

Federal Annual Monitoring and Evaluation (FAME)

Maryland Occupational Safety and Health Program

October 1, 2009 to September 30, 2010

Date of Report: April 27, 2011

Table of Contents

I. Executive Summary

- A. Introduction.....3
- B. Summary of the Report.....4
- C. Monitoring Methodology.....5

II. Major New Issues.....5

III. Assessment of State Actions and Performance Improvements
in Response to Recommendations from the FY 2009 EFAME.....6

IV. FY 2010 State Enforcement.....16

V. Assessment of State Progress in Achieving Annual Performance Goals...22

VI. Other 24

Appendix A. FY 2010 Findings and Recommendations.....28

Appendix B. Status of FY 2009 EFAME Findings and Recommendations.....33

Appendix C. Enforcement Comparison.....48

Appendix D. FY 2010 State Activity Mandated Measures (SAMM) Report... 50

Appendix E. State Information Report (SIR)..... 64

Appendix F. FY 2010 State OSHA Annual Report (SOAR)..... 75

I. Executive Summary

A. Introduction

Section 18 of the Occupational Safety and Health Act of 1970 encourages states to develop and operate their own job safety and health programs. The Federal Occupational Safety & Health Administration (OSHA) approves and monitors state plans and provides up to 50 percent of an approved plan's operating costs. Maryland is one of 27 States and American territories approved to operate its own safety and health enforcement program. Among other things, States that develop these plans must adopt standards and conduct inspections to enforce those standards. The Maryland plan was certified on February 15, 1980 and was granted final state plan approval on July 18, 1985. The Maryland Occupational Safety and Health (MOSH) program operates under the authority of the MOSH Act, Labor and Employment Article, Section 5-101 through 5-901.

The MOSH program is administered by Maryland's Department of Labor, Licensing and Regulation (DLLR), Division of Labor and Industry (DLI). In Fiscal Year 2010, the MOSH program was operated under the guidance of Alex Sanchez, Secretary of DLLR; J. Ronald DeJuliis, Commissioner of DLI/OSHA State Plan Designee ; and Eric Uttenreither, Assistant Commissioner of the Maryland Occupational Safety and Health Administration, who joined the MOSH program in June of 2010, after the previous Assistant Commissioner retired.

The MOSH program consists of an Enforcement Unit that conducts occupational safety and health inspections for all public and private sector places of employment in the State of Maryland, with the exception of federal employees, the United States Postal Service, private sector maritime activities (shipyard employment, marine terminals, and longshoring), and U.S. military bases. Additionally, MOSH has an Outreach Unit which provides free consultation services, training and education, and manages cooperative programs. The Unit also administers a Whistleblower Investigation Unit that investigates complaints received by employees who feel that they have been discriminated by their employer for making safety and health complaints, and a Research and Statistic Unit that provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses.

In Fiscal Year (FY) 2010, the MOSH program had a staff of 77 full-time employees (FTEs) in the compliance unit (enforcement, training and education, discrimination) and 9 FTEs in consultation, comprised of managers/supervisors, safety and health compliance officers, safety and health consultants, compliance assistant specialists, and support staff (clerical, administrative and data systems personnel).

The Federal share of the FY 2010 23(g) grant was \$4,130,800. The State over matched the grant with \$429,956 bringing MOSH's budget to \$8,691,556 (48% Federally funded and 52% State funded). The State was also awarded a \$348,867.00 request which was matched by the Maryland 23(g) State Plan program. In FY 2010, MOSH was affected by State and Federal budget issues, furlough days had to be taken, and as a result \$180,000.00 of the fiscal year funds were de-obligated.

Appendix A – Maryland State Plan

MOSH's mission is to promote and assure workplace safety and health in the State while reducing workplace fatalities, injuries and illnesses. As in prior fiscal years, MOSH's FY 2010 Annual Performance Plan fully supports Maryland's long-term strategic goals and at the same time addresses state-specific issues and concerns. MOSH is achieving their goals by promoting a safe and healthful workplace culture.

In addition to adopting Federal OSHA's National Emphasis Programs (NEPs), MOSH has implemented their own Local Emphasis Programs (LEPs) on high hazard industries (establishments that have a high number of days away, restricted or transferred from job due to an occupational injury or illness); and falls, electrocutions and struck/crushed by hazards in construction which has resulted in an increased awareness of occupational safety and health in these industries.

MOSH can and does promulgate standards which may be more stringent or more specific than those of Federal OSHA standards. The most recent state-specific standard (Code of Maryland Regulation (COMAR) 09.12.26.06) approved was on crane operator requirements. Although approval took place in April, 2009 (FY 2009), citations were not issued until January 1, 2010 (FY 2010). Prior to January 2010, MOSH sent letters to employers informing them of the new regulation and what was required of them to be in compliance.

B. Summary of the Report

The Federal Annual Monitoring and Evaluation (FAME) Report for Fiscal Year (FY) 2010 focused on follow-up monitoring and evaluation activities regarding the findings and recommendations detailed in MOSH's responses to the FY 2009 Enhanced Federal Annual Monitoring and Evaluation Report (EFAME). The FY 2010 EFAME follow-up report details MOSH's progress in achieving the actions as specified in their approved Corrective Action Plan (CAP).

The FY 2010 EFAME follow-up report is not a comprehensive report due to the late submission and approval of MOSH's CAP in December, 2010. A vast majority of the corrective actions regarding EFAME findings and recommendations were implemented or in the process. Federal monitors met with 23(g) Enforcement Program Directors, during this evaluation period, to determine the ongoing progress of the CAP, which is reflected in this report.

The FY 2009 Maryland (MD) EFAME report contained twenty-six (26) findings and recommendations. In its formal response to the EFAME and CAP, MD noted disagreement with some of the deficiencies and other deficiencies identified in the report were largely procedural and had no impact on program effectiveness. Two (2) of the twenty-six (26) findings based upon further information provided by MOSH were accepted by Federal OSHA and required no further action.

This report also addressed MOSH's progress towards achieving their annual performance goals as established in their FY 2010 Annual Performance Plan as well as the effectiveness of their five-

Appendix A – Maryland State Plan

year strategic plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded 5 of 8 (63%) of the enforcement goals in the FY 2010 Performance Plan. The primary goal of MOSH's strategic plan is to reduce occupational injuries, illnesses and fatalities through direct intervention. The State's overall implementation of its 23(g) program is viewed as positive.

C. Monitoring Methodology

The monitoring and evaluation activities for this year's follow-up FAME report concentrated on determining the status of the corrective actions implemented by MOSH, regarding the twenty-six (26) findings identified during the FY 2009 EFAME. An onsite monitoring visit was conducted from January 31, 2011 through February 1, 2011 to assess MOSH's progress in addressing the FY 2009 EFAME recommendations, as well as to conduct a Special Study to further investigate the incidence of improper classifications, violations that were identified in Finding 09-06. Throughout the evaluation process, MD was cooperative, shared information and ensured staff was available to discuss cases, policies, and procedures and to answer questions. Data contained in the Integrated Management Information System (IMIS), OSHA's database system used by the State to administer its program, was also utilized as a means to monitor and evaluate the State's 23(g) enforcement program activities.

Quarterly discussions are held between Federal OSHA and MOSH. Topics such as, but not limited to, quarterly reports on MOSH's progress in achieving their goals, laws/regulations, personnel and any concerns that have come up since last meeting are discussed.

Region III's Labor Liaison contacted the President of the Maryland AFL-CIO to survey as to whether there were any concerns with the state-plan administration of the Occupational Safety and Health program. Additionally, the Labor Liaison called the Assistant Director of the United Food and Commercial Workers Union regarding an isolated incident reported in last year's EFAME report. No specific issues were raised about the Maryland State Plan.

II. Major New Issues

Eric Uttenreither joined the MOSH staff on January 23, 2010, as the new Assistant Commissioner (AC) of the program upon the retirement of Roger Campbell, the previous Assistant Commissioner.

The MOSH Administration moved their main headquarters that was located in Baltimore City to Hunt Valley on September 13, 2010. The MOSH field offices in Laurel, Belair and Baltimore also moved to the Hunt Valley location. According to MOSH, the move allows for them to better serve the employees in Maryland. It also enables daily communications within the program and enhances the flow of information (i.e. shorten response time to accidents and fatalities). MOSH still has offices in Western Maryland and the Eastern Shore.

In FY 2010, furloughs and temporary salary reductions occurred as in FY 2009. In the State's FY 2010 (July 2009 – June 2010) MOSH employees experienced 90 days of salary reductions, as

Appendix A – Maryland State Plan

well as an additional three to five days of floating furloughs for each employee. An additional two to four floating furlough days based on salary will be in effect across Federal FY 2011. The cumulative effect of the furlough days in achieving the goals set with the knowledge of an average of nine additional lost work days per Compliance Safety and Health officer (CSHO) has and will continue to present a challenge. However, all fatalities and complaints were responded to and will be responded to as required by MOSH's policies and procedures.

MOSH investigated a catastrophe where three employees were severely burned in July 2010. Based on the findings (below), MOSH felt this may be a national concern and is currently working with federal OSHA, other State Plan States and the National Institute of Occupational Safety and Health (NIOSH).

