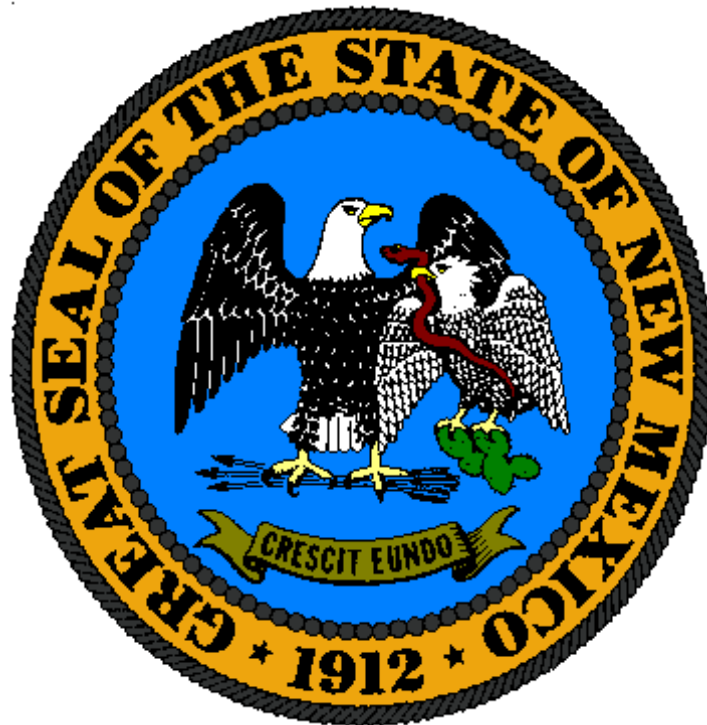


**New Mexico Environment Department  
Occupational Health and Safety Bureau**

**State OSHA Annual Report**



**Fiscal Year 2022**

**October 1, 2021 – September 30, 2022**

Michelle Lujan Grisham, Governor  
James C. Kenney, Cabinet Secretary  
Robert Genoway, Bureau Chief

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## I. Executive Summary

During fiscal year 2022, the New Mexico Environment Department (NMED), Occupational Health and Safety Bureau (“OHSB” or “the Bureau”) focused on its mission to assure every employee a healthful and safe working conditions. The Bureau continued to face its greatest historical challenge, the fight against the COVID-19 pandemic as an occupational hazard and engaged in strategic plan activities to protect New Mexico workers.

Through targeted enforcement, cooperative assistance, and outreach efforts, the OHSB used a broad approach to reach industries most in need of reductions in injuries and illnesses. New Mexico engaged activities in its State Emphasis Programs (SEPs) and applicable National Emphasis Programs (NEPs) including SEPs within the industries of construction, primary and fabricated metals, oil and gas well drilling and servicing, hospitals and nursing care, and COVID-19 during FY2022. The Bureau continued its SEP for silica exposure in the construction and earth products manufacturing industries. OHSB also participated in several OSHA NEPs including Primary Metals, Hexavalent Chromium, Process Safety Management in Chemical Processing Facilities, and Heat Stress. OSHB continued the process of developing a Heat and Climate Change standard that will further protect New Mexico workers that was initiated in 2020 and delayed during the COVID-19 pandemic.

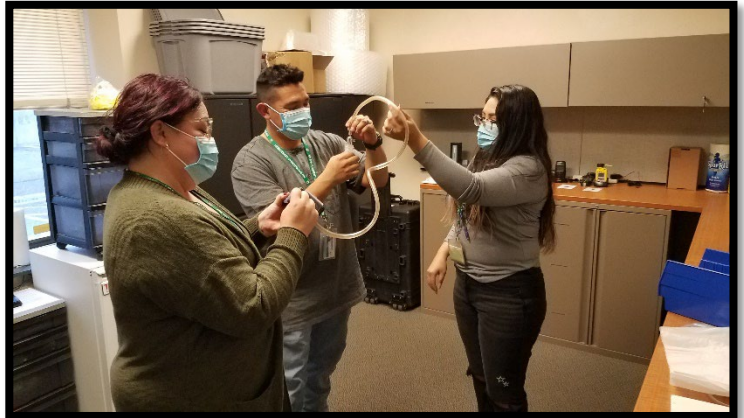
The OHSB Strategic Partnership for Construction (OSPC) and Alliance programs were integral to overall successes in sustaining low state injury rates. OHSB and the New Mexico Construction Safety Coalition (CSC) continued to improve partnership processes in the construction industry with sharing of information and ideas to promote worksite health and safety. The cooperative effort integrated best practices for COVID-19 prevention at worksites during the pandemic. The CSC is comprised of OHSB, the Associated Building Contractors (ABC), Associated Contractors of New Mexico (ACNM), Associated General Contractors (AGC), American Subcontractors Association of New Mexico, Mechanical Contractors Association of New Mexico, and the New Mexico Utilities Contractors Association (NMUCA). OHSB worked with established Alliances including the Southeast New Mexico Service, Transmission, Exploration, and Production Safety Network and renewed an existing Alliance with the Mexican Consulate in Albuquerque, New Mexico.

