

FEDERAL ANNUAL MONITORING AND EVALUATION (FAME) REPORT
ON THE
STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT
OCCUPATIONAL HEALTH AND SAFETY BUREAU

Covering the period
October 1, 2008 - September 30, 2009

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TABLE OF CONTENTS

	Page
I Executive Summary	1
II Summary of Recommendations and State Actions from the FY 2008 FAME	5
III Major New Issues	5
IV Assessment of State Performance	6
A Assessment of State Performance in Achieving Annual Performance Goals	6
B Assessment of State Performance on Mandated and Other Related Activities	9
1 Enforcement	9
a Complaints	10
b Fatalities	11
c Targeting/Inspections	12
d Employee and Union Involvement	14
e Citations and Penalties	15
f Abatement	18
g Review Procedures	19
1 Informal Discussions	19
2 Formal Review of Citations	19
h Public Employee Program	21
i Information Management	21
j BLS Rates	22
2 Standards and Plan Changes	23

a	Standards Adoption	23
b	Federal Program/State-Initiated Changes	24
3	Variances	25
4	Consultation Activities	25
5	Discrimination Program	25
6	CASPAs	26
7	Voluntary Compliance Programs	27
8	Program Administration	28
a	23(g) State Plan Grant	28
b	Benchmarks	29
c	Internal Training	29
d	18(e) Determination Status	30
e	State Internal Evaluation Program (SIEP)	31

Appendix A – Findings and Recommendations Chart

Appendix B – Enforcement Comparison Chart

Appendix C - New Mexico FY 2009 State OSHA Annual Report (SOAR)

Appendix D - State Activity Mandated Measures (SAMM) Report for FY 2009

Appendix E – State Indicator Report (SIR) for FY 2009

Appendix F – List of Federal Program Changes and State Responses

Appendix G - List of State-Initiated Plan Changes

Appendix H - List of Federal Standards and State Responses

Appendix I – Internal Training for FY 2009

I Executive Summary

A Introduction

This is an annual evaluation of the operation of the State of New Mexico Occupational Health and Safety Plan under the 23(g) State Plan grant. This report was prepared under the direction of William A. Burke, Acting Regional Administrator, Region VI, Occupational Safety and Health Administration, U.S. Department of Labor, and covers the period from October 1, 2008, to September 30, 2009. The New Mexico Occupational Health and Safety Program is administered by the Occupational Health and Safety Bureau (OHSB), which is part of the Environmental Protection Division of the New Mexico Environment Department. The State Designee is Environment Department Secretary Ron Curry, and the Occupational Health and Safety (OHS) Bureau Chief is Butch Tongate.

The New Mexico program covers all private sector industries within the State, except maritime (longshoring, ship building, and ship breaking) employees and Federal civilian employees, who are under Federal OSHA jurisdiction for enforcement. State and local government employees are also covered. The New Mexico FY 2010 Annual Performance Plan notes that New Mexico has a total work force of 638,028 private sector and 187,754 public sector employees working for 54,408 businesses and public agencies throughout the State. Approximately 85% of the businesses within the State employ 15 or fewer employees.

The Federal share of the amended FY 2009 23(g) grant was \$828,000, and the State share was \$1,085,530, for a total program of \$1,913,530. Private sector consultation is provided by the Bureau under a 21(d) Cooperative Agreement, while public sector consultation is provided under the 23(g) grant.

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

B Summary of Report Findings

All of the recommendations resulting from the onsite review and review of other program areas are addressed throughout the report, and are listed in Section D below. The major recommendations include ensuring that family members are contacted early on and at appropriate times during fatality investigations; case file documentation issues, including assessing severity of injury or illness that could result from identified hazards, documenting employee exposure and employer knowledge, and including employee interview statements in all case files; ensuring that union representatives are

appropriately involved during inspections and any subsequent review actions; and continuing efforts to reduce health citation lapse time.

We contacted 22 stakeholders - 12 union representatives, 6 employer association representatives, and 4 community-based organization representatives - to gather input regarding the New Mexico Occupational Health and Safety Program. Six union representatives, five employer association representatives, and two community based organization representatives provided responses. Four of the six union representatives, all five of the employer association representatives, and neither of the community based organization representatives had had contact with New Mexico Occupational Health and Safety Bureau staff and knew of their responsibilities and services.

All four of the union representatives who have had contact with the Bureau were involved in filing safety and health complaints with the Compliance Section. Comments include

that the complaints were handled promptly and well; that the field agents responded timely and had good impact overall; a recent settlement ensured that the company has changed its practices and educated approximately 300 employees on the asbestos standard; have furthered the purpose of employee safety by being effective at their jobs under difficult circumstances; and their response to the complaint was very effective. One union representative stated, "New Mexico OSHA should be proud of these employees."

Employer association representatives also commented on the Bureau's enforcement efforts. One representative discussed an inspection of one of its members who received a large fine for fall protection issues, while his own company, the general contractor, received an even larger fine than the subcontractor who was responsible. The subcontractor has now totally turned around on safety. Fatality and injury/illness rates have been coming down in New Mexico. Compliance and Consultation have the same goal – to make New Mexico the safest place in the country to work. Another employer association representative lost a brother and a friend in a workplace equipment failure fatality four years ago. He stated he believes the construction partnerships, backed by strong enforcement, have changed the culture of New Mexico's construction employers, as evidenced by the low number of fatalities and injuries.

New Mexico made progress on all of the FY 2009 annual performance plan goals, and the program continues to meet all of its State Plan requirements, as detailed in Section V.A of this report. The Compliance Section conducted 565 inspections and issued 920 total violations. The State met all but one of the Local Emphasis Program (LEP) goals for inspections in targeted industries, and responded timely to all unprogrammed activity.

In the FY 2009 23(g) grant application, New Mexico projected that they would conduct a total of 500 compliance inspections – 375 safety and 125 health. They accomplished 565 inspections, exceeding their projections by 13%.

Our review of performance data found many areas where State performance met established internal or Federal goals, among them responding to complaints in a timely manner, initiating fatality investigations in a timely manner, average number of serious violations per inspection, violation and penalty retention prior to and subsequent to contest, and timely first level decisions subsequent to contest. There are other areas where improvement is needed, such as health citation lapse time. These are discussed in detail in the report.

Our inspection case file reviews found that fatality inspection case files contain documentation of thorough investigations, well documented proof of abatement in 100% of the case files requiring it, and many employee interview statements. We identified some areas where improvement is recommended, such as documentation of employee exposure to hazards and assessment of the severity of injuries and illnesses identified in violations. These are also discussed in detail in the report.

Our review of discrimination case files found that the conclusion of the State Investigator was based on the evidence and consistent with the statute. The agency-negotiated settlements provided complainants a make-whole remedy, were consistent with Federal OSHA Whistleblower Manual guidelines, and contained all required documentation.

The State's most important achievements are the reductions in fatality and injury/illness rates between 2007 and 2008, the latest years for which data is available. The fatality rate per 100,000 workers dropped from 5.2 in 2007 to 3.8 in 2008, and the Total Recordable Case (TRC) rate per 100 workers in all industries declined from 5.0 in 2007 to 4.4 in 2008. In two of the major industries targeted in the State's strategic plan and Local Emphasis Programs (LEPs) – construction and oil/gas well drilling and servicing – the TRC rates dropped from 5.2 to 4.3 and 3.0 to 2.2 respectively. The public sector rate had no change, and is significantly higher than the private sector rate (7.2 vs. 3.8). The Bureau increased the percentage of public sector inspections in 2008 and initiated an LEP for Waste Management to address this issue and focus on reducing the public sector rates.

The many different partnerships and alliances are highlighted in the New Mexico Compliance and Cooperative Programs Combined Annual Report for Fiscal Year 2009, included in this report as Appendix C. The construction partnerships, along with the consultation visits to construction employers, have had a significant impact on both the reduction in the TRC rate for construction and the in-compliance rate for construction programmed safety inspections.