Findings: "The employees were installing a geothermal heating system in a residential home. They were nearing the end of the project and began to flush out the system. Two employees were located within a small room where they began to add ethylene to a flush cart. All doors to the room had been closed and no other means of ventilation had been provided. One of the employees flipped the motor switch on the flush cart when an explosion occurred. It was determined after investigation that the flush cart and its equipment had not been rated for a hazardous location and that the cans of ethylene were left out in the heat overnight. The flashpoint of the liquid had been exceeded and when the switch was thrown to start the machine a spark was created which ignited the vapors."

III. Assessment of State Actions and Performance Improvements in Response to Recommendations from the FY 2009 EFAME

On January 31, 2011 through February 1, 2011, OSHA Region III performed an onsite review of MOSH to review progress in response to the FY 2009 EFAME Report. The following is a summary of MOSH's efforts to date, with an understanding that the progress for many of these findings is in the initial stages. Findings which were not able to be closed will be monitored and tracked throughout FY 2011.

Finding 09-01: Formal complaint letters to employers and letters to complainants with inspection findings were maintained in separate files at the central office in Baltimore rather than in each Regional Office servicing the complaint. Information from the complaint letter is often re-typed or re-worded on the OSHA-7 complaint form to maintain complainant anonymity. This practice is problematic in that complaint inspection files are incomplete without the supporting documentation of a signed complaint letter or OSHA-7. Additionally, specific information about a hazard or facility is sometimes omitted from a re-typed or re-worded complaint.

Recommendation 09-01: Letters received from complainants must be maintained in the inspection file.

Action to Date: MOSH explained that their practice was implemented to maintain confidentiality of the complainant, and believes this process is more effective at protecting complainant's anonymity. All complaints are maintained in a separate file which is cross-

Appendix A – Maryland State Plan

referenced with each compliance case file. The practice is consistent with the MOSH FOM; CSHOs have access to the original complaint during the investigation. No further action is required.

Status: COMPLETED

Finding 09-02- Response letters to complainants were found in files that are maintained in the Baltimore office as mentioned above. However, the response letters are not maintained in the inspection files after they are closed.

Recommendation 09-02 - Response letters to complainants must be maintained in the inspection file.

Action to date: MOSH believes that this is a critical step in ensuring confidentiality. Complaints filed with MOSH consist of two files that are cross-referenced when an inspection is conducted. This practice is consistent with the MOSH FOM, therefore, no further action is required.

Status: COMPLETED

Finding 09-03- 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

Recommendation 09-03- MOSH must respond to serious complaints within 3 days of assignment pursuant to its FOM or change its FOM.

Action to date: MOSH's FOM states that within 3 days of receipt of the complaint in the Regional Office, it needs to be assigned. The agreed upon time frame with OSHA for response is 5 days from original receipt of the complaint. MOSH continues to work to update the language in the State FOM to remove any ambiguity related to the assignment date of a serious complaint. They have agreed to change the language to 5 days from receipt in its FOM and will begin to submit FOM chapters until the FOM is fully revised. MOSH indicated that the State continues to improve the percentage of serious cases which have been inspected within 5 days, as witnessed by the revised SAMM Report (January 19, 2011) that shows the average number of days for inspection of complaints with serious hazards as 4.61 days.

Status: Complete FOM revisions within second and third quarter of Federal FY 2011. Finding 10-01.

Finding 09-04 - 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.

Appendix A – Maryland State Plan

Recommendation 09-04 - Continue to send condolence letters to next-of-kin at start of investigation. Families of fatality victims must be kept up-to-date about investigations and informed of the outcome of MOSH investigations.

Action to date: 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.

Status: OSHA will monitor this as corrective action in FY 2011 to insure this has been rectified. New Finding 10-02.

Finding 09-05 - 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.

Recommendation 09-05 - Retrain 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.

Action to date: MOSH has informed their supervisors and staff that only appropriate information is to be included in the OSHA-170 Forms. Supervisors are reviewing the narrative section of the OSHA-170 form to ensure this issue is resolved.

Status: OSHA will monitor this as corrective action in FY 2011 to insure this has been rectified. New Finding 10-03.

Finding 09-06 - Violations cited on programmed inspections include a high percentage of other-than-serious citations (OTS) for hazards that should be classified as serious. A number of files reviewed which had violations that were cited as other-than-serious and could have been classified as serious. Health compliance officers have a serious violation percentage of 28%, less than half the Federal rate of 70%

Recommendation 09-06- Conduct training on hazard classification for compliance officers and supervisors to ensure consistency with violation classification.

Action to date: This finding was disputed by MOSH, so a Special Study to assess the magnitude of this problem was conducted by OSHA on January 31, 2011 through February 1, 2011. The study reviewed a statistically significant sampling of all case files which had OTS violations. The results of the Special Study did not show any indication that MOSH was classifying OTS violations inappropriately. The results of the Special Study are detailed in Section I. C. of this report.

Status: COMPLETED

Finding 09-07 - MOSH does not assess penalties for first instance other-than-serious violations.

Appendix A – Maryland State Plan

Recommendation 09-07 - 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.

Action to date: This finding was disputed by MOSH, and a decision was recently upheld by the National Office. OSHA does not agree with the State's response that this policy, which has been in place as the result of an Executive Order (EO) and the work of a Task Force. Even though Maryland has the option to or not to penalize other than serious violations, State Plans are required to have statutory authority and penalty policies in place to assess penalties for other than serious violations. The MOSH Instruction effectively negates the MOSH Act provision for first-instance sanctions. Although the State policy is premised on the Gubernatorial EO 01.01.1993.12, the EO includes an exception if the action is required by Federal or State law, as this is. Maryland procedures should provide for the proposal of first instance penalties for other than serious violations in accordance with State and Federal law, in circumstances comparable to Federal policy.

Status: As a final decision has been made, MOSH is to take action to revise the current policy. Continue to monitor during FY 2011 as Finding 10-04.

Finding 09-08 - MOSH offers penalty reductions of approximately 54% and has a penalty retention rate of 46% percent compared to Federal rate of 63.2% at the end of FY 2009.

Recommendation 09-08 - Rescind Memorandum 01-2 dated April 9, 2001 titled "Employer Incentive 50% Penalty Reduction." In this memorandum if an employer immediately abates any hazards/violations prior to the compliance officer leaving the site on the day of observation, an automatic 50% penalty reduction in the proposed penalty for that specific hazard/condition is given. This incentive program does not apply to willful, repeat, failure to correct violations, or alleged violations/conditions relating to accidents.

Action to date: MOSH believes this procedure is more effective at reducing employee exposure to hazards than its federal counterpart and declines to rescind this memorandum. MOSH feels immediate abatement is more effective than a penalty. OSHA does not agree with the State's response. A 50% penalty reduction program for immediate on-site abatement is less stringent than the Federal-equivalent Quick Fix program which authorizes a 15% reduction, therefore MOSH is not "at least as effective" (ALAE) as Federal OSHA.

Status: Pending further discussion and submission of a revised Corrective Action Plan for this item. Continue to monitor during FY 2011 as Finding 10-05.

Finding 09-09 - Abatement data was not being entered into the database.

Recommendations 09-09 - Promptly enter abatement verification data into database.

Action to date: MOSH is in the process of drafting new Standard Operating Procedures (SOPs) which will provide instructions to address this issue. Additionally, supervisors now review all case files to ensure that abatement data is entered into the database.

Appendix A – Maryland State Plan

Status: Continue to monitor during FY 2011 as Finding 10-06.

Finding 09-10 - Case file diary sheets were not found in inspection files.

Recommendation 09-10 - Institute the use of a case file diary sheet. This form needs to be kept at the top of the case file so that a reviewer can tell at first glance the status of the case.

Action to date: MOSH is in the process of piloting the diary sheet for their case files in their Eastern Shore Region, although they maintain that using a diary sheet is not required. A sample case file diary sheet was provided to OSHA. An evaluation of the pilot program will be provided to OSHA.

Status: Continue to monitor during FY 2011 as Finding 10-07.

Finding 09-11- MOSH was not calling employers or sending abatement letters on all cases where abatement had not been received.

Recommendation 09-11 - MOSH should, in accordance with its own procedures as outlined in its FOM, call employers for outstanding abatement documentation and/or send abatement letters on all cases where abatement documentation has not been received.

Action to date: MOSH's current FOM, Chapter III.E.4 contains direction on what steps should be taken to obtain abatement verification from employers. MOSH is in the process of drafting SOPs to ensure that staff follow up with employers who did not provide abatement verification. Training and written procedures were provided to all personnel that conduct informal conferences on what is required at the informal for abatement verification.

Status: Continue to monitor during FY 2011 as Finding 10-08.

Finding 09-12 - Abatement tracking reports are not routinely reviewed by management on a weekly basis.

Recommendation 09-12 - Abatement tracker reports should be carefully reviewed weekly by all Regional Supervisors. If necessary, additional training should be provided to Regional Supervisors to ensure that this report is being properly utilized to track abatement.

