensure all documentation requirements are met.	3/31/2017	Completed
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.	It is policy to ensure information is shared between complainants and respondents during a retaliation investigation. This policy was readdressed with staff. In additional, NVOSHA implemented a monitoring practice for case file review by management prior to making a determination to ensure the appropriate documents are shared and is properly documented. Weekly tracking logs and notification benchmarks are reviewed and discussed with management.	3/31/2017	Completed
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.	It is policy to send closing letters to complainants with the results of a retaliation investigation. This policy was readdressed with staff. In addition, NVOSHA implemented a monitoring practice for case file review by management prior to approving a determination and closing of cases to ensure proper correspondence has been maintained and documented in the case file. Weekly tracking logs and notification benchmarks are reviewed and discussed by management.	3/31/2017	Completed

Appendix C - Status of FY 2016 Findings and Recommendations

FY 2017 Nevada Comprehensive FAME Report

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.	It is policy to send closing letters to complainants with the results of a retaliation investigation to include any findings, information regarding the analysis of elements, and a final determination. This policy was readdressed with staff. In addition, NVOSHA implemented a monitoring practice for case file review by management prior to approving a determination and closing of cases to ensure proper correspondence has been maintained and documented in the case file. Weekly tracking logs and notification benchmarks are reviewed and discussed with management.	3/31/2017	Completed
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.	NVOSHA management conducted a review of investigative files and IMIS to ensure the correct dates were entered. Staff is provided routine training to address this issue.	3/31/2017	Open
FY 2016-09	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.	NVOSHA implemented a monitoring practice for case file review by management prior to approving a determination and closing cases to ensure worker statements are collected and maintained in the case file.	3/31/2017	Completed

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 Nevada Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Nevada – NEVADA OSHA			FY 2017	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	5.74	14	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.39	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)	2.24	5	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.96	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%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.37	+/- 20% of SWRU: 1.83	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.20 for SWRU and from 0.79 to 1.19 for OTS.
		Other: 1.30	+/- 20% of Other: 0.99	
6	Percent of total inspections in state and local government workplaces	1.81%	+/- 5% of 3.33%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 3.17% to 3.50%.
7	Planned v. actual inspections – safety/health	S: 765	+/- 5% of S: 840	The further review level is based on a number negotiated by

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 Nevada Comprehensive FAME Report

		H: 448	+/- 5% of H: 360	OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 798 to 882 for safety and from 342 to 378 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,279.25	+/- 25% of \$2,516.80	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,887.60 to \$3,146.00.
	a. Average current serious penalty in private sector (1-25 workers)	\$906.85	+/- 25% of \$1,706.10	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,279.58 to \$2,132.63.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,396.83	+/- 25% of \$2,867.94	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,150.96 to \$3,584.93.
	c. Average current serious penalty in private sector (101-250 workers)	\$2,017.99	+/- 25% of \$3,952.26	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,964.20 to \$4,940.33.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,302.60	+/- 25% of \$5,063.48	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,797.61 to \$6,329.35.
9	Percent in compliance	S: 38.38%	+/- 20% of S: 29.53%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 23.62% to 35.44% for safety and from 28.62% to 42.94% for health.
		H: 32.86%	+/- 20% of H: 35.78%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 41.28	+/- 20% of S: 45.29	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and
		H: 41.35	+/- 20% of H: 56.03	

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 Nevada Comprehensive FAME Report

				from 44.82 to 67.24 for health.
12	Percent penalty retained	72.83%	+/- 15% of 67.44%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 57.32% to 77.56%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.84%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	46%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	31%	+/- 20% of 25%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 20% to 30%.
16	Average number of calendar days to complete an 11(c) investigation	117	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	2.53%	+/- 25% of 1.26%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.95% to 1.58%.

