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New Mexico Occupational Health and Safety Bureau (OHSB) Directive 15-07

Subject: OHSB Strategic Partnership for Construction

- A. Purpose. In order to achieve a broad effect in reducing injuries, illnesses and fatalities within the construction industry in New Mexico, OHSB utilizes a full range of services including enforcement and cooperative program activities. The OSHA Strategic Partnership Program (OSPP) for worker safety and health, which became effective on November 13, 1998 was designed to broaden the impact of cooperative programs on worker safety and health by reaching out to groups of employers, workers, and labor organizations to encourage, assist, and recognize their efforts to eliminate serious hazards and to achieve a high level of worker safety and health. New Mexico OHSB adopted the federal directive and documented success using the established guidelines to develop partnerships. This directive outlines the continuing OHSB commitment to partner with New Mexico construction industry organizations, employers and workers.
- B. Scope. This notice applies to the State of New Mexico OHSB.
- C. References. The following documents are referenced in or applicable to this instruction.
1. New Mexico Occupational Health and Safety Act, Sections 50-9-1 through 50-9-25NMSA
 2. New Mexico Field Operations Manual
 3. New Mexico Occupational Health and Safety Bureau (OHSB) Directive 14-02, Local Emphasis Program (LEP) for Health and Safety Hazards in the Construction Industry
 4. OSHA Instruction CSP 03-02-003, OSHA Strategic Partnership Program for Worker Safety and Health (effective November 6, 2013)
 5. OSHA Instruction CSP 03-02-002, OSHA Strategic Partnership Program for Worker Safety and Health, December 9, 2004 (effective February 10, 2005)
- D. Cancellation. This instruction cancels the New Mexico Occupational Health and Safety Bureau (OHSB) Directive 14-07, OHSB Strategic Partnership for Construction.
- E. Expiration. This instruction has no specified expiration date.
- F. Differences from Federal Directive
1. Application. The OHSB OSPP applies only to employers within the construction industry when performing work at construction worksites.

2. Enforcement incentives. OHSB will continue to make available deferral from programmed inspections for high-level members of partnerships and specify certain procedures to be followed when responding to referrals and complaints for partnership members. OHSB has established partnership agreements with construction organizations that incorporate these incentives.

G. Definitions

1. Annual Evaluation. A yearly self-assessment to gauge the effectiveness of the OSPC. This assessment is conducted by the Consultation Program Manager and reviewed by the Bureau Chief.
2. Construction. Construction is a high-hazard industry that comprises a wide range of activities involving construction, alteration or repair.
3. OHSB Strategic Partnership for Construction (OSPC). An OSPC is a voluntary, cooperative relationship between OHSB and groups of employers and other interested stakeholders designed to encourage, assist, and recognize efforts to eliminate serious hazards at construction worksites.
4. OSPC Primary Contact. The member of the OHSB staff who oversees a particular partnership is the OSPC primary contact. This is typically an OHSB compliance assistance specialist (CAS).
5. Programmed Inspection. Enforcement inspections of worksites that have been scheduled based upon objective or neutral selection criteria. These worksites are selected according to New Mexico OSHA scheduling plans as described in Chapter II of the [Field Operation Manual](#).
6. Safety and Health Management Systems (SHMS). Effective workplace SHMS are self-sustaining systems, encompassing four main areas: management, leadership and worker involvement, worksite analysis, hazard prevention and control, and safety and health training.

- H. Background. OHSB has historically placed significant emphasis on activities in the construction industry in New Mexico to affect reductions in injuries, illnesses and fatalities among workers. The OHSB Local Emphasis Program (LEP) for construction has primarily focused on enforcement activities through the conduct of inspections. To affect larger numbers of employees, OHSB has engaged in cooperative programs such as strategic partnerships. Utilizing highly trained and experienced staff, such as Compliance Assistance Specialists, to coordinate partnership agreements has resulted in a much broader OHSB impact on construction worksites statewide than enforcement efforts alone.