Action to date: MOSH is establishing written procedures and written reports on abatement verification tracking.

Status: Continue to monitor during FY 2011 as Finding 10-09.

Finding 09-13 - Contested case information was not being entered into the database.

Appendix A – Maryland State Plan

Recommendation 09-13 - Retrain staff in the proper database entries for contested cases. Supervisors should review these data entry issues on a weekly basis to ensure that coding is being completed.

Action to date: MOSH is in the process of drafting SOPs to ensure that contested case information is being entered into the database

Status: Continue to monitor during FY 2011 as Finding 10-10.

Finding 09-14 - Not all Federal Program Changes (FPCs) are adopted within the six month period.

Recommendation 09-14 - It is recommended that MOSH adopt Federal Program Changes within the six month period.

Action to date: MOSH is working hard to reduce the amount of time it takes to adopt Federal Program Changes (FPC). MOSH reported that there are inherent obstacles for the States to adopt regulatory changes, including that the State Board meets only quarterly to discuss state response to FPCs. MOSH emphasizes that the amount of time for States to adopt FPCs would be decreased significantly if OSHA allows State comments on the front end of FPC promulgation. MOSH also continues their work on the new FOM, although the process will take significantly longer than the target date in the original Corrective Action Plan (April 1, 2011).

Status: Continue to monitor during FY 2011 as Finding 10-11.

Finding 09-15 - Abatement verification data was not being properly entered into the database for 23(g) public sector consultation.

Recommendation 09-15 - Maryland should regularly monitor its hazard verifications and ensure that data is promptly entered into the database and any coding errors are corrected.

Action to date: MOSH has instituted unwritten procedures to correct this deficiency since September 28, 2010. MOSH reported that the Consultation Project Manager now reviews open hazard reports with each Consultant at the beginning of the week to ensure coding errors are caught timely. For those employers who are past-due on their abatement, the supervisor requests that the consultant follow-up with the employer to either submit the documentation or to request an extension if there is a valid reason.

Status: Continue to monitor the Mandated Activities Report for Consultation (MARC) to see that hazard verifications are received and properly entered. Continue to monitor this finding during FY 2011 as Finding 10-12.

Finding 09-16 - Files were not properly maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.

Appendix A – Maryland State Plan

Recommendation 09-16 - Files should be set up and maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.

Action to date: In order to comply with the requirements, the Supervisor has asked for guidance from the Regional Supervisory Investigator. Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-13.

Finding 09-17 - There were no opening (Docketing and Notification) letters to the complainants and respondents contained in the files.

Recommendation 09-17 - Letters must be prepared, sent out and maintained in accordance with the Discrimination Manual, Chapter 2, § III(E) and Chapter 5, § III(B).

Action to date: In the past, opening letters were maintained in a separate file from Investigator's working file. This policy is being changed by the new Supervisor whereby one file will be maintained and will include the opening letters. Docketing and notification letters should be done in a timely manner. Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-14.

Finding 09-18 - Case file documentation was inserted into the case file with no order and the files were not tabbed.

Recommendation 09-18 - Case files be prepared and tabbed in accordance with the Discrimination Manual, Chapter 5, § III.

Action to date: All new discrimination case files will be maintained in accordance with the Whistleblower Manual. Tabs will be used to identify documents. Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-15.

Finding 09-19 - A recently closed case had no dismissal letters in the file.

Recommendation 09-19 - Cases must be closed in accordance with the Discrimination Manual, Chapter 4, § IV.

Appendix A – Maryland State Plan

Action to date: Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-16.

Finding 09-20 - Management and non-management interviews were not always conducted.

Recommendation 09-20 - Interviews must be conducted and documented in accordance with the Discrimination Manual, Chapter 3, § IV.

Action to date: Management and non-management interviews are being conducted and documented in accordance with the Manual for all new cases. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-17.

Finding 09-21 - There was incomplete case information on Web IMIS.

Recommendation 09-21 - Input complete case information into the Web IMIS in accordance with the Web IMIS guide.

Action to date: Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-18.

Finding 09-22 - There was no documentation of settlement of Whistleblower cases.

Recommendation 09-22 - Settlements must conform to and be documented in accordance with the Discrimination Manual, Chapter 6, § IV.

Action to date: Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH's staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-19.

Finding 09-23 - 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

Appendix A – Maryland State Plan

complaint, the Commissioner shall notify the employee of the determination under this subsection.”

Recommendation 09-23 - Investigations must be completed within 90 days in accordance with MOSH FOM and the MOSH Act.

Action to date: Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH’s staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-20.

Finding 09-24 - Numerous case files were open for extended periods of time with no current activity documented in the case files.

Recommendation 09-24 - 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.

Action to date: Current Supervisor is requiring investigators to provide a status update of pending cases every two weeks in order to maintain continuity in the investigation and a more timely closure. Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three employees of MOSH’s staff recently attended Whistleblower training at OTI.

Status: This corrective action will continue to be tracked until completion in FY 2011 as Finding 10-21.

Finding 09-25 - Enforcement staffs, designated as benchmark positions, are not performing enforcement activities.

Recommendation 09-25 - MOSH must 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.

Action to date: MOSH asked for clarification on whether staff that conducts VPP and CCP inspections are counted toward benchmarks as it is required to be administered through enforcement. Pending further discussion and submission of a revised Corrective Action Plan for this item, Federal OSHA expects “compliance staff designed as benchmark positions in yearly grants to perform enforcement field inspection activities 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, etc”.

Status: Pending further discussion and submission of a revised Corrective Action Plan for this item. Continue to monitor during FY2011 as Finding 10-22.

Appendix A – Maryland State Plan

Finding 09-26 - Compliance officers' field notes were not contained in case files. (Are destroyed per State policy.)

Recommendation 09-26 - Compliance officers' field notes must be maintained in case files. OSHA FOM Chapter XII, Inspection Records, should be adopted.

Action taken to date: MOSH's legal department has determined that transcribing the compliance officers' field notes onto a designated form is legally sufficient and the hand written field notes can then be destroyed. Federal OSHA asked for further clarification on the position of MOSH's attorneys on this issue. Federal OSHA was advised by the Special Assistant to the Secretary of Labor that they are comfortable with the current practice. Notes are viewed as draft materials and the report is the official record. Therefore, Federal OSHA will further review the impact that removing the handwritten CSHO notes has on the effectiveness of MOSH's enforcement program.

Status: COMPLETED

IV. FY 2010 State Enforcement

A statistical review of the Maryland OSHA Program was conducted using the official agency closeout data, the end-of-year State Activity Mandate Measures (SAMMs found in Appendix D), the State Information Report (SIR found in Appendix E) and the FY 2010 State/Federal enforcement activity data comparisons (Appendix C). During the evaluation period of FY 2010 (October 1, 2009 through September 30, 2010), the MOSH program conducted 1,045 (1,114)* private and public sector inspections. The projected goal for FY 2010 was to conduct 1,036 inspections. MOSH met its goal 101% (108%)*.

Of the 1,045 inspections conducted by Maryland during FY 2010, 867 were safety related (83%) while 178 (17%) were health-related. Total programmed inspections were 768 (73%) and 277 (27%) were un-programmed inspections (fatality and accident investigations, complaints, referrals, follow-up inspections, monitoring inspections). A total of 998 (96%) inspections were conducted at private establishments and 47 (4%) were conducted at public sector agencies. A total of 3,964 violations were issued in FY 2010, 50% were Serious, Willful, Repeat or Failure to Abate and the remaining 50% were Other-Than-Serious. MOSH generated \$3,074,904.00 in total penalties.

Appendix C shows a statistical comparison of Maryland to other State Plan States and Federal OSHA during FY 2010.

The MOSH Enforcement Program targets their inspections from a High Hazard Industry list and the Federal OSHA Site Specific Targeting (SST) program. The MOSH Enforcement program also participates in the University of Tennessee Dodge Report for inspection sites, as well as local and national emphasis programs. MOSH also participates in the Federal OSHA exempted SIC/NAICS industry list as provided in the current Appropriations Act.

The MOSH Safety Program developed and implemented four local emphasis programs (LEP) in FY 2009 which were continued in FY 2010. These LEPs include, but are not limited to, fall hazards in construction, electrocution hazards in construction, and struck/crushed by hazards in construction. There were over 600 inspections conducted under the LEP and 200 inspections conducted under the national emphasis programs (NEPs).

*Several coding issues led to host rejects that resulted in a number of cases not being counted in the State FY data. OSHA subsequently ran new SAMM/SIRS that more accurately reflect MOSH FY 2010 data. The enforcement numbers in this report will first report the original data than the corrected/actual data in parentheses immediately following, where applicable.

Appendix A – Maryland State Plan

Mandated Activities

Activities, mandated under the Occupational Safety and Health Act, are considered core elements of MOSH program. The accomplishment of these core elements is tied to achievement of the State's strategic goals. Many mandated activities are "strategic tools" used to achieve outcome and performance goals.

