

**FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME)  
Report**

**State of Alaska**

**Department of Labor and Workforce Development  
Labor Standards and Safety Division –  
Alaska Occupational Safety and Health**



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## I. Executive Summary

The state of Alaska, under an agreement with OSHA, operates an occupational safety and health program through its Department of Labor and Workforce Development, Labor Standards and Safety Division, Occupational Safety and Health (AKOSH). The program operates in accordance with Section 18 of the Occupational Safety and Health Act of 1970. The Alaska state plan was approved July 31, 1973, and its developmental period under Section 18(e) of the OSH Act ended October 1, 1976. On September 9, 1977, OSHA certified that the state had completed all developmental steps as specified in its plan, and granted AKOSH final state plan approval on September 26, 1984.

During the first half of FY 2012, the head of Alaska's Department of Labor and Workforce Development was Mr. Clark Bishop, the Commissioner of Labor, who served as the state plan designee. On March 24, 2012, Mr. Bishop resigned. Ms. Dianne Blumer has since been appointed as the new Commissioner of Labor. The director of the Labor Standards and Safety Division, Mr. Grey Mitchell, manages the Occupational Safety and Health Section.

AKOSH exercises jurisdiction over all private sector employers with the exception of the following - Denali National Park; Metlakatla Indian Reservation; maritime industries; federal government-owned, contractor-operated (GOCO) Native Health Care Facilities; and select military installations. The state has regulatory authority in state and local government workplaces. OSHA covers all excepted employers noted above, as well as federal agencies.

There are relatively few differences between AKOSH's standards and those of OSHA. AKOSH has its own regulations for Logging and Oil and Gas Operations. The state also has a regulatory requirement that employers report incidents which result in one or more employees being hospitalized; OSHA requires employers to report incidents where three or more employees are hospitalized.

During FY 2012, the state plan was staffed with 12 compliance officers (7 safety, 5 health) and 12 consultants. The program covers approximately 316,039 workers employed in 21,408 establishments statewide. AKOSH's federally-approved state OSHA program was funded at \$3,082,499, of which \$1,429,400 were federal funds.

Alaska administers a combined on-site consultation program under 21(d) and 23(g) funding. This type of combined program is unique to Alaska. AKOSH's 12 consultant positions are a combination of 21(d), 23(g) and 100% state funded. These consultants provide services to both public and private employers.

Overall, AKOSH met or exceeded the majority of its FY 2012 performance goals and fulfilled its obligations with regard to activities mandated by OSHA. Where the need for program improvement was identified, recommendations are made herein for corrective actions. One of the most significant challenges which the state faced during FY 2011 was the loss of 5 fully trained compliance officers, comprising 42% of its enforcement staff. AKOSH hired 5 new compliance officers in FY 2012, however, the lack of a full complement of journeyman level-trained compliance officers was the primary reason why the state did not achieve its inspection goal for FY 2012.

The purpose of this Federal Annual Monitoring and Evaluation (FAME) report is to assess AKOSH's performance during FY 2012 with regard to activities mandated by OSHA, and to gauge the state's progress toward resolving recommendations from the FY 2011 FAME. As part of this abridged evaluation, OSHA reviewed a portion of AKOSH's enforcement inspection files to verify corrective actions for the FY 2011 recommendations. This report also assesses the state's achievement of its annual performance plan goals and its progress toward the goals in its five-year strategic plan.

Overall, AKOSH's performance with respect to activities that are mandated by the Occupational Safety and Health Act and its implementing policies and regulations continued to be acceptable with exceptions as noted in this report below.

The FY 2011 FAME report on AKOSH contained a total of twelve recommendations, seven of which the state completed corrective actions for in FY 2012; five remain open and are considered "continued" in FY 2012.

This FAME report contains a total of nine recommendations, all of which relate to Alaska's enforcement program. They are as follows:

**Recommendation 12-1:** Ensure that an investigation includes an on-site visit to the accident site in accordance with the AKOSH Field Operations Manual (FOM).

**Recommendation 12-2:** Ensure that evaluations of the employer's safety and health program are completed in all fatality investigations.

**Recommendation 12-3 (Revised and Continued 11-1):** Ensure that inspection goals take into consideration available resources, including the abilities and training status of compliance staff.

**Recommendation 12-4:** Ensure that violations are cited and issued in accordance with the required time frames specified in Alaska Statute 18.60.091(c).

**Recommendation 12-5 (Continued 11-2):** Reduce citation issuance lapse times.

**Recommendation 12-6:** Ensure that AKOSH administrative staff receive guidance and direction to correct Host rejects. Implement an administrative process to correct Host rejects and check for inspection forms that have not been finalized.

**Recommendation 12-7 (Revised and Continued 11-8):** Ensure effective administrative processes for timely entry of hazard abatement verification are developed and implemented.

**Recommendation 12-8 (Revised and Continued 11-12):** Focus available resources on reducing the rates of injuries in the seafood processing industries.

**Recommendation 12-9 (Revised and Continued 11-3):** Ensure that health citations conform to policy on documentation of violations. Conduct industrial hygiene monitoring to confirm violations of health standards.

## II. Major New Issues

No new major issues were noted during this period.

### III. State Progress in Addressing FY 2011 FAME Report Recommendations

This section provides a summary of the status of findings and recommendations from the FY 2011 FAME report. During FY 2012, corrective actions were submitted and partially completed for all eight enforcement-related recommendations, with three items remaining open awaiting verification of corrective action. All discrimination program recommendations were completed and corrective action verified. Appendix C describes the status of these recommendations in detail.

