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New Mexico Occupational Health and Safety Bureau (OHSB) Directive 26-02

Subject: State Emphasis Program (SEP) for Health and Safety Hazards in the Construction Industry (NAICS 236, 237, and 238).

- A. Purpose: This notice establishes and SEP for Health and Safety Hazards in the Construction Industry (NAICS 236, 237, and 238).
- 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 Field Operations Manual
 - 2. OSHA Information System (OIS) Modules for Enforcement, Consultation and Compliance Assistance, current and subsequent versions.
 - 3. OSHA Instruction CPL 2-0.102.A, November 10, 1999, Procedures for Approval of Local Emphasis Programs (LEP).
 - 4. OSHA Instruction CPL 2-00-051, February 23, 2005, Exemptions and Limitations Under the Appropriations Act, with current Appendix A.
 - 5. OSHA Instruction CSP 02-00-005, September 29, 2023, Consultation Policies and Procedures Manual.
- D. Cancellation: This notice cancels the New Mexico Occupational Health and Safety Bureau (OHSB) Directive 24-02 dated October 1, 2024.
- E. Expiration: This notice expires on September 30, 2026 but may be renewed as necessary.
- F. Action: OHSB personnel will ensure that the procedures contained in this notice are followed in conducting the SEP for Health and Safety Hazards in the Construction Industry (NAICS 236, 237, and 238)
- G. Background: Through activities at construction sites statewide, the OHSB has identified serious hazards including falls, struck by, and struck against objects. These hazards have resulted in serious injuries and fatal accidents. It is believed that, through a local emphasis

program, increased awareness, and accelerated intervention activities, injuries and illnesses can be reduced. It is also recognized that the tracking mechanism for these types of inspections would prove beneficial in monitoring of the hazards.

H. Compliance: In FY 2026, the OHSB will conduct approximately 110 inspections from a list of all employers in NAICS 236, 237, and 238.

1. OHSB will conduct comprehensive inspections at construction sites and include all companies onsite that are not covered by inspection deferral as provided in the OHSB Strategic Partnership for Construction (OSPC).
2. Hazards on construction sites are normally transient and of limited duration. Inspections conducted under the SEP will be initiated by several means: programmed planned inspections from Dodge Reports, supplemented by compliance personnel observation to verify worksite activity; programmed planned inspections at sites identified through New Mexico Department of Transportation reports; instances where OHSB staff view hazards covered by this directive during their workday; complaints; and referrals from outside sources.
3. Upon arrival at the worksite and before initiating enforcement activities, the compliance officer will determine that Enforcement Exemptions and Limitations under the Appropriations Act do not prohibit the inspection. Certain employers are exempt from programmed safety inspections if they employ 10 or fewer employees currently and at all times during the 12 months prior to an inspection.
4. OHSB reserves the right to re-inspect any establishment that has a fatality, reportable injury or illness, or receives a complaint or referral, at any time during the period covered by this notice.
5. Whistleblower Protections. Workers requesting inspections, complaining of the dangers of the Construction Industry, or reporting injuries or illnesses may be covered under one or more whistleblower statutes. Inform them of their protections from retaliation and refer them to <https://www.whistleblowers.gov/> for more information. Whistleblower complaints will be forwarded to the OHSB 11 C Officer.
6. OHSB compliance staff may utilize federal OSHA directives on construction as a reference when conducting enforcement activities.

I. Compliance Assistance: OHSB Compliance Assistance Specialists will conduct a minimum of twenty-five (25) activities per year such as:

1. Conducting outreach activities in collaboration with Construction Industry associations;
2. Providing information about the SEP and available OHSB resources, including compliance assistance, OHSB strategic partnerships, and consultation services, to the Construction Industry;

3. Developing and distributing outreach materials and publications to the Construction Industry;
 4. Developing and updating information and materials to include on the OHSB web page;
 5. Participating in Construction Industry association safety and health meetings and events;
 6. Providing technical assistance; and,
 7. Conducting and documenting OHSB Strategic Partnership verification visits.
- J. Consultation: OHSB Consultants will conduct a minimum of ten (10) activities per year such as:
1. Assigning a high priority to consultation requests and on-site visits in the Construction Industry;
 2. Participating in Construction Industry association meetings, conferences, and events to solicit consultation requests and distribute outreach materials;
 3. Providing information about the SEP and available OHSB resources, including compliance assistance, OHSB Strategic Partnerships, and consultation services, to the Construction Industry;
 4. Distributing outreach materials through email, outreach events, and social media;
 5. Conducting formal and information presentations and training as requested; and,
 6. Providing technical assistance.
- K. OIS Recording: Information pertaining to this SEP shall be recorded in the OIS following current instructions in the each of the respective modules in the OIS User Guides. The identifier code will be "ALLCNSTR".
- L. Evaluation: An evaluation of the effectiveness of this SEP will be conducted at the end of each federal fiscal year. An evaluation report will be written and submitted to the Bureau Chief within 90 days of the end of each federal fiscal year. The evaluation report may be included as part of the New Mexico State OSHA Annual Report (SOAR). Elements to be considered in the evaluation include:
1. Number of inspections conducted under this SEP;
 2. Number of serious, willful, and repeat violations issued as a result of these inspections;
 3. Number of in-compliance inspections;
 4. Number of employees removed from risk;
 5. Number of hazards abated;
 6. Change in injury, illness and fatality rates within the industry and among companies

receiving inspections, using case file and Bureau of Labor Statistics data;

7. Number of compliance assistance activities recorded in OIS under this SEP; and,
8. Number of on-site consultation visits conducted under this SEP.

By and Under the Authority of

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Kristy Lee Peck
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Kristy Peck

Acting Chief, Occupational Health and Safety Bureau