Mandated activities include program assurances and State activity measures. Fundamental program requirements that are an integral part of the MOSH program are assured through an annual commitment included as part of the 23(g) grant application. Program assurances include:

- Unannounced targeted inspections;
- A system to adjudicate contested cases;
- Ensuring abatement of potentially harmful or fatal conditions;
- Prompt and effective standards setting and allocation of sufficient resources;
- Counteraction of imminent dangers;
- Responses to complaints;
- Fatality/catastrophe investigations;
- Access to information on their exposure to toxic or harmful agents;
- Coverage of public employees;
- Recordkeeping and reporting;
- Voluntary compliance activities

On a quarterly basis mandated activities are tracked using the State Activity Mandated Measures (SAMM) Report which compares State activity data to an established reference point. Additional activities are tracked using the interim State Indicator Report (SIR).

Appendix D is the SAMM for Maryland covering the period October 1, 2009 through September 30, 2010 (FY 2010). The following is a summary of State performance on the major issues covered in the SAMM.

Appendix A – Maryland State Plan

Measure		State Data*	Reference Data	Comment
1. Average number of days to initiate complaint inspections		5.54 (4.61)*	5	Reference point of 5 was not met in original data; however it was met in the corrected data. In the first quarter of FY 2011, MOSH has reduced the days to 3.50.
2. Average number of days to initiate complaint investigations		.08	1	Reference point was met. Improvement shown from FY 2009 (original & corrected data the same)
3. Percent of complaints where complainants were notified on time		87.93 (86.07)*	100%	Reference point was not met. In the first quarter of FY 2011 the goal of 100% was met.
4. Percent of complaints and referrals responded to within one day		100%	100%	Reference point was met. Improvement shown from FY 2009. (92.31%) when standard had not been met. (original & corrected data the same)
5. Number of denials where entry was not obtained		0	0	Not applicable
6. Percent of S/W/R** violations verified	Private	84.33 (92.11%)*	100%	Although below the reference point, there has been an increase of violations verified since FY 2009,
	Public	87.92 (96.75)		
7. Average number of calendar days from opening conference to citation issuance	Safety	48.46 (48.41)*	47.3	Lapse time remains above National Average. When the MOSH program moved locations, the computer system was down and took several weeks to reinstall.
	Health	68.58 (68.57)*	61.9	Lapse time remains above National Average. When the MOSH program moved locations, the computer system was down and took several weeks to reinstall.
8. Percent of programmed inspections with S/W/R violations	Safety	58.51% (58.00%)*	58.3%	Percentage slightly below the National Average for FY 2010 however it is above the National Average for the first quarter in FY 2011 (66.16%).
	Health	78.87%	50.9%	Health unit was above the reference point in issuing S/W/R** violations (original & corrected data the same)
9. Average violations per inspection with violations	S/W/R**	2.77	2.1	Reference point was exceeded. (original & corrected data the same)
	Other	2.63	1.2	Reference point was exceeded. (original & corrected data the same)
10. Average initial penalty per serious violation – private sector only		\$1386.51 (\$1388.19)*	\$1,360.40	Reference point was exceeded.
11. Percent of total		4.50%	4.7 %	Acceptable (slight difference in FY10).

Appendix A – Maryland State Plan

Measure	State Data*	Reference Data	Comment
inspection in public sector	(4.58%)*		Above the National Average for the first quarter in FY 2011.
12. Average lapse time from receipt of contest to first level of decision	141.37	217.8	Reference point met. Below National Data. (original & corrected data the same)
13. Percent of 11C investigations completed within 90 days	0	100%	Reference point was not met. *** (original & corrected data the same)
14. Percent of 11C complaints that are meritorious	0	21.2%	Reference point was not met. *** (original & corrected data the same)
15. Percent of meritorious 11C complaints that are settled	0	86.0%	Reference point was not met. *** (original & corrected data the same)

*Several coding issues led to host rejects that resulted in a number of cases not being counted in the State FY data. OSHA subsequently ran new SAMM/SIRS that more accurately reflect MOSH FY 2010 data. The enforcement numbers in this report will first report the original data than the corrected/actual data in parentheses immediately following, where applicable.

The following assured mandated activities are not related to MOSH’s strategic goals and/are not covered in the SAMM reports:

- Prohibition against advance notice;
- Employees have access to hazard and exposure information;
- Posting of employee protection and rights;
- Safeguards to protect an employer’s trade secret;
- Employer Recordkeeping;
- Legal procedures for compulsory process and right of entry;
- Right of employee representative to participate in the walk around;
- Right of an employee to review a decision not to inspect (following a complaint); and
- Voluntary compliance programs.

Appendix E is the Interim State Indicator Report (SIR) on performance measures for Maryland covering the period October 1, 2009 through September 30, 2010 (FY 2010). The following is a summary of State performance on the following measures:

Enforcement Private Sector	Performance Measures		Federal FY 2010 Data *	State FY 2010 Data*	Comments
	1. Programmed Inspection (%)	Safety	65.1 (64.9)*	80.3 (79.8)	Above Federal OSHA
		Health	35.0 (34.8)*	41.1 (38.1)	Above Federal OSHA
	2. Programmed Inspection with Violations (%)	Safety	69.1 (68.5)*	67.2 (65.2)	Slightly below Federal OSHA's percentage
		Health	55.4 (54.8)*	65.6 (64.5)	Above Federal OSHA's percentage
	3. Serious Violations (%)	Safety	81.0 (80.4)*	50.9 (50.1)	FY 2009 EFAME concern. This concern has been alleviated from the Special Study conducted 1/31/11, which showed no trends of inappropriate classification of OTS hazards.
		Health	70.2 (69.6)	38.3 (37.4)	
	4. Abatement Period for Viols %	Safety % > 30 Days	17.2 (17.6)*	23.2 (23.4)	Acceptable
		Health % > 60 Days	8.5 (9.5)*	.6	Acceptable (original & corrected data the same)
	5. Average Penalty	Safety OTS	894.3 (937.8)*	470.6 (483.4)	FY 2009 EFAME concern.
Health OTS		835.8 (847.5)*	427.4 (418.3)	FY 2009 EFAME concern.	
6. Inspections per 100 hours	Safety	5.5 (5.4)*	2.4 (2.6)	Lower than Federal inspections/100 hours.	
	Health	1.9	1.8 (2.0)	Acceptable (original & corrected Federal data the same)	

*Several coding issues led to host rejects that resulted in a number of cases not being counted in the State FY data. OSHA subsequently ran new SAMM/SIRS that more accurately reflect MOSH FY 2010 data. The enforcement numbers in this report will first report the original data than the corrected/actual data in parentheses immediately following, where applicable.

	Performance Measures		Federal FY 2010 Data *	State FY 2010 Data*	Comments
	7. Violations Vacated (%)		4.7 (5.4)*	.9 (1.2)	MOSH upholds more of their violations than Federal OSHA
	8. Violations Reclassified (%)		4.0 (4.4)*	1.3 (1.9)	Type of violation is changed more frequently in Federal OSHA.
	9. Penalty Retention (%)		63	50.7	Lower than Federal OSHA (original & corrected data the same)
			Private*	Public*	Comments
Enforcement Public Sector	1. Programmed Inspections (%)	Safety	80.3 (79.8)	40.9 (41.7)	
		Health	41.1 (38.1)*	50.0 (51.9)	
	2. Serious Violations (%)	Safety	50.9 (50.1)*	45.8	Original & corrected Public data the same
		Health	38.3 (37.4)*	55.0	Original & corrected data the same
			Federal*	State*	Comments
	Review Procedures	1. Violations Vacated (%)		21.9 (22.2)*	9.1 (10.7)
2. Violations Reclassified (%)			11.7 (11.8)*	1.9 (2.2)	Fewer violations are reclassified in the MOSH program.
3. Penalty Retention (%)			58.1 (57.9)*	71.4 (72.4)	Penalties are upheld in MOSH more than Federal OSHA when in review procedures

V. State Progress in Achieving Annual Performance Goals

The MOSH Administration through their State OSHA Annual Report (SOAR) has provided information that supports positive performance in the accomplishment of meeting their five-year Strategic Plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded. Information provided by MOSH Administration has been reviewed and analyzed to assess its accuracy in meeting Performance Plan goals.

The following summarizes the activities and/or accomplishments for each of the FY 2010 performance goals:

Strategic Goal 1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations.

Performance Goal 1.1: Total reduction in the fatality rate by 1%.

Result: This goal was not achieved.

Discussion: MOSH investigated 20 fatalities in FY 2009 and 26 fatalities were investigated in FY 2010. Although more inspections were conducted than projected, there was an increase of fatalities in FY 2010.

Performance Goal 1.2: Total reduction in injury and illness DART rate from the Calendar Year 2003-2005 baseline of 2.4 to 2.34.

Result: MOSH exceeded this goal.

Discussion: The DART rate of 1.7 for Calendar Year 2008 was maintained in Calendar Year 2009 for injury and illnesses per 100 equivalent full-time workers.

Strategic Goal 2: Promote a safety and health culture through Cooperative Programs, Compliance Assistance, On-Site Consultation Programs, Outreach, Training and Education and Informative Services.

Performance Goal 2.1: Increase Voluntary Protection Program (VPP) and Safety and Health Achievement Recognition Program (SHARP) from 13 to 16.