The OHSB continued to experience staff turnover throughout FY2022 with an average compliance officer vacancy rate of 37%. This high turnover rate was due to compliance and enforcement section expansion, competitive job markets, and staff making career changes. To improve professional recruitment and retention in FY2022, NMED implemented programs including new hire leave benefits, recruitment referral incentives and telework options.

Following an expansion in the fourth quarter of fiscal year 2021 that resulted in 17 new state plan positions, the Bureau filled and retained several key leadership positions such as the Operations and Planning Manager, the Compliance and Enforcement Section Chief, two Compliance Supervisors, and two Management Analysts. Additionally, the Bureau hired and onboarded several technical and administrative staff through a rapid hire event and expedited recruitment during FY2022. OHSB filled new and existing state plan positions including 3 health compliance officers, 5 safety compliance officers, 2 consultants, 2 compliance assistance specialists, and 3 administrative support staff.

## II. Progress toward Strategic Plan Accomplishment

Through strategic planning and regular meetings among management, compliance, and cooperative programs staff, OHSB coordinated efforts to reach industries and employees where the greatest potential for injuries and illness was present. The Bureau's performance plan for FY2022 focused on two major strategic areas that included activities for affecting reductions in injuries, illnesses, and fatalities. The Bureau revised inspection goals in June 2022 that were achieved and engaged in targeted activities to prevent workplace spread of COVID-19 in FY2022 as highlighted in Appendix B of this report.



*Health Compliance Officer Monica Lechuga works with new Health Compliance Officers Adda Garcia-McDonald and Richard Madrid in the OHSB Lab.*

### A. Compliance & Enforcement Activities

The OHSB continued to implement state emphasis programs (SEP) for fabricated metal products, oil and gas well drilling and servicing operations, construction, exposure to silica, and health hazards in hospitals and nursing care facilities. The Bureau also engaged in enforcement at facilities with hazards involving primary metals processing, exposure to hexavalent chromium, and heat stress through the adoption of national emphasis programs. The state used SEPs to target industries with high injury and fatality rates.

New Mexico continued to place significant enforcement emphasis in the construction and oil and gas industries. The number of fatal accidents in both these industry sectors represent a large proportion of occupational fatalities in the state as a long-term trend. OHSB focused resources toward enforcement in the oil and gas and construction industries in FY2022 based on the continuing high rate of fatalities within those industries as compared to rates in all industries within the Bureau's jurisdiction.

New Mexico Governor Michelle Lujan Grisham signed the Cannabis Regulation Act into law in June 2021 after a special legislative session. This bill paved the way for the statewide legalization of recreational cannabis in New Mexico on April 1, 2022. To minimize the workplace violations in the cannabis industry, OHSB engaged in outreach, assistance and enforcement of health and safety regulations at cannabis establishments and conducted 15 inspections within the industry during FY2022.

New Mexico Senate Bill 229 (SB 229), signed into law on April 6, 2017, amended the state Occupational Health and Safety Act, 50-9 NMSA 1978, to adjust maximum and minimum penalties in conformance with federal law. The legislation adopted effective maximum and minimum penalty levels and authorized the NMED Cabinet Secretary to increase levels annually to account for inflation. OHSB subsequently amended its policies to increase assessed penalties. Among the differences between federal and state policy, New Mexico records inspection

activity for construction companies that follow regulatory requirements. This ensures those companies receive recognition of their safety efforts and qualify for penalty reductions. While the policy results in an “in-compliance” rate greater than the nationwide average for inspections, OHSB believes compliant employers should receive appropriate recognition for maintaining safe workplaces.

