

FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

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



Evaluation Period: October 1, 2018 – September 30, 2019

Initial Approval Date: January 4, 1974
State Plan Certification Date: August 25, 1981
Final Approval Date: April 18, 2000

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I. Executive Summary

The purpose of this report is to assess Nevada's Occupational Safety and Health program for Fiscal Year (FY) 2019, its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) reports, and achievement of the annual performance plan and five-year strategic goals. This was the fourth year of the five-year strategic plan established for FY 2016 – 2020. The plan focuses on three areas: workplace safety and health, employer involvement, and staff professional development. As part of this comprehensive evaluation, an on-site program review was conducted including workplace retaliation and enforcement case files.

There were several innovative and performance aspects of the program. An online portal was developed that enabled employers to validate the required OSHA 10- and 30-hour training of employees. This was identified as a best practice and shared with the OSHA Training Institute (OTI).

Casefile development and management tools were generally noted as excellent for enforcement and whistleblower programs. The narratives were well developed with prima facie clearly established. In addition, an informal conference worksheet was developed that resulted in the effective documentation of the criteria for settlements.

One of the more progressive efforts was the use of drone technology. This supported enforcement activity while increasing the level of safety for compliance officers. During the investigation of a sinkhole, a drone was used to create an accurate 3D model of the site while enabling compliance staff to remain a safe distance away. The high resolution accuracy of the model enabled rapid settlement during post-contest proceedings.

The goals for several enforcement indicators, such as the time to initiate a complaint investigation and complaint inspection, the time to issue citations, and the in-compliance rates, were achieved. However, the 1,017 (85%) inspections conducted were short of the annual goal of 1,200. In addition to its enforcement focus and outreach efforts, safety and health information was provided to employers to prevent workplace fatalities. Despite challenges with staff retention, only four vacancies existed at the end of the year, and the performance outcome was positive.

There are two findings and five observations in this evaluation. All nine findings and the two observations from the 2018 FAME report were closed. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective actions.

II. State Plan Background

A. Background

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

The Division of Industrial Relations (DIR) is the designated agency for administering the OSHA-funded enforcement program under the Nevada Occupational Safety and Health Administration (NVOSHA). Ray Fierro was the State Plan designee and administrator of DIR, and Jess Lankford is the Chief Administrative Officer (CAO). The consultation program is administered through Todd Schultz, CAO of the Nevada Safety Consultation and Training Section (SCATS). The program is headquartered in Las Vegas with an additional office located in Reno.

There were 76 full-time, and no part-time positions with hiring underway for four additional employees. There was significant turnover during the year with 20 positions either vacated through staff leaving the agency or created by promotions and upward mobility.

Both the enforcement and consultation programs have jurisdiction and provide services to nearly 1.5 million workers in the state except for federal workers, the United States Postal Service, (USPS), Tribal lands, military installations, and other areas of exclusive federal jurisdiction.

The enforcement program operates under the 23(g) grant, which also covers consultation and training for state and local government agencies. The grant agreement established a final base award to fund the program at \$1,489,600 in federal funds with an additional \$23,814 in a one-time award. The state matched this amount and contributed another \$5,255,904 for a total state and federal funds allocation of \$8,252,918.

B. New Issues

None.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. The FY 2019 report is a comprehensive report where OSHA conducted an on-site program evaluation and case file review. A five-person OSHA team, which included a whistleblower retaliation investigator, was assembled to conduct a full on-site case file and program review. The case file review was conducted at the Las Vegas office during the timeframe of January 6 through January 17, 2020. A total of 72 safety and health case files, representing both offices, were selected for review. The safety and health inspection files were randomly selected from closed inspections

conducted during the evaluation period from October 1, 2018 to September 30, 2019. The total selected case files included:

- Thirty-one (31) unprogrammed safety and health files
- Nineteen (19) programmed safety and health files
- Two (2) fatality case files
- Twenty (20) safety and health complaint, no-inspection case files

A total of 38 whistleblower retaliation investigations were completed and 137 complaints were administratively closed in FY 2019. The whistleblower case file reviews were conducted from January 14th through the 22nd, 2020, by a federal whistleblower retaliation investigator. The percentage that each category comprised of the total completed cases was determined and applied to the sample size. A total of 80 whistleblower cases files were selected as follows:

- Eleven (11) withdrawn
- Fourteen (14) dismissed
- Seven (7) settled
- Six (6) settled other
- Forty-two (42) administratively closed

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

- State Activity Mandated Measures report (SAMM, dated 11/12/19)
- State Information Report (SIR, dated 11/12/19)
- Mandated Activities Report for Consultation (MARC, dated 11/12/19)
- State OSHA Annual Report (SOAR)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Comprehensive case file review
- Web Integrated Management Information System (Web IMIS)
- OSHA Information System (OIS)
- Bureau of Labor Statistics (BLS) data

Each SAMM report has an agreed-upon further review level (FRL) which can be either a single number, or a range of numbers above and below the national average. SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2019 SAMM report and includes the FRL for each measure.

B. Review of State Plan Performance

This section is an assessment of Nevada's progress in meeting mandated activities and program elements. The assessment of Nevada's progress in achieving their annual performance plan

goals is addressed in their FY19 SOAR (Appendix E).

1. PROGRAM ADMINISTRATION

a) Training

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

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

For Whistleblower Investigators, initial formal classroom training consisted of four one-week courses either completed in-house, or utilizing OTI. Whistleblower Investigators attended OTI 1420 Whistleblower Investigations Fundamentals, 1610 Interviewing Techniques for Whistleblower Investigators, 2710 Legal Concepts for Whistleblower Investigators, and 2720 Whistleblower Complaint Resolution courses.

b) OSHA Information System (OIS)

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

c) State Internal Evaluation Program (SIEP) Report

The SIEP was revised during FY 2019 with full implementation directed on January 6, 2020. There were several major revisions, notably, the evaluation responsibility was reassigned to the program coordinators and the supervisor of the operations support unit, collectively, under the supervision of the Chief Administration Officer (CAO).

