



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

**Department of Labor and  
Workforce Development**

Labor Standards and Safety

P.O. Box 111149  
Juneau, Alaska 99811-1149  
Main: 907.465.4855  
Fax: 907.465.6012

August 18, 2014

Mr. Ken Nishiyama Atha  
Acting Regional Administrator, Region X  
Occupational Safety and Health Administration  
U.S. Department of Labor  
300 Fifth Avenue, Suite 1280  
Seattle, WA 98104-2397

RE: FFY 2013 Federal Annual Monitoring and Evaluation Report - AKOSH

Dear Mr. Atha,

Thank you for your July 22, 2014, letter regarding the FY 2013 Federal Annual Monitoring and Evaluation (FAME) report for the Alaska Occupational Safety and Health (AKOSH) program. Commissioner Blumer asked me to provide you with a response to be posted along with the FY 2013 FAME recommendations. I have also enclosed the corrective action plan (CAP) document for your review.

We agree and appreciate OSHA's primary FAME report conclusion that, "The AKOSH made satisfactory progress to complete corrective actions for five of these recommendations. OSHA determined AKOSH's actions were adequate to resolve those issues and considers them complete." As you are aware during FY 2013 AKOSH experienced severe personnel shortage which hampered our ability to complete all of our established goals and expected timeframes. While we are very pleased to be able to say that AKOSH enforcement is now fully staffed in safety officers and industrial hygienists we recognize that 60% of our staff are either still on probation or have not attended the OSHA 1000 course yet. We foresee that as these personnel "come on line" with their training that they will ease the pressure on the more experienced personnel and we expect to see the processing times reduce.

The FY 2013 FAME provided several recommendations for improvement and AKOSH's responses are listed below. Many of the recommendations do not have an established completion date in the CAP, as AKOSH views the attainment of the recommendation will require continuous and ongoing efforts. For example, once AKOSH achieves inspection goals or reduces citation lapse times, that should not mean efforts to continuously achieve these recommendations should be relaxed.

Recommendation 13-1: In accordance with the AKOSH Field Operations Manual, (FOM), ensure that inspections include on-site visits to the incident sites. If the incident site is deemed unsafe, then AKOSH should select an alternative site such as the employer's establishment locations.

AKOSH Response: AKOSH agrees with this recommendation in principle but we continue to believe that there are cases, in Alaska, that a physical response is not always possible. As you are aware, AKOSH has limited resources and many areas of Alaska are extremely remote and can be difficult and expensive to access during particular times of the year. If an accident scene is no longer intact and the employer or local law enforcement officials have provided adequate photos of the accident scene, there is arguably little to no benefit to sending an inspector as long as employees and witness can be interviewed remotely. AKOSH intends to apply management discretion based on the circumstances and conditions associated with a work site and determine the most appropriate use of AKOSH resources in relation to on-site inspections. If the AKOSH Chief of Enforcement determines that an inspection may be sufficiently performed based on records provided by the employer and employee interviews, that is acceptable procedure under AKOSH's Field Operations Manual (FOM) under Chapter 2, Section IV(A)(1), which outlines the efficient use of resources. OSHA should recognize that AKOSH's policies need not be identical to OSHA's in order to maintain functions that are at least as effective as OSHA's. It should be noted that OSHA would not have been likely to perform any investigation of the incidents at issue, because the employer would not be mandated to report the incidents to OSHA (not a fatality or accident where at least three workers were hospitalized). In terms of effectiveness, AKOSH contends that a remote inspection is more effective than no inspection at all.

Recommendation 13-2: Review the citation issuance process to determine the cause of the high occurrence of lapse time between opening an inspection and issuance of a citation. Develop and implement a resolution to ensure citations are issued timely and employers are put on notice to abate hazards in a timely manner.