**B. Whistleblower Protection Activities**

The OHSB continued to build upon the success of its whistleblower protection program in FY2022. On July 1, 2022, federal OSHA migrated their whistleblower information system from the Integrated Management Information System (IMIS) to the OSHA Information System (OIS). To capture the number of complaints received, investigations, determinations, and merit cases, IMIS and OIS data was combined and reviewed to ensure no cases were duplicated from one database to the other. The combined IMIS and OIS data for New Mexico whistleblower activities in FY2022 is as follows:

- 149 discrimination complaints received
- 9 investigations opened
- 3 (merit/non-merit) determinations made, and
- 1 case with a merit determination

**C. Cooperative Program Activities**

**1. Zia Star Voluntary Protection Program (VPP)**

The OHSB strengthened its Zia Star Voluntary Protection Program by approving Holly Asphalt and reapproving Georgia-Pacific for participation in State’s VPP. The following is a list of program participants in FY2022:

<b>New Mexico Zia Star VPP FY 2022</b>	
<b>Company</b>	<b>Location</b>
Georgia-Pacific	Santa Teresa
Southwest Generation, Valencia Power, LLC	Belen
Intel Corporation	Rio Rancho
NextEra Energy Resources	House
NuStar Energy	Albuquerque
The ROCO Corporation	Rio Rancho
Holly Asphalt	Artesia
Tri-State Generation and Transmission	Prewitt

**2. OHSB Strategic Partnership in Construction (OSPC) Program**

New Mexico continued strategic partnership programs in FY2022 through comprehensive onsite verification activities and by conducting reviews of existing agreements. The Bureau currently has partnerships with industry groups including the Associated General Contractors, the Associated Contractors of New Mexico, the Associated Builders and Contractors, the New Mexico Utility Contractors Association, the Mechanical Contractors Association, and the American Subcontractors Association. OHSB and partner members

focus work on common safety issues. There were 52 member companies participating in six industry association partnerships during FY2022.

The New Mexico Construction Safety Coalition held virtual meetings in FY2022 that emphasized best practices in preventing COVID-19 transmission at partner worksites. The Coalition is composed of OHSB staff and representatives for each of the 6 OSPC partnership associations.

**3. Public Sector Consultation**

The OHSB Consultation Program conducted 3 visits in the public sector during FY2022 including 1 health visit, 1 safety visit, and 1 combined (both) health and safety visit.

<b>Consultation Program 23(g) Public Sector Visits for FY 2022 – Q1 - Q4</b>	
<b>Visit Type</b>	<b>Number of Visits</b>
<b>Public Sector Visits Goal</b>	<b>3</b>
Both	1
Health	1
Safety	1
<b>Total Visits</b>	<b>3</b>

**4. Compliance Assistance and Outreach -**

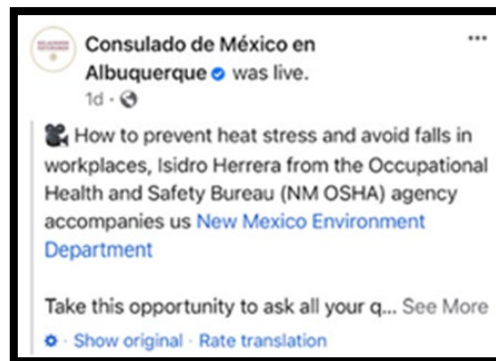
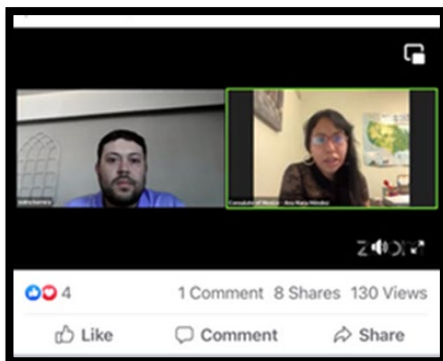
**Oil and Gas Outreach –**

OHSB renewed the Alliance Agreement with the Southeast New Mexico Service, Transmission, Exploration and Production Safety (SENM STEPS) Network in FY2022 and continued to participate as an advisory member on the board and present at the quarterly industry meetings. The Network is comprised of representatives from government and operators, contractors, vendors, and suppliers engaged in oil and gas industry activities in the Permian Basin.



