

**Appendix A**  
**FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report**  
**Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	During the period October 1, 2008 through September 30, 2009, Maryland received 110 serious complaints and 102 were inspected within 5 days for a response rate of 92%. MOSH's FOM outlines that formal complaints involving potentially serious hazards shall be investigated within 3 working days of assignment.	MOSH should continue to revise the FOM and submit to OSHA when completed.	09-03
10-2	Case file review revealed that no next-of-kin letters were sent on fatality inspections. MOSH began to send next-of-kin letters in December 2009. Another trend observed was that there was little or no communication with families at the conclusion of the inspections to inform the next-of-kin of inspection findings.	MOSH believes this is a good practice and has started a pilot program to include next-of-kin notification letters. Sample letters were submitted to Federal OSHA. MOSH should notify OSHA when the pilot program is complete and when the program has been implemented throughout their Regional Offices.	09-04
10-3	A number of OSHA-170 forms contained inappropriate information in the narrative, e.g., name of compliance officer who conducted the inspection and/or the names of decedents and/or injured employees.	MOSH has taken steps to train compliance officers and supervisors in the proper completion of OSHA-170 forms to ensure that names of compliance officers, decedents and/or injured employees are not contained in narrative portion of the OSHA-170 form. MOSH should continue to monitor this issue to ensure this issue has been corrected and verified by OSHA.	09-05
10-4	MOSH does not assess penalties for first instance other-than-serious violations.	Revise MOSH Instruction 98-3 dated September 28, 1998 to eliminate Section C.3 that does not permit penalty assessment for first instance other-than-serious violations.	09-07
10-5	MOSH offers penalty reductions of approximately 54% and has a penalty retention rate of 46% percent compared to Federal rate of 63.2.	Rescind Memorandum 01-2 dated April 9, 2001 titled "Employer Incentive 50% Penalty Reduction."	09-08
10-6	Abatement data was not being entered into the database.	MOSH should submit their new Standard Operating Procedures to OSHA when they are complete.	09-09

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10-7	Case file diary sheets were not found in inspection files.	MOSH should notify OSHA when the pilot program to institute the Case file diary sheets has been completed and when the program has been implemented throughout their Regional Offices.	09-10
10-8	MOSH was not calling employers or sending abatement letters on all cases where abatement had not been received by MOSH.	MOSH should continue to work on drafting their SOPs to address this issue and submit the SOPs to OSHA when they have been completed.	09-11
10-9	Abatement tracking reports are not routinely reviewed by management on a weekly basis.	MOSH should continue to work on procedures to ensure abatement tracker reports are carefully reviewed weekly by all Regional Supervisors, and submit them to OSHA when complete. If necessary, additional training should be provided to Regional Supervisors to ensure that this report is being properly utilized to track abatement.	09-12
10-10	Contested case information was not being entered into the database.	MOSH should continue to work on establishing procedures to ensure Supervisors review these data entry issues on a weekly basis to ensure that coding is being entered. The procedures should be submitted to OSHA when completed.	09-13
10-11	Not all Federal Program Changes are adopted within the six month period.	It is recommended that MOSH adopt Federal Program Changes within the six month period.	09-14
10-12	Abatement verification data was not being properly entered into the database for 23(g) public sector consultation.	<b>MOSH has implemented unwritten procedures to correct this issue.</b> Maryland should regularly monitor its hazard verifications and ensure that data is promptly entered into the database and any coding errors are corrected.	09-15
10-13	Files were not properly maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.	Files should be set up and maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.	09-16

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10-14	There were no opening (Docketing and Notification) letters to the complainants and respondents contained in the files.	Letters must be prepared, sent out and maintained in accordance with the Discrimination Manual, Chapter 2, § III(E) and Chapter 5, § III(B).	09-17
10-15	Case file documentation was inserted into the case file with no order and the files were not tabbed.	Case files be prepared and tabbed in accordance with the Discrimination Manual, Chapter 5, § III.	09-18
10-16	A recently closed case had no dismissal letters in the file.	Cases must be closed in accordance with the Discrimination Manual, Chapter 4, § IV.	09-19
10-17	Management and non-management interviews were not always conducted.	Interviews must be conducted and documented in accordance with the Discrimination Manual.	09-20
10-18	There was incomplete case information in Web IMIS.	Input complete case information into the Web IMIS in accordance with the Web IMIS guide.	09-21
10-19	There was no documentation of settlement of Whistleblower cases.	Settlements must conform to and be documented in accordance with the Discrimination Manual, Chapter 6, § IV.	09-22
10-20	Investigations were not completed in accordance with MOSH FOM, Chapter X, § A3 (b), which requires investigations to be completed within 90 days of filing. Section 5-604(d) (3) of the MOSH Act requires that "within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection."	Investigations must be completed within 90 days in accordance with MOSH FOM and the MOSH Act.	09-23
10-21	Numerous case files were open for extended periods of time with no current activity documented in the case files.	The Whistleblower program manager should monitor the Web IMIS system to determine what cases are open and determine what appropriate action is required in accordance with the Discrimination Manual and MOSH FOM.	09-24

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10-22	Enforcement staffs designated as benchmark positions are not performing enforcement activities.	MOSH should ensure that personnel designated as fulfilling its benchmark requirements pursuant to 29 CFR §1952.213 are performing enforcement activities and conducting inspections for the majority of their work time. Compliance assistance positions and their activities must not be counted toward enforcement activities or benchmark calculations in State grant applications.	09-25