

FY 2021 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

State of Alaska
Department of Labor and Workforce Development
Labor Standards and Safety Division –
Alaska Occupational Safety and Health (AKOSH)



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I. Executive Summary

The purpose of this report is to assess the Alaska Occupational Safety and Health's (AKOSH's) performance during Fiscal Year (FY) 2021 with regard to activities mandated by the Occupational Safety and Health Administration (OSHA), and to gauge the State Plan's progress toward resolving recommendations from the FY 2020 Follow-up Federal Annual Monitoring and Evaluation (FAME) report. There has been significant improvement since the last comprehensive FAME.

Over the past two years, there have been challenges in hiring and training staff, and staff turnover continues to be high. This issue, in addition to the challenges due to the pandemic, resulted in the inspection goal specified in the FY 2021 Performance Plan not being met. On a positive note, key leadership positions were filled that resulted in enhancements to existing policies and procedures. Examples of these changes can be seen as AKOSH implemented program improvements as outlined in the FAME Corrective Action Plan (CAP), which included periodic reviews of fatality, inspection, and complaint case files; development of a guide and tracker sheet for compliance officers to ensure required actions were taken for each case file; implementation of a tracker sheet for administrative staff to ensure all action items were completed in closing case files; completion of phase one required training for compliance officers; and creating a high hazard targeting list. AKOSH is in the third year of using electronic files exclusively, and some deficiencies were found in complaint file maintenance. An example of deficiencies included missing documents and forms for non-formal complaints and missing abatement documentation.

Multiple federal safety and health standards were adopted. OSHA issued five standards that required adoption from FY 2020 to FY 2021, and all were adopted identical. The Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation required a legislative change and was passed. The state maximum penalty changes matched federal penalties in FY 2021, and the final rule for the implementation of 2020 and 2021 Annual Adjustments to Civil Penalties for Inflation were adopted identical.

There was one finding and eleven observations in this report. Six findings from the FY 2020 Follow-up FAME report were completed and two were converted to observations. Four observations from the FY 2020 Follow-up FAME report were closed, and there are nine new observations. Appendix A describes new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective actions.

II. State Plan Background

A. Background

The State of Alaska, in accordance with Section 18 of the Occupational Safety and Health Act of 1970, operated an occupational safety and health program through its Department of Labor and Workforce Development, Labor Standards and Safety Division, Occupational Safety and Health. Alaska received approval for the state plan on August 10, 1973. On

September 13, 1977, OSHA certified that all developmental steps were completed as specified in its plan and final approval was granted on September 28, 1984.

The Alaska Occupational Safety and Health Program is part of the Alaska Department of Labor and Workforce Development, which falls under the Division of Labor Standards and Safety. Key leadership positions include the Commissioner, Dr. Tamika L. Ledbetter, who heads the Department and is the State Plan Designee, and Division Director William C. Harlan, who heads the Labor Standards and Safety Division. AKOSH is divided into two sections: Enforcement, and Consultation and Training. The Enforcement section was managed by Chief Ronald Larsen, who supervised five Industrial Hygienists (IH), five Safety Compliance Officers (SCOs), and one SCO detailed for retaliation investigations. The Consultation and Training section was managed by Chief Elaine Banda, who supervised three IHs and eight Safety and Compliance consultants. AKOSH funded 2.4 full time equivalent (FTE) of the safety consultation positions and one (1) FTE of the health consultation positions as state and local government consultants under the 23(g) grant. One (1) additional FTE was funded for compliance assistance activities and was split between several positions in both consultation and enforcement. The remainder of the consultation program activities and FTEs were funded by the 21(d) Cooperative Agreement and were evaluated in the Regional Annual Consultation Evaluation Report.

AKOSH exercises jurisdiction over all private sector employers with the exception of Denali National Park, Metlakatla Indian Reservation, maritime industries, federal government-owned and contractor-operated (GOCO) native health care facilities, artificial islands, select military installations, federal agencies, and federal employees. AKOSH retains jurisdiction in state and local government workplaces and has state-specific standards for several hazardous operations in general industry and construction including oil and gas operations, logging, telecommunications, and electric power generation, transmission, and distribution.

According to the demographic profile provided in the FY 2021 23(g) grant application, there were approximately 326,924 workers employed in 22,074 establishments. The initial award was \$3,300,800 (\$1,524,800 federal, \$1,776,000 state funds). The State Plan did not accept a federal base increase of \$25,700 offered in February 2021. A one-time only deobligation of \$200,000 (\$100,000 federal and \$100,000 state) in July and another one-time only deobligation of \$160,000 (\$80,000 federal and \$80,000 state) in September reduced the total award to \$2,940,800 (\$1,344,800 federal, \$1,596,000 state funds). The state reported final expenditures to be \$2,693,667 (\$1,344,800 federal, \$1,348,867 state funds).

B. New Issues

The effects of the ongoing pandemic for the last two years impacted the ability to travel due to in-state travel or local restrictions when areas were experiencing high levels of COVID-19. Some inspections were conducted remotely, and complaints were handled non-formally in the interest of reducing COVID-19 exposure for Compliance Officers, employers and workers. Businesses struggled to reopen and fisheries in remote areas were not allowing their employees to interact with the community or only authorized entry to facilities. Many remote areas throughout Alaska have limited access to health care, urgent, or emergency care.

A significant and sensitive CASPA was investigated this evaluation period, AK CASPA

2021-01, which resulted in two findings and eight addendum items with recommendations. AKOSH completed corrective action and provided documentation for the two findings, and they were closed by OSHA. The addendum items were investigated during the casefile review and two related items are new observations in this report. The CASPA is discussed further below in the CASPA section of the report.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. The FY 2021 report is a comprehensive report where OSHA conducted an on-site program evaluation and case file review utilizing a five-person OSHA team. The electronic case files were reviewed electronically during the week of November 15-19, 2021. A total of 104 safety and health case files were randomly selected from a list of closed inspections and non-formal complaint files with an opening date in the range of October 1, 2020, to September 30, 2021. The following files were reviewed:

- Four (4) fatality case files
- Nineteen (19) non-formal complaint case files
- Twenty one (21) referral case files (UPA)
- Twenty (20) formal complaint case files
- Twenty eight (28) un-programmed inspection case files
- Twelve (12) programmed inspection case files

