

**STATE OF WASHINGTON**

DEPARTMENT OF LABOR AND INDUSTRIES

**Division of Occupational Safety and Health, PO Box 44600, Olympia, Washington 98504-4600**

June 30, 2023

Dorinda Hughes, Regional Administrator

U.S. Department of Labor, OSHA 300 Fifth Avenue, Suite 1280

Seattle, Washington 98104-2397

RE: Washington FY 2022 FAME Response

Dear Dorinda,

Thank you for providing us with a copy of the final FY 2022 evaluation of Washington’s State Plan program, and allowing us the opportunity to respond to the five findings. 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.

# Finding FY 2022-01:

In FY 2021, OSHA standards were not adopted by the adoption due date.

# Recommendation FY 2021-01:

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

# Response:

The Beryllium Standard for General Industry and Construction listed as overdue is complete. For the remaining Standards, DOSH will continue to make every effort to adopt OSHA standards as soon as possible. However, 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 2022-02:

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 2022-02:

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

# Response:

DOSH Discrimination Investigators provide complainants the opportunity to rebut the employer’s defense and the information is expected to be included in the final closing report “that the complainant’s were given the opportunity for rebuttal” during the closing conference. Complainants are given a copy of the closing conference highlights document that includes this information.

Since 2021 DOSH Discrimination Investigators have added to their closing conference process asking complainants if they have any additional information or would like to rebut the employer’s defense.

We will be working with staff to remind them to capture this information in the case file.

# Finding FY 2022-03:

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 2022-03:

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 have updated our Consultation Manual. It is in draft form and is anticipated to be finalized in August 2023. We are aware of these issues and will be providing training on this topic to staff in July.

Supervisors and managers will be monitoring weekly progress and improvement.

# Finding FY 2022-04:

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 2022-04:

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 have updated our Consultation Manual. It is in draft form and is anticipated to be finalized in August 2023. We are aware of these issues and will be providing training on this topic to staff in July.

Supervisors and managers will be monitoring weekly progress and improvement.

# Finding FY 2022-05:

Consultants use Form 16 to evaluate employer safety and health management systems, but the use of Form 16 is not explained in the DOSH Consultation Manual.

# Recommendation FY 2022-05:

DOSH should update the Consultation manual to explain the use of Form 16.

# Response:

We have updated our Consultation Manual. It is in draft form and is anticipated to be finalized in August 2023. We are aware of these issues and will be providing training on this topic to staff in July.

Supervisors and managers will be monitoring weekly progress and improvement.

Sincerely,



Craig Blackwood

DOSH Assistant Director Enclosure

cc: Dorinda Hughes, Regional Administrator Jack Rector, 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