NOTE: Fiscal Year 2017 is the second 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). As such, the further review levels for SAMMs typically referencing a three-year rolling average will instead rely on a two-year average this year. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 13, 2017, as part of OSHA's official end-of-year data runs.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

FY 2017 Nevada Comprehensive FAME Report

FY 2017 State OSHA Annual Report

STATE OF NEVADA

**Department of Business & Industry
Division of Industrial Relations**

Occupational Safety & Health Administration



October 1, 2016 – September 30, 2017

**Prepared by:
Resty Malicdem, Program Coordinator, NVOSHA**

Submitted: December 18, 2017

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

FY 2017 Nevada Comprehensive FAME Report

TABLE OF CONTENTS

- I. Executive Summary**
- II. Summary of Annual Performance Plan Results**
- III. Progress Toward Strategic Plan Accomplishments**
- IV. Mandated Activities**
- V. Special Measures of Effectiveness/Special Accomplishments**
- VI. Adjustment or Other Issues**

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

I. Executive Summary

Operating under an approved State Plan for 43 years, the Nevada Occupational Safety and Health Administration (NVOSHA) Program is a results-oriented program that strives to ensure that employers provide Nevada workers safe and healthful working conditions.

The Division of Industrial Relations (DIR), Department of Business, and Industry (DBI) administer the Program. C.J. Manthe is Director of DBI, Joseph Decker is Administrator of DIR and the State Plan Designee, Jess Lankford is Chief Administrative Officer (CAO) of NVOSHA, and Todd Schultz is CAO of the Nevada Safety Consultation and Training Section (SCATS).

To meet OSHA requirements, NVOSHA established a Five-Year Strategic Plan in 2015 to set up agency goals for Fiscal Years 2016-2020. The agency also develops an annual performance plan at the beginning of each fiscal year to guide it towards its established goals.

NVOSHA's Strategic Plan focuses on three areas: Workplace Safety and Health, Employer Involvement, and Staff Professional Development.

More specifically, NVOSHA developed the plan to achieve the following results:

- Reduce workplace injuries and illnesses,
- Change workplace culture, and
- Enhance compliance officers' knowledge, skills, and abilities.

For FY 2017, NVOSHA's Annual Performance Plan goals were to:

- *Goal 1.1* - Reduce worker injury and illness DART (Days Away, Restricted, or Transferred) rate by 1 percent.
- *Goal 1.2* - Remove at least 18,000 employees from exposure to potential workplace safety and health hazards.
- *Goal 2* - Increase the number of participants in the Nevada Voluntary Protection Program (VPP) Star Program by awarding one site.
- *Goal 3* - Conduct field training and evaluate the performance of at least 80 percent of field compliance safety and health officers (CSHOs).

NVOSHA met or exceeded the above goals except one—the agency was unable to award a VPP Star in FY2017 (*Goal 2*). SCATS took over the responsibility for the program in the last quarter of the fiscal year and both NVOSHA and SCATS concentrated their efforts on ensuring a smooth transition.

Nevada surpassed expectations for *Goals 1.1, 1.2 and 3*. The state DART rate for all industries dropped 4.5% to 2.1 in CY2016 compared to the CY2013 baseline of 2.2; compliance officers removed 23,846 employees from exposure to potential safety and health hazards—5,765 from serious hazards; and the agency trained and evaluated 94% of field compliance officers.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

In FY2017, the agency conducted a total of 1,216—16 more than its projection of 1,200 inspections. 757 safety and 437 health inspections were in the private sector; 11 safety and 11 health inspections were in the state and local government sectors.

The following pages further illustrate, in more detail, how NVOSHA activities measured up against its set goals for FY2017 and its five-year strategic plan.

II. Summary of Annual Performance Plan Results

Strategic Goal 1. Workplace Safety and Health. Reduce workplace fatalities, injuries and illnesses within the state.
Annual Performance Goal 1.1: Reduce worker injury and illness DART (Days Away, Restricted, or Transferred) rate by 1 percent.
Strategies: Focus inspections on construction and manufacturing, with emphasis on the most common causes of workplace fatalities (e.g., falls, electrocution, struck-by, caught-in/between objects). <ul style="list-style-type: none">• In Construction, primary targets for programmed inspections will be derived from Construction Dodge Reports. The inspection priority list will include construction projects that met the criteria set by Nevada Administrative Code 618.494.• In Manufacturing, Nevada OSHA will select establishments using its site-specific targeting procedures. For 2017, NVOSHA's inspections will focus on establishments that included the following industries:<ul style="list-style-type: none">- Wood Product Manufacturing- Fabricated Metal Manufacturing- Plastics and Rubber Manufacturing- Chemical Manufacturing- Food Manufacturing
Performance Indicator(s): <ul style="list-style-type: none">• Conduct 500 construction inspections, 200 manufacturing inspections, and 500 other inspections.• Remove 18,000 employees from exposure to potential safety and health hazards.• Decrease state DART rate by 1% in CY 2016-CY2019.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