**Finding 11-1(Continued 10-2):** The state did not meet its inspection goal for the fifth consecutive year. AKOSH conducted 311 inspections during FY 2011 which was 38% short of its goal of 505 inspections. This also represented a decrease of 17% in comparison to the 375 inspections AKOSH conducted in FY 2010.

**Recommendation:** Ensure appropriate inspection goals are set based on realistic expectations in consideration of current resources, abilities and training status of compliance staff, and properly allocated in order to achieve goals.

**Status:** AKOSH addressed this recommendation by taking steps to make the FY 2012 inspection goals more realistic and ensure the goals were based on expected staffing and productivity levels. OSHA has verified this item as having not been completed at the end of FY 2012 in that AKOSH fell short of its inspection goal by 25% (311/417). The state included more realistic inspection goals in its grant application for FY 2013.

**OSHA considers this item continued.**

**Finding 11-2 (Continued 10-10):** During FY 2011, AKOSH's citation lapse times were 102.2 days for safety inspections and 108.6 for health. Compared to FY 2010, this represents significant increases in the safety and health lapse times. These lapse times compare unfavorably to the averages for the state plans as a whole which were 51.9 and 64.8 days for safety and health, respectively.

**Recommendation:** Reduce citation issuance lapse times.

**Status:** AKOSH's lapse times for safety inspections (86 days) has improved by 16 days in comparison to FY 2011. Health lapse times (114.97 days) have increased by 6 days since FY 2011. Overall, these lapse times compare unfavorably to the national state plan averages of 56 and 68 days, respectively. **OSHA considers this item continued.**

**Finding 11-3 (Continued 10-8):** Health sampling was not conducted where there were indications of workplace health hazards and potential employee exposures.

**Recommendation:** Ensure that health violations conform to policy on documentation of violations. Conduct health sampling to confirm violations of health standards.

**Status:** AKOSH provided training of staff on how to conduct sampling necessary to confirm and support health violations. During health case file reviews, it was found that

this training was not effective, as the same conditions were found during inspections in FY 2012. **OSHA considers this item continued.**

**Finding 11-4 (Continued 10-3):** Documentation of employer knowledge was deficient because AKOSH's compliance officers relied, in most cases, on the term "reasonable diligence" to establish that the employer knew the hazardous condition existed. In every instance examined by OSHA, there was sufficient evidence to develop knowledge through demonstrated actions on the part of the employer.

**Recommendation:** Factually document employer knowledge in case files with as much specificity as feasible.

**Status:** AKOSH's response to this recommendation was adequate. Case file reviews showed improvement in the documentation of employer knowledge. **OSHA considers this item complete.**

**Finding 11-5 (Continued 10-4):** OSHA determined that in 10 of the 25 reviewed case files, there were violations that were classified as "other than serious," and missed violations where information in the case file indicated the hazard should have been classified as "serious" or "repeat." Examples of hazards identified in the case files were chemical exposures where the hazard was listed as burns or asbestosis, and amputation hazards.

**Recommendation:** Review case files and classify conditions appropriately as "serious," "willful," "repeat," or "other than serious" based on the hazard and in accordance with the Field Operations Manual (FOM).

**Status:** AKOSH's response to this recommendation was adequate. Case file reviews showed improvements in the classification of violations. **OSHA considers this item complete.**

**Finding 11-6 (Continued 10-5):** Severity and probability were consistently not completed for "other-than-serious" violations in a majority of the reviewed cases.

**Recommendation:** Require complete documentation of probability and severity on the OSHA 1-B to include "other than serious" and grouped item violations.

**Status:** AKOSH's response to this recommendation was adequate. Case file reviews showed improvement in correctly applying probability and severity in other-than-serious violations. **OSHA considers this item complete.**

**Finding 11-7 (Continued 10-7):** The alleged violation description (AVD) for numerous citations listed the hazards on the AVD as "safety hazards" or "health hazards." The appropriate terminology should reflect the direct hazard such as "burns," "fire hazards" or "amputations" as the case involves. In addition, the AVDs in several case files did not include measurements of fall hazards or voltage of electrical hazards where the information was readily available in the case file.

**Recommendation:** Document measurements if appropriate and accurately describe the safety or health hazard in the alleged violation description.

Status: AKOSH's response to this recommendation was adequate. Case file reviews showed improvements in the required language in the Alleged Violation Description (AVD). **OSHA considers this item complete.**

**Finding 11-8 (Continued 10-6):** Although abatement verification is documented as being completed appropriately in case files, AKOSH did not timely enter the data for hazard abatement verification into IMIS.

**Recommendation:** Ensure that citation abatement verification in the Integrated Management Information System (IMIS) is completed and updated in a timely manner.

Status: AKOSH's response to this recommendation was to provide a checklist to compliance officers that would ensure they checked off hazard abatement as being complete. During IMIS reviews, OSHA found 23 percent of case files were not marked as verified in the IMIS. This recommendation was revised for clarification in this report. Refer to recommendation 12-6 under *Section IV.H. Program Administration* on page 18. **OSHA considers this item continued.**

**Finding 11-9:** The closure dates for several whistleblower cases were noted as the date the Final Investigative Report was signed.

**Recommendation:** Ensure the date of the determination letter is used as the closure date for the whistleblower case, and not the date the FIR is signed.

Status: AKOSH provided training on closure dates for discrimination investigators. The corrective action was verified during the FY 2012 case file review of the whistleblower program. **OSHA considers this item complete.**

**Finding 11-10:** There was no indication or documentation in whistleblower case files that complainants were notified in writing when the complaint is screened out.