The review of whistleblower protection case files was also conducted during the week of November 15-18, 2021. A total of three whistleblower protection investigations were completed and 50 complaints were administratively closed by AKOSH in FY 2021. All 53 closed whistleblower protection case files were selected for review and included:

- One (1) withdrawn
- One (1) dismissed
- One (1) referred for litigation
- Fifty (50) administratively closed

State and local government workplace consultation files were reviewed electronically from January 19 to February 1, 2021 by a four-person team. A total of seventeen (17) initial visit state and local government workplace files were reviewed and included:

- One (1) full safety
- Eight (8) Limited safety
- Six (6) limited health
- Two (2) limited safety and health

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (Appendix D, dated 12/8/2021)
- State Information Report (SIR, dated 11/8/2021)
- Mandated Activities Report for Consultation (MARC, 12/14/2021)
- State OSHA Annual Report (Appendix E)
- [State Plan Annual Performance Plan](#)
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Case file review as describe above

Each State Activity Mandated Measures (SAMM) Report has an agreed-upon Further Review Level (FRL), which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2021 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

AKOSH adopted PD 16-02 on November 23, 2013, in response to OSHA's training directive, TED 01-00-019 Mandatory Training Program for OSHA Compliance Personnel, and the alternative approach was approved by OSHA. A comprehensive continuing education program was provided to ensure compliance officers and consultants maintained their knowledge and skills. In FY 2021, training opportunities for enforcement and consultation personnel included 47 OSHA Training Institute (OTI) courses via webinars, one University of Washington course, and ten other safety and health related and in-house courses. OTI traveling courses and in person attendance did not occur in 2021 due to the pandemic.

AKOSH adopted PD 19-05, Mandatory Training Program for AKOSH Whistleblower Investigators on November 1, 2018, in response to the OSHA Whistleblower Training Program Directive from FY 2016. There was one AKOSH representative that managed the whistleblower protection program by providing whistleblowers informal training, guidance and assistance and has completed the OSHA training courses. One additional enforcement officer completed the OSHA 1631, Written Communication for Whistleblower Investigators course.

b) OSHA Information System (OIS)

Enforcement data was captured in OIS, and weekly reports were used as a management tool to assess the effectiveness of the program. Administrative officers were trained to run the reports on a recurring basis, and AKOSH was consistent in reviewing inspection files to ensure proper coding.

c) State Internal Evaluation Program Report (SIEP)

AKOSH revised its SIEP in March of 2021. A self-assessment was used to conduct quality control checks on enforcement activities and case file reviews. The results will be documented, retained as part of the SIEP, and revisited or modified as issues are discovered.

Management conducted periodic reviews of fatality, inspection, and complaint case files, and continued to use a guide and tracker sheet for compliance officers to reference. This ensured that required actions were taken for each case file. A tracker sheet was also used for administrative staff to ensure all action items were completed to assist in closing case files and was included in the case files.

d) Staffing

The FY 2021 23(g) grant provided for 10 compliance officers (5 safety, 5 health) and 3.4 FTE state and local government consultants (2.4 safety, 1 health).

Maintaining staffing levels continued to be a challenge for the program. A key leadership position turned over in 2021, with a change of Directors in the 3rd Quarter due to the retirement of Joseph Knowles. At the end of the year, AKOSH had two vacancies in enforcement compliance positions, which was 20% below full staffing levels. There was some turnover internally with transfers between enforcement and consultation.

2. ENFORCEMENT

a) Complaints

There were 123 valid complaints in FY 2021, resulting in 62 inspections and 61 investigations. The average number of work days to initiate complaint inspections was 2.58 days, well below the negotiated goal of 7 days (SAMM 1A). The average number of work days to initiate complaint investigations decreased from the 1.80 days in FY 2020 to 1.02 days in FY 2021, outside of the negotiated goal of 1 day (SAMM 2A) by only 0.02 days. Therefore, **Finding FY 2020-01** from the FY 2020 follow-up FAME Report was considered completed in FY 2021.

AKOSH responded to 100% (23 of 23) of imminent danger complaints and referrals within one day (SAMM 3). There were no outliers.

OSHA reviewed case files to assess performance related to complaints and determine the status findings from the previous year. In one out of 20 case files (5%), there was no evidence that a copy of the inspection results letter was sent to the complainant, and the file was miscoded as “other related” rather than as a complaint inspection. This was a significant improvement from the FY 2019 case file review, when it was found that nine of 22 (41%) of complaint inspection files did not have evidence that the results letter was sent to the complainant (Finding FY 2020-02 (FY2019-02)). Therefore, **Finding FY 2020-02** was considered completed in FY 2021.

In FY 2019, enforcement inspections and investigations were transitioned from a paper to electronic case file system. A review of case files in 2019 revealed that in 14 out of 30 (47%) non-formal complaint case files, the case files only included the OSHA-7 complaint form. No other required documents, forms, or notes were present in the electronic case files to preserve a record of all actions taken to process the complaints. This was Finding FY 2020-03 (2019-03) in the FY 2020 follow-up Fame report. In FY 2021, there was a significant improvement, and complaint file documentation was missing in two of 19 (10%) case files; therefore, **Finding FY 2020-03** was converted to an observation.

Observation FY 2021-OB-01 (FY 2020-03): In FY 2021, in 10% (two of 19) 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's Field Operations Manual (FOM).

Federal Monitoring Plan: OSHA will monitor to ensure documents relevant to the non-formal investigation are within the case file.

New Observations related to **Finding FY 2020-03** are listed below; specific items were segregated into separate observations so that individual items related to casefile documents could be tracked and completed:

A review of electronic case files revealed that in seven out of 39 (18%) formal and non-formal complaint case files, the contact sheet was not used or updated in complaint files. In 11 out of 52 (21%) inspection files, the contact sheet was not used, nor were entries updated after the CSHO turned in the file through closure of the casefile.

Observation FY 2021-OB-02: In FY 2021, in 18 of 91 (20%) of case files, the contact sheet was not used, nor were entries updated, as required by the State Plan's Field Operations Manual (FOM).

Federal Monitoring Plan: OSHA will monitor to ensure contact sheets are in the case file and are updated to reflect actions taken on the case file.

Observation FY 2021-OB-03: In FY 2021, in three out of 20 (15%) complaint files, the initial acknowledgement contact letter to the complainant was not in the case file, and in six out of 19 (32%) of non-formal complaint files, the closure letter to the complainant was not in the case file.