FY2017 Results:

- NVOSHA conducted 494 inspections in construction, 194 inspections in manufacturing, and 528 inspections in other industries.
- NVOSHA removed 23,846 employees from exposure to potential safety and health hazards.
- Nevada DART rate for all industries dropped 4.5%.

Source: OIS Reports (Inspection Summary and Violation Detail Reports) and BLS Survey of Occupational Injuries and Illnesses.

Conclusion: NVOSHA exceeded its goal of decreasing the state DART rate by 1% in CY 2016.

Note that the release of end of year BLS DART rates usually lags behind one year.

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

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

Strategies:

- Develop programmed inspection lists and target establishments in industries with the highest DART (Days Away, Restricted, and Transferred) rates.
- Select other industries not listed above that have high potential for employee exposures to injuries and illness.
- Increase focus of inspections in areas where employee exposure to hazards is likely.

Performance Indicator(s):

- Number of inspections conducted.
- Number of employees removed from hazards.

FY2017 Results:

- NVOSHA conducted 1,216 inspections.
- NVOSHA removed 23,846 employees from exposure to potential safety and health hazards—5,765 from serious hazards.

Source: OIS Reports (Inspection Summary and Violation Detail Reports).

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

Conclusion: NVOSHA exceeded its goal of removing 18,000 employees from exposure to potential safety and health hazards.
Strategic Goal 2: Employer Involvement. Change workplace culture through education, outreach, and employer incentives.
Annual Performance Goal 2: Increase the number of participants in the Nevada Voluntary Protection Program (VPP) Star Program by awarding one site per year.
Strategies: <ul style="list-style-type: none">• Meet with employers and employer groups to discuss the VPP process and encourage employers to participate in the Nevada VPP Star Program.• Advertise the VPP program on the NVOSHA website.
Performance Indicators: <ul style="list-style-type: none">• Receive and review at least two VPP applications.• Conduct at least one VPP audit.• Award at least one VPP Star Site.
FY 2017 Results: <ul style="list-style-type: none">• One VPP application received/reviewed.• No new VPP audits conducted.• No new VPP Star Site awarded. <p>Source: VPP Log</p>
Conclusion: NVOSHA did not meet its goal of awarding one VPP Star Site in FY2017.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

Strategic Goal 3: Staff Professional Development. Enhance compliance officers' knowledge, skills, and abilities through formal and informal training.
Performance Goal 3: Conduct field training and evaluate the performance of at least 80% of field-assigned compliance officers every year.
Strategies: <ol style="list-style-type: none">1. Review the agency's Master Training Task Guide and Training Directive(s) to identify requirements2. Schedule and provide formal and informal training to compliance officers to meet requirements3. Trainers or supervisors will schedule and conduct over-the-shoulder evaluations of compliance officers while conducting inspections/investigations in the field. Items such as case preparation, opening/closing conference, hazard recognition, interviewing skills, and case documentation will also be evaluated.4. Trainers or supervisors will prepare evaluation report(s) for review; take corrective action(s), as appropriate.
Performance Indicator: <ul style="list-style-type: none">• Percent of field compliance officers evaluated.
FY2017 Results: <ul style="list-style-type: none">• Compliance supervisors/trainers trained/evaluated 34 of 36 CSHOs or 94% of the average number of field staff. <p>Source: Training Tracking Logs and Field Evaluation Reports.</p>
Conclusion: NVOSHA met its goal of training /evaluating 80% of its staff.

III. Progress toward Strategic Plan Accomplishments

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

5-Year Performance Goal 1.1: Reduce worker injury and illness rate by five percent through CY 2019.

Nevada's DART rates in the CY2016 BLS Survey of Occupational Injuries and Illnesses are encouraging in that the agency's enforcement efforts may have factored in to produce these results. DART rates for construction and manufacturing saw decreases of 25.7% and 16%,

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

respectively, compared to their corresponding values in CY 2013. The overall DART rate for Nevada dropped 4.5% to 2.1 compared to the CY 2013 baseline of 2.2.

