



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Labor and  
Workforce Development

Office of the Commissioner

PO Box 111149  
Juneau, Alaska 99811  
Main: 907.465.2700

July 29, 2020

Barbara Yee Goto, Acting Regional Administrator  
U.S. Department of Labor, OSHA  
300 Fifth Avenue, Suite 1280  
Seattle, Washington 98104-2397

RE: AKOSH FY 2019 Comprehensive FAME Report Corrective Action Plan

Dear Ms. Goto,

Thank you for providing us with a copy of the final FY 2019 evaluation of the Alaska State Plan program. We appreciate your recognition of our continued high performance levels, and our commitment to resolving issues that are identified in the Federal Annual Monitoring Evaluation (FAME) report.

There were ten findings in the FY 2019 FAME report. Corrective Action Plans for each are as follows:

**Finding FY 2019-01: The average number of work days to initiate complaint investigations was 2.05 days, exceeding the negotiated goal of 1 day**

Despite AKOSH's longstanding practice of initiating investigations the same day that a validation occurred, achieving this rate within the Occupational Safety and Health Information System (OIS) has proven elusive. AKOSH aggressively investigated and determined this rate to remain out of standard due to OIS data entry errors which caused the average in OIS to not accurately reflect the daily work being done. AKOSH developed a management plan to pursue OIS training to ensure complaint investigations reflect the timely initiation in OIS and strive to meet the negotiated goal. In Feb 2020 AKOSH leadership received guidance and training from the Fed OSHA Area Director, implementing CSHO training on the proper data entry technique. This has made an immediate impact in our data accuracy as staff is moving through the learning curve for the proper OIS documentation process, improving the 2.05 rate in the 2019 FAME report to a cumulative 1.54 for the months of Mar-June following February's training. Most noteworthy is that June's rate was 1.0 reflecting that the goal can be achieved with sufficient OIS training and staff attention to detail.

**Finding FY 2019-02: In 41% (9 of 22) of complaint inspection files, there was no indication that the required inspection results letter was sent to the complainant, nor was the letter maintained in the electronic case file**

During the months of February through May 2020, AKOSH completed the migration of all letter templates into OIS and now uses that system to generate complaint response letters to ensure they

are attached to the complaint. This reduces the workload on the CSHO and ensures that the complaint response letter is sent and filed electronically as part of the OIS workflow. In the event of an anonymous complaint, AKOSH now documents with a Memo for Record (MFR) in place of the response letter noting the inability to effectively send the required response. Additionally, a CSHO is assigned to thoroughly review case files prior to submission to the Chief of AKOSH for final approval. This review identifies any missing documentation before the case is presented for signature and filed.

**Finding FY 2019-03: In 47% (14 of 30) of case files that contained non-formal complaints, the electronic case files contained only the complaint form and lacked all other required documents, forms, and notes, as required by the State Plan Field Operations Manual (FOM)**  
As noted for finding 2019-02, the CSHO assigned to review the file ensures all required documents, forms, and notes, as required by the State Plan Field Operations Manual (FOM) are present. This additional level of review helps ensure that any missing documentation is included before the case is signed and filed.

**Finding FY 2019-04 (FY 2018-OB-02): In 67% (2 of 3) of fatality case files reviewed, there was no evidence that required next-of-kin letters were sent**

As noted for findings 2019-02 and 2019-03, the CSHO assigned to review the file ensures all required documents, forms, and notes to include the sent next-of-kin letters are present in the electronic case file. To aid in timely issuance of letters, next-of-kin letter templates have also been uploaded to OIS and are now part of the OIS workflow for fatality inspections.

**Finding FY 2019-05: The compliance rate for health inspections was 72.93%, which falls outside of the FRL**

AKOSH leadership determined the vast majority of FY19 in-compliance health inspection rates of 72.93%, which was above the maximum allowed of 43.35%, were a result of programmed activities under PD 19-01. The high rate for in-compliance correlates with PD 19-01's inclusion of multiple yet distinct healthcare entities operating within a single shared medical establishment. In these scenarios, each entity within a complex benefits from the compliance of the controlling host facility and typically mirrors the favorable compliance results. Based on the multi-employer citation policy, often the host facility is in-compliance and thus generates a high rate of multiple in-compliance results due to their influence in this multi-employer workplace which increases this rate dramatically. As this is subject to sample size influence, AKOSH has begun to review PD 19-01 to see if any changes can be made to allow for more accurate accounting of the healthcare industry in this scenario based on this common outcome that often results in a multiple No Alleged Violations outcome. Additionally, management involvement to avoid multiple large healthcare complexes and focus on smaller single providers is a possibility.