Federal Monitoring Plan: OSHA will monitor to ensure initial and final letters to the complainant are generated and in the case file.

There were zero denial of entries where entry was not obtained (SAMM 4).

b) Fatalities

There were four fatalities investigated and all (100%) were responded to within one work day (SAMM 10). One of the four fatalities was determined to be “not work related”.

A review of the fatality case files revealed that in one of three (33%) files where the fatality was determined to be work related, the final next-of-kin letter was not in the case file; therefore, **Finding FY 2020-04** is converted to an observation.

Observation FY 2021-OB-04:(FY 2020-04): In FY 2021, in one of three (33%) final next-of-kin letters, there was no evidence that the required next-of-kin letter was sent.

Federal Monitoring Plan: OSHA will monitor to ensure final next-of-kin letters are generated and in the case file.

All fatality case files were reviewed, and all had some deficiencies. In one inspection file, after opening the inspection, AKOSH determined that the fatality was under the jurisdiction of Anchorage Police Department and the Alaska Department of Transportation, and that the fatality occurred on a public roadway. Once jurisdiction was determined, the inspection file should have been re-coded as “no jurisdiction”. This was a coding error; however, it does not rise to the level of a finding or observation, as it is in the best interest of AKOSH to investigate fatalities until jurisdiction can be determined.

In addition, two of the four (50%) of fatality inspection files did not have the investigative summary and the three of four (75%) did not have the fatality/catastrophe report in the casefiles, which AKOSH can resolve by providing additional training to staff; therefore, this does not rise to the level of an observation or finding.

In one of the fatality case files, there were concerns noted. The inspection was conducted “remotely related to COVID-19 exposure” and was coded as a records-only inspection. The inspection does not appear to have been opened timely. There were two fatalities reported by the employer; the first report of fatality was on 2/13/2021 and the second report was on 3/2/2021, but the AKOSH records-only investigation was not opened until 3/3/2021. Although the inspection could have been conducted remotely due to the pandemic, the investigation did not include any interviews of employees, which could have been performed over the phone regardless of working conditions. OSHA will continue to monitor inspection coding, worker involvement in inspections, and timely response to fatalities during quarterly meetings. As this was one instance and the issue was complicated due to the pandemic, this does not rise to the level of an observation or finding.

In one of the four fatality case files, citations were not grouped in accordance with the AKOSH Field Operations Manual, and this will be included as part of **Observation FY2021-OB-05** which is described in the citations and penalties section.

c) Targeting and Programmed Inspection

Percent of enforcement presence (SAMM 17) describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. The State Plan had a percent enforcement presence of 1.48%, which was higher than the FRL range of 0.74% to 1.24%. AKOSH's high enforcement presence indicates that the State Plan is reaching more employers with enforcement activity than the national average.

A total of 170 safety and 93 health inspections were conducted in FY 2021, which did not meet the projected inspection goals of 220 for safety and 110 for health. The 263 enforcement inspections conducted (SAMM 7) did not meet the projected goal of 330. The number of safety inspections was 19% below the lower end of the FRL range of 209 to 231 inspections, and the number of health inspections was 11% below the lower end of the FRL range of 104.50 to 115.50 inspections. A significant factor that impacted the total number of inspections in FY 2020 and FY 2021 was the ongoing COVID-19 pandemic, due to local, rural and community restrictions on entry or travel, and closure or entry restrictions of some businesses like hospitals and seafood industry. OSHA is not recommending an observation or finding for this metric due to the circumstances but will continue to monitor this metric during quarterly meetings.

For FY 2021, the FRL for in-compliance safety inspections (SAMM 9a) was +/- 20% of the three-year national average of 31.65%, with a range of 25.32% to 37.48%. The percent in-compliance for safety was 35.42% and was within the range of 25.32% to 37.98%. The FRL for in-compliance health inspections (SAMM 9b) was +/- 20% of the three-year national average of 40.64%, with a range of 32.51% to 48.77%. The State Plan's percent in-compliance for health was 21.05%, which was below the FRL and did not warrant further review. This metric indicated positive performance in identifying serious hazards during health inspections.

In the FY 2021 State Plan 23(g) grant, the annual performance plan established goals for enforcement inspections in construction, healthcare, and seafood processing industries. These industries were targeted through scheduled planned inspections, and consultation and training activities such as outreach, education, and compliance assistance. As noted in the AKOSH SOAR, in construction, 104 inspections and one compliance assistance activity were conducted. The projected goal of conducting 120 construction inspections was not met. The goal to reduce lost time injury and illness rate from 1.90 per 100 employees was also not met; the injury and illness rate was 1.94 per 100 employees.

AKOSH conducted five inspections in the seafood processing industry. The projected goal of 15 seafood processing was not met. The goal to reduce the lost time injury and illness rate to 4.04 per 100 employees was also not met; the actual outcome was 9.27 per 100 employees. The COVID-19 pandemic added a significant number of COVID-19 related reported lost time injuries and illnesses to the total number of lost time injuries and illnesses over FY21, consequently raising the overall rate of lost time injuries and illnesses in the seafood processing industry. Due to the pandemic and statewide travel restrictions, closed businesses and reduced

work activities affecting inspection activities, Enforcement did not reach the strategic goal. See section VI *COVID-19 Related: Activities and Impact* of the AKOSH SOAR report.

In the healthcare industry, AKOSH conducted 47 inspections and two compliance assistance activities. The projected goals of conducting 65 healthcare inspections were not met. The goal to reduce the lost time injury and illness rate to 1.31 per 100 employees was also not met; the actual outcome was 1.62 per 100 employees. As in the seafood industry, the COVID-19 pandemic added a significant number of COVID-19 related lost time injuries and illnesses to the total number of lost time injuries and illnesses in FY 2021, thereby raising the overall rate in the healthcare industry.

d) Citations and Penalties

The average number of serious, willful, repeat, and unclassified (SWRU) violations per inspection was 2.17, which was higher than the national average and above the range of the FRL of 1.42 to 2.14 (SAMM 5). The average number of other than serious violations was 1.38 which was higher than the FRL range of 0.73 to 1.09. This was not a concern. In general, in the inspection files reviewed by OSHA, AKOSH cited apparent violations using the appropriate classification and penalties (Table A). The average current penalty per serious violation for all employers was \$3,495.83, which was within the FRL range of \$2,325.28 to \$3,875.46 (SAMM 8). AKOSH has been within the FRL range for this metric for the last three years. Penalties were within the FRL for all size categories of employers and are equivalent to OSHA.