A case file review was conducted with case files selected from those files closed in the preceding six months, prior to the review date. All fatality, catastrophe, follow-up, and cases

with failure-to-abate notices were reviewed. In addition, a random sample of programmed and unprogrammed inspection cases were also reviewed.

The FY 2019 revision to the SIEP (in effect as of January 6, 2020) will include a written report submitted to the CAO and certified by the signatures of both program coordinators. The report format will be similar to that of the FAME and include pertinent findings and observations as well as recommendations for corrections. The recommendations will be reviewed twice annually by the program coordinators.

d) Staffing

There were 42 compliance officers at the end of the fiscal year with four vacancies; two of which were added by AB348, Workplace Violence at Medical Facilities. There was significant turnover during the year with 20 positions either vacated through staff leaving the agency or created by promotions and upward mobility. NVOSHA looked at different strategies to recruit and retain qualified candidates, such as attending job fairs.

2. ENFORCEMENT

a) Complaints

Complaint inspections and investigations were initiated well within the negotiated timeframes. The time to initiate complaint inspections was 7.60 days (SAMM 1A). The FRL for this measure is 14 days. The time to initiate complaint investigations was 2.17 days (SAMM 2A). The FRL for this measure is five days.

All five (100%) imminent danger complaints and referrals were responded to within one day (SAMM 3). There were no denials of entry for any inspection (SAMM 4). However, a media report indicated an instance of compliance officers being denied entry at a facility. Upon review, the inspection was not coded as a denial of entry in OIS as required. The coding requirement was discussed with NVOSHA and OSHA will review OIS data quarterly to determine whether or not the State Plan is correctly coding denials of entry.

b) Fatalities

All fatalities investigated were opened within one day (SAMM 10). There were two fatality case files reviewed during the evaluation with no deficiencies noted. A process was developed and implemented to ensure next-of-kin communications are completed and documented in the case file. Therefore, **Finding FY 2018-01** was completed.

c) Targeting and Programmed Inspections

Percent of enforcement presence (SAMM 17) describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. The State Plan had a percent enforcement presence of 2.02%, which was higher than the FRL range of 0.92% to 1.54%. The high enforcement presence indicates that the State Plan is reaching more employers with enforcement activity than the national average.

A total of 1,017 (85%) enforcement inspections were conducted during FY2019. This fell short of the projected goal of 1,200 inspections (SAMM 7). There were 680 safety inspections performed. This was below the FRL of 798. There were 337 health inspections performed. This was slightly

below the FRL of 342. Despite the high turnover of enforcement staff, NVOSHA took action to increase the number of safety inspections. This measure is trending upward from the previous fiscal year and will be tracked and reviewed at quarterly meetings.

The outcome of these inspections resulted in the removal of 22,712 workers from safety and health hazards. Most National Emphasis Programs (NEPs) were adopted identically with few exceptions. Local Emphasis Programs (LEPs) were based on the Bureau of Labor Statistics (BLS) for industries with high injury and illness rates.

Due to the risk of serious worker injuries and illnesses in both the construction and manufacturing industries, targeting efforts continued to focus on increasing inspections in these particular industries. CSHOs identified serious hazards in 75% of inspections in manufacturing (162 of 216 inspections) and 50% in construction (172 of 374 inspections) (SOAR).

The average number of serious, willful, repeat, or unclassified (SWRU) violations was 1.41 per inspection, under the FRL range of 1.43 to 2.15. The average number of violations classified as other-than-serious (OTS) was above the high end of the acceptable range. In FY 2019, an average of 1.30 OTS violations were issued per inspection, compared to the FRL range of 0.78 to 1.16 (SAMM 5). Both of these measures will be tracked and reviewed at quarterly meetings.

The percentage of in-compliance inspections (SAMM 9) increased for safety inspections and decreased for health inspections from the previous year. For FY 2019, the percentage of in-compliance safety inspections was 40.71%. This measure exceeded the upper end of the FRL range of 24.24% to 36.36%. In-compliance health inspections were measured at 33.33%, and were within the FRL range of 28.90% to 43.35%. A large number of FY 2019 cases were still open at the time the data was collected. This measure will be tracked and reviewed at quarterly meetings.

d) Citations and Penalties

Based on information found in the case file review, there was sufficient evidence to support violations. A matrix was developed to ensure consistency in the assignment of severity and probability. This matrix was documented in the worksheet and found to be consistently applied across all inspections. **Observation FY 2018-OB-01** was evaluated and violations were found to be appropriately classified. Therefore, this observation was closed.

Table 1
Average Current Serious Penalty in Private Sector (SAMM 8)

Number of Workers	NVOSHA FY 2019	3 Year National Average	FRL
1-250+	\$2,232.45	\$2,871.96	\$2,153.97 to \$3,589.95
1-25	\$1,592.49	\$1,915.86	\$1,436.89 to \$2,394.82
26-100	\$2,682.19	\$3,390.30	\$2,542.73 to \$4,237.88
101-250	\$3,119.80	\$4,803.09	\$3,602.31 to \$6,003.86
250+	\$3,861.02	\$5,938.59	\$4,453.94 to \$7,423.23

The average current penalty per serious violation in private sector (1 to greater than 250 workers) (SAMM 8) increased from the previous years to \$2,232.45. This measure was within the FRL

range. Penalties were also within the FRL range for employers with 1-25 and 26-100 workers. Penalties were under the FRL range for employers with 101-250 and greater than 250 workers. OSHA will continue to review average penalties with Nevada OSHA during quarterly meetings.

The average lapse time for safety inspections increased from 45.20 days in FY 2018 to 59.04 days in FY 2019, and was above the upper level of the FRL (38.08 – 57.13 days). Citations for health inspections were issued in an average of 64.59 days. Although this was within the FRL of 45.78-68.68 days, the number has been trending upwards over the last three fiscal years. Table 2 shows that lapse time has increased over the past three fiscal years.