*OHSB Certification and Assistance Program Manager Melissa Barker and SENM STEPS Vice President Jeffrey Painter renew Alliance Agreement*

**Consulate of Mexico Outreach** – OHSB CAS conducted monthly virtual outreach events with the Consulate of Mexico through the Alliance Agreement. During one of these events, OHSB discussed Heat-Stress as a topic of concern for workers in NM with the rising temperatures in the State. Workers’ rights were also covered at this event.



*OHSB Consultant Isidro Herrera discusses how to prevent heat stress and avoid falls during a monthly Alliance Agreement outreach event with the Consulate of Mexico.*

**Film Industry Outreach** – OHSB CAS coordinated with the International Alliance of Theatrical Stage Employees Local 480 to present information to their membership about employee rights, employer responsibilities, and how to file a complaint with OSHA. OHSB also participated in the New Mexico Film Expo by providing OSHA publications and interacting with attendees

**Agriculture Industry Outreach** – OHSB CAS participated in the United States Department of Labor Wage and Hour Division’s 2022 Agricultural Employer Seminar in Las Cruces, New Mexico. This outreach event provided information and guidance on the regulations that apply to growers, farmers, shippers, contractors, farm labor contractors, and agricultural employees in the State. Information about federal and state labor law requirements, including New Mexico field labor regulations, “11.5.4 New Mexico Administrative Code: OCCUPATIONAL HEALTH AND SAFETY – AGRICULTURE”, was provided to event participants.



*OHSB CAS Isidro Herrera and Federal OSHA CAS Abraham Arzola at the 2022 Agricultural Employer Seminar*

## **D. Operations & Planning Activities**

The Bureau's Operations & Planning Section historically provides necessary support functions including financial, information systems, and labor statistics management. Financial staff meets regularly with management to ensure budgets are properly projected and funds appropriately expended. OHSB continues to use the OSHA Information System (OIS) for enforcement data. Labor statistics staff continues to excel at injury, illness, and fatality data collection.

Over the course of the previous fiscal year OHSB has added the Management Analyst (MA) Team. The MA Team consists of a Management Analyst Supervisor and a Management Analyst Advanced position reporting to the Operations and Planning Manager. The purpose of the MA Team is to ensure that all grant requirements are met. The MA Team also focuses on providing information to operational sections to ensure that findings and observations highlighted in the Federal Annual Monitoring Evaluation (FAME) are addressed. The MA Team currently provides data on a weekly basis to the Compliance team and conducts quarterly file reviews. The MA Team presents this data to leadership so that OHSB operations can continue to improve.

Over the past fiscal year one of the Bureau's Management Analyst assisted with researching and developing a New Mexico standard for heat stress and climate change. OHSB inspectors and compliance assistance specialists are already engaging in proactive outreach and technical assistance to help stakeholders prevent workplace heat illness. The OHSB is in the process of developing a standard for heat-related illness and injury to people working in high-heat conditions. This standard will address prevention measures including acclimatization to high temperature, provision of water and shade, personal protective equipment, procedures for specific industries, plans for emergency procedures, first aid, and training. The OHSB is currently working with Department of Health epidemiologists in collecting data from medical providers regarding heat-related illnesses and provide information to stakeholders, involving them in developing the standard.

## **III. Federal Annual Monitoring Evaluation (FAME) Recommendations**

Federal OSHA conducts an annual review of OHSB programs through the Federal Annual Monitoring Evaluation (FAME). From the FY2021 FAME, OSHA made five recommendations for improvement of the New Mexico state plan. The following summarize OHSB actions toward implementing the federal recommendations during FY2022.

### **A. Recommendation 21-1:**

*"Ensure COs (compliance officers) conduct and document employee interviews in accordance with OHSB FOM (Field Operations Manual) Chapter 3."*

In the cases reviewed OHSB Inspectors conducted interviews and employee discussions documented through audio recordings during inspections. During FY2022 and in FY2023, OHSB is taking steps to ensure written documentation of interviews and employee participation in inspections is included in case files.

Text documentation of interviews and employee participation was added to the standard case file check list. OHSB's Management Analyst Team instituted quarterly sample file reviews to ensure completeness of compliance case files. Text documentation of interviews was also included as part of the quarterly case file review process.