Table A
AKOSH Average Penalties by Number of Workers

Number of Workers	AKOSH Penalty Average 2021	Three- Year National Average	Further Review Level
1 to 250 plus employees	\$3,495.83	\$3,100.37	\$2,325.28 to \$3,875.46
1 to 25 employees	\$2,093.00	\$2,030.66	\$1,523.00 to \$2,538.33
26 to 100 employees	\$3128.60	\$3632.26	\$2,724.20 to \$4,540.33
101-250 employees	\$3943.94	\$5320.16	\$3,990.12 to \$6,650.20
250 plus employees	\$8048.44	\$6575.70	\$4,931.78 to \$8,219.63

However, it was noted in the FAME review of case files and in the review of two case files related to CASPA AK-2021-01, that citations were not grouped appropriately when citing related written program elements. Specifically, citations with written program elements and items related to the program were cited in addition to the program citation. This will be a new observation.

Observation FY 2021-OB-05: In three of 51 (6%) of FAME inspection case files and in two of two files reviewed as part of CASPA AK-2021-01, AKOSH did not combine violations in accordance with the AKOSH FOM, Chapter 4, paragraph X.

Federal Monitoring Plan: OSHA will monitor to ensure that violations are

combined appropriately either by grouping or combining as instances and that managers and compliance officers are trained on grouping and combining violations.

The average lapse time for safety inspections was 58.11 workdays and was within the FRL (SAMM 11) of 41.94 to 62.90 days. The average lapse time for health inspections was 62.03 days which was within the FRL of 52.88 to 79.32 days. The lapse time has improved for both inspection types; therefore, **Observation FY 2020-OB-04** was closed.

Of the case files reviewed, a majority of the case files included evidence critical to supporting a violation within the case files, as required by AKOSH PD 21-02, the Alaska Occupational Safety and Health Field Operations Manual, chapter 5. Case files documentation improved significantly since the FY 2019 comprehensive FAME; the case files included photographs, appropriate justifications for high gravity violations, employee exposure information and interviews, and employer knowledge of the hazard. Therefore, **Observation FY 2020-OB-01** was closed. It should be noted that in four of 60 (6.6%) of inspection files, OSHA 300 logs were not located in the casefile as required by the AKOSH FOM, but this did not rise to the level of an observation.

e) Abatement

Where documentation existed, both abatement periods and interim abatements offered were appropriate. In three out of 50 (6%) case files, there was no evidence of abatement in the case file. In one fatality, there was no abatement documentation for a high gravity violation; however, the employer did not request an informal conference and did not respond to debt collection letters as the employer either moved or went out of business. The two other inspection files were construction related where interim measure was obtained at the site by removal from the hazard and no long-term abatement in the form of provided fall protection or training was obtained. However, the construction site was most likely completed. As there was an adequate explanation for the cases identified, and as there was an improvement from 2019 when 6 of 55 (10.9%) of files did not have evidence of abatement, **Finding FY 2020-05** was completed.

f) Worker and Union Involvement

In FY 2019, in 18.2% (ten of 55) of inspection case files, employee interviews were not documented. There were significant improvements made to documenting employee interviews and in inspection files reviewed, refusal to participate were included in the narrative for cases where interviews weren't documented. Except for the fatality inspection file, where a COVID-19 related records-only inspection was conducted and no employee interviews were taken or documented, AKOSH documented interviews or adequately explained refusal. Therefore, **Finding FY 2020-06** was completed.

The percent of initial inspections with worker walk around representation or worker interview was 98.1% (SAMM 13), slightly below the FRL of 100%. The on-site review revealed that in one out of six (16.7%) cases where workers were covered by

a union, the union or employee representative wasn't contacted via telephone to participate during the inspection. The representative declined to participate which was documented in the narrative. AKOSH implemented procedural changes and training and showed improvement in documenting attempts to involve the union; therefore, **Finding FY 2020-07** was completed.

3. REVIEW PROCEDURES

a) Informal Conferences

The OSHA file review found that in eight of 14 (57%) inspections with citations, an informal conference was held, penalty reductions, deletions, and reclassifications were not conducted in accordance with the AKOSH FOM, PD 21-02, Chapter 7, Post Citation Procedures and Abatement Verification. In eight of 14 (57%) of cases, informal conference notes were not documented and maintained in the electronic record. OSHA will track this as a new observation. Documentation of the informal conference settlement agreements were included in the case file; however, notes and an explanation for the reductions were not included.

Observation FY 2021-OB-06: In FY 2021, in eight of 14 (57%) cases with an informal conference, AKOSH did not document the justification for the penalty reductions in case files.

Federal Monitoring Plan: OSHA will monitor to ensure that managers are trained on documenting the justification for reductions offered during the informal conference.

The State Plan retained 54.1% of its initial penalties, which was below the FRL range of 58.72% to 79.44% (SAMM 12). This does not rise to the level of an observation or finding but OSHA will continue to discuss during quarterly meetings.

Additionally, the State Plan had a contact log similar to a diary sheet that it uses when case files are turned in for review; however, all significant activities of the case file were not added to the contact log after the case file was turned in for review. This was not in accordance with the AKOSH FOM and was added as an observation in the complaint section of this report.

b) Formal Review of Citations

In FY 2021, 41.8% of violations were vacated after a contest was filed, above the national average of 14.48% (SIR 5B), and 51.16% of violations were reclassified after the contest, above the national average of 12.17% (SIR 6B). However, the penalty retention rate following a contest was 66.45%, compared to the national average of 63.3% (SIR 7B). The enforcement case file review did not reveal any issues or deficiencies related to formal settlement proceedings.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

Certain sections of the safety and health Code of Federal Regulations (CFRs) have been adopted and are covered in the Alaska Administrative Code (AAC) under 8 AAC 61.1010. The regulatory language “as amended” provides that once a federal change to a CFR is adopted by reference and receives public notice in the Federal Register, the effective date in Alaska is the same as that published in the Federal Register. For new OSHA standards, with code numbers that do not fall under the previously adopted 8 AAC 61.1010, AKOSH must go through a regulations adoption process, which requires a period of public notice and comment.