C Methodology

This report is a baseline evaluation of the State of New Mexico Occupational Health and Safety Program in fiscal year 2009 (October 1, 2008 – September 30, 2009), with a special emphasis on the enforcement program.

In addition to our ongoing quarterly monitoring and quarterly meetings, during the week of February 22-26, 2010, a team of six Dallas Regional Office staff members conducted

an onsite review of State operations. We reviewed 84 enforcement files, 10 discrimination files, and 9 Voluntary Protection Program (VPP) files; interviewed all 27 staff members; reviewed enforcement activity management through use of the Integrated Management Information System (IMIS) micro management reports and conducted stakeholder interviews.

D Findings and Recommendations

1. New Mexico OHSB should ensure that all compliance staff members are aware of the NM FOM timeframe goals for responding to complaints. (page 10)
2. New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico FOM, and that these contacts are documented in the case files. (page 11)
3. 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. (page 13)
4. 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. (page 14)
5. New Mexico OHSB should continue efforts to further reduce health citation lapse time. (page 15)
6. New Mexico OHSB should ensure that Compliance Officers appropriately assess the severity of all injuries and illnesses identified as violations. (page 16)
7. 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 is sent to the employer. (page 16)

8. 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. (page 17)
9. 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.” (page 17)
10. 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. (page 19)
11. 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. (page 26)
12. New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC). (page 30)

II Summary of Recommendations and State Actions from the FY 2008 FAME

The FY 2008 New Mexico FAME report did not contain any recommendations.

III Major New Issues

A Regulations on Drug and Alcohol Use in the Workplace

In response to a worksite fatality involving alcohol, New Mexico Governor Bill Richardson directed the New Mexico Environment Department to develop draft regulations to address drug and alcohol use in the workplace. The regulations were presented at a hearing of the Environmental Improvement Board (EIB), but were not adopted.

B Private Interviewing

New Mexico regulation 11.5.1.2.E NMAC addresses the issue of private interviews. There are some inconsistencies with the regulations themselves that came to light in 2004 following an inspection. In order to clarify the issue, the New Mexico Environment Department developed revised regulations. They were presented to the Environmental Improvement Board (EIB) for adoption, but the Board made additional changes that created a contradiction within the regulations themselves.

The Department next drafted a change to the New Mexico Occupational Health and Safety Act to ensure private interviewing. The draft legislation was introduced during the 2009 Legislative session, but it was defeated on the House floor. The Occupational Health and Safety Bureau (OHSB) is now working with the Department's legal staff to determine the appropriate next steps.

C New Partnerships

Two new partnerships were signed during the period with the Associated Contractors of New Mexico (ACNM) and the National Utility Contractors Association (NUCA).

D Strategic Plan

New Mexico transmitted a new 5-year Strategic Plan and corresponding Annual Performance Plan during the FY 2010 23(g) grant application process. Many of the areas of emphasis remain in place – construction, oil and gas well drilling and servicing, etc. – and new issues such as waste management have been added.

E. Refinery Fire and Explosion

On March 3, 2010, a fire and explosion occurred during a welding operation on a tank at the Navajo Refinery site in Artesia, New Mexico. Two employees were killed and two seriously injured. New Mexico OHSB Compliance Officers fully trained on PSM are conducting the accident investigation.

IV Assessment of State Performance

A Assessment of State Progress in Achieving Annual Performance Goals

New Mexico made progress on all of their FY 2009 annual performance plan goals, as detailed in Attachment A, the New Mexico FY 2009 Compliance and Cooperative Programs Combined Annual Report, and discussed below.

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

New Mexico transmitted their new 5-year Strategic Plan, Annual Performance Plan, and appropriate financial documentation, during the FY 2010 grant application process. The Regional Office reviewed and concurred with the strategic goals and the annual performance goals for FY 2010.

Highlights of State performance in relation to strategic goals in FY 2009 include:

Goal 1.1: Nine enforcement inspections, 37 initial consultation visits, 5 enforcement interventions, and 3 consultation interventions focused on silica exposure. Enforcement inspections identified exposure to silica in three cases, and abatement was completed and verified.

Goal 1.2: A total of 183 enforcement inspections, 48 initial consultation visits, 114 enforcement interventions, and 17 consultation interventions were conducted in Construction (NAICS Codes 236-238), and 70 inspections and 48 consultation visits had identified hazards.

A total of 91 enforcement inspections, 16 initial consultation visits, 2 enforcement interventions, and 1 consultation intervention were conducted in Fabricated Metal (NAICS Codes 332-337 and 339). Fifty-eight inspections and 12 consultation visits had identified hazards.

A total of 30 enforcement inspections, 3 initial consultation visits, and 3 consultation interventions were conducted in Stone, Clay, and Glass Products (NAICS Codes 327, 332, and 336). Nineteen inspections and five consultation visits had identified hazards.

The following information was compiled from the 2008 Bureau of Labor Statistics (BLS) Survey DART (Days Away, Restricted, or Transferred) rates of cases per 100 employees.

	CY 2003	CY 2008	% Change
Construction			
NAICS 236	3.1	1.0	-68%
NAICS 237	3.1	1.8	-42%
NAICS 238	3.3	2.1	-36%
Fabricated Metal			
NAICS 332	5.4	5.5	+2%
NAICS 333	3.6	1.6	-56%
NAICS 334	1.2	0.7	-42%
NAICS 335	ND*	ND	cannot calculate
NAICS 336	2.9	2.8	-3%
NAICS 337	ND	ND	cannot calculate
NAICS 339	3.8	3.0	-21.0%
Stone, Glass, and Clay Products			
NAICS 327	2.8	3.1	+11%

* no data available

The primary factor affecting the increases in NAICS 332 and 327 was the small sample size. The New Mexico 2003 baseline of 2.8 appears to have

been an anomaly based on small sample size. The national rate in 2003 was 4.8.

Goal 1.3: The goal is to reduce employee exposure to workplace violence. The Bureau conducted 14 enforcement inspections at convenience stores in FY 2009. Twenty violations were cited under the Convenience Store regulations, for a rate of 1.4 violations per inspection. New Mexico has seen a dramatic decrease in workplace violence at convenience stores since the LEP was initiated. The baseline yearly average (1998-2002) number of crimes at convenience stores was 6,803. The average for the period 2005-2007 was 752 – a decrease of 89%.

Goal 2.1: The goal is to reduce exposure to the identified causes of fatalities in selected industries where the highest percentages of fatalities occur. The following chart summarizes the State’s performance results in FY 2009. The increased number of identified hazards for both construction and oil and gas well drilling and servicing was expected due to increases in the number of inspections and consultation visits conducted in comparison to the numbers used to establish the baselines.

Identified Hazards			
	Baseline (5-year average)	FY 2009	% change
Construction			
Enforcement	235.8	146	-38%
Consultation	59.4	242	+307%
Oil/Gas Well Drilling and Servicing			
Enforcement	6.4	13	+103%
Consultation	2.2	84	+3,718%

Goal 2.2: OHSB chose to focus on the two industries in New Mexico that experience the largest number of fatalities, and to also look at transportation fatalities and total fatalities using CFOI data. The following chart illustrates their performance in the two targeted industries.

	Five Year Average Baseline # of Fatalities	CY 2008 Fatalities	Percentage Change
Construction	4.8	5	+4%
Oil and Gas Well Drilling and Servicing	4.2	4	-5%
Transportation	14	15	+7%
Total Fatalities	48	31	-35%

Goal 2.3: All six (100%) of the fatality reports under OHSB jurisdiction were inspected within one working day.

B Assessment of State Performance on Mandated and Other Related Activities

The New Mexico State Plan was approved in 1975, so will have been in operation for 35 years on December 10, 2010.

1 Enforcement

New Mexico conducted a total of 565 enforcement inspections in FY 2009: 425 (75%) safety and 140 (25%) health.