Because of the inherent hazards in manufacturing and construction, NVOSHA targets workplaces in these two industries as part of its strategic plan. Of its 1,216 inspections in FY17, 195 were in manufacturing and 441 were in construction. Inspections had mixed results.

In manufacturing, the in-compliance rate was 28% and CSHOs identified serious hazards in 56% of inspections. However, in construction, the in-compliance rate was 43% and CSHOs found serious hazards in only 32% of inspections.

The agency is cognizant that more work needs to be done to improve inspection results in construction. As planned, NVOSHA emphasized limiting inspections to active employers at multi-employer sites and supervisors continued to accompany CSHOs to worksites for training and evaluation. The latter takes on increased importance as CSHO turnover continues to present challenges and a good share of new compliance officers join the enforcement staff.

5-Year Performance Goal 1.2: *Remove 90,000 employees from exposure to potential safety and health hazards by the end of FY2020.*

NVOSHA should attain this goal at the end of the five-year plan. Compliance officers removed 23,846 employees from exposure to potential workplace safety and health hazards in FY2017—5,765 from serious hazards. For FY2018, NVOSHA sets its target a bit higher. It is increasing its annual goal from 18,000 employees to 22,000.

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

5-Year Performance Goal 2: *Encourage employer participation in the Nevada Voluntary Protection Program and award at least five new VPP Star Certifications through FY2020.*

Even with its inability to award a VPP Star Certification in FY2017, NVOSHA remains optimistic that it can achieve the goal of awarding five VPP Star Certifications by the end of FY2020.

SCATS took over administration of VPP during the latter part of the fiscal year. The VPP transfer is a logical approach to achieve the goal of increasing employer participation in the program. SCATS has a broader range of resources, including more opportunities for outreach and a stable staff. It should be noted that although NVOSHA is no longer involved with the day-to-day administration of the program, it is committed to and has primary responsibility for reviewing and validating the effectiveness of the program. The logistics of this transition and time to train the new audit team hampered efforts to award a new VPP Star this fiscal year. However, two sites have been recertified.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

Strategic Goal 3. Staff Professional Development. Enhance compliance officers' knowledge, skills, and abilities through formal and informal training, and field performance evaluations.

5-Year Performance Goal 3: *Conduct field training/evaluation of the performance of at least 80% of field-assigned compliance safety and health officers every year.*

Training of staff remains at the top of NVOSHA's priorities. On-site training and evaluation of CSHOs through supervisor-assisted visits are integral components of NVOSHA's training process. Supervisors are required by work performance standards to routinely accompany CSHOs during inspections. NVOSHA believes that this process helps to identify CSHO procedural/performance issues with inspections and provides training opportunities to address the same. The supervisors logged 184 instances of accompanied visits involving 34 of 36 CSHOs or 94% of staff. Also, see Section V, CSHO Training below.

IV. Mandated Activities

Nevada numbers for Measures 8 and 9 of the SAMM (State Activity Mandated Measures) Report showed improvement but were still not within acceptable range when compared to the national average.

Changes to Nevada's penalty calculations at the outset of and within the OIS (OSHA Information System) inadvertently triggered the decrease to the average penalties in all the categories of employers under Measure 8 of the report. Upon discovery, Nevada corrected the algorithms in OIS and now they largely mirror the federal OSHA methodology. NVOSHA implemented the new procedures in September 2017 and the changes may have factored in for the slight increase in average penalties for Measure 8. Nevada will closely watch the direction this measure takes.

To help address Measure 9, NVOSHA took the following steps to minimize in-compliance inspections. It instructed its CSHOs to focus their enforcement activities on active employers at multi-employer construction sites—that is, limiting inspections to employers with workers engaged in construction activity at the worksite only. Supervisors also closely screened complaints and referrals, and evaluated each case to determine if an on-site inspection or letter of inquiry can best address the alleged hazardous conditions.