**B. Recommendation 21-2:**

*“OHSB should implement a corrective action to ensure yearly (inspection) goals are met.”*

FY2022 goals were adjusted to reflect the first two quarters of the year spent under continued COVID protocols. As OHSB returns to an environment of normal operations, increased staffing and reorganization have put the bureau on track to meet inspection goals. The OHSB Compliance Program has also implemented an aggressive training schedule to ensure more trained inspectors and increase overall inspections.

**C. Recommendation 21-3**

*“OHSB should periodically review all open cases with compliance officers to prevent high lapse times.”*

OHSB recognizes the importance of timely citation issuance. Position vacancies in both the Compliance & Enforcement and Operations & Planning sections, focus on COVID-19 prevention, and increased need for training of new inspectors were contributing factors to high lapse times.

Increased staffing, bureau reorganization, and Compliance & Enforcement Team awareness, as well as emphasis on standard inspection processes and procedures by trained staff is expected to reduce overall lapse times. OHSB’s new Management Analyst team reports lapse time numbers to compliance supervisors on a weekly basis and in quarterly file reviews. OHSB expects new leadership goals for lapse time and improvements in case file processing workflows will aid in reducing timeframes for citation issuance.

**D. Recommendation 21-4**

*“Family members of employees involved in fatal or catastrophic occupational incidents shall be contacted early in investigation, allowed to discuss incident circumstances, and be sent a letter of findings.”*

IN FY2022 OHSB instituted updated letters sent for every fatality case, and the Management Analyst Team conducted quarterly file reviews and weekly reporting to ensure letters are included in case files. The Management Analyst Team is also focused on documentation improvement through the development of standard operating procedures (SOPs) to prevent the loss of institutional knowledge resulting from staff turnover.

**E. Recommendation 21-5**

*“Follow OHSB, FOM, Chapter 3, during the opening conference, the highest-ranking on-site union official or union employee representative shall designate who will participate in the walkaround.”*

In FY2022 OHSB added documentation of union participation to the standard inspection check list. OHSB’s Management Analyst Team instituted quarterly sample file reviews to ensure completeness of Compliance & Enforcement inspection case files. The OHSB quarterly case file review also verifies documentation of union participation for applicable inspections.

**IV. State Internal Evaluation Plan Recommendations**

New Mexico’s State Internal Evaluation Program (SIEP) was initiated to ensure that program operations conform to policies and procedures established by the State Plan. The SIEP also identifies

areas which additional procedures should be developed in response to the demands of the organization.

This program is designed to encompass a five-year period. On an annual basis, areas of vulnerability for the OHSB are determined. The specific portions of this evaluation program pertaining to the areas of vulnerability will be implemented each year. Regardless of vulnerability determination, all areas of the program will be executed at least once every five years.

FY2022 Recommendations by Programmatic Function:

**A. Fatality/Catastrophe Investigations**

- Improve use of relevant OSHA materials including compliance directives and interpretation during inspections.
- Remind staff of the importance of consistent casefile documentation on employee exposure and employer knowledge.

**B. Assurance of Abatement**

- Improve identification and assignment of mandatory follow up inspections.
- Utilize follow up inspections as a tool to ensure abatement has been completed and long-term controls are effectively in place.

**C. Case File Documentation**

- Remind staff to place a tracking sheet in each case file and ensure it is appropriately used.
- Remind staff to document employer and employee contacts for all inspections.
- Remind staff to request complete health and safety records and to review all existing health and safety program documents.

**D. Casefile Controls**

- Improve communication of case file status between the compliance officers and supervisors and develop a standardized timeline for regular tracking of the case files.

**E. Complaints**

- Evaluate letters to complainants for both non-inspection justification and post-inspection results to determine if adequate language is included to explain appeal rights.
- Ensure tracking sheets in unprogrammed activity (UPA) and inspection files are being used by compliance officers to document findings.

**F. Referrals**

- Ensure that compliance officers and supervisors are completing the appropriate portions of UPA tracking sheets to document disposition decisions.

**V. Conclusion**

The OHSB utilized available resources to deliver enforcement and compliance assistance activities to target industries where workers are most at risk of injury and illness. The Bureau developed and implemented innovative programs to prevent and control workplace transmission of COVID-19. The OHSB analyzed the need for enforcement and compliance assistance activity in various industries, and adjusted emphasis programs to affect positive change in injury and illness experience in those industries.