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

Appendix D is the State Activity Mandated Measures (SAMM) Report for New Mexico for the period October 1, 2008, through September 30, 2009. OHSB conducted 565 inspections during the period, including 6 accident investigations. The focus of programmed activity was on residential construction, agriculture, oil and gas well drilling and servicing, and refineries.

We conducted OHSB staff interviews, stakeholder interviews, and case file reviews to obtain information regarding New Mexico's enforcement program and Bureau operations in general. We spoke with all 27 OHSB staff members, 6 union representatives, 5 employer association representatives, and 2 community based organization representatives. Information obtained from these interviews and case file reviews is included in the Executive Summary of this report and summarized in the discussion of specific issues below.

We selected 84 case files closed in FY2009, which provides a 95% statistical confidence level. We included all fatality inspections (12); all complaint inspections (4); and a representative number of programmed (general industry, construction, and LEP) inspections, health files with sampling, and referral inspections.

a Complaints

New Mexico has interpreted the State OHS Act to define complaints only as those signed notices of alleged hazards filed by current employees or their representatives. All other notices of alleged hazards, including those from former employees and

unsigned notices from current employees or employee representatives, are classified as referrals. All complaints are responded to by inspection, in accordance with the New Mexico OHS Act and regulations.

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

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. Four of the six union representatives interviewed were involved with complaints filed with NM OHSB, and three of the four were highly complimentary of the State's timely and helpful response. One union representative mentioned a complaint that was filed in 2006 or 2007 that was not responded to timely, but he was not aware of the details because he was not working at the company at that time.

RECOMMENDATION 1: New Mexico OHSB should ensure that all compliance staff members are aware of the NM FOM timeframe goals for responding to complaints.

All four (100%) of the imminent danger complaints and referrals responded to during the period were inspected within one working day. State Activity Mandated Measures (SAMM) measure 1 shows that New Mexico averaged 3.6 working days to respond to all other complaints by inspection; the State goal is no more than 5 working days.

Our review of inspection case files did not identify any issues specific to complaint investigations. See Recommendation 3 regarding case file documentation for issues that relate to most case files.

Because the New Mexico Act so narrowly defines complaints, we have historically also reviewed at our quarterly meetings the State's response to referrals alleging serious hazards. The Bureau also addressed the issue in their FY 2009 State Internal Evaluation, and made the recommendation to carefully track this issue to ensure referrals alleging serious hazards are responded to within 10 working days. In FY 2009, the State initiated either an inspection or sent a letter within 10 working days of receipt for 90% (216/241) of referrals alleging serious hazards. For FY 2010, the State has set an internal goal of 95% response within 10 working days.

The goal for notifying complainants of inspection results is within 20 working days of citation issuance or 30 working days of the closing conference for cases without citations. There were four complaint inspections where complainants were notified of inspection results during the period; all four (100%) had timely notification.

b Fatalities

We reviewed 12 fatality case files closed in FY 2009. The documentation in the files included interview statements, photographs, thorough investigation summaries, etc. We did not find, however, documentation regarding contact with victims' family members in any of the files. We understand that contact did take place in several cases, but this was not documented in the files.

This issue was identified in the FY 2009 State Internal Evaluation Program review, and a recommendation was made to ensure that the procedures in New Mexico Field Operations Manual, Chapter 11, Section II.G are followed regarding contacting family members early in the investigation.

When the Federal policy on contacting victims' families was re-issued (OSHA Instruction CPL 02-00-137 dated April 14, 2005), States were not required to adopt the directive, and New Mexico chose not to adopt it. The revised Federal FOM incorporated some of the directive's provisions in Chapter 11, to which States were required to respond. The revised New Mexico FOM was transmitted to the Regional Administrator on November 2, 2009. It contains identical provisions regarding contact with victims' families.

RECOMMENDATION 2: New Mexico OHSB should ensure that family members are contacted early on and at appropriate times during fatality investigations, as provided in the New Mexico FOM, and that these contacts are documented in the case files.

New Mexico experienced 9 fatalities in FY 2009 that were under the jurisdiction of the Occupational Health and Safety Bureau (OHSB). Two were heart attacks and one was a police officer shooting. All six (100%) that were inspected were responded to within one working day. Two deaths occurred in construction, two in manufacturing, one in gas well servicing, and one in State government.

c Targeting/Inspections

New Mexico uses the high hazard industry list based on Dun and Bradstreet listings, which is provided by OSHA's Directorate of Evaluation and Analysis, to target high hazard manufacturing and general industry sites. They use Dodge reports to target programmed construction inspections. In FY 2009, nine Local Emphasis Programs (LEPs) were developed in conjunction with the strategic and annual performance plans, to address the industries in New Mexico that experience the highest injury and illness rates and/or fatalities. These nine LEPs are All Construction; Fabricated Metal Products; Oil and Gas Well Drilling and Servicing; Stone, Clay, and Glass Products; Refineries; Hand Labor Agricultural Operations; Silica; Waste Management; and American Recovery and Reinvestment Act (ARRA) Operations.

New Mexico adopted the provisions of the National Emphasis Program (NEP) on Refineries in their LEP, and is using its procedures for conducting programmed refinery inspections.

The FY 2009 State Plan Enforcement Activity Report shows that 62% (348/565) of New Mexico's inspections were programmed; the Federal OSHA rate was also 62%.

State Indicator Report (SIR) measures C.1 and D.1 show that New Mexico's programmed inspections were 60.2% (224/372) of their private sector safety inspections; 62.4% (63/101) of their private sector health inspections; 60.8% (31/51) of their public sector safety inspections; and 71.8% (28/39) of their public sector health inspections. New Mexico inspects a large percentage of referrals with alleged serious or imminent danger hazards. Many of these are in industries that are included in the high hazard listing, an LEP, or an NEP.

State Activity Mandated Measures (SAMM) measure 8, which includes both private and public sector data for the State, shows Compliance Officers identified hazards in 43.9% of programmed safety and 36.5% of programmed health inspections. The Federal rates are 58.6% for safety and 51.2% for health. One factor affecting the lower safety percentage in New Mexico is the fact that OHSB did not adopt Federal OSHA's focused construction inspection policy. New Mexico Compliance Officers complete an OSHA-1 form for every contractor inspected at a construction site, and many of these are in-compliance. Stakeholder interviews with union and employer group representatives found that the

construction partnerships and alliances that have existed in New Mexico for several years have influenced a “cultural shift.” The very low number of fatalities (2), and the low Total Recordable Case (TRC) rate of 4.3 and Days Away from Work, Restricted, or Transferred (DART) rate of 1.8 for construction, reflect the Bureau’s efforts in this area. Also, many companies in industries covered by LEPs have requested and received consultation services prior to programmed inspections being conducted.

We discussed the higher health in-compliance rate at our quarterly meetings in FY 2009. One factor affecting this is that Health Compliance Officers focus on health issues and make referrals to safety for possible safety violations. Federal OSHA Health Compliance Officers often cite safety hazards on health inspections. The Compliance Manager noted that over-exposure is confirmed in approximately 20-30% of analyzed samples. As noted below, our case file reviews did identify two inspections where we believe screening sampling should have been conducted.

Our case file reviews found no instances where necessary follow up inspections had not been conducted. The State’s 2009 Internal Evaluation report noted a concern with following up on willful, repeat, and high gravity serious violations at temporary or mobile worksites. The recommendation was made to run the Candidates for Follow-Up Inspection Report weekly, so that these and other sites can be quickly scheduled for follow up. This practice has been implemented and is being followed.

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.

RECOMMENDATION 3: 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.**

The State obtains inspection orders (warrants) through the State District Court in cases where the employer denies entry. There was one denial of entry during the period. A warrant was obtained, and the inspection was conducted.

d Employee and Union Involvement

The New Mexico Field Operations Manual (NMFOM), pages 3-7, Section D and 7-2, Sections C.1 and C.2 afford employees and/or employee representatives the opportunity to participate in every phase of the inspection process. IMIS Inspection (INSP) reports show that approximately 12% of New Mexico inspections conducted in FY 2009 were at union sites. Statements and opinions from interviews with union representatives are documented throughout this report under the appropriate section.

