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July 31, 2020

Mr. Eric S. Harbin, Regional Administrator
Occupational Safety and Health Administration
525 Griffin Street, Room 602
Dallas, TX 75202-5024

Dear Mr. Harbin:

As requested in your letter of June 26, 2020, we hereby submit our formal response to the final report of the FY 2019 Federal Annual Monitoring and Evaluation (FAME) of the New Mexico Occupational Health and Safety Bureau (OHSB or the Bureau). The Bureau has taken several actions to address the recommendations contained in the report. OHSB notes that the recommended actions from the FAME will require staffing and training resources, both of which are limited as a result of the COVID-19 pandemic. OHSB is focusing significant resources toward efforts to prevent the workplace spread of SARS-CoV-2 including directly addressing every report of a positive case in the workplace. Although much of our resources have been directed to the pandemic, we anticipate that with the continued assistance of the Region VI staff we will be able to complete all recommended actions within a reasonable timeframe.

Please do not hesitate to contact us if you have any questions or comments regarding our corrective action plan.

Sincerely,

Robert Genoway
Bureau Chief

Enclosures:

1. New Mexico's Response to OSHA's 2019 Federal Annual Monitoring and Evaluation (FAME) Report
2. New Mexico Corrective Action Plan for FY2019 FAME

**NEW MEXICO'S RESPONSE TO OSHA'S
2018 FEDERAL ANNUAL MONITORING AND EVALUATION (FAME) REPORT
JULY 31, 2020**

I. INTRODUCTION

The New Mexico Environment Department's Occupational Health and Safety Bureau (OHSB) is committed to administering an innovative and effective state plan aimed at making New Mexico the safest and most healthful state in which to work. In conjunction with OHSB's own performance plans and internal evaluation program, cooperative efforts with federal OSHA have facilitated continued improvements in state plan operations. OSHA's evaluations continue to identify areas where OHSB can improve its procedures and operations and highlight areas where our performance is excellent. Overall, OHSB produces well documented inspection reports, which has contributed to a strong record in sustaining violations and penalties. We recognize the importance of improvement and welcome federal evaluations and recommendations. OSHA provided pertinent information through their quarterly and year-end reviews over the past year which has enabled OHSB to quickly initiate processes aimed at improving program performance. The State appreciates the opportunity to respond to the federal OSHA evaluation of OHSB's program for the federal fiscal year 2019.

II. OHSB RESPONSE AND CORRECTIVE ACTION PLAN

Recommendation 19-1: OHSB should ensure basic employee interview documentation should be consistently in the case file and adequately documented using narrative to explain what occurred during the inspection or why citations were or were not recommended, as required by the OHSB FOM.

Response: OHSB historically maintains high rates of penalty retention and low rates of vacating and reclassifying violations, demonstrating the quality of issued citations. As part of yearly reviews, OSHA continues to provide insight and assistance in further strengthening the quality of OHSB inspection processes.

Corrective Action: During FY2020 OHSB worked with compliance staff to enhance documentation of employee interviews and discussions. To drive continuous improvement, supervisors reviewed case files to ensure the adequacy of documentation on an on-going basis. Management reviewed violation documentation periodically during internal Compliance Officer (CO) training sessions and employee evaluations. The Bureau also provided cos with formal interview training during the week of December 9, 2019. OHSB will continue to schedule and ensure completion of courses during FY2020 as available during the ongoing pandemic emergency.

Actual or Anticipated Completion Date: March 31, 2021.

Status: On-going.

Recommendation 19-2: The State Plan should continue efforts to understand and address its high turnover rate and fill staff vacancies in order to reach their health inspection goals.

Response: OHSB experienced a rate of staff turnover in FY2019 that was much higher than historical averages. The Bureau carried an average vacancy rate among health compliance officers of approximately 42 percent during the fiscal year. Factors influencing the turnover rate included a strong economy in New Mexico resulting in losing staff to the private sector and an increase in hiring of health and safety professionals at federal facilities in the state.

Corrective Action: During FY2019 OHSB made a concerted effort to fill staff vacancies and provide newly hired staff with training needed to conduct inspections. The current vacancy rate among health officers is 33% and the Bureau has been unable to fill one of the three health officer positions due to insufficient budget. OHSB expects low numbers for both health and safety inspections during FY2020 due to redirecting of health resources to the ongoing COVID-19 pandemic. In anticipation of increasing field activities into FY2021, OHSB will direct the resources needed to achieve health inspection goals by the end of FY2021.

Actual or Anticipated Completion Date: September 30, 2021.

Status: Ongoing.