OHSB began entering into partnership agreements with New Mexico construction associations following adoption of the 1998 federal directive. As of June, 2014, OHSB has partnership agreements with six construction associations statewide affecting more than 60 employers. Among other positive outcomes, these agreements have affected improvement in workplace safety at construction worksites by:

1. Establishing methods for sharing of best safety practices among partnership members and between the various partner organizations.
2. Providing for safety training for employees and employers.
3. Allowing OHSB to make efficient use of resources by more effectively targeting enforcement activities and impacting a greater number of workers within the construction industry.

- I. Distinguishing OSPCs from other OHSB Programs/Activities
 1. Enforcement Initiatives. OHSBs local emphasis programs, OSHA national emphasis programs, programmed inspection plans and other enforcement activities are not OSPCs.
 2. OHSB Consultation Program. The OHSB Consultation Program conducts visits to employer's worksites and may conduct a visit to a worksite for a partnership member, but these visits are not part of the OSPC.
 3. Voluntary Protection Program. The Voluntary Protection Program is an achievement and recognition program that recognizes companies who have demonstrated exemplary health and safety management systems and have achieved low injury and illness rates. A member of a partnership can be awarded VPP status, but the programs are separate activities.
 4. Safety and Health Achievement Recognition Program (SHARP). SHARP Program is a Consultation driven achievement and recognition program that recognizes companies who have demonstrated exemplary health and safety management systems and have achieved low injury and illness rates. A member of a partnership may be awarded SHARP status, but the programs are separate activities.
 5. Alliances. OHSB Alliances are with organizations for advancing training activities and for promoting occupational health and safety. These Alliances are not with individual employers and are not associated with the OSPC.

- J. Program Roles and Responsibilities.
 1. Bureau Chief. The Bureau Chief is responsible for overall program management of the OSPC and has these specific duties:
 - a. Extracting lessons learned from OSPC experience and individual evaluations, enabling OHSB to continually improve the program.
 - b. Communicating successes to OHSB staff, industry and the public, and promoting OSPC within New Mexico.
 - c. Approving entry of all employers as members, and approving the level of recognition for the employer within the partnership.
 - d. Approving the establishment or renewal of a partnership.
 - e. Participating in recognition ceremonies honoring partnerships and members.
 2. Consultation Program Manager
 - a. Collecting, analyzing, and managing data gathered for annual OSPC evaluations.
 - b. Making recommendations to the Bureau Chief regarding entry of employers to partnerships and for partnership renewal.
 - c. Maintaining a current list of employers, with associated level of recognition, for all OSPC members and posting this list on the OHSB web page.
 - d. Maintaining an electronic copy of each membership agreement and posting this agreement on the OHSB web page.
 - e. Participating in recognition ceremonies honoring partnerships and members.
 - f. Playing a key role in developing the strategies for program evolution.

- g. Coordinating with Compliance Program Manager when referrals are directed to the Primary Contact to ensure a prompt investigation of the incident or activity that prompted the referral.
3. OSPC Primary Contact. OHSB has a substantial stake in ensuring that each OSPC operates effectively. Therefore, a Compliance Assistance Specialist will be designated as the primary contact and will perform a variety of activities, including:
 - a. Performing on-site visits at member's worksites for evaluating their safety and health management system and to identify any observed hazards.
 - b. Entering on-site verification visits and other activities in OSHA database as required.
 - c. Ensuring that all observed hazards identified during on-site visits are quickly and adequately corrected.
 - d. Maintaining records of on-site visits and ensuring that all high level members have annual on-site visits.
 - e. Reporting the results of on-site visits to the partnership verification committee.
 - f. Participating in verification committee meetings and reporting the recommendations of the committee meetings to the Consultation Program Manager.
 - g. Ensuring that OHSB carries out its responsibilities – e.g., that OHSB offers technical assistance and training within partnerships.
 - h. In the event the Compliance Program Manager decides to direct a referral to the Primary Contact, conducting a prompt investigation of the incident or activity that prompted the referral.
 - i. Providing to the Compliance Program Manager the results of an investigation resulting from a referral to compliance.
 - j. Facilitating and participating in recognition ceremonies honoring members and partnerships.
 4. Compliance Program Manager
 - a. Ensuring that deferrals from programmed inspections are provided for employers who are listed on the OHSB web site as being approved at the top level of a partnership.
 - b. Ensuring that the Field Operation Manual guidelines for un-programmed inspections are followed for partnership members.
 5. Partnership Steering Committees (PSC). Each partnership has a steering committee, made up of selected members of the partnership and the Primary Contact, who are responsible for the following:
 - a. Reviewing all applications for membership and reviewing the applications to determine acceptance into the partnership.
 - b. Informing OHSB of all membership status changes.
 - c. Providing data to OHSB for annual evaluations.
 - d. Ensuring that the partnership is conducted in conformance with the partnership agreement.
 6. Partner Employers. Each OSPC partner plays a key role in implementing the OSPC, including the following activities:

