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DIVISION OF OCCUPATIONAL SAFETY & HEALTH



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August 31, 2012

Ken Nishiyama Atha
Regional Administrator – OSHA
90 – 7th Street, Suite 18100
San Francisco, CA 94103

RE: FY 2011 FAME response and Corrective Action Plan

Dear Mr. Atha:

In response to your letter of July 31, 2012, I am submitting to you the Arizona Division of Occupational Safety and Health's (ADOSH) formal response to OSHA's FY 2011 Federal Annual Monitoring and Evaluation (FAME) report. I am also submitting our Corrective Action Plan (CAP) regarding the findings and recommendations found within the FAME.

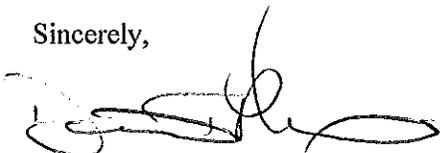
Overall, I believe the FY 2011 FAME is a fair and balanced review of ADOSH's FY 2011 activities and appreciate the efforts made by OSHA staff to include both positive findings as well as those areas where corrections are needed. Nevertheless, I continue to feel that some of the findings and recommendations within the FAME represent non-substantive issues that could be better and more easily addressed non-formally rather than as a part of a formal evaluation process and I would like to discuss this with you at a future time.

There is also one area in the report that needs to be corrected or clarified. On page 5 under "Major New Issues", the report states that as a result of Senate Bill 1441 (Arizona's new residential fall protection statute), "residential construction workers [are permitted] to be exposed to fall heights of up to 15 feet." The implication of that statement is that the new law does not require employers to provide any type of fall protection for employees who are exposed to falls up to 15 feet. This is fundamentally incorrect. While the new law does not always require the use of conventional fall protection measures at heights below 15 feet, it is incorrect to assume or imply that no fall protection is required. Employers must always provide some type of fall protection, regardless of the height.

As noted above, I am also enclosing the Corrective Action Plan for the findings noted in the FAME. I believe you will find that ADOSH has already corrected the majority of the findings and we are currently in the process of ensuring correction of the remaining items.

I appreciate the opportunity to respond to the FAME. If you have questions regarding our response, including the CAP, please do not hesitate to contact me at 602-542-1693.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darin Perkins', with a stylized flourish extending to the right.

Darin Perkins,
ADOSH Director