Table 2
Citation Lapse Time (SAMM 11)

	FY 2017	FY 2018	FY 2019	SAMM 11 FRL
Safety	41.28 days	45.20 days	59.04 days	38.08-57.13 days
Health	41.35 days	50.18 days	64.59 days	45.78-68.68 days

Observation FY 2019-OB-01: The citation lapse time (SAMM 11) for safety and health inspections has increased each year for the past three years.

Federal Monitoring Plan FY 2019-OB-01: OSHA will monitor this issue and work with NVOSHA to identify potential sources of the increase and recommend improvement measures.

The application of multiple penalty adjustment factors was noted in **Observation FY 2018-OB-02**. The on-site case file review determined penalties were correctly calculated and this observation was closed.

e) Abatement

Abatement periods, overall timeliness, and classification were generally identified as appropriate during the case file review. There were two observations relating to appropriate abatement periods and classification of “Corrected During Inspection.”

Abatement periods were set in accordance with the Nevada Operations Manual (NOM) guidance. However, in one inspection with a violation related to an unauthorized personnel being permitted to ride powered industrial trucks, 30 calendar days were allocated when a single calendar day would have been appropriate to abate the condition.

Interviews with compliance officers and first level supervisors revealed a lack of understanding towards the abatement classification “Corrected During Inspection.” The compliance staff understood the classification to apply to abatement submitted after the site inspection, but prior to citation issuance. The correct application, in accordance with the NOM, is for abatement witnessed on-site by the CSHO.

Observation FY 2019-OB-02: In 3 of 32 (9.4%) inspections with citations, the abatement was marked as “Corrected During Inspection;” however, the CSHO did not observe the abatement during the on-site portion of the inspection.

Federal Monitoring Plan FY 2019-OB-02: OSHA will monitor NVOSHA’s progress and discuss at quarterly meetings to ensure staff has been appropriately trained towards the classification requirements of the NOM Ch.7.6.b.

f) Worker and Union Involvement

The NOM, in general, provides adequate policies and procedures addressing worker involvement during the inspection process. However, in 2017, the NOM was revised and the requirements for documenting employee interviews were moved to an alternate section. While the OSHA FOM requires information regarding worker and union involvement be entered in OIS, in the OSHA-1A, the NOM is not clear about data entry requirements. These requirements are expected to be corrected in the 2020 NOM revision. In the meantime, OSHA recommends that NVOSHA issue interim guidance to staff about OIS data entry until the 2020 NOM revision is completed.

OIS data indicated that the percent of initial inspections with worker walk around representation or worker interview (SAMM 13) was 99.71% (1014 of 1017), lower than the FRL of 100%. The three cases where employee participation was not recorded in OIS could be due to a data entry error. The case file review revealed that in four of 44 inspections, information about employee participation was not documented in either the OIS or the narrative. OSHA will monitor concerns about worker involvement documentation as Observation FY 2019-OB-03.

Observation FY 2019-OB-03: In 4 of 44 (9.1%) case files, worker involvement was not documented in the inspection narrative or the OSHA 1A.

Federal Monitoring Plan FY 2019-OB-03: OSHA will monitor NVOSHA’s progress to ensure the revision to the NOM regarding worker involvement data entry is completed.

Three case files were reviewed where a union was identified, and citations were issued to the employer. In all three cases with union participation, the union received a copy of the citation. Therefore, **Finding FY 2018-02** was completed.

3. REVIEW PROCEDURES

a) Informal Conferences

Informal settlement provisions provided employers the right of review, and workers or their representatives the opportunity to participate in the proceedings. The penalty retention rate was 70.19% of the assessed penalties, which is within the FRL range of 56.42% to 76.33% (SAMM 12). Informal conference procedures in the NOM are similar to OSHA’s. An informal conference worksheet was utilized to ensure proper documentation of the main issues, potential courses of action, and proposed settlement offers. The program review found this worksheet to be highly effective towards meeting the requirements of the NOM. While the worksheet was present in each case file where an informal conference was performed, there were multiple

instances where critical sections were left blank. When a violation is reclassified or a reduction in penalty is proposed, the NOM requires that the case file be documented with the justification for the change. In 14 cases with penalty reductions, seven of the files did not contain documentation to justify the change. In addition, when the reduction exceeds 50% of the original penalty amount, the NOM requires that the CAO (or designee) approve the reduction. There were eight cases where the penalty reduction exceeded 50%. In four of these cases, the case file did not contain evidence of the CAO approval.

Finding FY 2019-01: In 7 of 14 (50%) case files where citations were reclassified and/or the penalty amount was reduced, the justification for the change was not documented in the case files.

Recommendation FY 2019-01: NVOSHA should develop and implement procedures to ensure the justification for citation and/or penalty reduction is documented where required by the NOM.

Finding FY 2019-02: In 4 of 8 (50%) case files where penalty reductions of greater than 50% were offered, the Chief Administrative Officer (or designee) approval was not documented in the case files.

Recommendation FY 2019-02: NVOSHA should develop and implement procedures to ensure the Chief Administrative Officer (or designee) approval is documented where required by the NOM.

There were no cases with changes made to a citation resulting from an informal conference where the informal settlement agreement was not maintained in the file. Therefore, **Finding FY 2018-03** was completed.

b) Formal Review of Citations

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

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

The Review Board provides administrative review of appeals for contested citations. The recently passed SB40 provides a contest period of 30 calendar days from citation issuance as opposed to 15 working days. There is an additional provision that gives the employer the opportunity to have the case reviewed by the CAO (or designee) prior to a review board hearing. Affected workers are entitled to participate in hearings before the Review Board. Decisions of the Review Board may be appealed to the appropriate State District Court. Appeals from the Nevada District Courts go up to the State Supreme Court. At the end of the fiscal year, there were 13 cases scheduled for hearing.

The average lapse time from receipt of a contest to a first level decision was 120.4 workdays, which is fewer than OSHA's lapse time of 158.8 workdays and the national average of 148 workdays (SIR 8). NVOSHA's post-contest performance was comparable to the federal national average. Private sector violations were vacated 20.7%, which is comparable to OSHA's rate of 20.2%.