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.

RECOMMENDATION 4: 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.

e Citations and Penalties

The New Mexico Occupational Health and Safety Bureau Compliance Section cited a total of 920 violations in FY 2009.

The Enforcement Statistics micro-to-host report run for FY 2009 shows the following working day lapse times from opening conference to citation issuance.

	New Mexico	Federal OSHA
Safety	36.1	34.3
Health	60.7	46.7

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. Citation lapse time was one of the issues covered in the 2008 State Internal Evaluation Program (SIEP). Their analysis, including interviews with the Compliance Program

Manager and Compliance Officers, found that the delays are occurring between the inspection opening conference date and the time paperwork is completed and draft citations are entered into the IMIS. The reason cited for the delay was procrastination on the part of some Compliance Officers. The following steps were taken at that time:

- The employee evaluation form for each Compliance Officer will include a measurement and review of the lapse times for their cases. During the semi-annual reviews of each Compliance Officer, the average lapse times for their cases will be reviewed and compared to other Compliance Officers.
- The Team Leader in Albuquerque was assigned the task of proof reading all citations before they were sent to the Compliance Program Manager in Santa Fe, in order to eliminate any delays due to errors that would necessitate sending the file back.
- The Compliance Program Manager and IMIS System Administrator will frequently remind Compliance Officers to complete inspection reports and process citations in a timely manner.

A recommendation was made to make this a major issue during employee evaluations and institute progressive administrative discipline for those employees who are not showing improvement. These recommendations are being implemented, and we have seen reductions in both safety and health citation lapse times.

RECOMMENDATION 5: New Mexico OHSB should continue efforts to further reduce health citation lapse time.

State Activity Mandated Measure (SAMM) measure 9 shows that the average number of violations per inspection with violations is 3.2 in New Mexico and 3.3 nationwide. New Mexico finds 2.3 serious violations per inspection with violations; the nationwide average is 2.1.

New Mexico Compliance Officers identified 613 serious (67%), 1 willful, 1 repeat, 4 failures to abate, and 301 other-than-serious (33%) violations during FY 2009. The Federal OSHA percentages are 77.2% serious, 3.2% repeat, .5% willful, 19% other-than-serious, and .1% failure-to-abate. 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.

RECOMMENDATION 6: New Mexico OHSB should ensure that Compliance Officers appropriately assess the severity of all injuries and illnesses identified as violations.

We did not identify any cases where willful or repeat violations should have been cited but were not. Photographs were effectively used to document violations.

In 6 of the 84 case files (7%), we identified hazards that were not addressed. Examples include not sampling for crystalline silica and not screening for styrene. In one file, a photograph shows one employee wearing safety glasses on his head and others not wearing them. The narrative states an employee was splashing a liquid chemical with no personal protective equipment (PPE). These hazards were not addressed. In another case, the narrative states the written programs were not available at the time of the inspection. The case file did not contain information about reviewing an exposure control plan for bloodborne pathogens. If the employer did not have one, it should have been cited. In a third case, the employer submitted a photo showing abatement by replacing PVC pipe with iron pipe, but this was not cited. There was also no documentation of an OSHA-300 log review on the checklist or the narrative.

In one fatality case, the inspection did not result in violations being cited. We believe the hazards could have been addressed, even if the elements of a general duty violation were not all present. In this case, a wind gust blew a loading dock door into an employee, the force of which caused him to fall and hit his head. Some possible suggestions to prevent another such incident include ensuring that employees do not stand within the swing radius of the door, using ropes, using devices to prevent the door from swinging with such force, etc. None of the case files we reviewed contained 5(a)(1) or hazard alert letters.

RECOMMENDATION 7: 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.

State Activity Mandated Measure (SAMM) measure 10 shows the average **initial** penalty per private sector serious violation was \$911.66; the National (Federal OSHA and all State Plan) average was \$1,335.20. The average **current** penalty per private sector

serious violation in New Mexico is \$787.90; the Federal OSHA average is \$977.50.

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.

RECOMMENDATION 8: 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.

Our case file reviews found that penalty payments were documented in case files.

f Abatement

Our case file reviews found adequate proof of abatement in 100% of the files requiring it. We did find 9 of 57 (16%) case files with at least one violation with a longer than necessary assigned abatement date. For example, easily abated hazards such as guardrails on scaffolds should be assigned abatement dates of a few days, rather than several weeks; separation of oxygen and fuel gas cylinders was given a 2 week abatement period; and a 17 day abatement period was given for controlling carbon monoxide exposure.

RECOMMENDATION 9: 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.”

Our case file reviews also found that follow up inspections were conducted when indicated. This is an issue we discussed during quarterly meetings in FY 2009, and it was included in the State’s 2009 Internal Evaluation Program. The Compliance Manager began using the Candidates for Follow-up Inspection micro management report to closely track inspections eligible for follow-up.

State Activity Mandated Measure (SAMM) measure 6 shows that New Mexico verified abatement of 95.2% (236/248) of the private sector and 94.5% (103/109) of the public sector serious, willful, and repeat violations, by the final abatement date.

State Indicator Report (SIR) measure C.4 shows that New Mexico assigned abatement dates longer than 30 days for 3.3% of safety violations, while Federal OSHA did so for 17.6% of safety violations. New Mexico assigned abatement dates longer than 60 days in 1% of health violations, while Federal OSHA did so for 10% of health violations. The IMIS Enforcement Statistics Report shows that New Mexico had no open, non-contested cases with incomplete abatement greater than 60 days past due.

g Review Procedures

During FY 2009, New Mexico's review process was slightly different than Federal OSHA's. New Mexico Occupational Health and Safety Regulations provided that a settlement agreement could only be entered into subsequent to a contest. Prior to contest, only amendments to citations could be made at the Informal Discussion level. This resulted in a 22.2% contest rate during FY 2009. On October 30, 2008, the New Mexico Environmental Improvement Board (EIB) adopted regulation 11.5.1.26 NMAC, identical to 29 CFR 1903.21, on informal settlement agreements, and, after developing internal procedures and incorporating them into the revised New Mexico Field Operations Manual (NMFOM), the Bureau began implementing its provisions on November 2, 2009.

1 Informal Discussions

As discussed above, the informal discussion process in New Mexico allowed only for amendments to citations. The Bureau documents these changes in the OSHA Integrated Management Information System (IMIS) with the code AMEND. State Indicator Report (SIR) measures C.7 and C.8 provide State and Federal data on violations vacated and reclassified prior to contest. These measures show that 3.3% of New Mexico violations and 5.1% of Federal violations were vacated, and 1.1% of New Mexico violations and 4.8% of Federal violations were reclassified prior to contest. SIR measure C.9 shows that 82.7% of New Mexico penalties and 63.2% of Federal penalties were retained prior to contest.

2 Formal Review of Citations

Once a citation has been contested by an employer, employee, or employee representative, a settlement can be considered at the Informal Administrative Review level. In accordance with OHS Regulation 11.5.5.306.D(1)(a), the

Bureau has 90 days within which to enter into a formal settlement agreement or file an administrative complaint with the New Mexico Occupational Health and Safety Review Commission. The Bureau Chief or his designee may conduct the Informal Administrative Review.

Our case file reviews found that contest actions are timely completed and adequately documented.

State Indicator Report (SIR) measures E.1, E.2, and E.3 address changes to citations and penalties subsequent to contest. These include changes made through formal settlement, OHS Review Commission decisions, and court decisions. SIR measures E.1 and E.2 show that 13.5% of New Mexico violations and 23.4% of Federal violations were vacated, and 9.4% of New Mexico and 15.1% of Federal violations were reclassified subsequent to contest. SIR measure E.3 shows that 67.6% of New Mexico penalties and 58.5% of Federal penalties were retained subsequent to contest.