In the past, New Mexico, experienced Days Away, Restricted, or Transferred (DART) rates significantly lower than nationwide rates. This trend continued in 2021 as the New Mexico DART rate remained 1.5 cases per 100 workers and was 17 percent below the nationwide average of 1.8 (rates for 2022 will not be published until late 2023). The state DART rate of 1.5 for 2020 was 17% below the national rate of 1.8, following a 2019 difference of 25%. Long-term rates continue to reflect the positive influence of OHSB programs.

## VI. Appendices

### Appendix A – Summary of FY2022 Performance Plan Results

The following tables summarize the Annual Performance Plan results for the Compliance and Cooperative Program activities of the New Mexico Occupational Health and Safety Bureau for fiscal year 2022. The referenced goals were established prior to the start of the fiscal year. Goals associated with consultation activities (Goal 1.3) are not described in this report.

5 Year Strategic Goal 1.1: Reduce the total New Mexico injury and illness DART rates by 5% through 2024 by focusing on targeted safety and health hazards.			
FY2022 Performance Goal 1.1: Experience a total injury and illness DART rate of less than 1.3 for CY2022 by conducting 165 enforcement inspections and 150 consultation visits, 25 21(d) outreach activities, 100 21(d) and compliance assistance activities (including VPP, alliances, and Partnership activities).			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> <li>Number of enforcement inspections</li> <li>Number of consultation visits</li> <li>Number of 23(g) compliance assistance activities</li> <li>Number of 21(d) outreach activities</li> </ul>	<ul style="list-style-type: none"> <li>201 enforcement inspections (150 safety inspections and 51 health inspections)</li> <li>23(g): 3 consultation visits</li> <li>21(d): 58 consultation visits</li> <li>23(g): 19 consultation compliance assistance activities</li> <li>21(d): 470 consultation compliance assistance activities</li> <li>23(g): 426 Compliance Assistance Specialist activities</li> </ul>	
Primary Outcome Measure	Injury and illness DART rate of less than 1.3 for CY2022	The New Mexico DART rate was 1.5 for 2021	BLS rates for 2022 are not currently available

5 Year Strategic Goal 1.2: Reduce the 5-year average of OHSB investigated workplace fatalities by 5% through scheduled inspections and visits at workplaces in targeted industries.			
FY2022 Performance Goal 1.2: Experience fewer than 10 workplace fatalities requiring OHSB investigation in FY2022.			
Performance Indicator Type	Indicator	Results	Comments

<p>Activity Measures</p>	<ul style="list-style-type: none"> <li>• Number of enforcement inspections in Oil &amp; Gas</li> <li>• Number of enforcement inspections in Construction</li> <li>• Number of fatalities in Oil &amp; Gas</li> <li>• Number of fatalities in Construction</li> <li>• 23(g) visits/compliance assistance activities in the SEPs</li> <li>• 21(d) visits/compliance assistance (outreach) activities in the SEPs</li> </ul>	<ul style="list-style-type: none"> <li>• 28 Compliance &amp; Enforcement oil &amp; gas industry inspections</li> <li>• 81 Compliance &amp; Enforcement construction inspections</li> <li>• 5 Compliance &amp; Enforcement oil &amp; gas industry fatalities</li> <li>• 3 Compliance &amp; Enforcement construction industry fatalities</li> <li>• 23(g) Compliance Assistance Specialist activities: 33 compliance assistance activities in SEPs (7 activities in the construction industry and 2 activities in the oil and gas industry)</li> <li>• 23(g) Consultation Program: 19 compliance assistance activities in SEPs (0 public sector visits in SEPs and 0 public sector construction and oil and gas compliance assistance activities)</li> <li>• 21(d) Consultation Program: 93 consultation visit/compliance assistance activities in SEPs (48 visits/compliance assistance activities in the construction industry and (14 compliance activities in the oil and gas industry)</li> </ul>	
<p>Primary Outcome Measures</p>	<p>Record fewer than 10 NM OSHA investigated fatalities in FY2022</p>	<p>OHSB investigated 28 (11 of which were COVID-19) workplace fatalities in FY2022</p>	<p>OHSB investigated 11 COVID-19 workplace fatalities (39% of total)</p>

5 Year Strategic Goal 1.3: Increase the number of SHARP or pre-SHARP participants by one employer in FY2022.
FY2022 Performance Goal 1.3*: Increase the number of SHARP or pre-SHARP participants by one employer in FY2022. No new SHARP or pre-SHARP sites were added in FY2022.