**Recommendation:** Ensure that administrative closure letters are sent to complainants when the complaint is screened out.

Status: The state provided training and instruction to whistleblower investigators to ensure complainants were notified in writing if their complaint was screened out. This item was verified during the FY 2012 case file review of the whistleblower program. **OSHA considers this item complete.**

**Finding 11-11:** When a whistleblower referral to OSHA was considered appropriate, AKOSH verbally advised the complainant to contact OSHA without OSHA's knowledge of the incoming referral.

**Recommendation:** Ensure that a letter of notification is sent to OSHA when referring complaints to OSHA for jurisdictional reasons.

Status: The state now ensures a letter of notification is sent to OSHA when referring complaints for jurisdictional reasons. The region concurs that this item was verified as



complete during the FY 2012 case file review of the whistleblower program. **OSHA considers this item complete.**

**Finding 11-12:** The state failed to meet its annual goal of reducing the injury and illness rate for seafood processing by 3%. Injury and illnesses in this sector have increased by 14% as compared to the baseline in this evaluation period.

**Recommendation:** AKOSH should increase the focus of their available resources on reducing the rates of injuries in the seafood processing industries.

**Status:** Seafood processing injury and illness rates have continued to rise over the past four years of the five-year Strategic Plan presented by AKOSH. Although the state has increased its enforcement presence in seafood processing over the previous year, the state should consider an emphasis program for the seafood processing industry. This recommendation was revised for clarification in this report. Refer to recommendation 12-8 under Section V. State Progress in Achieving Annual Performance Goals on page 19. **OSHA considers this item continued.**

OSHA continues to monitor the Alaska state plan through case file reviews and evaluations. The areas noted above are emphasized in discussions between AKOSH and OSHA during regularly scheduled quarterly monitoring meetings.

## IV. Assessment of FY 2012 State Performance of Mandated Activities

### A. Enforcement

#### 1. Complaints and Referrals

The state responded to 81 complaints during FY 2012. Overall, 98% of complaints filed with the state were handled in a timely manner. Performance in this area was comparable to that of OSHA, and exceeded AKOSH's overall goal of 90% timeliness for both categories of responses.

AKOSH's policy on responding to imminent danger situations is to conduct inspections as expeditiously as possible, and no later than 24 hours after notification. This is the same as OSHA's policy.

During this evaluation period, 75 imminent danger complaints/referrals were received by AKOSH and 72 were inspected within the required time frame. AKOSH responded promptly to 96% of imminent danger complaints during FY 2012, with three late responses due to travel and weather delays.

<b>Timeliness of Complaints &amp; Referrals</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Imminent Danger</b>	96% (72/75)	98% (45/46)	97% (60/62)	96% (46/48)	95% (18/19)
<b>Formal Inspections</b>	100% (57/57)	94% (63/67)	100% (68/68)	99% (72/73)	98% (45/46)
<b>Phone/fax</b>	96% (23/24)	95% (19/20)	100% (4/4)	93% (13/14)	90% (19/21)
<b>Average</b>	97.4%	95.5%	99%	97%	95.3%

Overall, AKOSH's response is timely.

#### 2. Fatalities and Catastrophes

In FY 2012, AKOSH inspected 26 accidents where one or more employees were hospitalized overnight. With the exception of one noted inspection, all other accident inspections were initiated timely (within seven days). Within this same period, AKOSH investigated four fatal accidents; this was a decrease from five fatalities in FY 2011. Of the four fatalities, three investigations were initiated within one day. The untimely initiation was due to late reporting which is discussed further below. All four fatality case files were reviewed and found to contain the initial condolence letters, which were provided to the next of kin. Additionally, with the exception of one case, follow-up letters and/or phone calls were made to keep family members of accident victims informed of the results of the inspection.

As part of this FY 2012 FAME reporting cycle, the Anchorage Area Office conducted case file reviews evaluating fatality and accident cases in the state of Alaska. There were four fatality and three accident case files reviewed.

In one of the fatality investigations, it was determined that the state did not perform an on-site inspection on a work site involving a fatal accident in a rural part of the state. The state's FOM gives policy guidance to the field investigating office providing procedures for on-site investigation of a fatal accident. These policies include an evaluation of the safety and health program of the employer, and interviewing witnesses and employees of the company being investigated.

A second fatality case file on a construction work site in Anchorage was found to have what appeared to be a valid and supportable citation vacated without adequate justification in an Informal Settlement Agreement.

Two accident investigations, involving employee hospitalizations due to amputations, were found to have been completed without an actual site visit by AKOSH. The inspection information was obtained by asking the employer for information via phone, fax, and email. However, no physical inspection was conducted of the work site for either accident. In one case, documentation in the case file indicated that the employer had previous amputations involving seafood processing machinery.

**Recommendation 12-1: Ensure that an investigation includes an on-site visit to the accident site in accordance with the AKOSH Field Operations Manual (FOM).**

**Recommendation 12-2: Ensure that evaluations of the employer's safety and health program are completed in all fatality investigations.**

Observation 12-1: Ensure that follow-up information related to settlement agreements are shared with the families of accident victims.

### **3. Targeting and Programmed Inspections**

AKOSH submits an annual grant request that includes an operations plan establishing reasonable goals for enforcement inspections. For the past five years, AKOSH has not met its inspection goals.

The state conducted 288 inspections in FY 2012, representing a decrease of 7% compared to the 311 inspections it conducted in FY 2011. Of the 288 inspections, 68 (24%) were programmed and 220 (76%) were unprogrammed. These numbers reflect a decrease in enforcement activity in comparison to the previous year, as the state fell short of its FY 2012 goal of 417 inspections.