State Activity Mandated Measures (SAMM) measure 12 is the average lapse time from receipt of contest to first level decision. The New Mexico average was 81 days; the nationwide average was 246 days. Almost all cases result in formal settlement agreements in New Mexico; only a few each year are sent to the Review Commission.

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.

RECOMMENDATION 10: 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.

The New Mexico Occupational Health and Safety Review Commission (NMOHSRC) is made up of three members appointed by the Governor for terms of six years. There is also a Commission Secretary who handles all administrative matters such as correspondence and scheduling. The NMOHSRC meets on an as-needed basis.

All settlement agreements subsequent to contest are sent to the NMOHSRC for approval. All settlements during the period were approved. Very few cases reach the

NMOHSRC hearing level. In the case files we reviewed, all violations were sustained.

The Bureau is currently appealing the summary judgment in one OHS Review Commission decision. The District Court will decide if the use of summary judgment was appropriate, or whether the case will be remanded to the Review Commission for hearing.

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

h Public Employee Program

State Activity Mandated Measures (SAMM) measure 11 shows that 16% (90/565) of the total inspections New Mexico conducted in FY 2009 were in the public sector. The State's goal is approximately 10%, based on the percentage of public sector employers who are considered high hazard. The higher DART rates in the public sector and two public sector fatalities were factors in the State conducting a higher percentage of inspections in the public sector. The two fatalities occurred during solid waste operations. New Mexico OHSB initiated a Local Emphasis Program (LEP) for Waste Management Facilities, effective October 1, 2008. There have been no fatalities in these industries since implementation of the LEP.

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

i Information management

We interviewed the IMIS System Administrator regarding information management procedures. End-of-Day/Start-of-Day (EOD/SOD) processing to transmit data to the host computer and receive messages and error listings is conducted daily. The draft forms listing is reviewed biweekly to ensure appropriate forms are finalized and transmitted. We reviewed the latest error listing and draft forms list during our onsite review, and both had very few entries.

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

New Mexico Compliance Officers and IMIS staff members enter data in a timely and accurate manner, with few exceptions. The Compliance Program Manager is addressing the problem of delayed data entry in some cases, with individual Compliance Officers. Our case file reviews found that updates on abatement, penalty payments, and case settlement are timely documented in the files, and our review of the IMIS reports showed that these updates are also timely entered into the IMIS.

The micro Debt Collection Tracking reports are designed for Federal OSHA and do not facilitate the State's debt collection process. The IMIS System Administrator uses the Open Inspections Report to track cases, ensure the NMFOM procedures are followed, and collect penalties. The State is currently considering possible inclusion of a debt collection service in the process.

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

j BLS Rates and OSHA Data Initiative (ODI)

New Mexico experienced a decline in the fatality rate per 100,000 workers, from 5.2 in 2007 to 3.8 in 2008. Factors affecting this decline include the State's focus on programmed inspections in those industries where fatalities have occurred in the past, dynamic partnerships in the construction industry, extensive consultation outreach and visits to oil and gas well drilling and servicing employers, and development of a partnership with the oil and gas industry.

Total Recordable Case (TRC) rates have also declined in New Mexico. Between 2007 and 2008, TRC rates for all industries, including State and local governments, dropped from 5.0 cases per 100 employees to 4.4. The private sector only rate dropped to 3.8. In construction, the rate dropped from 5.2 to 4.3, and in oil and gas well drilling and servicing, from 3.0 to 2.2.

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

	New Mexico 2006 Total Case Rate (TRC)	New Mexico 2008 Total Case Rate (TRC)	% change from 2006 to 2008	National Total Case Rate (TRC)
Public Sector	7.2	7.2	0.0%	6.3
Private Sector	4.5	3.8	-15.6%	3.9
	New Mexico 2006 DART rate	New Mexico 2008 DART rate	% change from 2006 to 2008	National DART rate
Public Sector	2.2	2.8	+27.3%	2.6
Private Sector	2.4	1.8	-25%	2.0

Federal OSHA recognized the New Mexico Occupational Health and Safety Bureau for its outstanding performance in the 2007 OSHA Log Data Collection Program. New Mexico was one of only four states to achieve maximum performance in the four rated categories: timeliness, data collection response rates, meeting milestones for data collection “clean rates”, and data quality.

2 Standards and Plan Changes

a Standards Adoption

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

New Mexico was current on timely adoption of standards at the start of FY 2009. Three Federal standards or amendments to standards were published in FY 2009, two of which required State response and/or adoption in FY 2009. As detailed in Appendix H, one standard does not apply to New Mexico, as they do not enforce maritime standards, and the State adopted identical standards amendments by reference for the other two. These

two became effective in New Mexico on the date they were published in the Federal Register. No State-initiated standards were adopted in FY 2009, though one was proposed. In response to a fatality involving alcohol, Governor Richardson tasked the New Mexico Environment Department with developing regulations to address illegal drug and alcohol use in the workplace. The regulations were presented to the New Mexico Environmental Improvement Board (EIB), but were not adopted.

We asked New Mexico compliance staff what resources they use for standards interpretations. All responded that they start with the standards interpretation letters on the Federal OSHA website. If information is not available, they review consensus standards, talk with other Compliance Officers and Bureau Consultants, check out books and manuals in the office technical library, and talk with industry contacts.

b Federal Program/State-Initiated Changes

There were six Federal program changes for which a response and/or plan supplement was due in FY 2009. Appendix F includes the details of these six and three additional Federal program changes that were issued in FY 2009, but for which response was not required until some time in FY 2010. All six responses due in FY 2009 were transmitted prior to the due date. A plan supplement with differences identified was transmitted timely in response to the Initial Training Program for Compliance Personnel, and the plan supplement in response to the revised Federal Field Operations Manual (FOM) was transmitted with a detailed comparison document on November 2, 2009, and November 29, 2009. The plan supplement in response to the initial Federal FOM was due on September 26, 2009, but Federal OSHA issued changes to the manual on November 9, 2009. New Mexico included their response to these changes in their plan supplement transmitted on November 29.

New Mexico transmitted 15 State-initiated plan changes during FY 2009, as detailed in Appendix G. Nine of the 15 are Local Emphasis Programs; 4

are changes to regulations; and the remaining two are a change to the Inspection of Public Records Policy and a change to the Bureau organizational chart. The regulatory changes were transmitted immediately after adoption and are under review in the Dallas Regional Office. The change to the organizational chart was to relocate the Compliance Assistance Specialists within the Bureau, to be under the direct supervision of the Bureau Chief.

3 Variances

New Mexico did not issue any permanent or temporary variances in FY 2009. In fact, New Mexico has only issued one temporary variance in its 34 year history. The Bureau honors all multi-state variances that have been issued by Federal OSHA, and staff is familiar with where to find the variances on the OSHA website.

4 Consultation Activities

Private sector consultation services are provided in New Mexico under a 21(d) Cooperative Agreement, and public sector consultation services are provided under the 23(g) State Plan grant.

5 Discrimination Program

New Mexico's policies and procedures for discrimination complaints under the OHS Act are identical to Federal OSHA's with one exception. The New Mexico Act provides that discrimination complaints must be filed in writing. If a complainant contacts the Bureau by phone within 30 days of the discriminatory activity and follows up in writing after the 30-day period has expired, the complaint is deemed to have been filed within that 30-day timeframe. New Mexico follows the Whistleblower Investigator Manual provisions for Section 50-9-25 NMSA (11(c)) discrimination complaint investigations.

We reviewed all 10 of the discrimination files with determinations made in FY 2009. Two cases were determined to have merit, and eight were determined to be without merit. State Activity Mandated Measures (SAMM) measure 14, shows a 22.2% (2/19) meritorious rate for cases investigated during the period; the nationwide rate was 20.8%.