Some federal standard adoptions require state legislative changes, such as the adoption of adjustments to the penalty structure. The Alaska state legislature meets for 90 days in regular session, unless extended. Regular sessions are January to April. Legislatures are two years long (e.g. 2021-2022, odd year to even year) and bills stay alive during that period. The process for submitting proposed legislation is located on the Alaska state website at <http://www.labor.alaska.gov/commish/regindex.htm>

OSHA issued five standards that required adoption from FY 2020 to FY 2021 and all were adopted identical. The Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation required a legislative change and was passed. The state maximum penalty changes matched federal penalties in FY 2021.

Table B lists the standards issued by OSHA that required a response during FY 2020 to FY2021 and AKOSH’s intent response was timely for all.

**Table B
Status of FY 2020 and FY 2021 Federal Standards Adoption**

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Adoption Required</i>						
Final Rule on the Implementation of the 2020 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1903 (1/15/2020)	3/15/2020	1/24/2020	Yes	Yes	7/15/2020	2/1/2020
Final Rule on the Beryllium Standard for General Industry 29 CFR 1910 (7/14/2020)	9/14/2020	8/5/2020	Yes	Yes	1/14/2021	8/5/2020
Final Rule on the Beryllium Standard for Construction and Shipyards 29 CFR 1915, 1926	10/30/2020	10/29/2020	Yes	Yes	2/27/2021	10/29/2020

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
(8/31/2020)						
Final Rule on the Implementation of the 2021 Annual Adjustment to Civil Penalties for Inflation (1/15/2021)	3/16/2021	1/25/2021	Yes	Yes	7/14/2021	2/1/2021
Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard 29 CFR 1910 (6/21/2021)	7/6/2021	7/2/2021	Yes	Yes	7/21/2021	7/21/2021
<i>Adoption Encouraged</i>						
Final Rule on the Rules for Agency Practice and Procedures Concerning OSHA Access to Employee Medical Records 29 CFR 1913 (7/30/2020)	9/28/2020	10/9/2020	No	n/a	n/a adoption not required	n/a adoption not required
Final Rule on Cranes and Derricks in Construction: Railroad Roadway Work 29 CFR 1926 (9/15/2020)	11/14/2020	10/29/2020	Yes	Yes	n/a adoption not required	10/29/2020

b) Federal Program Change (FPC) Adoption

AKOSH submitted timely responses for four of the six federal program changes (FPCs) that required an intent response in FY 2020 and FY 2021. The other two responses were late by only three and five days, respectively. Two FPCs required identical or equivalent adoption in FY 2020 and 2021 and AKOSH adopted them timely and submitted comparison documents. Table C below details the State Plan's intent and adoption status.

Table C
Status of FY 2020 and FY 2021 Federal Program Change (FPC) Adoption

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Adoption Required</i>						
Amputations in Manufacturing Industries NEP CPL 03-00-022 (12/10/2019)	2/10/2020	1/29/2020	Yes	Yes	6/10/2020	1/29/2020

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)	4/4/2020	3/19/2020	Yes	Yes	8/4/2020	3/19/2020
<i>Equivalency Required</i>						
Field Operations Manual CPL 02-00-164 (4/14/2020)	6/13/2020	6/8/2020	Yes	No	10/11/2020	10/16/2020
Inspection Procedures for the Respirable Crystalline Silica Standards CPL 02-02-080 (6/25/2020)	8/24/2020	8/5/2020	Yes	Yes	12/22/2020	8/5/2020
Site-Specific Targeting (SST) CPL 02-01-062 (12/14/2020)	2/12/2021	5/13/2021	Yes	No	6/12/2021	6/15/2021
Consultation Policies and Procedures Manual CSP 02-00-004 (3/19/2021)	5/19/2021	3/24/2021	Yes	Yes	9/19/2021	3/24/2021
Inspection Procedures for the COVID-19 Emergency Temporary Standard CPL DIR 2021-02 (CPL 02) (6/28/2021)	7/13/2021	6/28/2021	Yes	No	7/28/2021	1/28/2021
Compliance Directive for the Excavation Standard 29 CFR 1926, Subpart P CPL 02-00-165 (7/1/2021)	8/30/2021	12/3/2021	Yes	Yes	12/28/2021	12/3/2021
Revised National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-03 (CPL 03) (7/7/2021)	7/22/2021	8/2/2021	Yes	No	8/7/2021	10/22/2021
<i>Adoption Encouraged</i>						
Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005 (1/30/2020)	3/30/2020	2/12/2020	Yes	No	n/a adoption not required	5/28/2020
Electronic Case File System Procedures for the Whistleblower Protection Program CPL 02-03-009 (6/18/2020)	8/18/2020	6/29/2020	No	n/a	n/a adoption not required	n/a

FPC Directive/Subject	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-01 (CPL-03) (3/12/2021)	5/12/2021	3/18/2021	No	n/a	n/a adoption not required	n/a
Communicating OSHA Fatality Inspection Procedures to a Victim's Family CPL 02-00-166 (7/7/2021)	9/7/2021	12/3/2021	No	n/a	n/a adoption not required	n/a

5. VARIANCES

There were no variance requests during FY 2020 and FY 2021.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

The penalty structure for state and local government employers was identical to private sector employers. There were 27 of 263 (10.27%) of total inspections conducted with state and local government employers, which was above the FRL range of 8.64% to 9.55% (SAMM 6) and met the 23(g) grant projection of 5% of total inspections.

7. WHISTLEBLOWER PROGRAM

Claims of workplace retaliation for reporting occupational safety and health issues are investigated by the AKOSH Whistleblower Investigations under Title 8, Part 4, Chapter 61, Article 7, of the Alaska Administrative Code.

Based on case files reviewed, OSHA policies and procedures outlined in the AKOSH PD 18-07, Whistleblower Investigation Manual (WIM) were generally followed. AKOSH adopted PD 19-05, Mandatory Training Program for AKOSH Whistleblower Investigators on November 1, 2018, in response to the OSHA Whistleblower Training Program Directive from FY 2016.

Table D below shows AKOSH's performance over the past three years in regard to SAMM 14, 15, and 16. The average number of calendar days to complete an investigation was 241 days in FY 2019 and increased to 1172 days in FY 2021 (SAMM 16). This is significantly higher than the FRL of 90 days and will continue to increase as the backlog of older cases is addressed. Table E shows the increase of cases over the past three years and the increase of average days pending for those cases; the total pending cases have more than doubled. In FY 2021, only three investigations were completed. While AKOSH assigned one fulltime investigator in FY 2018, the trend indicates that performance in the program will continue to decline if AKOSH does not make adjustments. These metrics have been discussed in all quarterly meeting in FY2021. This

will be a new observation in FY 2021.