5 Year Strategic Goal 1.4: Improve the quality of participant health and safety programs by achieving average DART rates for combined top-level members in the OHSB Strategic Partnership for Construction (OSPC) at more than 20% below rates in respective industries by 2024.
FY2022 Performance Goal 1.4: Achieve average DART rates for combined top-level OSPC members at more than 4% below DART rates in respective industries.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Verification activities for partnership members	35 verification activities	
Primary Outcome Measures	Overall DART for all top-level members	Not available	Data is currently unavailable for this measure. 2022 data will be collected and analyzed during 2023

5 Year Strategic Goal 1.5: Recognize employers with outstanding health and safety programs, illness and injury rates through participation in the NM Zia Star Voluntary Protection Program.
FY2022 Performance Goal 1.5: Complete all new and renewal onsite reviews, and issue participation awards within prescribed timeframes during FY2022.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of new and renewal applications	OHSB conducted 1 VPP initial approval and 1 reapproval in FY2022	
Intermediate Outcome Measures	Number of VPP participants	New Mexico had 8 VPP participant worksites at the end of FY2022	
Primary Outcome Measures	Percent of awards issued timely	OHSB issued 100% of awards timely in FY2022	

5 Year Strategic Goal 2.1: Initiate inspections for reported fatalities within 1 working day 100% of the time.
FY2022 Performance Goal 2.1: Initiate inspections for reported fatalities within 1 working day 100% of the time.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of fatality reports in fiscal year	OHSB received 61 workplace fatality reports in FY2022	OHSB conducted 13 COVID-19 Inspections; 11 were in response to fatal workplace COVID-

			19 transmission in FFY2022
Intermediate Outcome Measures	<p>Number of fatality reports under OHSB jurisdiction in fiscal year</p> <p>Number of fatality reports under OHSB jurisdiction responded to within 1 workday</p>	<p>OHSB received 28 workplace fatality reports falling under OHSB Jurisdiction in FY22:</p> <ul style="list-style-type: none"> <li>• 25 Partial / Comprehensive</li> <li>• 3 No Inspection</li> <li>• 1 Transferred to Federal OSHA</li> </ul> <p>11 of which were COVID-19</p> <p>OHSB responded to all fatality reports under their jurisdiction within 1 working day</p>	OHSB investigated 11 workplace COVID-19 deaths in FY2022
Primary Outcome Measures	Percent of responses to fatality reports under OHSB jurisdiction initiated within 1 working day	OHSB initiated 100% of fatality investigations within 1 working day	

**5 Year Strategic Goal 2.2: Promptly investigate complaints and referrals alleging serious health or safety hazards.**

FY2022 Performance Goal 2.2: Initiate investigations of complaints and referrals alleging serious hazards within the following timeframes 95% of the time:

1. Investigations by inquiry within 3 days of receipt;
2. Investigations by inspection within 5 days of receipt for complaints, within 10 days of receipt for referrals.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of complaints/referrals alleging serious hazards responded to during the year	803 serious or imminent danger (1,042 including other than serious)	OHSB received 1,042 complaints/ referrals in FY2022  803 alleged serious or imminent danger hazards
Intermediate Outcome Measures	Average number of days to initiate complaint/referral inquiry	3 days	750 Inquires
	Average number of days to initiate complaint/referral inspection	3.7 days	53 Inspections

Primary Outcome Measures	Percent of investigations initiated by inquiry within goal	83% 699 of 803	Inquiry = 82% 618 of 750 Inspection = 96% 51 of 53 Complaint 88% 7/8 Referral 74% 44/45
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5 Year Strategic Goal 2.3: Notify complainants of discrimination investigation determinations within 60 days 90% of the time.			
FY2022 Performance Goal 2.3: Notify complainants of discrimination investigation determinations within 60 days 90% of the time.			
Performance Indicator Type	Indicator	Results	Comments
Activity Measures	Number of discrimination cases opened and entered into IMIS.	OHSB opened 149 cases in FY2022	
Primary Outcome Measures	Percent of discrimination cases accepted for investigation completed within 60 days	2% (Combined IMIS and OIS)	



## Appendix B – New Mexico OHSB COVID-19 Activities

### NEW MEXICO’S UNIQUE APPROACH TO THE COVID-19 PANDEMIC

New Mexico instituted a unique approach to managing the COVID-19 pandemic among state and federal OSHA Programs. Early in the pandemic New Mexico instituted an emergency temporary rule requiring New Mexico employers to report all known cases of COVID-19 in the workplace within 4 hours. This rule was later made permanent in December 2020.