Since re-emphasizing these procedures, inspection in-compliance rates for both safety and health have improved; the current safety in-compliance rate improved to 38%, a drop from nearly 48% the previous year; the current health in-compliance rate improved to 33% from 52% in FY2016, now below the national average. Despite these improvements, the safety in-compliance rate remains above the national average. NVOSHA will continue to work to make progress particularly toward its safety in-compliance rate in the future.

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

V. Special Measures of Effectiveness/Special Accomplishments

OSHA 10-hour and OSHA 30-hour General Industry Courses. Beginning January 1, 2018, Nevada will require certain workers in the entertainment industry to obtain these cards. Workers such as those whose primary occupation on site falls into one of these categories: (1) theatrical scenery, rigging or props; (2) wardrobe, hair or makeup; and (3) audio, camera, projection, video or lighting equipment are covered. The requirement also applies to workers involved with any other items or parts related to the previous three and which are used for in conjunction with the presentation of live entertainment, filmmaking or photography, television programs, sporting events, and theatrical performances.

Outreach. NVOSHA's Chief Administrative Officer (CAO) was very involved with outreach activities this fiscal year. The CAO provided safety and health information and fielded questions as guest speaker at meetings of the Nevada Contractors Association and Nevada Subcontractors Association. He also presented "OSHA's Role in Workplace Fatality Prevention" at an International Worker's Compensation Foundation conference.

Members of the Operations Support Unit (OSU) also conducted outreach activities to engage the regulated community and develop cooperative relationships between NVOSHA and partner agencies. They were guest speakers at events held by the Western Wall and Ceiling Contractor's Association and the International Union of Painters and Allied Trades District Council 15 where they presented information on the new silica rule. They also provided training to emergency responders for the City of Las Vegas Fire and Rescue Special Operations on confined space hazards.

CSHO Training. In FY2017, NVOSHA determined that it has the resources needed to satisfy most of the required CSHO training in-house. In addition, when road courses are available, it closely coordinated with OTI to bring them to the state. Besides saving on travel costs, NVOSHA believes it can better address the training needs of staff.

OSU provided initial compliance officer training to seven new CSHOs, encompassing the full OSHA Training Institute (OTI) initial training curriculum found in TED 02-00-19. In addition, OSU facilitated third party-led training in the following: Asbestos Inspector Licensing, Asbestos Contractor/Supervisor Licensing; OTI 1230-Accident Investigation; OTI 3080-Principles of Scaffolding; OTI 3110-Fall Protection; OTI 3400-Hazard Analysis in the Chemical Processing Industry; Confined Space in Construction; and Trench and Excavation Competent Person Training.

Unmanned Aerial Vehicles (UAVs)/Drones. NVOSHA purchased two UAVs in 2017 to use them for initial training and program development and ultimately to provide the agency with enhanced investigative capabilities. When paired with specialized software, the UAVs can provide data for creating accurate 3D maps and models that in turn, CSHOs can use to support conclusions during inspections.

Eight compliance officers and supervisors successfully completed training and FAA (Federal

Appendix E - FY 2017 State OSHA Annual Report (SOAR)

Aviation Administration) Commercial Remote Pilot Licensing tests—making NVOSHA only the second state agency with licensed UAV pilots.

Safety and Health Practitioner Certification Program. SCATS continued its Safety and Health Practitioner Certificate program to heighten the standard of safety in Nevada. The program recognizes those who have completed a curriculum of 27 SCATS training classes within three years of the date of enrollment. As of September 30, 2017, 2,491 students were enrolled in the Safety and Health Practitioner Certificate Program.

VI. Adjustments or Other Issues

Enforcement Staff experience. NVOSHA continue to have difficulty with staff retention—the FY2017 turnover rate was 36%. Responses to exit interviews did not establish any pattern that can be addressed administratively.

VII. State Internal Evaluation Program (SIEP) Report.

NVOSHA primarily uses OIS reports to assess the effectiveness of the state program. The data retrieved from the system provides indicators that help identify potential performance deficiencies, analyze trends, and formulate corrective action(s). These results are conveyed to the district offices during regularly scheduled meetings.

The agency also conducts routine case file reviews as directed by the Chief Administrative Officer. Reviewers use a checklist to evaluate inspection case files and record findings in a local database. The district offices use the compiled data to identify deficiencies and base needed corrective actions.