Observation FY 2021-OB-07: In FY 2021, compared to FY 2019, total cases pending increased by 219%, average days pending increased by 140%, average days to complete an investigation increased by 486%, and AKOSH staffing for retaliation investigators stayed at the same level.

Federal Monitoring Plan: OSHA will continue to monitor and will encourage AKOSH to put more resources into the program.

Table D
AKOSH Performance on Retaliation SAMM Measures 2019 to 2021

	FY 2019	FY 2020	FY 2021	2021 FRL
Completed Within 90 Days (SAMM 14)	33%	80%	0%	100%
Merit Cases (SAMM 15)	50%	40%	33%	16% to 24%
Average Number of Calendar Days to Complete Investigation (SAMM 16)	241	55	1172	90

Table E
AKOSH Pending Case Information 2019 to 2021

	FY 2019	FY 2020	FY 2021
Total Pending Cases	47	78	103
Average Days Pending	585	679	819

In all whistleblower case files reviewed, there was evidence of the investigator using all supplied means of contact information when attempting to contact any complainant; therefore, **Finding FY 2020-08** was completed. All 50 administratively closed cases reviewed by OSHA showed evidence of a supervisory review and that complainants agreed with the administrative closures, as a result, **Observations FY 2020-OB-02** and **FY 2020-OB-03** were closed.

Proper documentation in retaliation case files is important to ensure the totality of the case is recorded and understood by all parties conducting any type of review after the case has been completed. In 28 out of the 53 (53%) of case files reviewed, proper documentation was not found; therefore, this is a new observation in FY 2021. Examples of documents that were lacking include: final signatures on settlement agreements, correspondence between AKOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, medical information not protected, or other documents required to be in the retaliation case file.

Observation FY 2021-OB-08: In FY 2021, in 28 out of 53 (53%) of retaliation case files reviewed, the files lacked the required documentation such as final signatures on settlement agreements, correspondence between AKOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries,

rebuttal interviews, medical information not protected, or other documents required to be in the retaliation case file.

Federal Monitoring Plan: OSHA will monitor during quarterly meetings to ensure that the State Plan include required documentation in case files. OSHA will use Electronic Case File (ECF) System Procedures for the Whistleblower Protection Program (CPL 02-03-009) as a guide.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA investigated one valid CASPA during the period of FY 2020 and FY 2021. CASPA AK-2021-1 alleged that AKOSH did not follow its policies and procedures for a significant case and that citations weren't issued within the inspection statute of limitations. OSHA's investigation and review of procedures substantiated the allegations. As corrective action, AKOSH sent an advisory letter to the associated employer to notify them about the workplace hazards that were identified in the inspection and developed a written Standard Operating Procedures (SOP) and template format to ensure the review requirements in the AKOSH FOM for significant and novel cases are followed. Corrective action was completed and the CASPA was closed. AKOSH was timely in its response to this CASPA.

9. VOLUNTARY COMPLIANCE PROGRAM

The Voluntary Protection Program (VPP) is administered under the 23(g) grant and managed by the Consultation and Training Section. There were seven VPP sites at the end of FY 2021. There were no additions or withdrawals from the program during the fiscal year. This is short of the five-year strategic plan goal to maintain at least eleven VPP sites and OSHA will continue to review during quarterly meetings.

In the FY 2021 State Plan 23(g) grant, the annual performance plan continued the goal to maintain at least one partnership agreement in construction, healthcare, seafood processing or the public sector over the course of the five-year strategic plan. At the end of FY 2021, there were six participants in the State Plan's construction partnership agreement called Alaska's Construction Health and Safety Excellence Program (CHASE). There were three gold level and three blue level contractors, and the partnership goal was met.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

Consultation services are provided to state and local government employers through the Consultation and Training section. This portion of the FAME report covers consultation services provided solely to state or local government agencies that are funded under Section 23(g) of the Occupational Safety and Health (OSH) Act. Consultation for the private sector is funded under Section 21(d) of the OSH Act and is evaluated separately in the Regional Annual Consultation Evaluation Report (RACER).

In FY 2021, 58 initial consultation visits were conducted in state and local government workplaces. Of these, 52 (89.66%) were in high hazard industries, when rounded slightly

under the goal of not less than 90% (MARC 1). There were difficulties in FY 2021 due to the ongoing pandemic when state agencies were mandated to resume telework status when surges peaked across the state.

Smaller businesses with fewer than 250 employees received 48 (82.76%) visits (MARC 2A), and businesses with fewer than 500 employees received 45 (77.59%) visits (MARC 2B). The consultant conferred with employees 100% of the time (MARC 3). During this evaluation period, 315 serious hazards were identified, and 286 (90.79%) were corrected in a timely manner. There were 35 hazards corrected on-site, 202 within the original time, and 24 within the extension time frame. Of these, 237 of 315 (75.24%) were corrected within the original timeframe or on-site and exceeded the goal of 65%. No employers were referred to enforcement (MARC 4A-4D).

The Consultation Program used its resources to provide services to High Hazard NAICS Industries. Of the case files reviewed in January of 2021, in 12 of 17 (71%) files were coded as High Hazard Type: “Hazardousness,” “NAICS Listing,” or “Alternative” when the employer’s NAICS code was not on the High Hazard List and wasn’t a hazardous worksite. This was a new observation.

Observation FY 2021-OB-09: In FY 2020 and 2021, 12 of 17 (71%) of state and local government consultation visits were identified as high hazard in OIS where the employer’s industry and worksite weren’t considered high hazard.

Federal Monitoring Plan: OSHA will work with AKOSH to ensure all non-high hazard visits are coded appropriately.

In 9 of 17 (53%) of the state and local government workplace consultation files reviewed, the case files did not have enough documentation to support hazard classifications:

- Hazards classified as serious lacked evidence to support the hazard classification.
- Serious hazard language was vague, such as several did not include specific equipment or chemical identity, or information as to why the hazard would likely result in injury.