Settlements were signed for the two merit cases. State Activity Mandated Measures (SAMM) measure 15 shows that New Mexico had a 100% settlement rate for meritorious discrimination complaints; the nationwide rate was 86.2%.

Determinations were timely in all 10 cases, with an average of 44.5 days to complete. State Activity Mandated Measures Report (SAMM) measure 13 shows that 89% (8/9) of New Mexico's discrimination investigations during the period were completed within 90 days. This percentage is actually 100% (8/8) because a duplicate complaint exists in the database. The IMIS Administrator worked with the IT Help Desk for several weeks on this issue, because only they could remove the duplicate record. They were unable to remove it before the SAMM report was run.

Although some complaints were screened out or dismissed as untimely, our review found that State Investigators made every effort to examine claims that complainants made that suggested a possible reason for equitable tolling.

All of the case files showed that the conclusion the State Investigator reached was based on the evidence and consistent with the statute. The two agency-negotiated settlements provided complainants a make-whole remedy and were consistent with Federal OSHA Whistleblower Manual guidelines. These two cases contained documentation that extended beyond that required.

6 Complaints About State Program Administration (CASPA)

No Complaints About State Program Administration (CASPA) were received by Federal OSHA regarding New Mexico in FY 2009, and none were open from previous years. One CASPA was filed on March 5, 2010, and is under investigation in the Dallas Regional Office. A second CASPA was filed on May 10, 2010; action on this complaint is on hold, as the complainant has not exhausted available administrative remedies.

7 Voluntary Compliance Programs

New Mexico adopted the Federal policy and procedures manuals for Partnerships, Alliances, and the Voluntary

Protection Program (VPP). The State has many partnerships and alliances, as detailed in Appendix C.

During our onsite review for the Special Evaluation, we reviewed case files for all nine of the currently-approved VPP sites in New Mexico. All case files followed the provisions of the VPP Manual. We found, however, that the annual reports were missing in most of the files. The Bureau Chief stated that the annual reports are maintained in Albuquerque, where the Compliance Assistance Specialists are physically located.

RECOMMENDATION 11: 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.

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

Two union representatives who responded to our survey on the New Mexico OHS program commented on the Bureau's voluntary compliance programs. One union business agent works with Bureau staff on a semi-regular basis to refine the training program they set up seven years ago, to add new components and update ongoing ones. Another union representative said that the Bureau participated in the OSHA-500 course the union sponsored, and that the information they provided was very good and valuable.

All five of the employer association representatives commented on New Mexico's voluntary compliance programs, finding them extremely or very valuable. Comments included appreciation for the Bureau's willingness to enter into partnerships, provide accurate and helpful technical information, and participate in training classes. Another comment was that now both safety staff

and workers feel free to call Bureau staff with questions, because of the relationships that have been established through partnerships.

8 Program Administration

a 23(g) State Plan Grant

We conducted an onsite financial review of New Mexico's 23(g) grant financial issues in August 2009, and we had no significant findings. In addition to the 23(g) grant, New Mexico accepted and matched a 50/50 American Recovery and Reinvestment Act (ARRA) grant in FY 2009. The first of two financial reviews of that grant was conducted in November 2009, with no significant findings.

In FY 2009, the Federal share of the New Mexico 23(g) grant was \$828,000, and the State share was \$1,085,530, for a total grant amount of \$1,913,530.

In response to statewide budget issues, all New Mexico State employees have been furloughed for five days in 2010. These days are spread throughout the second half of the State's fiscal year.

Offices are closed, but callers are referred to a central answering service and forwarded to the Bureau Chief at home for appropriate response. There has been no significant impact on services to date. A fatality occurred three days before a scheduled furlough day, but the Department obtained approval from the Governor's Office for three Compliance Officers to continue working on the furlough day.

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

As of July 31, 2010, the Bureau has two vacancies – one Safety Compliance Officer and the Consultation Program Manager. The Safety Compliance Officer's salary and 20% of the Consultation Program Manager's salary are

included in the 23(g) grant. The State is currently under a general hiring freeze, but the Bureau obtained authorization to fill a previously vacant Safety Consultant vacancy, and has submitted a request for authorization to fill the Consultation Program Manager position.

b Benchmarks

The Compliance Officer benchmarks for a fully effective program in New Mexico are 7 Safety and 3 Health Compliance Officers. There are currently 7.5 allocated Safety Compliance Officer and 3 allocated Health Compliance Officer positions in the Bureau. As discussed above, the Bureau has obtained authorization to fill the Safety Compliance Officer vacancy.

c Internal Training

New Mexico transmitted their plan supplement in response to OSHA Instruction TED 01-00-018, Initial Training Program for Compliance Officers, on November 3, 2008. It contains some slight differences, which were detailed in the State's transmittal letter, but it is substantially identical in content. At our quarterly meetings, we have discussed the State's difficulty in getting Compliance Officers into some OSHA Training Institute (OTI) training courses (Legal Aspects) and the problem with classes being cancelled (Whistleblower Training). The Regional Training Officer will work closely with the State Training Coordinator, especially at initial registration time, to assist with these issues.

Some stakeholders had comments about State training. One union representative stated that the two complaints they have filed were handled well by the inspectors. Bureau staff members also help them with the training program the union conducts. One employer association representative stated that two New Mexico Compliance Assistance Specialists have been especially effective in changing the safety culture at construction sites due to their professionalism, knowledge, and experience.

During our onsite review, we interviewed all State staff members on training issues. All 27 people believe that they have received good training; 3 stated that they need additional training. Several voiced their frustration with being unable to register for specific OSHA Training Institute (OTI) courses, as stated above. A list of additional and advanced training subjects suggested during the interviews has been forwarded to State managers.

We also asked if and how staff members receive updates to policies and procedures affecting their jobs. All agreed that they do receive updates through e-mail, verbal communication, and staff meetings. Some staff stated that more information is always appreciated.

At each quarterly meeting and at the end of each fiscal year, the Bureau Chief provides updates on training received by all staff during the period. A summary of training received in FY 2009 is included as Appendix I.

d 18(e) Determination Status

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

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

Much progress has been made, but the issue of private interviewing is still problematic. There are apparent inconsistencies in language and interpretation within the State's private interviewing regulations themselves. The issue was addressed through proposed changes to the State regulations. The New Mexico Environmental Improvement Board (EIB) did not adopt the changes as proposed. The Department then drafted legislation to change the OHS Act to ensure private

interviewing. The legislation was introduced in the 2009 legislative session, but did not pass. The Bureau is now working with the Department's legal staff to determine the appropriate next steps.

RECOMMENDATION 12: New Mexico OHSB should continue efforts to clarify the apparent inconsistencies within the private interviewing regulations (11.5.1.21.E NMAC).

We will continue to work together toward achieving the goal of 18(e) final determination.

e State Internal Evaluation Program (SIEP)

New Mexico developed and implemented a comprehensive State Internal Evaluation Program (SIEP) in FY 2008. All issues in the evaluation program are reviewed at least once every five years. The results of the 2009 internal evaluation were finalized on October 27, 2009, and provided to the region at our fourth FY 2009 quarterly meeting. Findings and recommendations have been incorporated in this report under the appropriate subject.

APPENDIX A
Findings and Recommendations

Italics = paraphrase

	Findings	Recommendations
1	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.
2	<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.
3	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.
4	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.
5	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.
6	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.
7	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	New Mexico OHSB should ensure that Compliance

	Findings	Recommendations
	54 cases (93%) with penalties, the penalties were properly calculated. However, Compliance Officers did not uniformly complete the violation calculation worksheet for assessing penalties.	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).