Result: This goal was not achieved.

Discussion: There were 2 VPP applications received in FY 2010. One of the companies that applied was shut down and the company is scheduled for an evaluation in FY 2011. During FY 2010, 1 SHARP certification was granted, 2 were deferred, and 1 recertified.

Performance Goal 2.2: Increase partnerships and alliances from 54 to 57.

Result: MOSH met and exceeded this goal.

Discussion: MOSH has been successful in increasing its partnerships having signed 4 new partnerships in FY 2010. No new alliances were signed in FY 2009. However MOSH has exceeded its goal with 4 alliances and 54 partnerships.

Performance Goal 2.3: Increase the total number of people participating in MOSH outreach and training programs by 9%.

Appendix A – Maryland State Plan

Result: This goal was not achieved.

Discussion: MOSH's original projection was to reach attendance totals in the amount of 7118 for this evaluation period. However, the total number of projected participants was decreased to 6,833 due to the reduced available workdays from furlough and service reduction days imposed on MOSH personnel. Also, 13 classes were canceled due to low enrollment and inclement weather.

Strategic Goal 3: Secure public confidence through excellence in the development and delivery of MOSH programs and services.

Performance Goal 3.1: Percent of fatality and catastrophe inspections initiated within one working day of notification maintained at least at 95%.

Result: MOSH exceeded this goal.

Discussion: MOSH attempted to make contact with the employer but was not able to until 6 days after notification in the 1 fatality inspection that was not initiated within 1 working day of notification. Out of the 26 fatality inspections in FY 2010, 96.2% were conducted within 1 working day of notification.

Performance Goal 3.2: At least 95% of serious complaint inspections initiated within 5 working days of notification.

Result: This goal was not achieved.

Discussion: The average time for MOSH to respond to complaint inspections was 5.54 days. During FY 2010, 94 out of 100 complaints were investigated within 5 days of notification which represents a 94% timely response rate.

Performance Goal 3.3: Percent of discrimination complaint investigations completed within 90 days maintained at 90%.

Result: This goal was not achieved.

Discussion: There was no discrimination cases reflected on the SAMM report for FY 2010. This data is not correct. There were a total of 17 that were completed in FY 2010. Twelve of the 17 cases were completed within 90 days of receiving the complaint (71%).

Performance Goal 3.4: Percent of polled responses from MOSH website users indicating a positive overall experience at 90% by 2012.

Result: MOSH has until 2012 to achieve this goal.

Discussion: MOSH's goal in FY 2009 was to implement a more user-friendly website and to track user feedback. In FY 2010, MOSH was able to achieve the FY 2009 goal. MOSH launched its new website in the Spring of 2010.

VI. Other

A. Complaints About State Program Administration (CASPA)

One CASPA was received in FY 2010.

Allegation: The MOSH program did not conduct a thorough investigation of a complaint.

Region III Findings: A review of the inspection case files and MOSH policies and procedures determined that the complaint inspection had been conducted following current MOSH policies and procedures. However, MOSH did not follow its own internal procedure which requires that a letter sent to the complainant after the inspection is completed that addresses all complaint items.

Region III Recommendations: The issue was discussed in detail with the MOSH staff. Federal OSHA will continue to monitor the issue to ensure MOSH is following procedures.

B. State Initiated Standards

In FY 2009, MOSH began the process of developing its own standard in response to the Occupational Safety and Health Administration's (OSHA) instruction CPL 02-01-045 'Citation Guidance Related to Tree Trimming and Tree Removal Operations'. A committee was formed using the expertise of 4 compliance officers. The committee was responsible for developing specific regulations for Maryland that combined their instruction with OSHA's logging standard. The development of the Tree Trimming and Removal proposed regulation was completed in FY 2010 and is now going through the required steps, prior to final approval.

C. Staff Training

Along with sending 24 compliance officers to the OSHA Training Institute (OTI), MOSH was able to bring the OTI Steel Erection class to Maryland. The class was held at Local 16 of the Iron Workers Union, where hands-on demonstrations were possible in their training yard. MOSH brought in other educational courses for their staff. Courses included, but were not limited to, an instructor from Reid School who presented interviewing and interrogation using the Reid Technique; a former OTI Instructor taught the Electrical Standards for Compliance Officers and courses in computer programs.

D. Consultation

MOSH has one 23(g) public sector consultant who during FY 2010 inspected 27 sites. Twenty-two of these visits were to public correctional facilities. Fourteen of these facilities are maximum security and are considered to be high hazard in Maryland. For more on consultation, refer to the FY 2010 Consultation Annual Project Report (CAPR) and the FY 2010 Regional Annual Consultation Evaluation Report (RACER).

Appendix A – Maryland State Plan

E. Outreach

Cooperative Compliance Partnerships (CCPs)

The CCP Unit signed four new CCPs in FY 2010:

Company Name	Project Name	CCP Signing Date	Estimated Cost
Warner Construction	Frederick Co. Public Schools Central Office Bldg.	11/18/2009	\$14.6M
The Whiting-Turner Contracting Company	Dorchester County Career & Tech. Center #11727	3/31/2010	\$30M
Barton Malow Company	Towson University West Village Commons Project	2/5/2010	\$30M
Warner Construction	Frederick County Public Safety Training Facility	6/25/2010	\$6.9M

Active CCP sites as of end of FY 2010:

Company Name	City	Project Name	Estimated Cost
G.A. & F.C. Wagman, Inc.	Rosedale	Section 100 I95/I695 Interchange Contract #1	208M
Clark Construction Group, LLC	Baltimore	Johns Hopkins Hospital Clinical Buildings	600M
The Whiting-Turner Contracting Company	Baltimore	St. Agnes Hospital-Campus Revitalization Phase I	150M
Armada Hoffer Construction Co.	Baltimore	Legg Mason Tower/Four Seasons Hotel	300M
The Whiting-Turner Contracting Company	Baltimore	Mercy Medical Center New Tower	260M
Bovis Lend Lease	Baltimore	Franklin Square Hospital	150M
The Whiting-Turner Contracting Company	Towson	Towson University-College of Liberal Arts &	110M
Coakley & Williams Construction Inc.	Rockville	Rockville District Courthouse	60M
Warner Construction	Frederick	Frederick Co. Public Schools Central Office Bldg.	14.6M
The Whiting-Turner Contracting Company	Cambridge	Dorchester County Career & Tech. Center #11727	30M
Barton Malow Company	Towson	Towson University West Village Commons Project	30M
Warner Construction	Frederick	Frederick County Public Safety Training Facility	6.9M
Paul Reed Smith	Stevensville	Paul Reed Smith Guitars	N/A

Appendix A – Maryland State Plan

Due to the CCP program, injury and illness rates have gone down and MOSH is able to see a change in the culture of construction in Maryland.

There are 3 meetings a year that MOSH has with the participants of the CCP program to share technique updates, work on initiatives together and to strengthen the informational relationship between MOSH and the construction industry.

Voluntary Protection Program (VPP) - Star only

Although no new employers were approved to participate in the VPP in fiscal year 2010, 3 certification ceremonies were held for companies that were approved last fiscal year. The VPP unit did perform 5 pre-application site visits and 1 re-certification evaluation that resulted in recommending that the company be approved.

There were 13 active VPP sites in FY 2010.

Active VPP sites in FY 2010

Active VPP Sites FY10	
Company	Location
BlueLinx Corporation	Frederick
Clean Harbors Environmental Services	Baltimore
Calvert Cliffs Nuclear Power Plant	Lusby
Covanta Energy	Dickerson
FritoLay	Aberdeen
Grace Davis Technical Center	Curtis Bay
Life Technologies Corporation	Frederick
Mosanto Galena Research Station	Galena
Northrop Grumman Advanced Technologies Laboratories	Linthicum
Northrop Grumman Electronic Systems	Linthicum
Performance Pipe	Hagerstown
Sherwin Williams	Crisfield
Wheelabrator	Baltimore

Education Unit

Ninety-three educational seminars that covered 34 topics were available at locations throughout the State at no cost to the employees and employers in Maryland in FY 2010. MOSH compliance officers taught the majority of these seminars. Three of the 93 classes held were in Spanish (Excavation and Trenching, Construction Site Safety and OSHA 10 Hour – Construction). Nearly 2,200 employees and employers participated in the seminars that were given. In addition, approximately 3,600 employees attended speaking engagements given by MOSH staff.

