

**Appendix A**  
**FY 2009 New Mexico State Plan (OHSB) Enhanced FAME Report prepared by Region VI**  
**Summary of Findings and Recommendations**

*Italics = paraphrase*

	<b>Findings</b>	<b>Recommendations</b>
<b>1</b>	Of the 11 OHSB staff members interviewed regarding complaints, 9 (82%) were aware of the 5 working day goal for responding to complaints by inspection.	New Mexico OHSB should ensure that all compliance staff members are aware of the NM FOM timeframe goals for responding to complaints.
<b>2</b>	<i>None of the 12 fatality case files closed in FY 2009 included documentation regarding contact with victims' family members. Contact did take place in several cases, but was not documented.</i>	New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the NM FOM, and that these contacts are documented in the case files.
<b>3</b>	There were several issues regarding case file documentation in general that apply to all cases we reviewed, except the 12 fatality cases which were fully and accurately documented.	New Mexico OHSB should ensure that: 1) Each case file contains a diary sheet that documents all actions taken, when they were taken, and by whom. 2) Written employee statements are included in all case files. 3) Employee exposure to hazards is documented. 4) Employer knowledge is documented. 5) The four elements for a general duty clause violation are documented on the OSHA-1B form: identify the hazard to which employees are exposed; state how the hazard is recognized (including industry recognition); state how the hazard would cause death or serious physical harm; identify the feasible abatement methods. 6) OSHA-300 log data is documented and entered into the IMIS for all appropriate case files.
<b>4</b>	Our case file reviews found that union contact information was not always documented. In one case, the OSHA-1 form was marked "non-union", but the mobile site survey states that the company had union representation. We also found that documentation of union participation in the inspection and subsequent actions is not always included in the case file.	New Mexico OHSB should ensure that union representation is identified in the case file and documented on the OSHA-1 form, and that union representatives are appropriately involved during inspections and any subsequent review actions.
<b>5</b>	Citation lapse time has been a focus of State efforts for several years. The safety lapse time has been successfully reduced, but health remains an issue.	New Mexico OHSB should continue efforts to further reduce health citation lapse time.
<b>6</b>	Our case file reviews of 57 closed cases with identified violations found that 98.3% (221/225) of the violations were properly classified. Violations that were not properly classified include injuries/illnesses of asphyxia, systemic poisoning, and electrical shock noted as minimal severity.	New Mexico OHSB should ensure that Compliance Officers appropriately assess the severity of all injuries and illnesses identified as violations.
<b>7</b>	In 6 of the 84 case files (7%), we identified hazards that were not addressed.	New Mexico OHSB should ensure that potential hazards are assessed through appropriate sampling, and that all hazards are addressed through either a citation or, if no standard exists and the elements of a general duty violation are not present, a hazard alert or 5(a)(1)/general duty clause letter sent to the employer.

8	Our review of penalty calculations found that in 50 of 54 cases (93%) with penalties, the penalties were properly calculated. However, Compliance Officers did not uniformly complete the violation calculation worksheet for assessing penalties.	New Mexico OHSB should ensure that Compliance Officers complete the “Violation Calculation” guide on the back of the OHSB Field Worksheet, to ensure uniformity in assessing severity and probability for penalty calculations.
9	We did find 9 of 57 (16%) case files with at least one violation with a longer than necessary assigned abatement date.	New Mexico OHSB should ensure that, in accordance with NMFOM Chapter 5, Section II.C.2.k, “The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation.”
10	Our case file reviews found that the reasons why a violation was changed as the result of an informal administrative review were not always documented in the case files.	New Mexico OHSB should ensure that the reasons why violations and/or penalties are changed at the Informal Administrative Review are documented in the case file.
11	All case files followed the provisions of the VPP Manual. We found, however, that the annual reports were missing in most of the files.	New Mexico OHSB should ensure that the Voluntary Protection Program (VPP) case files are complete, including annual reports wherever they are maintained. One suggestion could be to create an electronic file that would be accessible to appropriate staff at any location at any time.
12	There are apparent inconsistencies in language and interpretation within the State’s private interviewing regulations themselves. ( <i>Affecting 18(e) determination</i> )	New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).