APPENDIX B
New Mexico State Plan (NMED OHSB)
FY 2009 Enforcement Activity

	New Mexico	State Plan Total	Federal OSHA
Total Inspections	565	61,016	39,004
Safety	425	48,002	33,221
% Safety	75%	79%	85%
Health	140	13,014	5,783
% Health	25%	21%	15%
Construction	184	26,103	23,935
% Construction	33%	43%	61%
Public Sector	90	7,749	N/A
% Public Sector	16%	13%	N/A
Programmed	348	39,538	24,316
% Programmed	62%	65%	62%
Complaint	5	8,573	6,661
% Complaint	1%	14%	17%
Accident	6	3,098	836
Insp w/ Viols Cited	266	37,978	27,165
% Insp w/ Viols Cited (NIC)	47%	62%	70%
% NIC w/ Serious Violations	86%	62%	87%
Total Violations	920	129,363	87,663
Serious	613	55,309	67,668
% Serious	67%	43%	77%
Willful	1	171	401
Repeat	1	2,040	2,762
Serious/Willful/Repeat	615	57,520	70,831
% S/W/R	67%	44%	81%
Failure to Abate	4	494	207
Other than Serious	301	71,336	16,615
% Other	33%	55%	19%
Avg # Violations/ Initial Inspection	3.1	3.3	3.1
Total Penalties	\$ 615,472	\$ 60,556,670	\$ 96,254,766
Avg Current Penalty / Serious Violation	\$ 870.50	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 787.90	\$ 934.70	\$ 977.50
% Penalty Reduced	42.7%	51.9%	43.7%
% Insp w/ Contested Viols	22.7%	13.0%	7.0%
Avg Case Hrs/Insp- Safety	8.6	15.7	17.7
Avg Case Hrs/Insp- Health	10.4	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	36.1	31.6	34.3
Lapse Days Insp to Citation Issued- Health	60.7	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	0	2,010	2,234

Source:

DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009. Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09

APPENDIX C

New Mexico FY 2009 State OSHA Annual Report (SOAR)

[Available separately]

APPENDIX D

STATE PLAN ACTIVITY MEASURES (SAMM) REPORT

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

OCT 23, 2009
 PAGE 1 OF 2

State: NEW MEXICO

RID: 0653500

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	18 3.60 5	0	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	0 0	0	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	4 100.00 4	0	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	4 100.00 4	0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	236 95.16 248	0 .00 1	100%
Public	103 94.50 109	0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	12043 51.02 236	361 45.12 8	2489573 43.8 56880
Health	5606 83.67 67	156 52.00 3	692926 57.4 12071

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

OCT 23, 2009
 PAGE 2 OF 2

State: NEW MEXICO

RID: 0653500

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	127	6	92328
Safety	43.94	54.55	58.6 National Data (3 years)
	289	11	157566
	31	2	11007
Health	36.47	66.67	51.2 National Data (3 years)
	85	3	21510
9. Average Violations per Inspection with Vioations			
	692	22	420601
S/W/R	2.28	2.00	2.1 National Data (3 years)
	303	11	201241
	278	9	243346
Other	.91	.81	1.2 National Data (3 years)
	303	11	201241
10. Average Initial Penalty per Serious Violation (Private Sector Only)	516000	17450	492362261
	911.66	830.95	1335.2 National Data (3 years)
	566	21	368756
11. Percent of Total Inspections in Public Sector	90	1	183
	15.99	25.00	10.6 Data for this State (3 years)
	563	4	1725
12. Average lapse time from receipt of Contest to first level decision	4536	623	4382038
	81.00	311.50	246.1 National Data (3 years)
	56	2	17807
13. Percent of 11c Investigations Completed within 90 days	8	0	100%
	88.89		
	9	0	
14. Percent of 11c Complaints that are Meritorious	2	0	1466
	22.22		20.8 National Data (3 years)
	9	0	7052
15. Percent of Meritorious 11c Complaints that are Settled	2	0	1263
	100.00		86.2 National Data (3 years)
	2	0	1466

APPENDIX E
STATE INDICATOR REPORT (SIR)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = NEW MEXICO

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	6212	65	11892	145	21855	224	42572	535
	67.3	73.0	67.5	70.4	66.8	60.2	65.2	65.6
	9230	89	17617	206	32713	372	65304	816
B. HEALTH	508	10	1004	38	1963	63	3678	111
	34.5	62.5	34.1	74.5	35.3	62.4	34.0	54.1
	1471	16	2946	51	5559	101	10829	205
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4645	28	8997	56	16745	119	32019	246
	67.7	36.4	65.9	32.9	65.8	37.3	65.9	34.1
	6860	77	13654	170	25453	319	48603	721
B. HEALTH	368	10	746	15	1486	28	2884	47
	52.2	62.5	50.8	32.6	51.7	37.3	55.6	36.7
	705	16	1468	46	2873	75	5187	128
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	15510	98	29490	171	56535	414	111717	826
	81.8	67.1	81.1	61.3	80.0	69.0	79.4	68.5
	18952	146	36371	279	70692	600	140747	1206
B. HEALTH	2802	19	5343	31	10035	79	19393	182
	70.1	55.9	69.9	55.4	69.7	54.1	67.7	56.7
	4000	34	7645	56	14395	146	28659	321
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2938	3	5782	13	12109	17	25516	29
	15.9	2.5	16.2	6.0	17.6	3.3	18.7	2.8
	18492	122	35597	217	68607	509	136812	1047
B. HEALTH PERCENT >60 DAYS	256	1	577	1	1452	1	3111	1
	6.3	4.3	7.5	2.4	10.0	1.0	10.9	.4
	4078	23	7720	41	14561	103	28488	245

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = NEW MEXICO

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	280876	0	628826	0	1303857	650	2663433	2500
OTHER--THAN--SERIOUS	923.9	.0	998.1	.0	1030.7	650.0	1049.4	833.3
	304	0	630	0	1265	1	2538	3
B. HEALTH								
	83100	250	142950	250	294225	550	654830	550
OTHER--THAN--SERIOUS	799.0	250.0	803.1	250.0	855.3	275.0	867.3	275.0
	104	1	178	1	344	2	755	2
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10459	117	19991	259	37160	478	73338	1094
	6.1	4.7	5.7	4.9	5.5	6.0	5.3	7.4
	1722	25	3533	53	6727	80	13759	148
B. HEALTH								
	1764	28	3581	72	6701	155	12705	289
	1.8	2.8	1.7	3.8	1.6	4.0	1.5	3.6
	994	10	2112	19	4125	39	8503	81
7. VIOLATIONS VACATED %								
	1278	4	2561	4	5139	20	10097	53
	4.9	2.6	5.0	1.3	5.1	3.3	5.0	4.2
	26336	153	51387	300	100187	613	201495	1267
8. VIOLATIONS RECLASSIFIED %								
	1130	2	2440	4	4798	7	9539	13
	4.3	1.3	4.7	1.3	4.8	1.1	4.7	1.0
	26336	153	51387	300	100187	613	201495	1267
9. PENALTY RETENTION %								
	13523966	59025	27149245	104575	54889469	316800	111585445	576992
	63.4	88.3	62.9	84.5	63.2	82.7	62.9	83.1
	21315664	66875	43130384	123825	86796382	383025	177346966	694575

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT

STATE = NEW MEXICO

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	65	8	145	10	224	31	535	41
	73.0	53.3	70.4	52.6	60.2	60.8	65.6	47.7
	89	15	206	19	372	51	816	86
B. HEALTH	10	8	38	9	63	28	111	35
	62.5	80.0	74.5	69.2	62.4	71.8	54.1	59.3
	16	10	51	13	101	39	205	59
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	98	18	171	34	414	77	826	120
	67.1	72.0	61.3	72.3	69.0	77.8	68.5	78.9
	146	25	279	47	600	99	1206	152
B. HEALTH	19	4	31	18	79	43	182	57
	55.9	100.0	55.4	54.5	54.1	60.6	56.7	64.8
	34	4	56	33	146	71	321	88