Appendix A – Maryland State Plan

Educational Seminars Offered in FY 2010

Educational Seminars	
Course Name	Course Name
Accident Investigation	Introduction to OSHA Recordkeeping
Bloodborne Pathogens	Introduction to Safety and Health for Supervisors
Characteristics of an Effective Safety & Health Program	Job Safety Analysis
Construction Site Safety	Machine Guarding
Construction Site Safety - Fall Protection	MSDS/Right-to-Know & Personal Protective Equipment
Construction Site Safety II	Occupational Exposure to Noise
Cranes - New Maryland Regulations	OSHA 10 Hour - Construction - Spanish
Electrical Safety & Lockout Tagout	OSHA 10 Hour - General Industry
Electrical Standards for Compliance Officers	OSHA 10 Hour - Construction
Emergency Response and Disaster Preparedness	Permit Required Confined Spaces
Excavacion de trincheras	Powered Industrial Truck Safety
Excavation & Trenching	Respiratory Protection
Excavation Safety	Scaffolding Safety in Construction
General Industry I	Seguridad en la Construccion
General Industry II	Teen Safety
Hand and Power Tool Safety	Workplace Hazard Assessment
Introduction to IH for Construction	Workplace Violence

APPENDIX A

FY 2010 Findings and Recommendations

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

Rec #	Findings	Recommendations	Related FY 09 Rec #
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.	MOSH has implemented unwritten procedures to correct this issue. 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
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

Rec #	Findings	Recommendations	Related FY 09 Rec #
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
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

APPENDIX B
Status of FY 2009 Findings and Recommendations

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

	Findings	Recommendations	State Response/ Corrective Action	Interim Steps w/ Due Dates	Outcome Measure/ Expectation	Status
09-01	Formal complaint letters to employers and to complainants are maintained in separate folders at the central office rather than the Regional Office servicing complaint.	Letters received from complainants must be maintained in the inspection file.	MOSH respectfully disagrees with recommendation. This practice is consistent with their Field Operation Manual (FOM) and is done for ensuring anonymity so critical to employees who request it. CSHO has possession of the actual letter during investigation	None/ Completed	All information necessary to review a complaint files will be readily available for next Federal OSHA audit.	Completed
09-02	Response letters to complainants are not maintained in the inspection files after they are closed.	Response letters must be maintained in the inspection file.	MOSH respectfully disagrees with recommendation. This practice is consistent with their FOM and is done for ensuring anonymity so critical to employees who request it.	None/ Completed	All information necessary to review a complaint files will be readily available for next Federal OSHA audit.	Completed
09-03	In FY 2009, MOSH 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 must respond to serious complaints within 3 days of assignment pursuant to its FOM or change its FOM.	MOSH believes this is an error. In MOSH's FOM it states within 3 days of assignment , which means the time it's received in the Regional Office./ <i>MOSH has agreed to ensure that the language in the FOM is changed to 5 days from receipt and will begin to submit FOM chapters until FOM fully revised.</i>	04/01/11	Complaint inspections initiated within 5 days in at least 95% of the cases.	Pending
09-04	No next-of kin letters were sent on fatality inspections and there was little or no communication with families at the conclusion of the inspection to inform the next-of-kin inspection findings. MOSH began to send next -of-kin- letters in December 2009.	Continue to send condolence letters to next-of-kin at start of investigation. Families of fatality victims must be kept-up-to-date about the investigations and informed of the outcome of the investigation.	MOSH states they had not adopted this policy, however, they believed it to be a good practice and have already implemented a communication system in English and Spanish at the beginning of the investigation and at the closure of the investigation. <i>MOSH did not adopt this non-mandatory policy, however, they concur the correspondence with the families is a good practice and will continue the process.</i>	Sample letters were submitted to Federal OSHA / completed	During future on-site reviews Federal OSHA will continue to observe copies of next-of-kin letters in investigation files.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-05	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.	Retrain 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 believes this to be a very limited problem, which has been addressed. Guidance has been provided on the completion of the forms and MOSH is working through the supervisors to ensure adherence to the guidance/ <i>MOSH addressed this issue by issuing additional guidance to staff and requiring supervisors to review the narrative portion of the OSHA – 170 forms. An additional instruction was sent to all Supervisors by Operations on 11/30/10.</i>	Completed	It is anticipated that future reviews by Federal OSHA of OSHA-170 forms completed by MOSH staff will not contain the names of compliance officers and/or decedents and/or injured employees.	Pending
09-06	Violations cited on programmed inspections include a high percentage of other-than-serious citations for hazards that should be classified as serious. Health compliance officers have a serious violation percentage of 28%, less than half the Federal rate of 70%.	Conduct training on hazard classification for compliance officers and supervisors to ensure consistency with violation classification.	MOSH strongly disagrees with these statements. There were no cases found by the audit team that “should” have been classified as serious. When cases were referenced in the first draft of this report, we worked with the auditors to explain the violations were cited and the cases were cleared up and reference to the cases removed from the report. The comments, however, were not removed. Our inspectors are trained and held accountable to identify and cite hazards based on their merits. They would be reprimanded/held accountable for not citing OTS that existed as well as citing something serious that is not supported as such. Again we request all references made to our inspectors of misclassifying hazards be removed in their entirety/ <i>MOSH continues to disagree with this finding. A further review of the cases involved is on going and a special study focused on this issue is planned.</i>	This issue was resolved by Federal OSHA and MOSH agreeing to a special study being conducted during FY 2011, which will include a random selection of case files for review. / April 30, 2011	Federal OSHA will perform a special study during FY 2011, which will include a random selection of case files for review. It is anticipated that this review provide a final determination on this issue. (See Section I.C)	Completed
09-07	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.	MOSH will take this request under advisement and discuss it with the Governor’s staff. This procedure is in place due to a Gubernatorial Executive Order (EO) and only applies to manufacturing./ <i>MOSH has had preliminary discussions with the Commissioner and found that there is no support for changing this policy which has been in place as the result of an Executive Order and the work of a Task Force.</i> Although the State policy is premised on the Gubernatorial Executive Order 01.01.1993.12, the EO includes an exception if the action is required by Federal or State law, as this is. Maryland procedures should provide for the proposal of first instance	Documentation on actions taken to rescind Section C.3, and the revised MOSH Instruction 98-3 with Section C.3 rescinded, due by 90 days.	MOSH will propose first-instance sanctions for those Other than serious violations warranting penalties in accordance with the instructions in the FOM.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