See the table below:

<b>Inspections</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>FY 2010</b>	<b>FY 2009</b>	<b>FY 2008</b>
<b>Goal</b>	<b>417</b>	<b>505</b>	<b>465</b>	<b>425</b>	<b>425</b>
<b>Conducted</b>	<b>288</b>	<b>311</b>	<b>375</b>	<b>355</b>	<b>259</b>
<b>Difference</b>	<b>(129)</b>	<b>(194)</b>	<b>(90)</b>	<b>(70)</b>	<b>(166)</b>

The state cited serious, willful, or repeated violations in 43.90% of the programmed safety inspections and 55.56% of the programmed health inspections. The percentages for safety are

lower than the 3-year national rate for state plans of 58.5%. Percentages for health were slightly higher than the national rate for state plans of 53.0%.

AKOSH hired five new enforcement compliance officers during FY 2012; all of whom required initial training. This issue has had an effect on the ability of the state to meet enforcement goals during this year.

**Recommendation 12-3 (Revised and Continued 11-1): Ensure that inspection goals take into consideration available resources, including the abilities and training status of compliance staff.**

No warrants were necessary as AKOSH encountered no denial of entry situations in FY 2012.

#### **4. Citations and Penalties**

During FY 2012, AKOSH’s citation lapse times noticeably improved in safety inspections. However, lapse times in health inspections slightly increased. The number of calendar days from opening conference to citation issuance was 85.82 days for safety inspections and 114.97 days for health. Compared to FY 2011, this represents a 16-day, or 16% decrease in the safety lapse time, and an increase of over 6 days, or 6% increase in the health lapse time. It is noted that AKOSH was operating with only one health enforcement officer for the majority of the FY 2012 monitoring year. Overall, AKOSH’s FY 2012 lapse times compare unfavorably to the averages for state plans as a whole. Those lapse times were 55.9 and 68.0 days for safety and health cases, respectively.

The following table compares the state’s performance from the previous FAME period to FY 2012 for both industrial hygiene and safety citation lapse times:

<b>IH Lapse Time (Days)</b>	<b>FY 2012</b>	<b>FY 2011</b>	<b>Safety Lapse Time (Days)</b>	<b>FY 2012</b>	<b>FY 2011</b>
<b>Actual</b>	114.97	108.6	<b>Actual</b>	85.82	102.2
<b>National Average</b>	68.0	64.8	<b>National Average</b>	55.9	51.9
<b>Difference</b>	+46.97	+43.8	<b>Difference</b>	+29.92	+50.3

During FY 2012, two inspections exceeded the 180-day period for citation issuance which resulted in no citation being issued to either employer. In both inspections, the compliance officer sent the case files with a proposed citation notice to the AKOSH supervisor for review on the last working day prior to the statutory expiration date. In one case, there was not enough information collected and documented to appropriately support a proposed citation for the conditions noted at the work site. Additionally, documentation in this case did not indicate the status of abatement for the violation observed. The second case, involving excavation hazards, documented verification that the hazardous conditions were abated at the time of the inspection.

**Recommendation 12-4: The state should ensure that violations are cited and issued in accordance with the required time frames specified in Alaska Statute 18.60.091(c).**

**Recommendation 12-5 (Continued 11-2): Reduce citation issuance lapse times.**

Case file reviews verified that the state assessed penalties for all serious violations cited. AKOSH's average initial penalty per serious violation in the private sector during FY 2012 was \$1,046, which is lower when compared to the national state plan overall average of \$1,991. However, it does reflect an increase of \$70 over FY 2011 penalties. OSHA considers AKOSH's performance acceptable.

The following table presents AKOSH's five-year average penalty issuance:

Average penalty assessed per serious violation	FY 2012	FY 2011	FY 2010	FY 2009	FY 2008
		\$1,046	\$976	\$1,143	\$973

## **5. Abatement**

The state's procedures for verifying hazard abatement are the same as OSHA's. The results at the end of year (SAMM report, Appendix D), indicate verification of abatement for the state was 75% for private industries and 78% for public industries. However, the IMIS data does not support the results of the case file reviews, which concluded that abatement verification of hazards is being accomplished. This issue is being addressed as a data entry problem in another portion of this report. See *Section IV.H. Program Administration*. AKOSH's performance in this element is acceptable.

## **6. Employee and Union Involvement**

AKOSH's policy on employee participation in the inspection process is the same as OSHA's. During AKOSH inspections, employees are given the opportunity to participate either through interviews or by having employee representatives accompany inspectors. Employees are also afforded the opportunity to privately express their views about the workplace away from the employer. In addition, inspection results are provided to employee representatives and complainants. The state's performance is acceptable.

## **B. Review Procedures**

AKOSH's administrative procedures as adopted by the Field Operations Manual and Alaska Statute afford employers the right to administrative and judicial review of alleged violations, proposed penalties, and abatement periods. These procedures also give employees or their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

### **1. Informal Conferences**

AKOSH has identical informal conference procedures as OSHA where both the Chief of Enforcement and the compliance officer usually attend. Employers have the right to discuss citations informally with AKOSH, the right to contest citations and penalties, and the right to object to assigned abatement dates. In Alaska, most employer citation appeals are resolved by informal settlement.

Changes made to citation classification, deletions, or penalty reduction were well documented in all reviewed case files. The state's performance is acceptable.

## **2. Formal Review of Citations**

Alaska's Administrative Code and AKOSH's Compliance Manual afford employers the right to administrative and judicial review of alleged violations, proposed penalties, and abatement periods. These procedures also give employees or their representatives the opportunity to participate in review proceedings and to contest citation abatement dates.