**Finding FY 2019-06: The average lapse time for health inspections was 92.68 days, which exceeds the FRL range**

AKOSH has determined that the lapse time of 92.68 in FY2019 was driven due to a large number of complex inspections, including four PSM inspections that were all unprogrammed. In FY2020 AKOSH is focusing on completing less complex health inspections quickly so that time may be dedicated to the more complex investigations. This has greatly improved the results thus far for FY20, noting the reported end of 2<sup>nd</sup> quarter for FY2020 rate is a cumulative 76.0, just above the acceptable 74.0 limit for FY2020. Management will continue to monitor and act to strive for improved timeliness in this area.

**Finding FY 2019-07: In 10.9% (6 of 55) of inspection case files, there was no evidence of abatement**

AKOSH acknowledges completed abatement documentation deficiencies. Leadership has made a concerted effort to ensure that, upon receipt, abatement obtained is adequately documented in the case file. Open abatement is also tracked through a case file tracker with administration and CSHO specific case tracking spreadsheets for necessary follow up when delays are encountered on open cases. The Chief of AKOSH is now provided weekly reports and works with individual CSHOs for timely abatement and accountability tracking. Furthermore, standardized electronic case files have a specific tab for abatement documents or notes annotating corrected on site to aid in Federal OSH and self-audits.

**Finding FY 2019-08 (FY 2018-07): In 18.2% (10 of 55) of inspection case files, employee interviews were not documented**

As noted for findings 2019-02, 2019-03 and 2019-04, the CSHO assigned to review the file ensures all required documents, forms, and notes to include completed employee interviews are present. In the event all employees leave the worksite to avoid being subject to an interview, or refuse to participate in an interview and or/provide their names, AKOSH will insert a MFR with sufficient details that reflect the situation for future audit reference.

**Finding FY 2019-09: In 41.7% (5 of 12) of inspections, where workers were covered by a union, the union representative was not involved in the walk around of the inspection.**

**Recommendation**

As a practice, AKOSH immediately contacts the union representative during the opening conference when it is known to be a union worksite. As noted for findings 2019-02, 2019-03, 2019-04, and 2019-08 when an employee is identified as a union member the CSHO assigned to review the file ensures all required documents, forms, and notes to include then specific contact details of the participative union representative. A Memo For Record documenting the details for any event where a union representative was not present for a walk-around due to the union either declining to participate, or the inability of the CSHO to make contact with a union representative during the opening conference. CSHOs have been instructed to ensure that all attempts to contact unions are documented in the MFR and contact logs when there was no ability to have union participation in the walk-around.

**Finding FY 2019-10: In 100% (5 of 5) of whistleblower investigations dismissed due to lack of cooperation, all means of supplied contact information were not attempted to contact the complainant.**

Previously, AKOSH documented non-cooperative whistleblower contact effort details associated only with mailings via US Postal, and e-mail to last reported addresses. However, documentation of failed contact efforts via telephone and text messages when utilized were not documented before closure. The Whistleblower now includes documentation of phone and text contact efforts as well. Furthermore, the Whistleblower clearly understands the requirements to fully exhaust any and all available or emerging communication methods, and to document each of those utilized in the effort to reconnect before closing an investigation due to lack of cooperation.

Thank you for the time that you and your staff have invested in conducting a review of our program. We appreciate your collaborative approach and the opportunity to work collegially to address any areas that have demonstrated deficiencies. We also appreciate this opportunity to provide further evidence that we take these findings seriously and are confident that our

management efforts to determine causes and implemented corrective actions will improve our effectiveness in serving the public while more consistently meeting negotiated goals.

If you have questions, please contact Labor Standards and Safety Director Joseph Knowles. He can be reached at (907) 269-4961, [Joseph.Knowles@alaska.gov](mailto:Joseph.Knowles@alaska.gov), or by mail at:

Director Joseph Knowles  
Division of Labor Standards and Safety  
1251 Muldoon Road, Suite 113  
Anchorage, AK 99504

Thank you again for your team's engaged and cooperative program oversight.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamika L. Ledbetter". The signature is fluid and cursive, with a large initial "T" and "L".

Dr. Tamika L. Ledbetter  
Commissioner

cc: Arlene Lamont, Anchorage Area Director  
Cathy Munoz, Deputy Commissioner  
Joseph Knowles, Director, Labor Standards and Safety  
Ronald Larsen, Chief of Enforcement  
Elaine Banda, Chief of Consultation and Training