The reclassification rate of private sector violations was 9.4% compared with 17.4% for OSHA, and 12.2% for the national average (SIR 6B). Although the reclassification performance was notable, penalties were retained at a slightly lower rate at 59.7%, compared with 62.8% for OSHA, and 62.6% for the national average (SIR 7B).

There were five previous findings noted as action taken, pending verification from the FY 2018 FAME follow up relating to informal conference protocols. During the casefile review, it was noted that the informal settlement agreements were signed by all appropriate parties prior to the 15-working day contest period per the NOM Chapter 15, and **Finding FY 2018-04** was completed. It was also noted that the informal settlement agreements were signed first by the employer, and last by the District Manager per the NOM Chapter 8. Therefore, **Finding FY 2018-05** was completed.

During the case file reviews, it was noted that employers were no longer re-issued amended citations, with an additional 15 days to contest, as a result of an informal conference. **Finding FY 2018-06** was completed. Additionally, confidential employee statements were no longer shared with employers during informal conferences. Therefore, **Finding FY 2018-07** was completed.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

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

Standard and federal program changes were typically adopted identically and on time, except those requiring approval by the Nevada Legislature. The legislature only meets biennially and this does not always allow for timely adoption of standards.

Statute SB40, allowing annual adoption of the Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation, was approved by the Governor on May 23, 2019. This law had varying implementation dates with full implementation on October 1, 2019 and allows future penalty increases to be adopted automatically.

Another statute, AB348, Workplace Violence at Medical Facilities, was approved by the Governor on June 12, 2019. The law, NRS 618.7301-7318, requires certain medical facilities to develop and carry out a plan for the prevention of workplace violence and report incidents to the Division of Industrial Relations of the Department of Business and Industry. NVOSHA did not notify OSHA of this State Initiated Change (SIC) for review and approval. This law has

varying implementation dates with a full implementation scheduled for July 1, 2021. OSHA will work with the state to ensure that all SICs will be submitted for approval.

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

Table 3
Status of FY 2019 Federal Standards Adoption
(May include any outstanding standards from earlier fiscal years)

Standard:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
Final Rule on the Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	7/15/2019	Yes	Yes	11/14/2019	Not Yet Adopted
Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	11/15/2019	Yes	Yes	7/23/2019	5/23/2019
29 CFR Part 1904 Final Rule on the Tracking of Workplace Injuries and Illnesses	10/1/2019	08/5/2019	Yes	Yes	2/1/2020	Not Yet Adopted
Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	11/15/2019	Yes	Yes	5/9/2019	Not Yet Adopted

Table 4
Status of FY 2019 Federal Program Change (FPC) Adoption
(May include any outstanding FPCs from earlier fiscal years)

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
<i>Adoption Required</i>						
National Emphasis Program on Trenching and Excavation CPL 02-00-161 (10/1/2018)	11/30/2018	11/27/2018	Yes	Yes	4/1/2019	4/1/2019 Awaiting Plan Change Supplement
<i>Equivalency Required</i>						
Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment CPL 02-01-061	7/21/2019	7/9/2019	No	No	11/22/2019	N/A

(5/22/2019)						
Shipyards Employment "Tool Bag" Directive CPL 02-00-162 (5/22/2019)	7/21/2019	7/9/2019	No	No	11/22/2019	N/A
Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyards Employment CPL 02-01-060 (5/22/2019)	7/21/2019	7/9/2019	No	No	11/22/2019	N/A
Site-Specific Targeting 2016 (SST-16) CPL 02-18-01 (10/16/2018)	12/15/2018	11/29/2018	No	No	4/16/2019	N/A
Whistleblower Investigations Manual CPL 02-03-007 (10/28/2016)	3/11/2016	4/27/2016	Yes	No	N/A	11/09/2018, Awaiting Plan Change Supplement
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019	7/9/2019	No	No	N/A	N/A

**Table 5
State Plan Initiated Changes**

Rulemaking (State Plan Initiated Changes):	Effective Date:	Concurrence Date:
OSHA 10-hour and 30-hour training requirement Convention Services and Entertainment Industries	11/4/2019	Pending Federal Review
Workplace Violence in Medical Facilities	6/12/2019	Pending Federal Review

5. VARIANCES

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

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

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

is comprised of approximately five percent of the state's employment. Eighteen inspections (1.77% of total inspections) were conducted in state and local government workplaces, up from 15 the previous year (1.53% of total inspections) (SAMM 6). This was below the goal of 25 inspections and lower than the FRL range of 3.17% to 3.50%. This measure will be tracked and reviewed at quarterly meetings.

7. WHISTLEBLOWER PROGRAM

Claims of workplace retaliation for reporting occupational safety and health issues are investigated by the Nevada Occupational Safety and Health Whistleblower Investigations Unit. There were four investigators assigned to be full-time whistleblower investigators. These investigators attended the required OSHA-specific whistleblower training.

Based on a case file review, the OSHA policies and procedures outlined in the Whistleblower Investigations Manual (WIM) are generally followed. Nevada OSHA has completed 54% of their retaliation investigations within 90 days (SAMM 14) above the national average of 34%. Their merit rate was 27% (SAMM 15) and again above the national average of 23%. In addition, the average days to complete a retaliation investigation was 113 days (SAMM 16), which was below the national average of 284, but above the FRL of 90 days. Finally, it was noted that in 19 of the 38 (50%) closed cases reviewed, there were copies of the associated health and safety inspections, pointing to a very effective relationship between the Nevada OSHA enforcement section, and the Whistleblower Protection unit.

The review of 38 retaliation case files noted that the respondent was provided a closing letter, and that data had been properly entered into WebIMIS in all cases. This adequately addressed **Findings FY 2018-08** and **Finding FY 2018-09** and they were considered completed.

Administratively closed cases require a review by the supervisor to ensure all procedures are followed. During the case file review, 22 of the 42 (52%) cases did not contain evidence or documentation that a supervisory review was conducted. While this was found in a large portion of the cases reviewed, all of the procedures for an administratively close case were followed and only lacked supervisory review.

Observation FY 2019-OB-04: In 22 of 42 (52%) administratively closed investigation files there was no evidence of a supervisory review noted in the files.