In Alaska, post-contest data reflect that a higher percentage of AKOSH violations, 37%, were vacated in FY 2012 in comparison to the federal percentage of 22%. AKOSH's post-contest penalty retention for FY 2012 was 87.7%, compared to an OSHA retention rate of 50.3%. AKOSH did not reclassify any violations post-contest in FY 2012. AKOSH performance continues to be acceptable.

## **C. Standards and Federal Program Changes (FPCs) Adoption**

### **1. Standards Adoption**

AKOSH adopts most federal standards by reference. During this evaluation period, OSHA issued one final rule that was required to be adopted by the states. Adoption of the Hazard Communication – Globally Harmonized System rule is planned for early 2013.

### **2. Federal Program/State Initiated Changes**

A total of seven federal program changes (FPCs) required a response in FY 2012. There were two remaining FPCs that will carry over into FY 2013. Alaska's response to those will be evaluated during the next FAME cycle. Alaska is responding to FPCs in a timely manner. Alaska submitted two state-initiated program changes in FY 2012. Both were timely.

## **D. Variances**

AKOSH has acceptable procedures for evaluating and issuing variances. AKOSH did not process a variance action during this evaluation period. The state has not processed any variance actions in the last three years.

## **E. Public Employee Program**

In FY 2012, AKOSH conducted 10% (28/288) inspections in the public sector. Of the total inspections conducted for the period, 21% (6/28) were program planned inspections.

Penalties and sanctions are imposed on employers in the public sector for violations of safety and health hazards in an identical fashion as for private industry.

## **F. Discrimination Program**

Title 8, Part 4, Chapter 61, Article 7 of the Alaska Administrative Code provides for discrimination protection equivalent to that provided by federal OSHA.

OSHA conducted a comprehensive monitoring review of Alaska's discrimination program in

FY 2012. The purpose of the review was to evaluate the state’s progress addressing previous recommendations identified during the FY 2011 monitoring review and to evaluate the current administration of the state’s discrimination program. During this year’s monitoring cycle, five discrimination case files and five screened complaints were reviewed by OSHA. All FY 2011 recommendations were satisfactorily completed. No new findings and recommendations for improvement were identified.

The following table is a summary of discrimination activity during FY 2012.

<b>Disposition</b>	<b>Totals</b>
Total cases from FY 2012	15
Cases completed in FY 2012	12
Cases completed timely	9
Overage cases	6
~ Withdrawn	0
~ Dismissed	3
~ Merit	9
~ Settled	6
~ Settled other	0
~ Reinstatement (if any)	0
~ Litigated	1
Investigators on staff	1

AKOSH received the same number of complaints and completed the same number of investigations as the previous year. AKOSH’s timeliness of completed cases dropped from 83.3% in FY 2011 to 58% in this period. AKOSH’s merit rate increased significantly from 42% in FY 2011 to 75% in FY 2012. Alaska’s merit rate is considerably higher than the national meritorious rate of 23%. Alaska’s performance continues to be acceptable.

### **G. Voluntary Compliance Program**

The VPP program in the state of Alaska is administered under their 23(g) program. The state had 12 VPP sites at the end of FY 2012. Four sites left the program during FY 2012; three sites from the same company withdrew in the first quarter and one site was disqualified due to high injury and illness rates in the fourth quarter. No new sites were added during this period.

### **H. Program Administration**

AKOSH’s Training Program Directive 09-02 is similar to OSHA’s directive and the state’s compliance and consultation employees receive required training. The state continues to rely on OSHA’s Training Institute for most formal training of CSHOs and consultants. In FY 2012 new employees attended several initial OTI training courses.

Alaska's safety enforcement benchmark is four with seven positions identified. At the end of FY 2012, there were six positions filled. For health enforcement, the benchmark is 5 with 4.5 positions identified and 3.5 filled.

Under the 23(g) program, Alaska has 3.6 consultation positions (2.7 safety and .90 health). As of September 30, 2.10 safety consultation and .90 health positions were filled.

#### Case File Administration

During FY 2012, a significant number of IMIS Host rejects were not corrected which caused inaccurate reporting to the National Office host database. Additionally, numerous forms within AKOSH's IMIS database associated with multiple inspections were found in draft and not marked final. This contributed to lower reporting values on micro-to-host reports that are utilized in preparing quarterly and end-of-year statistics. For example, 21 inspections were found to be missing from the FY 2012 SAMM report due either to uncorrected rejects or forms that had remained in draft.

**Recommendation 12-6: Ensure that AKOSH administrative staff receive guidance and direction to correct Host rejects. Implement an administrative process to correct Host rejects and check for inspection forms that have not been finalized.**

End of year results on the SAMM report (Appendix D) indicate that timely verification of abatement was 75% for private industries and 78% for public industries. Micro-to-Host and IMIS data do not support the results of the FY 2012 case file reviews, which concluded that abatement verification is not a problem. The lack of data on abatement verification in the database was identified as solely an IMIS update issue rather than an actual failure to verify abatement. The state did not timely enter the data for hazard abatement verification. The state has made an effort to improve this data entry problem, but IMIS entry for verification of abatement needs further improvement.