- a. Compiling their injury and illness data and providing it on a timely basis to the partnership steering committee.
- b. Working with OHSB on any on-site OSPC activities.
- c. Collaborating on the development of the OSPC annual evaluation.
- d. Fulfilling the roles and responsibilities agreed to in the OSPC agreements.

K. Core Elements of the OSPC Agreement

All OSPC agreements must be in writing. When the Bureau Chief approves an OSPC and the partners sign the agreement, the Consultation Program Manager will post the agreement on the OHSB web page. The particular structure of the OSPC agreement may vary, however, the following core elements must be contained in the agreement:

- 1. **Identification of Partners.** The agreement shall identify all partners and the organizational boundaries of the OSPC.
- 2. **Purpose/goals.** The purpose and goals of the partnership shall be clearly defined.
- 3. **Safety and Health Management System (SHMS).** Employers participating in OSPC must have an effective site-based SHMS. A partnering employer must commit to worker involvement in the OSPC and their SHMS. The OSPC agreement must detail how workers and/or their representatives will be involved within the SHMS.
- 4. **Worker Rights.** All agreements shall include the following statement: “This agreement does not preclude employees and/or their representatives from exercising any right provided under the OHS Act.”
- 5. **Performance Measures.** Effective quantitative performance measures linked to OSPC goals shall be identified in the OSPC agreement.
- 6. **Annual Evaluations.** OSPC agreements shall provide details on conducting the annual evaluation that is a collaborative effort between OHSB and its partners. The elements of the annual evaluation should include the following items:
 - a. Comparison of the injury and illness rates for all members to state and national rates for similar industries.
 - b. Evaluation of the number of members participating and the number participating at the various levels of participation.
 - c. Evaluation of the number of training sessions conducted by the partnership.
 - d. Number of onsite inspections conducted by OHSB by participant.
 - e. Suggestions from partnership members and from OHSB for improving the effectiveness of the partnership.
 - f. Physical review of partnership documentation.
- 7. **Steering Committee.** The OSPC should define a steering committee whose function will be to evaluate membership participation.
- 8. **Incentives.** OHSB incentives are a valuable component of OSPCs that draw interest and provide appropriate positive treatment for partners. These incentives may include:
 - a. Deferral from programmed enforcement inspections for those members who have maintained the highest level of recognition in the program. An annual on-site verification must have been conducted by the Primary Contact in order for this deferral to be granted.

- b. Special consideration for the type of investigation that will be performed by OHSB enforcement in response to a referral. The policy and procedures to be followed is defined in the Field Operation Manual.
- 9. OSPC Management and Operation. The agreement must provide details about the responsibilities for the management and operation of the OSPC.
- 10. Term of operation. The agreement must specify the expected duration of the OSPC and any conditions under which the OSPC will be terminated.
- 11. Signatures. The primary parties must sign and date the OSPC agreement to confirm their commitment to the partnership.