New Mexico employers were further supported by a COVID-19 Rapid Response Team. The goal of the Rapid Response team was to respond to employer reporting, in most cases within 24 hours of receiving a report, to advise the employer on effective means of controlling the spread of COVID-19 in the workplace. Methods included disinfection of affected areas, identification and quarantining of close contacts, and isolation of the COVID positive employee. The Rapid Response Team also published a public facing watchlist so that consumers could make informed decisions about their health and exposure during their daily routines.

While COVID-19 remains a hazard to the New Mexico workforce, the availability of vaccines and antiviral treatments has reduced the health threat to the general public. As of September 2022, employers were no longer required to report all cases of COVID-19 positive employees to OHSB and the Rapid Response Team was disbanded on November 11, 2022.

Over the course of the Rapid Response program, New Mexico received nationwide attention for its unique approach to the pandemic including the Rapid Response Team and the employer reporting requirement. In October of 2022 the federal Department of Labor’s Office of the Inspector General (OIG) report highlighted New Mexico’s reporting rule as an effective means of controlling the spread of the virus:

“Requiring employers to notify all employees of positive cases at the worksite is, in our view, necessary to ensure safe and healthful working

### Key Events That Laid the Foundation for New Mexico’s Rapid Response Program

#### March 2020

On March 11, after detecting COVID-19 in New Mexico, Governor Grisham issued [Executive Order 2020-004](#) to declare a public health emergency and to direct all cabinets, departments, and agencies in New Mexico to follow NMDOH’s instructions.

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- On March 19, NMDOH Cabinet Secretary Kunkel issued an [Amended Public Health Order](#) that:
  - Required employers in New Mexico to adhere to disease prevention best practices.
  - Instructed state agencies to ensure compliance.

#### May 2020

OHSB and NMDOH developed a reporting system to alert OHSB of positive cases captured by NMDOH’s contact tracing program.

- 
- On May 26, OHSB took the lead implementing New Mexico’s Rapid Response Program.

#### July and August 2020

In July, OHSB worked with the New Mexico Department of Workforce Solutions to hire (through a grant with the Department of Labor’s Dislocated Worker Program) staff to handle thousands of COVID-19 case reports.

- 
- On August 5, NMED Cabinet Secretary Kenney issued an [emergency amendment](#) requiring employers to report COVID-19 cases in the workplace to OHSB within 4 hours of detection.

#### December 2020 to January 2021

- On December 18, NMED adopted the requirement to report COVID-19 cases in the workplace within 4 hours as a [permanent rule](#), with an effective date of January 26, 2021.

#### November 2021

- OHSB hired additional staff to support the Rapid Response Program through an NMDOH grant.

#### September 2022

- In response to revised CDC guidelines, OHSB issued a memo to allow discretion in enforcing the reporting rule.

#### November 2022

- On November 11, New Mexico sunset the Rapid Response Program with continued support until the reporting rule is officially rescinded or modified.

conditions... New Mexico's Environment Department implemented a practice that aids this issue by requiring employers to report all employee cases of COVID-19, within 4 hours of being notified, to the New Mexico Occupational Health and Safety Bureau, regardless of whether the infection was contracted at work... New Mexico's reporting requirement enables rapid response, which is critical to timely reduce or eliminate additional worker exposure and also ensures the public is informed."

New Mexico's approach was multidisciplinary and included daily communications with all departments in state government, including daily communication and cooperation with the New Mexico Department of Health. Over the course of the pandemic OHSB's Rapid Response team helped to isolate 129,400 COVID positive employees at over 18,350 establishments. The Rapid Response Team also directed the quarantine of 53,400 close contacts thereby reducing the spread of the virus in New Mexico workplaces.