			penalties for other-than-serious violations in accordance with State and Federal law, in circumstances in circumstances comparable to Federal policy.			
09-08	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,” which provides an automatic 50% penalty reduction in the proposed penalty to employers who immediately abate any hazards/violations prior to the compliance officer leaving the site on the day of observation. This incentive program does not apply to willful, repeat, failure to correct violations, or alleged violations/conditions relating to accidents.	MOSH believes that this procedure is more effective than its federal counterpart and declines to rescind this memorandum. Immediate abatement on-site is more effective at reducing employee exposure to hazards and this penalty incentive is a tool to accomplish this shared goal. <i>MOSH continues to believe that this procedure is more effective than its federal counterpart.</i>	Promulgation of the revised Memorandum 01-2 that meets the at least as effective) ALAE requirement.		Pending
09-09	Abatement data was not being entered into the database.	Promptly enter abatement verification data into database.	MOSH believes this to be a very limited problem, which has been addressed. Abatement data was being entered, but not consistently. There were some instances such as collections and some regional offices that were not performing their data entry correctly. Steps have been taken to rectify this. <i>MOSH has addressed this and verification data is now entered into the database by Operations instead of from the field. This process has been fully implemented since August 1, 2010. We are establishing written procedures for this to ensure the process remains corrected into the future.</i>	Written procedures outlining how staff should enter abatement information into IMIS with due date of February 15, 2011.	Federal OSHA monitors will review abatement tracker reports and SAMM data to determine if this data is being entered into IMIS.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-10	Case file diary sheets were not found in inspection files.	Institute the use of a case file diary sheet. This form needs to be kept at the top of the case file so that a reviewer can tell at first glance the status of that case.	MOSH disagrees with this finding in that a dairy sheet is not currently a part of our FOM or our practices. This is the first time in our monitoring history that this issue has been identified as a recommendation. MOSH is currently assessing the value of having CSHOs start using diary sheets, but the characterization that we were doing this incorrectly is not accurate./ <i>Although MOSH disagrees with this being a mandatory issue, it is willing to begin to use these forms on a pilot basis. Forms will be provided and training will be done by December 1, 2010 with our Eastern Shore Region (Region I), the initial pilot region, with use of the log effective immediately.</i>	A sample case file diary sheet was provided to MOSH by Federal OSHA. An evaluation of this pilot program will be provided by MOSH to Federal OSHA by April 1, 2011.	It is anticipated that MOSH will begin to use a case file diary sheet and that when additional on-site reviews are conducted by Federal OSHA, that it is significantly easier to track actions and activities in each file.	Pending
09-11	MOSH was not calling employers or sending abatement letters on all cases where abatement had not been received by MOSH.	MOSH should, in accordance with its own procedures as outlined in its FOM, call employers for outstanding abatement documentation and/or send abatement letters on all cases where abatement documentation has not been received by MOSH.	During the audit there were no findings of unabated hazards. During the audit there were no findings of unabated hazards. MOSH is currently reviewing our FOM procedures concerning methods of contacting employers./ <i>Training was completed August 30, 2010 through September 2, 2010 with all personnel that conduct informal conferences and written procedures were provided for what is needed at the informal for abatement documentation. We are sending letters to employers to provide abatement documentation and the verification forms.</i>	MOSH's current FOM at Chapter III.E.4 contains direction on what steps should be taken to obtain abatement verification from employers. Training materials and a sample letter to employer requesting abatement documentation were provided to Federal OSHA by MOSH/completed	When additional case file reviews are conducted by Federal OSHA, it is anticipated that the files will contain documentation of telephone calls to employers regarding outstanding abatement and/or letters to employers requesting immediate abatement documentation	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-12	Abatement tracking reports are not routinely reviewed by management on a weekly basis.	Abatement tracker reports should be carefully reviewed weekly by all Regional Supervisors. If necessary, additional training should be provided to Regional Supervisors to ensure that this report is being properly utilized to track abatement.	During the audit there were no findings of unabated hazards. Review of abatement tracking is currently being conducted in the central office; please note our Regional offices are not the same as federal regional offices. The relatively small size of our state allows us to conduct critical operations more consistently in the central office compared to the set up for national offices. <i>MOSH is establishing written procedures for abatement tracking and attempting to establish tracking reports for abatement. At this time we are reviewing NCR on a daily basis for abatement tracking.</i>	Written procedures for abatement tracking due by March 15, 2011.	Federal OSHA monitors will review abatement tracker reports and SAMM data to determine if this data is being entered into IMIS.	Pending
09-13	Contested case information was not entered into the database.	Retrain staff in the proper database entries for contested cases. Supervisors should review these data entry issues on a weekly basis to ensure that coding is being completed.	Steps were being implemented before audit as this issue was identified internally and has been remedied with retraining of data entry for this small percentage of cases. <i>Contested information is now entered into the NCR in Operations. This policy has been in place since August 1, 2010.</i>	Draft procedures have been provided to Federal OSHA but have not been finalized by MOSH with management. Federal OSHA ran a Micro-to-Host report on December 2, 2010 and determined that contested data is being entered into IMIS./ February 1, 2011	It is anticipated that when additional Micro-to-Host reports are reviewed and/or case file reviews are conducted by Federal OSHA that all appropriate contested case information will be accurately recorded in IMIS.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-14	Not all Federal Program Changes (FPC) are adopted within the six month period.	It is recommended that MOSH adopt Federal Program Changes within the six month period.	MOSH is working hard to adopt Federal Program changes within the six month period. However, there are certain changes that require comprehensive review and evaluation by key enforcement and management personnel where the six month time frame is not attainable. MOSH suggested that the overall system would benefit from a more participatory method of adopting major changes and a discussion about time frames for certain types of changes. Sometimes the changes come at the program with such intensity that we have to prioritize them. Without involvement by State Plans in the development of new changes States are at a disadvantage time-wise, for example if the federal government spends two or three years with vast resources developing a new procedure without state input or information sharing; States must have additional time to put through their regulatory system. MOSH stresses the need for State involvement from the beginning to avoid unnecessary State Plan issues and avoid duplicative work / <i>MOSH has agreed to begin to send the FOM chapters that it has reviewed and is ready to promulgate to begin the OSHA acceptance process. However, MOSH notes that it is impossible for a State program to do the type of review that is required of the comprehensive documents being prepared by OSHA within a six month time frame. Additional involvement by State Plans in the beginning of a FPC is a welcome practice we hope will help reduce the short turn around on large workloads</i>	Side-by-side FOM comparison due March 1, 2011 to Federal OSHA./ April 1,2011	Timely adoption of Federal Program Changes.	Pending
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Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-15	Abatement verification data was not being properly entered into the database for 23(g) public sector consultation.	Maryland should regularly monitor its hazard verifications and ensure that data is promptly entered into the database and any coding errors are corrected.	During the audit there were no findings of unabated hazards. This issue was not discussed during the investigation and we are unsure of which case this study is referring to. Despite the lack of supporting information we are currently reviewing our coding procedures in Consultation. / <i>MOSH has streamlined its coding procedures to ensure proper abatement tracking. The supervisor reviews the open hazard report with each consultant at the beginning of each week to ensure coding errors are caught timely. This new procedure has been in place since September 28, 2010.</i>	Draft procedures have been provided to Federal OSHA but have not been finalized by MOSH with management/ February 1, 2011	When additional case file reviews are conducted and MARC reports are reviewed, it is anticipated that all abatement verification will have been properly tracked and entered into the IMIS database.	Pending
09-16	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	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures. / <i>All 2010 and 2011 discrimination case files will be organized in accordance with the Whistleblower Manual. A Right and Left Index will be included in each case file.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTI. / April 1, 2011	It is anticipated that MOSH discrimination investigation files will contain all appropriate documentation and proper organization required to support actions taken by investigators.	Pending
09-17	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).	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures. / <i>Complaint and Respondent Docketing/Notification Letters were contained in the case files. However, docketing of the complaints was often untimely. Discrimination cases will now be docketed within 5 work days of initial contact with the complainant.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTI. / April 1, 2011	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTI. / April 1, 2011	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-18	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	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures./ <i>All new discrimination cases files will be maintained in accordance with the Whistleblower Manual. See attached R/L Index. Tabs will be used to identify documents.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL. / April 1, 2011	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL./ April 1, 2011	Pending
09-19	A recently closed case had no dismissal letters in the file.	Cases must be closed in accordance with the Discrimination Manual, Chapter 4, § and IV.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures./ <i>The Program Manager is preparing the Field Investigation Reports and dismissal letters for all closed cases.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL. April 1, 2011	It is anticipated that MOSH discrimination investigation files will contain all appropriate documentation and proper organization required to support actions taken by investigators.	Pending
09-20	Management and non-management interviews were not always conducted.	Interviews must be conducted and documented in accordance with the Discrimination Manual.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures./ <i>Management and non-management interviews are being conducted and documented in accordance with the Manual for all new cases. Three staff members were trained in procedures to ensure proper case processing and documentation. Field investigations need to be conducted for 2010 and 2011 cases.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL. April 1, 2011	It is anticipated that MOSH discrimination investigation files will contain all appropriate documentation and proper organization required to support actions taken by investigators.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-21	There was incomplete case information in Web IMIS.	Input complete case information into the Web IMIS in accordance with the Web IMIS guide.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures/: <i>Information will be entered into Web IMIS for all old cases not yet entered and new 2011 cases. Discrimination cases and screen-out cases will be entered in Web IMIS within 30 calendar days of assignment.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL/April 1, 2011	It is anticipated that MOSH discrimination investigation files will contain all appropriate documentation and proper organization required to support actions taken by investigators.	Pending
09-22	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.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures / 2010 and 2011 cases that are settled will contain a settlement document in accordance with the Whistleblower Manual.	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL/April 1, 2011	It is anticipated that MOSH discrimination investigation files will contain all appropriate documentation and proper organization required to support actions taken by investigators.	Pending
09-23	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.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures /: <i>By assigning and training 3 new investigators, MOSH will meet the 90 day investigation time line on new cases. Procedures are being implemented to ensure the 90 day requirement will be met for 90% of 2011 discrimination cases. The discrimination manager is tracking the timely conduct of investigations.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL/April 1, 2011	It is anticipated that MOSH discrimination investigations will be processed in a timely manner.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-24	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.	MOSH concurs that major program improvements are warranted in its Discrimination Program and is actively engaged in a comprehensive review and rewrite of its Discrimination procedures./ <i>By assigning and training three new investigators and implementing new procedures for the conduct of discrimination complaints, 2011 cases will not become inactive.</i>	Documentation has been received by Federal OSHA of an improvement plan by MOSH. Three staff recently attended Whistleblower training at OTL./April 1, 2011	It is anticipated that MOSH discrimination investigations will be properly monitored by management.	Pending
09-25	Enforcement staffs, designated as benchmark positions, are not performing enforcement activities.	MOSH must 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.	MOSH disagrees with this finding. Benchmark staff does perform certain administrative functions, but all are engaged in performing enforcement work. However, although we do not believe to be an accurate statement, we will seek additional positions to begin to assign administrative duties to non-benchmark positions./ <i>MOSH has asked for clarification on whether staff that is conducting VPP and CCP inspections are appropriately counted toward benchmarks as it is required to be administered through enforcement. MOSH reports that it is their understanding that this work was an integral part of compliance and was an appropriate use of benchmark staff to identify and have hazards corrected through on-site visits under the enforcement program.</i>	Federal OSHA ran Micro-to-Host reports to determine if particular compliance staff had performed any inspection activity during the review period to the present date. No inspection activity was identified.	It is expected that compliance staff designed as benchmark positions in yearly grants will be performing enforcement field inspection activities for a 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, etc.	Pending

Appendix B
FY 2010 Maryland State Plan Name (MOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

09-26	<p>Compliance officer's ' field notes were not contained in case files. (Are destroyed per State policy.)</p>	<p>Compliance officers ' field notes must be maintained in case files. OSHA FOM Chapter XII, Inspection Records, should be adopted.</p>	<p>MOSH believes that this procedure is more effective than its federal counterpart. MOSH has more stringent case writing and documentation requirement that makes the retention of field notes unnecessary. Our agency does not rewrite or add additional information before cases are sent to hearing. Before citations are issued the entire case file with all supportive documentation is written and field notes are unnecessary. / <i>MOSH continues to believe that it is critical for inspectors to include all pertinent information in case files and does not want to rely on inspector notes. MOSH contends that the case file is complete without having the inspector notes in them. Their notes are transcribed into the case file.</i></p>	<p>Federal OSHA asked for further clarification on the position of MOSH's attorneys on this issue. It was advised by the Special Assistant to the Secretary of Labor that she spoke with MOSH counsel and they are comfortable with the current practice. Notes are viewed as draft materials that are used to write the report, and the report is the official record. Therefore, Federal OSHA will further review the impact that removing the handwritten CSHO notes has on the effectiveness of MOSH's enforcement program.</p>	Completed
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Appendix C