L. Verification

- 1. Off-site Verification. OHSB reviews OSPC data, reports, etc. without actual entry into the partner's worksite(s). The OSPC agreement should identify verification procedures including:
 - a. Any off-site verification activities that OHSB will perform. These may include, for example, a review of annual partnership evaluation reports, injury and illness data, and quarterly progress reports.
 - b. The frequency of any off-site verification.
 - c. The written format for documenting off-site verification.
 - d. Person responsible for performing verification activities, collecting and evaluating data, and providing reports to the appropriate parties.
- 2. On-site Non-enforcement Verification. Non-enforcement verifications may be conducted with partners to review their worksite and determine their eligibility for incentives. Non-enforcement verifications can be tailored specifically to meet the needs of the individual OSPC.
 - a. No active sites. If the partner employer does not have a construction site in operation, the partnership must inform the OHSB OSPC Primary Contact when an applicable site becomes available for verification.
 - b. Review of injury and illness rates. Each partner employer must maintain OSHA 300 and 300A forms in accordance with the provisions of 29 CFR 1904. To qualify for and to maintain enforcement incentives, the partner employer's DART rate must be at or below the Bureau of Labor Statistics (BLS) published national average for their specific industry classification. A partnership may include comparisons to total recordable case (TRC) rates in addition to DART rates as a qualifier. If DART rate rises above the national average, the partner employer will no longer qualify for enforcement incentives until the rate is brought back below the national average.
 - c. Document review. To take maximum advantage of the time on-site, OHSB may request and review documents prior to arrival at the partner's worksite.
 - d. Site Walkthrough. The OHSB Primary Contact must walk through the entire worksite to review work conditions and to determine that hazards are controlled systematically by the safety and health management system.
 - e. Employee interviews. The OHSB representative conducting the onsite verification shall consult with a reasonable number of worksite employees to ascertain the effectiveness of the employer's HSMS.

- f. Correction of hazards. OHSB expects that every effort will be made by the employer to correct identified hazards at the time of the onsite verification. If hazard correction cannot be accomplished before the conclusion of the onsite evaluation, the OSPC Primary Contact and employer must discuss and agree upon correction methods and time frames. All serious hazards identified by the Primary Contact must be corrected before the employer is eligible to receive any enforcement incentive. The Primary Contact may decide to return to the worksite to verify the correction. If the employer refuses to correct a hazard that endangers the safety and health of employees, that hazard must be referred to the OHSB Compliance Program Manager for review and appropriate enforcement action.
3. On-site Enforcement Verification: These inspections include the potential for issuing citations and assessing penalties for violations. These inspections may be combined with other programmed and un-programmed activity in accordance with Chapter 2 of the Field Operation Manual.

M. Incentives

1. Incentives provided must be commensurate with participating partners' efforts to provide safe and healthful working conditions in accordance with their obligations under the Act. The incentives for the OSPC should be linked to goals and performance measures that are mutually agreeable to OHSB and OSPC partners.
2. It is essential that OSPC developers (both OHSB personnel and potential partners) understand OHSB policy concerning enforcement at partnering sites.
3. Any incentives not established in this directive or in another OHSB policy must be described in detail in the proposed OSPC agreement and reviewed and approved by the Consultation Program Manager and Bureau Chief.
4. Partnership-developed incentive programs may not provide disincentives to workers for reporting injuries and illnesses and/or actively engaging in safety and health processes.

N. Recording Activities

Information pertaining to this program shall be recorded in the IMIS intervention form following current instructions in the IMIS manual, or in OIS intervention forms.

1. The strategic plan code "ALLCNSTR" will be recorded within the intervention form.
2. The appropriate strategic plan and local emphasis program codes will be recorded as appropriate; for example, "SILICA" will be recorded when silica hazards were evaluated during a recordable activity.

L. Internal Annual Performance Review

An OHSB internal evaluation of the effectiveness of this Strategic Partnership Program will be conducted at the end of each fiscal year. An evaluation report will be written and submitted to the Bureau Chief within 30 days of the end of each fiscal year. The evaluation may be integrated as part of the OHSB State OSHA Annual Report (SOAR). Elements to be considered in the evaluation include:

1. Effectiveness of the OSPC in reducing injuries, illnesses and fatalities;
2. Number of establishments and/or operations affected by the program;
3. Number of employees removed from risk;

4. Number of hazards abated;
5. Number of activities conducted under the program.

By and Under the Authority of



Robert Genoway
Chief, Occupational Health and Safety Bureau