Federal Monitoring Plan FY2019-OB-04: OSHA will monitor quarterly that Nevada OSHA is conducting and documenting a supervisory review of the file.

Settlement agreements must be reviewed to ensure procedural guidance is followed. During the retaliation case file reviews, three settlements contained waivers of future employment with no analysis of the required factors, one allowed the complainant to withdraw without Nevada OSHA seeing the settlement, and one file did not contain proof of the complainant's wages.

Observation FY 2019-OB-05: In 5 of 13 (38%) settlement cases, procedural guidance was not followed.

Federal Monitoring Plan FY2019-OB-05: OSHA will monitor quarterly that Nevada OSHA is ensuring documentation and procedural guidance are followed in settlement cases.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

There was one CASPA, 2019-NV-34, investigated during the evaluation period. The CASPA alleged an inspection was performed relating to a workplace injury incident where employee and witness interviews were not performed, the complainant was not provided a copy of the inspection findings, and the complainant would be charged a fee in order to receive a copy of the findings. A review of the complaint case file determined that interviews were conducted with employees and management officials. The case file contained a copy of an email from the complainant stating that a copy of the findings was not received, so a digital copy was immediately sent to the complainant without charge. It could not be established who may have informed the complainant that a fee would be required in order to receive the copy. As a result, there was no merit to the allegations and the CASPA was closed on April 3, 2019. The State Plan response to the original CASPA letter was not timely.

9. VOLUNTARY COMPLIANCE PROGRAM

Management of the Nevada Voluntary Protection Program (VPP) was successfully transferred over to SCATS. SCATS has a broader range of resources, including more opportunities for outreach, and fewer staff turnover issues than NVOSHA. A VPP site, Ocean Spray Cranberry in Henderson, NV, was awarded Star status in December of 2018. The five-year strategic goal to award five VPP Star Certifications by the end of FY 2020 remains in place and actions are being taken to meet this goal. Currently, there are 10 VPP sites with three current applications, and two projected renewals.

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

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

In FY 2019, 25 initial consultation visits were conducted in state and local government workplaces. Of the 25 visits conducted, 23 (92%) were to smaller businesses with fewer than 250 employees (MARC 2A), and 24 visits (96%) were conducted at establishments with fewer than 500 employees. Both measures exceeded the goal of 90% (MARC 2B). In all consultation visits, the consultant conferred with employees 100% of the time (MARC 3).

During this evaluation period, 135 serious hazards were identified and all (100%) were corrected in a timely manner. A total of 20 serious hazards were corrected on-site, 83 within the original time, and 32 within the extension time frame. Of these, 103 of 135 (76.3%) were corrected within the original timeframe or on-site, exceeding the goal of 65%. No employers were referred to enforcement (MARC 4A-4D).

Appendix A – New and Continued Findings and Recommendations

FY 2019 Nevada Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 2018-#
FY 2019-01	In 7 of 14 (50%) case files where citations were reclassified and/or the penalty amount was reduced, the justification for the change was not documented in the case files.	NVOSHA should develop and implement procedures to ensure the justification for citation and/or penalty reduction is documented where required by the NOM.	
FY 2019-02	In 4 of 8 (50%) case files where penalty reductions of greater than 50% were offered, the Chief Administrative Officer (or designee) approval was not documented in the case files.	NVOSHA should develop and implement procedures to ensure the Chief Administrative Officer (or designee) approval is documented where required by the NOM.	

Appendix B – Observations Subject to New and Continued Monitoring
 FY 2019 Nevada Comprehensive FAME Report

Observation # FY 2019-OB-#	Observation# FY 2018-OB-#	Observation	Federal Monitoring Plan	Current Status
	FY 2018-OB-01	In FY 2017, there were 9 of 59 (15%) of case files with violations where the severity and probability assigned to at least one of the violations was not justified and/or the violations were not appropriately classified for the severity of the injury that could occur as related to the hazard.		Closed
	FY 2018-OB-02	In FY 2017, in all 37 (100%) files with multiple penalty adjustment factors, the calculation used was incorrect and was not applied serially as described in the NOM.		Closed
FY 2019-OB-01		The citation lapse time for safety and health inspections (SAMM 11) has increased each year for the past three years.	OSHA will monitor this issue and work with NVOSHA to identify potential sources of the increase and recommend improvement measures.	New
FY 2019-OB-02		In 3 of 32 (9.4%) of inspections with citations, the abatement was marked as “Corrected During Inspection;” however, the CSHO did not observe the abatement during the on-site portion of the inspection.	OSHA will monitor NVOSHA’s progress and discuss at quarterly meetings to ensure staff has been appropriately trained towards the classification requirements of the NOM Ch.7.6.b.	New
FY 2019-OB-03		In 4 of 44 (9.1%) case files, worker involvement was not documented in the inspection narrative or the OSHA 1A.	OSHA will monitor NVOSHA’s progress to ensure the revision to the NOM regarding worker involvement data entry is completed.	New

Appendix B – Observations Subject to New and Continued Monitoring

FY 2019 Nevada Comprehensive FAME Report

FY 2019-OB-04		In 22 of 42 (52%) of administratively closed investigation files there was no evidence of a supervisory review noted in the files.	OSHA will monitor quarterly that Nevada OSHA is conducting and documenting a supervisory review of the file.	New
FY 2019-OB-05		In 5 of 13 (38%) of settlement cases, procedural guidance was not followed.	OSHA will monitor quarterly that Nevada OSHA is ensuring documentation and procedural guidance are followed in settlement cases.	New