**Recommendation 12-7 (Revised and Continued 11-8): Ensure effective administrative processes for timely entry of hazard abatement verification are developed and implemented.**



## V. State Progress in Achieving Annual Performance Goals

AKOSH established a five-year strategic plan for the period from FY 2009 through FY 2013, which included short- and long-range objectives aimed at improving safety and health for Alaska's workers. They are as follows:

**Strategic Goal 1: Improve workplace safety and health in both the public and private sectors as evidenced by a reduction in the rate of injuries, illnesses and fatalities.**

**Strategic Goal 2: Promote a safety and health culture in the Alaskan workplace (both public and private sectors) through compliance assistance, cooperative programs, and consultation assistance.**

**Strategic Goal 3: Secure public confidence through excellence in the development and delivery of AKOSH's programs and services.**

AKOSH developed and submitted its FY 2012 annual performance plan in support of its strategic plan as part of its grant application for federal funds. Overall, the state met all annual goals for FY 2012 with the exception noted below:

**FY 2012 Performance Goal 1.4 – Reduce the lost time injury and illness rate in the seafood processing industry as determined by the number of lost time injuries and illnesses per hundred employees by 3%.**

**Results** – An increase in the lost time injury and illness rate for seafood processing industry of 5.4 did not meet AKOSH's performance goal injury and illness goal rate of 4.41 per 100 employees.

**Recommendation 12-8 (Revised and Continued 11-12): Focus available resources on reducing the rates of injuries in the seafood processing industries.**

## VI. Other Areas of Note

### A. Case File Review

In FY 2012, OSHA conducted a review of 49 safety and health inspection case files. The purpose of the review was to assess the quality of documentation, violation classification, penalty calculations, abatement verification and other factors.

During this review, case file documentation indicated that appropriate industrial hygiene monitoring was not being conducted by health compliance officers during complaint inspections. Compliance officers did not conduct appropriate air and surface sampling in accordance within policy and guidelines outlined in the industrial hygiene technical manual. Deficiencies were noted in cases where health compliance officers did not address specific employee complaints of health hazards and did not conduct monitoring for substances indicated in the original complaint.

Overall, in FY 2012, OSHA has observed improvement in case file documentation but further improvements need to be made. Case file documentation will continue to be monitored by OSHA during FY 2013.

**Recommendation 12-9 (Revised and Continued 11-3): Ensure that health citations conform to policy on documentation of violations. Conduct industrial hygiene monitoring to confirm violations of health standards.**

### B. Complaints About State Plan Administration (CASPs)

No CASPs were filed in FY 2012.

### C. Public and Private Sector 23(g) On-Site Consultation Program

The funding stream for each consultant includes money from both 21(d) and 23(g) grants. The work done in the public sector and all Voluntary Protection Program (VPP) is funded by the 23(g) grant. Performance related to 21(d) funding work is reported in the Regional Annual Consultation Evaluation Report (RACER).

For FY 2012, 99% (371 of 374) of all hazards identified in public sector visits were verified corrected in a timely manner. This essentially met the reference standard of 100%. For the same time period, AKOSH met or exceeded all other measures reported in the public sector of the MARC. The FY 2012 MARC data confirm that AKOSH's public sector consultation program is being managed and operated effectively.

## Appendix A – New and Continued Findings and Recommendations

FY 2012 Alaska State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11
12-1	In was determined that the state did not perform an on-site inspection on a work site involving a fatal accident in a rural part of the state. The accident involved an employee who was killed during an avalanche created while Heli-skiing in Haines, Alaska. No on-site inspection was conducted to determine if the employer had a safety and health program in place addressing hazards in the workplace.	Ensure that an investigation includes an on-site visit to the accident site in accordance with the AKOSH Field Operations Manual (FOM).	N/A
12-2	During FY 2012, an on-site fatality investigation was not conducted at a remote fatality location; in which case an evaluation of the employer's safety and health program was not conducted.	Ensure that evaluations of the employer's safety and health program are completed in all fatality investigations.	N/A
12-3	The state did not meet its inspection goal for the fifth consecutive year. AKOSH conducted 288 inspections during FY 2012 which was 31% short of its goal of 417 inspections. This also represented a decrease of 7% in comparison to the 311 inspections AKOSH conducted in FY 2011.	Ensure that inspection goals take into consideration available resources, including the abilities and training of compliance staff.	Revised 11-1
12-4	Two cases went over the 180-day period for issuance and citations were not issued.	Ensure that violations are cited and issued in accordance with the required time frames specified in Alaska Statute 18.60.091(c).	N/A
12-5	During FY 2012, AKOSH's citation lapse times were 85.82 days for safety inspections and 114.97 for health. Additionally, two cases went over the 180-day period for issuance and citations were not issued.	Reduce citation issuance lapse times.	11-2
12-6	A significant number of IMIS Host rejects were not corrected during FY 2012, which caused inaccurate reporting of values to the National Office Host database. Additionally, numerous forms within AKOSH's IMIS database associated with multiple inspections were found in draft and not marked final.	Ensure that AKOSH administrative staff receive guidance and direction to correct Host rejects. Implement an administrative process to correct Host rejects and check for inspection forms that have not been finalized.	N/A
12-7	23% of all inspections within the IMIS database for AKOSH RID did not contain hazard abatement verification. Although abatement verification was observed within the hard copy case files, the state did not timely enter data for hazard abatement verification into IMIS.	Ensure effective administrative processes for timely entry of hazard abatement verification are developed and implemented.	Revised 11-8
12-8	The rate of injuries in the seafood processing industries increased for the second year in a row. The Seafood Safety Coordinator position has not been filled for over a year.	Focus available resources on reducing the rates of injuries in the seafood processing industries.	Revised 11-12
12-9	Health sampling was not conducted where there were indications of workplace health hazards and potential employee exposures.	Ensure that health citations conform to policy on documentation of violations. Conduct industrial hygiene monitoring to confirm violations of health standards.	Revised 11-3