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = NEW MEXICO

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	446 22.8 1956	8 11.0 73	875 24.2 3609	21 14.0 150	1756 23.4 7506	46 13.5 342	3749 24.1 15528	144 18.8 767
2. VIOLATIONS RECLASSIFIED %	282 14.4 1956	13 17.8 73	563 15.6 3609	22 14.7 150	1133 15.1 7506	32 9.4 342	2274 14.6 15528	84 11.0 767
3. PENALTY RETENTION %	2319074 54.1 4286744	22571 64.7 34875	4080249 51.5 7922126	53596 67.8 79100	10792902 58.5 18457526	131871 67.6 195150	20045599 55.9 35865959	429675 48.5 886600

APPENDIX F

FEDERAL PROGRAM CHANGES AND STATE RESPONSES

Date	Number	Title	Date Response Due/Adoption Required?	State Response
8-6-08	TED 01-00-018	Initial Training Program for OSHA Compliance Personnel	11/3/08/2/6/09	10/8/08/11/3/08 NM adopted slightly different.
8-14-08	CPL 03-00-009	National Emphasis Program for Lead	11/3/08/NO	9/3/08 NM did not adopt because long-term LEP has addressed issue.
8-21-08	CPL 02-01-045	Citation Guidance Related to Tree Care and Tree Removal Operations	11/3/08/NO	9-4-08 NM adopted identical.
3-26-09	CPL 02-00-148	Field Operations Manual	6-1-09/9-26-09 and 5/2/10	4-22-09/11-2-09 and 11/30/09 NM adopted different plan supplement, and included response to the amendments issued 11-9-09.
7-20-09	09-05 (CPL 2)	Site-Specific Targeting 2009 (SST-09)	9-21-09/NO	7-23-09 NM will continue the current high hazard lists provided by OSHA.
7-27-09	09-06 (CPL 02)	PSM Covered Chemical Facilities National Emphasis Program	9-28-09/NO	7-30-09 NM will not adopt at this time.
8-18-09	CPL 03-00-010	Petroleum Refinery Process Safety Management National Emphasis Program	10-30-09/NO	9-2-09 NM adopted an LEP for refineries in 2007, which incorporates the provisions of this directive.

9-30-09	CPL 02-01-046	Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors	11-30-09/NO	10-20-09 NM adopted identical. With the removal of the de minimis language, NM now adopts CPL 02-02-034 (CPL 2-1.34).
9-30-09	09-08 (CPL 2)	Injury and Illness Recordkeeping National Emphasis Program (RK NEP)	11-30-09/NO	Initial response received 10-20-09; revised response received 1-19-10. NM adopts identical.

APPENDIX G

STATE-INITIATED PLAN CHANGES

Date of State Adoption	Description	Date Transmitted to Region
5-5-08	Inspection of Public Records Policy	11-18-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in the Manufacture of Fabricated Metal Products (NAICS 331-333 and 335-336 (OHS 09-01)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in Stone, Clay, Glass, and Concrete Product Operations (NAICS 327) (OHS 09-02)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in the Construction Industry (NAICS 236, 237, and 238) (OHS 09-03)	10-16-08
10-1-08	Local Emphasis Program for Health and Safety Hazards in the Oil and Gas Well Drilling and Servicing Industry (NAICS 211 and 213) (OHS 09-04)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in Hand Labor Agricultural Operations (NAICS 111 and 1151) (OHS 09-05)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Convenience Store Operations (NAICS 44711 and 44512) (OHS 09-06)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Silica Exposures (OHS 09-07)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Waste Management and Remediation (NAICS 5621, 5622, and 562920) (OHS 09-09)	10-16-08
10-30-08	Changes to OHS Regulation 11.5.2 NMAC – General Industry	11-4-08

Date of State Adoption	Description	Date Transmitted to Region
5-5-08	Inspection of Public Records Policy	11-18-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in the Manufacture of Fabricated Metal Products (NAICS 331-333 and 335-336 (OHS 09-01)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in Stone, Clay, Glass, and Concrete Product Operations (NAICS 327) (OHS 09-02)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in the Construction Industry (NAICS 236, 237, and 238) (OHS 09-03)	10-16-08
10-1-08	Local Emphasis Program for Health and Safety Hazards in the Oil and Gas Well Drilling and Servicing Industry (NAICS 211 and 213) (OHS 09-04)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards in Hand Labor Agricultural Operations (NAICS 111 and 1151) (OHS 09-05)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Convenience Store Operations (NAICS 44711 and 44512) (OHS 09-06)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Silica Exposures (OHS 09-07)	10-16-08
10-1-08	Local Emphasis Program (LEP) for Health and Safety Hazards Associated with Waste Management and Remediation (NAICS 5621, 5622, and 562920) (OHS 09-09)	10-16-08
10-30-08	Changes to OHS Regulation 11.5.2 NMAC – General Industry	11-4-08

Date of State Adoption	Description	Date Transmitted to Region
10-30-08	Changes to OHS Regulation 11.5.3 NMAC – Construction	11-4-08
10-30-08	Changes to OHS Regulation 11.5.4 NMAC – Agriculture	11-4-08
10-30-08	Changes to OHS Regulation 11.5.6 NMAC – Convenience Stores	11-4-08
7-15-09	Changes to the OHSB Organizational Chart	8-4-09
8-19-09	Local Emphasis Program (LEP) for the American Recovery and Reinvestment Act (ARRA)	8-26-09

APPENDIX H

FEDERAL STANDARDS AND STATE RESPONSES

Date	Number	Title	State Adoption Due Date	State Response
12-10-08	29 CFR 1917 and 1918	Longshoring and Marine Terminals; Vertical Tandem Lifts	6-10-09	New Mexico does not enforce maritime standards.
12-12-08	29 CFR 1910, 1915, 1917, and 1926	Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee	6-12-09	NM incorporated identical standards for 1910 and 1926 on 12-12-08. NM does not enforce maritime standards (1915 and 1917).
9-21-09	29 CFR 1910, 1915, 1917, and 1918	Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment	3-9-10	NM incorporated identical standards for 1910 on 9-21-09. NM does not enforce maritime standards (1915, 1917, and 1918).

APPENDIX I
FY 2009 STATE INTERNAL TRAINING COURSES

Class	Administration	Compliance	Consultation	Total
2 Hour Fall Protection Competent Inspector			1	1
Authorized Instructor in Lay Responder			1	1
CPPM Webinar	1		2	3
CPR, AED, First Aid	1		1	2
Defensive Driving	1	2	2	5
Discrimination Investigation	4	5	1	10
Electric Power Generation, Transmission, and Distribution			1	1
Excavation and Trenching		1		1
Field Operations Manual Overview	3	11		14
First Aid and CPR			1	1
FOM Chapter 15 Review	4	1		5
Fundamentals of Rigging to Land Based Energy Operations			1	1
H2S Training			1	1
Hazardous Materials		2		2
Inspection Techniques and Legal Aspects		2		2
Interest Based Bargaining	1			1
Introduction to Onsite Consultation	1		1	2
Land Based Rigging Trainer Development			1	1
Living in a Union Environment	1			1
NCR Backup	3			3
New Mexico Rules of Evidence		11		11
Office Ergonomics Assessor Training	1			1
OSHA 30 Hour Construction	1			1
Permit-Required Confined Space Entry	1	2		3
Powered Industrial Vehicles		3		3
PSM of Ammonia Refrigeration	2	8	1	11
Recordkeeping NEP	3	10	4	17
Safety and Health Issues in the Aging Workforce			1	1

Safety Leadership Training for First Line Supervisors			1	1
San Juan Contractor Orientation			1	1
Standards for the Construction Industry			1	1
Trainer Course in OSH Standards for General Industry			1	1
Trainer Course in OSHA Standards for Construction			1	1
Webinar on Tree Trimming	1	4	2	7
Webinar on PSM of Chlorine Hazards	2	10	3	15
Work Zone Traffic Control			1	
Total	31	70	32	133