In addition, it was noted that the incorrect OSHA standards were used in 4 of 17 (24%) files. It is important to ensure the proper standards apply to the hazards identified, including the proper use of 29 Code of Federal Regulations 1910 versus 1926. This was a new observation.

Observation FY 2021-OB-10: In FY 2020 and 2021, in 4 of 17 (24%) state and local government consultation files, incorrect OSHA standards were used for hazards identified in visits.

Federal Monitoring Plan: OSHA will conduct a limited file review.

Overall, the consultants did a good job describing the hazards identified and recommending methods to eliminate or control them. However, in nine of 17 (53%) files, hazards were not appropriately classified. Joint training was conducted with OSHA and AKOSH on February 1, 2021, to address this concern. This was a new finding in FY 2021.

Finding FY 2021-01: In FY 2020 and 2021, nine of 17 (53%) state and local government workplace consultation case files did not contain the proper classification of hazards.

Recommendation: AKOSH should ensure that hazards are classified appropriately.

In eight (8) of 17 (47%) files, the written report to the employer did not have a comparison of the employer's Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average, as required by the Consultation Policies and Procedures Manual, Chapter 6.I.C.f. This will be a new observation in FY 2021.

Observation FY 2021-OB-11:

In eight (8) of 17 (47%) files, the written report to the employer did not have a comparison of the employer's Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average.

Federal Monitoring Plan: OSHA will conduct a limited file review.

11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM

This section does not apply, consultation for the private sector is funded under Section 21(d) of the OSH Act and is evaluated separately in the Regional Annual Consultation Evaluation Report (RACER).

Appendix A – New and Continued Findings and Recommendations

FY 2021 AKOSH Comprehensive FAME Report

FY 2021-#	Finding	Recommendation	FY 2020-# or FY 2020-OB-#
FY 2021-01	In FY 2020 and 2021, nine of 17 (53%) state and local government workplace consultation case files did not contain the proper classification of hazards.	AKOSH should ensure that hazards are classified appropriately.	New

Appendix B – Observations and Federal Monitoring Plans

FY 2021 AKOSH Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation# FY 2020-OB-# or FY 2020-#	Observation	Federal Monitoring Plan	Current Status
FY 2021-OB-01	FY 2020-03	In FY 2021, in two of 19 (10%) 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’s Field Operations Manual (FOM).	OSHA will monitor to ensure documents relevant to the non-formal investigation are within the case file.	Converted to Finding
FY 2021-OB-02		In FY 2021, in 18 of 91 (20%) of case files, the contact sheet was not used, nor were entries updated, as required by the State Plan’s Field Operations Manual (FOM).	OSHA will monitor to ensure contact sheets are in the case file and are updated to reflect actions taken on the case file.	New
FY 2021-OB-03		In FY 2021, in three out of 20 (15%) complaint files, the initial acknowledgement contact letter to the complainant was not in the case file, and in six out of 19 (32%) of non-formal complaint files, the closure letter to the complainant was not in the case file.	OSHA will monitor to ensure initial and final letters to the complainant are generated and in the case file.	New
FY 2021-OB-04	FY 2020-04	In FY 2021, in one of three (33%) final next-of-kin letters, there was no evidence that required next-of-kin letters were sent.	OSHA will monitor to ensure final next-of-kin letters are generated and in the case file.	Converted to Finding
FY 2021-OB-05		In three of 51 (6%) of FAME inspection case files and in two of two files reviewed as part of CASPA AK-2021-01, AKOSH did not combine violations in accordance with the AKOSH FOM, Chapter 4, paragraph X.	OSHA will monitor to ensure that violations are combined appropriately either by grouping or combining as instances and that managers and compliance officers are trained on grouping and combining violations.	New
FY 2021-OB-06		In FY 2021, in eight of 14 (57%) of cases with an informal conference, AKOSH did not document the justification for the penalty reductions in case files.	OSHA will monitor to ensure that managers are trained on documenting the justification for reductions offered during the informal conference.	New
FY 2021-OB-07		In FY 2021, compared to FY 2019, total cases pending increased by 219%, average days pending increased by 140%, and average days to complete an investigation increased by 486%, and AKOSH	OSHA will continue to monitor and will encourage AKOSH to put more resources into the program.	New

Appendix B – Observations and Federal Monitoring Plans

FY 2021 AKOSH Comprehensive FAME Report

		staffing for retaliation investigators stayed at the same level.		
FY 2021-OB-08		In FY 2021, in 28 out of 53 (53%) of retaliation case files reviewed, the files lacked the required documentation such as final signatures on settlement agreements, correspondence between AKOSH and the parties, evidence of review by a supervisor, letters of designation, complaint summaries, interview summaries, rebuttal interviews, medical information not protected, or other documents required to be in the retaliation case file.	OSHA will monitor during quarterly meetings to ensure that the State Plan include required documentation in case files. OSHA recommends using the Electronic Case File (ECF) System Procedures for the Whistleblower Protection Program (CPL 02-03-009) as a guide when maintaining ECF.	New
FY 2021-OB-09		In FY 2020 and 2021, 12 of 17 (71%) of state and local government consultation visits were identified as high hazard in OIS where the employer’s industry and worksite weren’t considered high hazard.	OSHA will work with AKOSH to ensure all non-high hazard visits are coded appropriately.	New
FY 2021-OB-10		In FY 2020 and 2021, in four of 17 (24%) state and local government consultation files, incorrect OSHA standards were used for hazards identified in visits.	OSHA will conduct a limited file review.	New
FY 2021-OB-11		In eight of 17 (47%) of state and local government consultation files reviewed, the written report to the employer did not have a comparison of the employer’s Days Away, Restricted or Transferred (DART) and Total Recordable Case (TRC) to the national average.	OSHA will conduct a limited file review.	New
	FY 2020-OB-01	In FY 2019, in 14.5% (eight of 55) of case files, evidence critical to supporting a violation was not documented, as required by the AKOSH FOM.		Closed
	FY 2020-OB-02	In FY 2019, in 89.5% (68 of 76) of administratively closed retaliation case files, there was no documentation of a supervisory review.		Closed
	FY 2020-OB-03	In FY 2019, in 100% (76 of 76) of administratively closed retaliation case files, there was no documentation to show that complainants agreed with the decision to administratively close their complaint.		Closed