## ***Appendix B – Observations Subject to Continued Monitoring***

FY 2012 Alaska State Plan Abridged FAME Report

Rec # [OB-1]	Observations	Federal Monitoring Plan	FY 11#
12-1	Ensure that follow up information related to settlement agreements are shared with the families of industrial accident victims.	OSHA will continue to monitor this item in FY 2013 and will review appropriate fatality case files to ensure AKOSH follows this practice.	N/A

## Appendix C – Status of FY 2011 Findings and Recommendations

FY 2012 Alaska State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-1	The state did not meet its inspection goal. AKOSH conducted 311 inspections during FY 2011 which was 38% short of its goal of 505 inspections. This also represented a decrease of 17% in comparison to the 375 inspections AKOSH conducted in FY 2010.	Ensure appropriate inspection goals are set based on realistic expectations in consideration of current resources, abilities and training status of compliance staff, and properly allocated in order to achieve goals.	As of April, 2012, AKOSH filled 11 of the 13 vacant CSHO positions. Filling the vacant positions will contribute to AKOSH meeting inspection goals. Therefore, the initial corrective action is filling vacant positions and completing training requirements. As a result of the turnover and staff training barriers, AKOSH does not expect to meet inspection goals negotiated with Region X in the FY 2012 Annual Plan. AKOSH established more realistic inspection goals in the FY 2013 Annual Plan.	AKOSH addressed this recommendation by taking steps to make the FY 2012 inspection goals more realistic and ensure the goals were based on expected staffing and productivity levels. OSHA has verified this item as having not been completed at the end of FY 2012 in that AKOSH did not attain its inspection goal of 417 by 106 inspections (311). The state has included more realistic inspection goals in its grant application for FY 2013 and continues to fill positions to more closely approximate realistic goals for future inspections conducted.	Open and Awaiting Verification. Recommendation Revised.
11-2	During FY 2011, AKOSH's citation lapse times were 102.2 days for safety inspections and 108.6 for health. Compared to FY 2010, this represents significant increases in the safety and health lapse times. These lapse times compare unfavorably to the averages for the state plans as a whole which were 51.9 and 64.8 days for safety and health, respectively.	Reduce citation issuance lapse times.	AKOSH's corrective action is to provide training for new CSHOs in case file development and instruct management in methods to reduce lapse time. Changes have occurred in management personnel and new managers are placing greater emphasis on timely completion of inspection case files.	AKOSH's laps times for safety inspections (86) days has improved by 16 days in comparison with FY 2011. Health lapse times (114.97 days) have increased by 6 days since FY 2011. Overall, these lapse times compare unfavorably to the national state plan averages of 56 and 68 days, respectively.	Open.
11-3	Health sampling was not conducted where there were indications of workplace health hazards and	Ensure that health violations conform to policy on documentation of violations.	AKOSH's corrective action is to instruct Industrial Hygienists to conduct	AKOSH's response to this recommendation was to provide training to conduct sampling	Open. Recommendation Revised.

## Appendix C – Status of FY 2011 Findings and Recommendations

FY 2012 Alaska State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	potential employee exposures.	Conduct health sampling to confirm violations of health standards.	sampling necessary to confirm violations of health standards.	necessary to confirm health violations. During case file reviews, it was found that this training was not effective, as the same conditions were found again in reviews of health case files.	
11-4	Documentation of employer knowledge was deficient because AKOSH’s compliance officers relied, in most cases, on the term “reasonable diligence” to establish that the employer knew the hazardous condition existed. In every instance examined by OSHA, there was sufficient evidence to develop knowledge through demonstrated actions on the part of the employer.	Factually document employer knowledge in case files with as much specificity as feasible.	AKOSH implemented a policy to ensure that employer knowledge of alleged hazardous conditions are more adequately documented and provided specific instructions to avoid using “through due diligence” or “in plain sight” representations of employer knowledge. In mid-FY 2012, AKOSH increased focus on documentation of employer knowledge in case file reviews.	AKOSH’s response to this recommendation was adequate. Case file reviews showed improvement in the documentation of employer knowledge.	Complete.
11-5	OSHA determined that in 10 of 25 reviewed case files, there were violations classified as “other than serious,” and missed violations where information in the case file indicated the hazard should have been classified as “serious” or “repeat.” Examples were chemical exposures where the hazard was listed as burns or asbestosis, and amputation hazards.	Review case files and classify conditions appropriately as “serious,” “willful,” “repeat,” or “other-than-serious” based on the hazard and in accordance with the FOM.	AKOSH provided CSHO training in hazard classification and implemented a more stringent case file review procedure to avoid hazard classification issues.	AKOSH’s response to this recommendation was adequate. Case file reviews showed improvements in the classification of violations.	Complete.