Appendix C - Status of FY 2018 Findings and Recommendations

FY 2019 Nevada Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2018-01	In FY 2017, in all seven (100%) fatality investigation case files reviewed, required fatality investigation documentation was missing including a final next-of-kin letter and a fatality report.	NVOSHA should ensure all required documentation is contained in each fatality investigation case file such as the OIS fatality report and next-of-kin letter.	NVOSHA drafted a reference guide on required fatality investigation documentation, and trained management and staff.	10/31/2018	Completed
FY 2018-02	In FY 2017, there was no evidence the union was sent citations in 9 of 15 (60%) safety and health case files reviewed where a union was identified to represent employees.	NVOSHA should ensure citations are provided to all employee representatives and/or unions and document this information in OIS.	NVOSHA reviewed and retrained management on the required notifications for businesses with labor representation on site. Direct supervisors continued to review the union representation section prior to file processing.	10/31/2018	Completed
FY 2018-03	In FY 2017, there were 3 of 22 (14%) cases with changes made to a citation resulting from an informal conference where the informal settlement agreement was not maintained in the file.	NVOSHA should ensure all informal settlement agreements are maintained in the case file.	NVOSHA restructured the processes involved in the Informal Conference practices. This restructuring addressed findings FY 2017-04, 05, 06, 07. NV OSHA coordinated directly with the Las Vegas Area Office to exchange practices, procedures, and forms to ensure parallel performance.	11/06/2018	Completed

Appendix C - Status of FY 2018 Findings and Recommendations

FY 2019 Nevada Comprehensive FAME Report

FY 2018-04	In FY 2017, there were 10 of 19 (53%) cases reviewed where informal settlement agreements were received and signed, after the 15-working day contest period.	NVOSHA should ensure all informal settlement agreements are signed by all appropriate parties prior to the 15-working day contest period per the NOM Chapter 15.	NV OSHA restructured the processes involved in the Informal Conference practices. This restructuring addressed findings FY 2017-04, 05, 06, 07. NV OSHA coordinated directly with the Las Vegas Area Office to exchange practices, procedures, and forms to ensure parallel performance.	11/06/2018	Completed
FY 2018-05	In FY 2017, there were 4 of 19 (21%) cases with a signed informal settlement agreement in the file where the District Manager signed before the employer.	NVOSHA should ensure all informal settlement agreements are signed first by the employer, and last by the District Manager per the NOM Chapter 8.	NVOSHA restructured the processes involved in the Informal Conference practices. This restructuring addressed findings FY 2017-04, 05, 06, 07. NV OSHA coordinated directly with the Las Vegas Area Office to exchange practices, procedures, and forms to ensure parallel performance.	11/06/2018	Completed
FY 2018-06	In FY 2017, employers were provided an additional right to contest of 15-working days after receipt of an amended citation.	NVOSHA should ensure employers are not afforded any additional contest period beyond the initial 15-working days past receipt of the original citation.	NVOSHA restructured the processes involved in the Informal Conference practices. This restructuring addressed findings FY 2017-04, 05, 06, 07. NV OSHA coordinated directly with the Las Vegas Area Office to exchange practices, procedures, and forms to ensure parallel performance.	11/06/2018	Completed

Appendix C - Status of FY 2018 Findings and Recommendations

FY 2019 Nevada Comprehensive FAME Report

FY 2018-07	In FY 2017, confidential worker interview statements taken during the course of the inspection were shared with the employer during an informal conference.	NVOSHA should ensure confidential worker interview statements are not released or shared with an employer at any time during an open investigation.	NVOSHA retrained management and staff on practices associated with the handling of confidential information. This issue was reviewed with managing staff at a meeting held on August 7, 2018.	08/07/2018	Completed
FY 2018-08	In FY 2017, in two of eight (25%) of whistleblower retaliation investigations that were dismissed, there was no evidence documented in the file that Respondents were either sent or received a closing letter.	NVOSHA should ensure closing letters are sent to all appropriate parties after a determination is made.	NVOSHA reviewed practices for finalization of whistleblower case files. At the completion of the file closure review, NVOSHA trained management and staff accordingly. The whistleblower supervisor continued to review the file prior to closure to ensure a closing letter was sent.	10/31/2018	Completed
FY 2018-09	In FY 2017, in 10 of 19 (53%) cases reviewed, information on workplace retaliation investigations was not accurately entered into WebIMIS.	NVOSHA should ensure information is entered into WebIMIS in an accurate manner.	NVOSHA ensured that each employee had completed the requisite training towards the WebIMIS system no later than October 31, 2018. New employees completed the WebIMIS training as part of their new hire training pipeline and in conjunction with the senior investigator mentorship process. Furthermore, the direct supervisor reviewed each file at the time of submittal to ensure accurate completion.	10/31/2018	Completed

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 Nevada Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Nevada – NEVADA OSHA			FY 2019	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	7.60	14	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.82	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	2.17	5	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	1.81	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.41	+/- 20% of SWRU: 1.79	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
		Other: 1.30	+/- 20% of Other: 0.99	
6	Percent of total inspections in state and local government workplaces	1.77%	+/- 5% of 3.33%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 3.17% to 3.50%.
7	Planned v. actual inspections – safety/health	S: 680	+/- 5% of S: 840	The further review level is based on a number negotiated by

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

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		H: 337	+/- 5% of H: 360	OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 798 to 882 for safety and from 342 to 378 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$2,232.45	+/- 25% of \$2,871.96	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	a. Average current serious penalty in private sector (1-25 workers)	\$1,592.49	+/- 25% of \$1,915.86	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	b. Average current serious penalty in private sector (26-100 workers)	\$2,682.19	+/- 25% of \$3,390.30	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	c. Average current serious penalty in private sector (101-250 workers)	\$3,119.80	+/- 25% of \$4,803.09	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,861.02	+/- 25% of \$5,938.59	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.
9	Percent in compliance	S: 40.71%	+/- 20% of S: 30.30%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
		H: 33.33%	+/- 20% of H: 36.12%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 59.04	+/- 20% of S: 47.61	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and
		H: 64.59	+/- 20% of H: 57.23	

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 Nevada Comprehensive FAME Report

				from 45.78 to 68.68 for health.
12	Percent penalty retained	70.19%	+/- 15% of 66.38%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.71%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	54%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	27%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
16	Average number of calendar days to complete an 11(c) investigation	113	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	2.02%	+/- 25% of 1.23%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 12, 2019, as part of OSHA's official end-of-year data run.