AKOSH Response: AKOSH will develop and implement a resolution as recommended, but this will not solve the problem if high vacancy rates continue. As you are aware AKOSH had a 50% vacancy rate at one point in FY 13 and only recently has filled the last compliance officer vacancy. The analyst (Asst Chief) position remains vacant as of this date, but we are recruiting. We do expect that as the probationary employees become fully trained that the processing times will improve. In July we requested OSHA to amend our inspection goals due to the severe staffing shortages and I was recently told that vacancy rates are not an acceptable justification to amend the goals, but that OSHA was aware and takes that into consideration. It is unreasonable for OSHA to expect that AKOSH staffing would not have a significant negative affect on inspection goals and citation lapse times. While we bring the new staff on line, AKOSH will strive to maintain quality inspections and to provide adequate training for CSHOs before improving inspection numbers and case file processing times.

Recommendation 13-3: Ensure that health citations conform to policy on documentation of violations. Conduct industrial hygiene monitoring to confirm violations of health standards.

AKOSH Response: AKOSH has obtained additional monitoring equipment and for CSHO and IH use and will ensure that health violations are properly documented and confirmed with adequate monitoring.

Recommendation 13-4: Ensure that penalty calculation factors, such as severity and probability and hazard classification, are calculated in a manner consistent with policy contained in the FOM.

AKOSH Response: The Chief, AKOSH Enforcement is giving additional time to monitoring penalty calculations.

Recommendation 13-5: Ensure application of inspection penalty reductions such as history and good faith, is in accordance with policy as contained in the FOM.

AKOSH Response: This will be an on-going process where the recommendations of the assigned CSHO are reviewed and coordinated by AKOSH management.

Recommendation 13-6: Ensure that duration and frequency of hazard exposures are annotated correctly in the case file and AVD are separated out by instance, clearly reflecting the hazard and its respective location according to policy contained in the FOM.

AKOSH Response: The alleged violation description (AVD) will contain the instances, location and description for the employer to identify for abatement prior to the informal process.

Recommendation 13-7: Ensure that abatement is received, reviewed, and documented in all case files prior to closure and that all abatements are closed and verified at or prior to the 60-day State Plan negotiated goal.

AKOSH Response: Currently abatement is verified during the IMIS process but we expect reporting to become more accurate as AKOSH transitions to the OIS system. AKOSH contends that this is primarily a data entry issue, as case files contain abatement documentation to demonstrate the 60-day time frame has been met. AKOSH will focus resources toward ensuring that adequate follow up occurs to document hazard abatement in IMIS/OIS.

Recommendation 13-8: Ensure responses to OSHA regarding intent of adoption of federal program changes and standards are within the time frame indicated on the Automated Tracking System (ATS) Notice.

AKOSH Response: AKOSH contends that ATS notices have been inconsistent from OSHA. Responses cannot be effectively provided, unless OSHA ATS notices are provided effectively to the correct AKOSH staff. AKOSH staff have been briefed to respond timely to ATS notices.

Recommendation 13-9: AKOSH should re-evaluate its current targeting approach and implement a plan to increase its enforcement presence in the seafood processing industry towards its strategic and annual performance goals

AKOSH Response: All seafood processors are targeted through AKOSH's strategic plan. This means that both enforcement and consultation resources are targeted at seafood processing facilities. AKOSH does not agree that re-evaluating targeting would result in any improvement. The more significant problem is staff turnover and the fact that seafood processing inspections require additional training and experience than most first year CSHO's possess. AKOSH and OSHA are currently scheduling tandem inspections within the seafood industry for the 4<sup>th</sup> quarter of FY 14. So far in FY 14, AKOSH completed six seafood inspections with an additional 12 on-going. This is again an on-going goal that we expect to carry into future years as the industry plays such a significant role in Alaska.

Mr. Ken Nishiyama Atha  
August 18, 2014  
Page 4

We appreciate OSHA's efforts to monitor the AKOSH program and provide meaningful recommendations for improvement and encourage OSHA to conduct regular evaluations and provide timely results to allow for continuous improvements toward our mutual goal of effectively reducing workplace illnesses, injuries and fatalities.

Sincerely,

Al Nāgel  
Acting Director

Enclosure: Corrective Action Plan

cc: Dianne Blumer, Commissioner  
Dallas Hargrave, Assistant Commissioner  
Keith Bailey, AKOSH Chief of Enforcement  
Krystyna Markiewicz, AKOSH Chief of Consultation