## Appendix C – Status of FY 2011 Findings and Recommendations

FY 2012 Alaska State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-6	Severity and probability were consistently not completed for “other-than-serious” violations in a majority of the reviewed cases.	Require complete documentation of probability and severity on the OSHA 1-B to include “other-than-serious” and grouped item violations.	CSHO training and case file review procedures were implemented that address correct completion of probability and severity classification for all alleged violations (both serious and other).	AKOSH’s response to this recommendation was adequate. Case file reviews showed improvement in correctly applying probability and severity in other-than-serious violations.	Complete.
11-7	The alleged violation description (AVD) for numerous citations listed the hazards on the AVD as “safety hazards” or “health hazards.” The appropriate terminology should reflect the direct hazards such as “burns,” “fire hazards,” or “amputations,” as the case involves. In addition, the AVDs in several case files did not include measurements of fall hazards or voltage of electrical hazards where the information was readily available in the case file.	Document measurements if appropriate and accurately describe the safety or health hazard in the alleged violation description.	AKOSH provided additional instruction and training to CSHOs regarding the necessity to take and properly document measurements that describe a hazardous condition in the alleged violation description.	AKOSH’s response to this recommendation was adequate. Case file reviews showed improvements in the required language in the Alleged Violation Description (AVD).	Complete.
11-8	Although abatement verification is documented as being completed appropriately in case files, AKOH did not timely enter the data for hazard abatement verification into IMIS.	Ensure that citation abatement verification in the IMIS is completed and updated in a timely manner.	AKOSH established a reporting checklist to help ensure that CSHOs perform the IMIS data entry function in relation to abatement verification.	AKOSH’s response to this recommendation was to provide a checklist to compliance officers that would ensure they checked off hazard abatement as being complete. During IMIS reviews, OSHA found 23 percent of case files were not marked as verified in the IMIS.	Open. Recommendation Revised.
11-9	The closure dates for several whistleblower cases were noted as the date the Final Investigative Report was signed.	Ensure the date of the determination letter is used as the closure date for the whistleblower case, and not the date the FIR is signed.	Training on closure dates was provided to investigators.	AKOSH provided training on closure dates for discrimination investigators. The corrective action was verified during the FY 2012 case file review of the	Complete.

## Appendix C – Status of FY 2011 Findings and Recommendations

FY 2012 Alaska State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
				whistleblower program.	
11-10	There was no indication or documentation in whistleblower case files that complainants were notified in writing when the complaint is screened out.	Ensure that administrative closure letters are sent to complainants when the complaint is screened out.	Corrective action was taken to notify screened out complainants in writing by instructing investigators.	The state provided training and instruction to whistleblower investigators to ensure complainants were notified in writing if their complaint was screened out. This item was verified during the FY 2012 case file review of the whistleblower program.	Complete.
11-11	When a whistleblower referral to OSHA was considered appropriate, AKOSH verbally advised the complainant to contact OSHA without OSHA's knowledge of the incoming referral.	Ensure that a letter of notification is sent to OSHA when referring complaints to OSHA for jurisdictional reasons.	AKOSH will ensure a letter of notification is sent to OSHA when referring complaints for jurisdictional reasons.	The state now ensures a letter of notification is sent to OSHA when referring complaints for jurisdictional reasons. The region concurs that this item was verified as complete during the FY 2012 case file review of the whistleblower program.	Complete.
11-12	The state failed to meet its annual goal of reducing the injury and illness rate in seafood processing by 3%. Injury and illnesses in this sector have increased by 14% as compared to the baseline in this evaluation period.	AKOSH should increase the focus of their available resources on reducing the rates on injuries in the seafood processing industries.	AKOSH has doubled the number of enforcement inspections in seafood processing through the third quarter of FY 2012 as compared to the same period in FY 2011. The increased enforcement presence is expected to have a positive impact on injury and illness rates.	Seafood processing injury and illness rates have continued to rise over the past 4 years of the 5-year Strategic Plan presented by AKOSH. Although the state has increased its enforcement presence in seafood processing over the previous year, the state should consider an emphasis program for the seafood processing industry.	Open. Recommendation Revised.



## Appendix D - FY 2012 State Activity Mandated Measures (SMM) Report

### FY 2012 Alaska State Plan Abridged FAME Report

State: ALASKA      RID: 1050200

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	504 8.84 57	13 4.33 3	Negotiated fixed number for each state
2. Average number of days to initiate Complaint Investigations	30 1.30 23	3 3.00 1	Negotiated fixed number for each state
3. Percent of Complaints where Complainants were notified on time	60 100.00 60	2 100.00 2	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	72 96.00 75	14 100.00 14	100%
5. Number of Denials where entry not obtained	1	0	0
6. Percent of S/W/R Violations verified			
Private	144 73.85 195	6 23.08 26	100%
Public	15 75.00 20	0 .00 1	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	12620 85.85 147	1714 81.61 21	2032800 55.9 36336
Health	4112 114.22 36	1303 108.58 12	647235 67.9 9527

## Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report

### FY 2012 Alaska State Plan Abridged FAME Report

State: ALASKA / RID: 1050200

NOV 09, 2012

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	18	6	76860
Safety	43.90	75.00	58.5
	41	8	131301
	5	5	9901
Health	55.56	83.33	53.0
	9	6	18679
9. Average Violations per Inspection with Violations			
	244	50	367338
S/W/R	1.33	1.51	2.1
	183	33	175950
	280	61	216389
Other	1.53	1.84	1.2
	183	33	175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	215504	58425	624678547
	1056.39	1669.28	1990.5
	204	35	313826
11. Percent of Total Inspections in Public Sector	25	0	110
	9.36	.00	11.4
	267	38	962
12. Average lapse time from receipt of Contest to first level decision	917	0	3197720
	458.50	187.0	National Data (3 years)
	2	0	17104
13. Percent of 11c Investigations Completed within 90 days*	7	1	100%
	58.33	50.00	100%
	12	2	
14. Percent of 11c Complaints that are Meritorious*	9	0	1619
	75.00	.00	23.4
	12	2	6921
15. Percent of Meritorious 11c Complaints that are Settled*	6	0	1444
	66.67	89.2	National Data (3 years)
	9	0	1619

\*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/201

***Appendix E - State OSHA Annual Report (SOAR)***

FY 2012 Alaska State Plan Abridged FAME Report

*[Available Upon Request]*