Appendix B – Observations and Federal Monitoring Plans

FY 2021 AKOSH Comprehensive FAME Report

	FY 2020-OB-04	In FY 2020, the average lapse time for health inspections was 78.94 days, which exceeded the FRL range (SAMM 11).		Closed
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Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 AKOSH Comprehensive FAME Report

FY 2020-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2020-01	The average number of work days to initiate complaint investigations was 1.80 days, exceeding the negotiated goal of 1 day (SAMM 2A).	AKOSH should develop a management plan to ensure complaint investigations are initiated timely to meet the negotiated goal.	AKOSH conducted an internal review, developed a management plan, conducted training with staff, and implemented monthly monitoring. These actions were completed by July 1, 2021.	November 8, 2021	Completed
FY 2020-02	In FY 2019, 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.	AKOSH should ensure that all letters of inspection results are sent to the complainants and saved in the electronic case files. Corrective action complete, awaiting verification.	AKOSH migrated template letters into OIS that populate required information. AKOSH conducted training to ensure that anonymous complaints are documented in the case file narrative. A CSHO was assigned to review case files prior to submission to the Chief of AKOSH for final approval.	November 19, 2021	Completed
FY 2020-03	In FY 2019, 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's Field Operations Manual (FOM).	AKOSH managers should ensure that all required documentation, forms, and notes are included and maintained in electronic case files, as required by the State Plan's FOM. Corrective action complete, awaiting verification.	Chief of Enforcement reviews all case files. Additionally, AKOSH administrative staff tracks the life of a non-formal complaint in the internal master case file tracker and in the electronic case file.	March 9, 2022	Converted FY 2021-OB-01
FY 2020-04	In FY 2019, in 67% (2 of 3) of fatality case files reviewed, there was no	AKOSH should ensure that next-of-kin initial involvement and final	Chief of Enforcement reviews fatality case files for all required documents, forms, notes, and next-of-kin letters. Next-of-kin template	Open	Converted FY 2021-OB-04

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 AKOSH Comprehensive FAME Report

	evidence that required next-of-kin letters were sent.	letter of inspection findings are sent and saved in the electronic case file. Corrective action complete, awaiting verification.	letters were uploaded to OIS and are now part of the OIS workflow for fatality inspections.		
FY 2020-05	In FY 2019, in 10.9% (6 of 55) of inspection case files, there was no evidence of abatement.	AKOSH should ensure the case files are maintained and updated when abatement documentation is obtained. Corrective action complete, awaiting verification.	AKOSH incorporated abatement into its master case file tracker. This is a specific tool provided to CSHOs to assist with tracking case status with abatement due dates.	November 19, 2021	Completed
FY 2020-06	In FY 2019, in 18.2% (10 of 55) of inspection case files, employee interviews were not documented.	AKOSH should implement a corrective action to ensure that interviews are documented. Corrective action complete, awaiting verification.	Chief of Enforcement ensures inspection case files contained all required documents, forms, notes, and completed employee interviews. AKOSH also documents any anomalies in the case file narrative.	November 19, 2021	Completed
FY 2020-07	In FY 2019, 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.	AKOSH should ensure union or employee representatives are contacted to participate in the inspection process and evidence is documented in the case files. Corrective action complete, awaiting verification.	AKOSH conducted training on documenting a lack of union participation in the case file, for situations when union representatives decline to participate or cannot be contacted. Additionally, the Chief of Enforcement reminds CSHOs about involving the union if present.	November 19, 2021	Completed
FY 2020-08	In FY 2019, 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	AKOSH should ensure all means of contact information provided by complainants are used before closing the investigation due to lack of cooperation. Corrective	The State Plan's whistleblower protection investigator was trained on the requirements to fully exhaust all available communication methods, and to document all efforts used to contact the complainant before closing an investigation due to lack of cooperation.	November 19, 2021	Completed

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 AKOSH Comprehensive FAME Report

	complainant.	action complete, awaiting verification.			
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Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 AKOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.58	7	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	0.82	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.02	1	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.51	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials	0	0	The further review level is fixed for all State Plans.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 AKOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	where entry not obtained			
5a	Average number of violations per inspection with violations by violation type (SWRU)	2.17	+/- 20% of 1.78	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.14 for SWRU.
5b	Average number of violations per inspection with violations by violation type (other)	1.38	+/- 20% of 0.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.73 to 1.09 for OTS.
6	Percent of total inspections in state and local government workplaces	10.27%	+/- 5% of 9.09%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 8.64% to 9.55%.
7a	Planned v. actual inspections (safety)	170	+/- 5% of 220	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 209 to 231 for safety.
7b	Planned v. actual inspections (health)	93	+/- 5% of 110	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 104.50 to 115.50 for health.
8	Average current	\$3,495.83	+/- 25% of	The further review level is based on a three-year national average.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 AKOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	serious penalty in private sector - total (1 to greater than 250 workers)		\$3,100.37	The range of acceptable data not requiring further review is from \$2,325.28 to \$3,875.46.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,093.00	+/- 25% of \$2,030.66	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,523.00 to \$2,538.33.
	b. Average current serious penalty in private sector (26-100 workers)	\$3,128.60	+/- 25% of \$3,632.26	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,724.20 to \$4,540.33.
	c. Average current serious penalty in private sector (101-250 workers)	\$3,943.94	+/- 25% of \$5,320.16	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,990.12 to \$6,650.20.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$8,048.44	+/- 25% of \$6,575.70	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,931.78 to \$8,219.63.
9a	Percent in compliance (safety)	35.42%	+/- 20% of 31.65%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.32% to 37.98% for safety.
9b	Percent in compliance (health)	21.05%	+/- 20% of 40.64%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 32.51% to 48.77% for health.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 AKOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11a	Average lapse time (safety)	58.11	+/- 20% of 52.42	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 41.94 to 62.90 for safety.
11b	Average lapse time (health)	62.03	+/- 20% of 66.10	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 52.88 to 79.32 for health.
12	Percent penalty retained	54.10%	+/- 15% of 69.08%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 58.72% to 79.44%.
13	Percent of initial inspections with worker walk-around representation or worker interview	98.10%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	0%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	33%	+/- 20% of 20%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 16% to 24%.
16	Average number of calendar days to	1,172	90	The further review level is fixed for all State Plans.

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 AKOSH Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	complete an 11(c) investigation			
17	Percent of enforcement presence	1.48%	+/- 25% of 0.99%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.74% to 1.24%.

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 8, 2021, as part of OSHA's official end-of-year data run