



STATE OF WASHINGTON  
**DEPARTMENT OF LABOR AND INDUSTRIES**

P.O. Box 44000 • Olympia, Washington 98504-4000

August 19, 2022

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

**RE: Washington FY 2021 FAME Response**

Dear Mr. Rector:

Thank you for providing us with a copy of the final FY 2021 evaluation of Washington's 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 five findings in the FY 2021 FAME report:

**Finding FY 2021-01:**

OSHA standards were not adopted by the adoption due date.

**Recommendation FY 2019-01:**

DOSH should ensure each standard is adopted by the due date.

**Response:**

DOSH will continue to make every effort to adopt OSHA standards by the due date. DOSH must follow the Administrative Procedures Act, RCW 34.05, which mandates rulemaking timelines that are longer than the six-month adoption period normally allowed by OSHA.

**Finding FY 2021-02:**

DOSH's standards for fall protection in residential construction are not at least as effective as that of OSHA's.

**Recommendation FY 2021-02:**

DOSH should implement a fall protection standard that is at least as effective as the federal standard.

**Response:**

DOSH is in the process of updating our fall protection rule to be ALEA OSHA.

**Finding FY 2021-03:**

In 55% (15 of 27) of retaliation case files, there was insufficient evidence in the case file to confirm complainants were given the opportunity to resolve discrepancies and rebut respondents' defense.

**Recommendation FY 2021-03:**

DOSH should ensure case files are documented to show that complainants were given the opportunity to resolve discrepancies and rebut respondent's defense.

**Response:**

The complainants are given an opportunity to resolve/rebut any discrepancies with the Respondent's defense. This is addressed and listed in the final report of investigation.

This will be more clearly marked and defined in the final reports of investigation in the future.

**Finding FY 2021-04:**

In FY 2021, in five of 26 (19%) of state and local government workplace consultation files, serious hazards were not corrected timely, in seven of 26 (27%) of files, hazard verification documentation was not included, and in two of five (40%) of files, where an extension for hazard correction was provided, there was no written request for an extension from the employer, and no interim protection was described.

**Recommendation FY 2021-04:**

DOSH should ensure that consultants follow the DOSH consultation manual and ensure that serious hazards are corrected timely, or that a written extension is requested by the employer and interim protection is described. DOSH should ensure that documentation verifying the correction of serious hazards is included in the consultation file.

**Response:**

We are currently updating our Consultation Manual and will provide training on this issue in the beginning of 2023. In the interim we have asked staff to follow your recommendations, with supervisors and managers monitoring weekly progress.

**Finding FY 2021-05:**

In FY 2021, in 11 of 58 (19%) of private sector consultation files and in five of 26 (19%) of state and local government workplace consultation files, the written reports were not sent to employers within the required timeframe of 15 calendar days

**Recommendation FY 2021-05:**

DOSH should ensure that consultation reports are issued within the timeline required by the DOSH Consultation Manual or ensure that the reason for the delay is described in the consultation file.

**Response:**

We are currently updating our Consultation Manual and will provide training on this issue in the beginning of 2023. In the interim, we have asked staff to follow your recommendations, with supervisors and managers monitoring weekly progress.

Sincerely,

Joel Sacks  
Director

Enclosure

cc: Ryan Himes, Acting Deputy Regional Administrator  
Abby Lopez, State Programs Manager  
Nicole Flessner, SP & Consultation Manager  
Blake Skogland, Washington Area Director  
DOSH Senior Management Team  
Zach Green, DOSH Operations Analyst