Appendix E - FY 2019 State OSHA Annual Report (SOAR)

FY 2019 State OSHA Annual Report

STATE OF NEVADA

Department of Business & Industry
Division of Industrial Relations

Occupational Safety & Health Administration



October 1, 2018 – September 30, 2019

Prepared by:
Tristan Dressler, Program Coordinator, NVOSHA

Submitted: December 11, 2019

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Appendix E - FY 2019 State OSHA Annual Report (SOAR)

I. Executive Summary

Operating under an approved State Plan for 45 years, the Nevada Occupational Safety and Health Administration (NVOSHA) Program is a results-oriented program that strives to ensure that employers provide Nevada workers safe and healthful working conditions.

The Division of Industrial Relations (DIR), of the Department of Business and Industry (DBI) administers the Program. Terry Reynolds is Director of DBI, Ray Fierro is Administrator of DIR and the State Plan Designee, Jess Lankford is Chief Administrative Officer (CAO) of NVOSHA, and Todd Schultz is CAO of the Nevada Safety Consultation and Training Section (SCATS).

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

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

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

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

For FY2019, NVOSHA's Annual Performance Plan goals were to:

- *Goal 1.1* - Reduce worker injury and illness DART (Days Away, Restricted, or Transferred) rate by 1 percent.
- *Goal 1.2* - Remove at least 22,000 employees from exposure to potential workplace safety and health hazards.
- *Goal 2* - Increase the number of participants in the Nevada Voluntary Protection Program (VPP) Star Program by awarding one site.
- *Goal 3* - Conduct field training and evaluate the performance of at least 80 percent of field compliance safety and health officers (CSHOs).

NVOSHA met or closely approached the above goals in the evaluation period. The state's DART rate for all industries dropped 5% from CY2017's 2.0 to 1.9 in CY2018 (*Goal 1.1*). After raising the goal from 18,000 employees for FY2017 to 22,000 for FY2018, the agency identified 22,712 employees as removed from exposure to workplace safety and health hazards following inspection in FY2019.

SCATS awarded the VPP Star to one establishment (*Goal 2*) and the agency trained/evaluated 100% of its field CSHOs (*Goal 3*).

In FY2019, the agency conducted 1,039 inspections, 161 inspections below its projection of 1,200 inspections. 688 safety and 333 health inspections were in the private sector; 11 safety and six health inspections were in the state and local government sectors.

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The following pages further illustrate how NVOSHA activities measured up against its goals for FY2019 and its five-year strategic plan.

II. Summary of Annual Performance Plan Results

Strategic Goal 1. Workplace Safety and Health. Reduce workplace injuries and illnesses within the state.
Performance Goal 1.1: Reduce worker injury and illness DART (Days Away, Restricted, or Transferred) rate by 1 percent.
Strategies: Focus inspections on construction and manufacturing, with emphasis on the most common causes of workplace fatalities (e.g., falls, electrocution, struck-by, caught-in/between objects). <ul style="list-style-type: none">• In Construction, primary targets for programmed inspections will be derived from Construction Dodge Reports. The inspection priority list will include construction projects that met the criteria set by Nevada Administrative Code 618.494.• In Manufacturing, Nevada OSHA will select establishments using its Inspection Targeting Plan. For 2019, NVOSHA's inspections will focus on establishments that include the following industries:<ul style="list-style-type: none">○ Wood Product Manufacturing (NAICS 321xxx)○ Fabricated Metal Manufacturing (NAICS 332xxx)○ Plastics and Rubber Manufacturing (NAICS 326xxx)○ Food Manufacturing (NAICS 311xxx)• Inspect establishments that include the following industries under Local and Special Emphasis Programs:<ul style="list-style-type: none">○ Hotels (NAICS 721110)○ Casino-Hotels (NAICS 721120)○ General Auto Repair (NAICS 811111)○ Automotive Body, Paint, and Interior Repair and Maintenance (NAICS 811121)○ Linen Supply (NAICS 812331)○ Industrial Launderers (NAICS 812332)○ Shooting Ranges○ Scaffolding
Performance Indicator(s): <ul style="list-style-type: none">• Conduct 480 construction inspections, 220 manufacturing inspections, and 5 other inspections.• Remove 22,000 employees from exposure to potential safety and health hazards.

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- Decrease state DART rate by 1% in CY2016-CY2019.

FY2019 Results:

- NVOSHA conducted 374 inspections in construction, 216 inspections in manufacturing, and 449 inspections in other industries.
- NVOSHA removed 22,712 employees from exposure to potential safety and health hazards.
- Nevada DART rate for all industries dropped 5.0% in CY2018 (1.9) compared to CY2017 (2.0).

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

Conclusion: NVOSHA exceeded its goal of decreasing the state DART rate by 1% in CY2018.

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

Annual Performance Goal 1.2: Remove at least 22,000 employees from exposure to potential safety and health hazards.

Strategies:

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

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<p>Performance Indicator(s):</p> <ul style="list-style-type: none">• Number of inspections conducted.• Number of employees removed from hazards.
<p>FY2019 Results:</p> <ul style="list-style-type: none">• NVOSHA conducted 1,039 inspections.• NVOSHA removed 22,712 employees from exposure to potential safety and health hazards. <p>Source: OIS Reports (Inspection Summary and Violation Detail Reports).</p>
<p>Conclusion: NVOSHA exceeded its goal of removing 22,000 employees from exposure to potential safety and health hazards.</p>
<p>Strategic Goal 2: Employer Involvement. Change workplace culture through education, outreach, and employer incentives.</p>
<p>Performance Goal 2: Award the Nevada Voluntary Protection Program (VPP) Star to one establishment.</p>
<p>Strategies:</p> <ul style="list-style-type: none">• Meet with employers and employer groups to discuss the VPP process and encourage employers to participate in the Nevada VPP Star Program.• Advertise the VPP program on the NVOSHA website.
<p>Performance Indicators:</p> <ul style="list-style-type: none">• Receive and review at least two VPP applications.• Conduct at least one VPP audit.• Award at least one VPP Star Site.
<p>FY2019 Results:</p> <ul style="list-style-type: none">• Two VPP applications were received/reviewed.• No VPP audits were conducted.• One new VPP Star Site was awarded. <p>Source: VPP Log</p>
<p>Conclusion: NVOSHA met its goal of awarding one VPP Star Site in FY2019.</p>
<p>Strategic Goal 3: Staff Professional Development. Enhance compliance officers' knowledge, skills, and abilities through formal and informal training.</p>

