

Appendix A
Kentucky State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region IV
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	Of the 496 programmed construction inspections conducted, 85% were issued as in-compliance.	It is recommended that the state evaluate and determine the cause of the high in-compliance rate for programmed construction inspections and implement strategies to reduce the rate.	New
10-2	The State has not adopted or completed the revision/implementation of the Federal OSHA Field Operations Manual (FOM), to include a side by side comparison.	It is recommended that the state adopt the Federal Field Operations Manual or complete the revision/development and implementation of their Field Operations Manual and submit the side-by-side comparison to the Regional Office.	New
10-3	The state conducts inspections for all formalized complaints regardless of the nature of the hazard(s). 49% of the 245 complaint inspections were in-compliance.	Management should evaluate all complaints including formal complaints to determine when an investigation, rather than an inspection, would be more appropriate to allow a more effective use of their resources. *NOTE: None. The Division of OSH compliance believes its practice is a very appropriate, very efficient, and very effective use of resources.	09-01
10-4	Settlement agreements did not contain employer commitments or justifications for changes or penalty reductions other than "for settlement purposes only."	Settlement agreements need to include employer commitments and justification for penalty reductions and/or modifications documented in the case file. *NOTE: This recommendation has been partially implemented. A copy of the Informal Conference Summary – Internal Memorandum and Draft Informal Settlement Agreement was provided. The Division of OSH Compliance is including "employer commitments" in informal conference documentation.	09-8
10-5	Of the 50 programmed inspection case files in general industry, 48% were in compliance.	It is recommended that the state evaluate and determine the cause of the high in-compliance rate for programmed inspections. It is unclear from the State's response how the identified problem with the targeting program has been addressed.	09-9
10-6	The average lapse time from opening conference to citation issuance was 57.13 days for safety and 98 days for health, which is much higher than the national rate of 43.8 days for safety and 57.4 days for health	Evaluate and determine the cause of the high citation lapse time for safety and health. OSHA suggests that staff training and use of administrative tracking tools may be helpful in addressing this problem. The lapse time in FY 2010 was 58.8 for safety and 68.7 for health, lower than the lapse time during the 2009 enhanced fame study. However, this is still much higher than the national averages.	09-11
10-7	Discrimination case files lacked copies of the Settlement Agreements, back pay amounts, and explanations of the settlements in the FIR. In addition, Kentucky is not reviewing the settlement provisions to ensure the complainant's rights are protected and it does not have any guidelines related to cases settled between the two parties.	When a Whistleblower case is settled between the parties and a Kentucky OSH settlement agreement is not used, the investigator should obtain a copy of the agreement for the file. In addition, the state should develop guidelines to review and approve all settlement agreements to ensure that the complainant's rights are protected. This recommendation has been partially implemented.	09-18
10-8	Kentucky does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual.	Kentucky should develop and implement a formal program for conducting periodic internal evaluations. The procedure should assure that internal evaluations possess integrity and independence. Reports resulting from internal evaluations will be made available to federal OSHA.	09-20