

ALASKA DEPARTMENT OF LABOR  
DIVISION OF LABOR STANDARDS AND SAFETY

DOSH Program Directive 88-2

April 1, 1988

TO : All OSH Staff

SUBJECT: Notification to OSHA and to the United States Employment Service (USES) of Employers Who Have Failed to Abate (FTA) Serious Violations of the OSH Act

1. PURPOSE: This program directive initiates a system of notification by Alaska Occupational Safety and Health Section to OSHA and to the USES of employers who have failed to correct serious, willful, and repeat citations after the 15-working-day contest period has elapsed and the employer has not contested.
2. DIRECTIVE AFFECTED: DOSH Program Directive 86-2 is cancelled.
3. BACKGROUND: The National Farm Labor Coordinated Enforcement Committee (the National Committee) composed of the Assistant Secretaries for the Employment and Training Administration and the Occupational Safety and Health Administration (OSHA), the Deputy Under Secretary for Employment Standards and the Solicitor of Labor under the chairmanship of the Under Secretary of Labor made a decision to require notification to the USES by OSHA and the Employment Standards Administration (ESA) of employers who have incurred serious violations of their respective laws.

State Employment Security Agencies (SESAs) are required to discontinue services to employers guilty of serious violations of agency regulations as required under 20 CFR 658.501. The National Committee's action is designed to accomplish this provision.

OSHA has determined that it will notify the USES that a serious violation of OSHA's law shall have been constituted when an employer has failed to abate a serious, willful, or repeat item and the employer has not contested during the 15-working-day contest period.

Alaska has made the decision to participate in this program.

4. PROCEDURES: The Administrative Assistant in Anchorage will assure that the following procedures are followed:
  - A. Review the quarterly listing from IMIS indicating the State's serious, willful, or repeat violation Failure to Abate (FTA) closed cases.

- B. Serious, willful, or repeat violation FTA closed cases will be given a distinct colored file so that they can be easily identified.
- C. When inspection files are sanitized for microfilming, a copy of the serious, willful, or repeat violation FTA closed file will be made and maintained in addition to the sanitized file that is sent for microfilming. Such serious FTA files will be maintained for five years and then will be destroyed. (A copy of the sanitized file will be available on microfilm.)
- D. At the end of each quarter, if there are any closed serious, willful, or repeat FTAs where there is no documentation of correction or of an acceptable abatement plan, three copies of the citation will be sent to the Deputy Director by the fifth working day following the end of the quarter. The supervisor whose unit issued the citation will send a report indicating whether the employer has made any effort to correct the violation and provide an inspection history of the employer.
- E. The Deputy Director will discuss the case with the Director; and if it is determined that the case falls into the category outlined in this directive, a letter will be prepared for the Commissioner to transmit the information to the Regional Administrators of OSHA and ETA. A copy of the letter with the citation will be sent to the Director of the Employment Security Division (ESD). If there are no closed serious, willful, or repeat violation FTAs, no notification will be sent.
5. EFFECTIVE DATE: This directive becomes effective March 31, 1988.

  
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Tom Stuart, Director

REVIEWED AND APPROVED:

  
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Jim Sampson, Commissioner