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Performance Goal 3: Conduct field training and evaluate the performance of at least 80% of field compliance officers every year.
Strategies: <ol style="list-style-type: none">1. Review the agency’s Master Training Task Guide and Training Directive(s) to identify requirements2. Schedule and provide formal and informal training to compliance officers to meet requirements3. Trainers or supervisors will schedule and conduct over-the-shoulder evaluations of compliance officers while conducting inspections/investigations in the field. Items such as case preparation, opening/closing conference, hazard recognition, interviewing skills, and case documentation will also be evaluated.4. Trainers or supervisors will prepare evaluation report(s) for review; take corrective action(s), as appropriate.
Performance Indicator: <ul style="list-style-type: none">• Percent of field compliance officers evaluated.
FY2019 Results: <ul style="list-style-type: none">• Compliance supervisors/trainers trained/evaluated 36 of 36 CSHOs or 100% of the average number of field staff. <p style="margin-left: 40px;">Source: Training Tracking Logs and Field Evaluation Reports.</p>
Conclusion: NVOSHA exceeded its goal of training /evaluating 80% of its staff.

III. Progress toward Strategic Plan Accomplishments

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

5-Year Performance Goal 1.1: *Reduce worker injury and illness rate by five percent through FY2019.*

Nevada DART rates continue to drop. BLS Survey of Occupational Injuries and Illnesses Tables for CY2016 through CY18 show a reduction from 2.1 to 1.9. Compared to the strategic goal baseline of 2.2 (2013 DART rate), these numbers represent a 13.6% total decrease from the outset of the strategic planning period. If this trend continues, Nevada will exceed its five-year goal.

As part of its strategic plan, NVOSHA targets workplaces in the manufacturing and construction industries. Of its 1,039 inspections in FY19, 216 were in manufacturing and 374 were in construction.

CSHOs identified serious hazards in 75% of inspections in manufacturing (162 of 216 inspections) and 50% in construction (172 of 374 inspections). The in-compliance rates are 25% and 50%, respectively.

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Understanding that hazard recognition is key to better identification and abatement of workplace hazards, the agency continues to work hard on improving training of compliance staff. The combination of formal classroom training and field evaluation of CSHOs remain to be mainstays of NVOSHA's training program.

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

After significantly exceeding its FY2016 and FY2017 goal of removing 18,000 employees removed from potential workplace safety and health hazards (26,501 and 23,846 employees, respectively), Nevada raised its goal to 22,000 employees for FY2018 and FY 2019. After slightly missing the revised goal in FY2018, the agency exceeded the goal in FY 2019 by removing 22,712 employees. As a result, Nevada OSHA has achieved its goal of removing 90,000 employees from exposure well ahead of the targeted completion date for that goal.

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

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

Nevada awarded one VPP Star Certification and met its goal in FY2019.

Since taking over the administration of VPP in the latter part of FY17, SCATS has received seven new VPP applications and conducted six on-site audits (two new and four re-certifications). In addition to a ready pool of establishments already in SHARP (Safety and Health Recognition Program), SCATS actively reaches out to potential candidates for VPP, and anticipates multiple new participants in FY2020. With its experienced team of consultants in SCATS, Nevada should be on track in awarding five new VPP Star Certification by the end of FY2020.

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

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

Training of staff remains at the top of NVOSHA's priorities. On-site training and evaluation of CSHOs through supervisor-assisted visits are integral components of NVOSHA's training process. They help ensure a competent cadre of compliance staff. NVOSHA is 100% invested in this endeavor and should meet or exceed this goal every year.

IV. Mandated Activities

Nevada's penalty average (measure 8) increased in FY19, and kept pace with the averages for the state plans. Comparison to federal penalty averages shows a significant difference, however this stems from federal penalty increases that were not immediately adopted by Nevada. The 2019 session of the state legislature resulted in the adoption of Senate Bill 40, which adjusted the state plan's penalty structure to permit penalty amounts comparable to the federal program, and should result in noticeable increases to Measure 8 in FY2020.

Nevada's numbers for Measure 9 of the SAMM (State Activity Mandated Measures) showed mixed results. The in-compliance rate (IC) for Health was lower than both state plan and federal rates. However, the IC for Safety exceeded that range.

V. Special Measures of Effectiveness/Special Accomplishments

Public Safety Cooperative Efforts. Recognizing the value in pre-emptive cooperation and coordinated activities, Nevada OSHA has pursued opportunities to work closely with partner public safety and regulatory agencies throughout FY2019. Nevada OSHA provided awareness level training to local fire departments regarding trenching and excavation hazards, confined space hazards in the construction industry, and chemical hazard response operations. Nevada OSHA also drafted a cooperative agreement with the state's Public Utilities Commission to increase interagency support related to excavation and utility safety regulatory operations.

Safety and Health Practitioner Certification Program. SCATS continued its Safety and Health Practitioner Certificate program to heighten the standard of safety in Nevada. The program recognizes those who have completed a curriculum of 27 SCATS training classes within three years of the date of enrollment. Participation in the program has become mandatory for all enforcement personnel.

VI. Adjustments or Other Issues

Enforcement Staff experience. Nevada's CSHO retention in FY2019 increased by 6 percent compared to the previous fiscal year. CSHO turnover rate in FY2019 was 34 percent. A significant contributor to this turnover rate was the departure due to retirement of a number of senior agency personnel. These departures resulted in junior personnel receiving promotions, and in turn vacating lower-level positions, resulting in increased CSHO position turnover.

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VII. State Internal Evaluation Program (SIEP) Report.

NVOSHA primarily uses OIS reports to assess the effectiveness of the state program. The data retrieved from the system provides indicators that help identify potential performance deficiencies, analyze trends, and formulate corrective action(s).

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