Maryland State Plan FY 2010 Enforcement Activity

Appendix C
Maryland State Plan (MOSH)
FY 2010 Enforcement Activity

	MD	State Plan Total	Federal OSHA
Total Inspections	1,045	57,124	40,993
Safety	867	45,023	34,337
% Safety	83%	79%	84%
Health	178	12,101	6,656
% Health	17%	21%	16%
Construction	668	22,993	24,430
% Construction	64%	40%	60%
Public Sector	47	8,031	N/A
% Public Sector	4%	14%	N/A
Programmed	768	35,085	24,759
% Programmed	73%	61%	60%
Complaint	111	8,986	8,027
% Complaint	11%	16%	20%
Accident	81	2,967	830
Insp w/ Viols Cited	722	34,109	29,136
% Insp w/ Viols Cited (NIC)	69%	60%	71%
% NIC w/ Serious Violations	76%	62.3%	88.2%
Total Violations	3,964	120,417	96,742
Serious	1,871	52,593	74,885
% Serious	47%	44%	77%
Willful	28	278	1,519
Repeat	61	2,054	2,758
Serious/Willful/Repeat	1,960	54,925	79,162
% S/W/R	50%	46%	82%
Failure to Abate	3	460	334
Other than Serious	2,001	65,031	17,244
% Other	50%	54%	18%
Avg # Violations/ Initial Inspection	5.3	3.4	3.2
Total Penalties	\$3,074,904	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 883.90	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 964.60	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	50.6%	47.7%	40.9%
% Insp w/ Contested Viols	10.9%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	21.6	16.2	18.6
Avg Case Hrs/Insp- Health	47.1	26.1	33
Lapse Days Insp to Citation Issued- Safety	34.1	33.6	37.9
Lapse Days Insp to Citation Issued- Health	51.1	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	1	1,715	2,510

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.9.2010.

Appendix D

FY 2010 State Activity Mandated Measures (SAMM) Report

- Closeout FY2010 SAMM
- First quarter FY 2011 data

Appendix D State Activity Mandates Measures (SAMM)

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
PAGE 1 OF 2

State: MARYLAND

RID: 0352400

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	616 5.54 111	7 3.50 2	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	11 .08 136	0 .00 13	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	102 87.93 116	2 100.00 2	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	4 100.00 4	0 0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	1292 84.33 1532	12 6.90 174	100%
Public	131 87.92 149	0 .00 7	100%
7. Average number of calendar days from Opening Conference to Citation Issue	29223	2443	2624646

Appendix D
State Activity Mandates Measures (SAMM)

Safety	48.46	44.41	47.3	National Data (1 year)
	603	55	55472	
	9465	482	750805	
Health	68.58	53.55	61.9	National Data (1 year)
	138	9	12129	

*MD 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D State Activity Mandates Measures (SAMM)

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
PAGE 2 OF 2

State: MARYLAND

RID: 0352400

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
Safety	385 58.51 658	31 55.36 56	93201 58.4 159705
Health	56 78.87 71	7 87.50 8	10916 50.9 21459
9. Average Violations per Inspection with Vioations			
S/W/R	2054 2.77 741	147 2.29 64	428293 2.1 201768
Other	1951 2.63 741	115 1.79 64	240266 1.2 201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	2497111 1386.51 1801	151196 1239.31 122	509912690 1360.4 374823
11. Percent of Total Inspections in Public Sector	47 4.50 1045	0 .00 14	176 4.6 3791
12. Average lapse time from receipt of Contest to first level decision	2262 141.37 16	0 0 0	3826802 217.8 17571
13. Percent of 11c Investigations Completed within 90 days	0 .00 2	0 0 0	100%

Appendix D
State Activity Mandates Measures (SAMM)

14. Percent of 11c Complaints that are Meritorious		0			0		1461	
		.00					21.2	National Data (3 years)
		2			0		6902	
15. Percent of Meritorious 11c Complaints that are Settled		0			0		1256	
							86.0	National Data (3 years)
		0			0		1461	

Appendix D
State Activity Mandates Measures (SAMM)

Revised Closeout FY 2010 SAMM

2011

U. S. D E P A R T M E N T O F L A B O R

JAN 19,

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)
State: MARYLAND

PAGE 1 OF 2

RID: 0352400

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	582 4.61 126	70 2.69 26	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	11 .08 132	0 .00 44	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	105 86.07 122	34 100.00 34	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	5 100.00 5	2 100.00 2	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	1495 92.11 1623	238 63.30 376	100%
Public	149 96.75 154	20 80.00 25	100%

Appendix D
State Activity Mandates Measures (SAMM)

7. Average number of calendar days from Opening Conference to Citation Issue					
	29337		13373	2625656	
Safety	48.41		48.98	47.3	National Data (1 year)
	606		273	55501	
	9464		2950	750425	
Health	68.57		67.04	61.9	National Data (1 year)
	138		44	12124	

Appendix D State Activity Mandates Measures (SAMM)

*SAMMRPT

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)
State: MARYLAND

JAN 19, 2011
PAGE 2 OF 2

- RID: 0352400

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	388	174	93174
Safety	58.00 669	66.16 263	58.3 159839
			National Data (3 years)
Health	56 78.87 71	17 77.27 22	10932 50.9 21487
			National Data (3 years)
9. Average Violations per Inspection with Vioations			
S/W/R	2067 2.77 744	781 2.46 317	428313 2.1 201735
			National Data (3 years)
Other	1962 2.63 744	655 2.06 317	240438 1.2 201735
			National Data (3 years)
10. Average Initial Penalty per Serious Violation (Private Sector Only)	2511236 1388.19 1809	811551 1156.05 702	510261874 1361.4 374816
			National Data (3 years)
11. Percent of Total Inspections in Public Sector	51 4.58 1114	14 6.33 221	180 4.7 3860
			Data for this State (3 years)
12. Average lapse time from receipt of Contest to first level decision	2262 141.37 16	0 0 0	3780878 213.5 17707
			National Data (3 years)
13. Percent of 11c Investigations Completed within 90 days	0 .00 2	0 0 0	100%

Appendix D
State Activity Mandates Measures (SAMM)

14. Percent of 11c Complaints that are Meritorious		0			0		1464		
		.00					21.2	National Data (3 years)	
		2			0		6910		
15. Percent of Meritorious 11c Complaints that are Settled		0			0		1257		
							85.9	National Data (3 years)	
		0			0		1464		

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D
State Activity Mandates Measures (SAMM)

First Quarter FY 2011 data

2011

U. S. D E P A R T M E N T O F L A B O R

JAN 28,

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

PAGE 1 OF 2

State: MARYLAND

RID: 0352400

MEASURE	From: 10/01/2010 To: 12/31/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	78 2.51 31	86 2.60 33	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	0 .00 41	0 .00 44	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	37 97.37 38	41 97.62 42	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	2 100.00 2	2 100.00 2	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	245 52.69 465	251 53.29 471	100%
Public	20 68.97	20 68.97	100%

Appendix D
State Activity Mandates Measures (SAMM)

		29			29		
7. Average number of calendar days from Opening Conference to Citation Issue							
		12311			14577		2625962
Safety		49.24			49.41		47.3
		250			295		55504
		2590			3003		750457
Health		68.15			66.73		61.9
		38			45		12126

National Data (1 year)

National Data (1 year)

*MD 1Q 11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D State Activity Mandates Measures (SAMM)

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

JAN 28, 2011
PAGE 2 OF 2

State: MARYLAND

RID: 0352400

MEASURE	From: 10/01/2010 To: 12/31/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	158	191	93174
Safety	65.56	67.97	58.3
	241	281	159845
	16	17	10933
Health	80.00	73.91	50.9
	20	23	21488
9. Average Violations per Inspection with Vioations			
	685	843	428333
S/W/R	2.37	2.47	2.1
	288	340	201739
	576	693	240454
Other	2.00	2.03	1.2
	288	340	201739
10. Average Initial Penalty per Serious Violation (Private Sector Only)	727994	884450	510318849
	1174.18	1166.82	1361.5
	620	758	374828
11. Percent of Total Inspections in Public Sector	16	18	180
	6.58	7.26	4.7
	243	248	3865
12. Average lapse time from receipt of Contest to first level decision	0	0	3778069
	0	0	213.2
	0	0	17717
13. Percent of 11c Investigations Completed within 90 days	0	0	100%
	0	0	

Appendix D
State Activity Mandates Measures (SAMM)

14. Percent of 11c Complaints that are Meritorious		0			0		1464			
							21.2		National Data (3 years)	
		0			0		6912			
15. Percent of Meritorious 11c Complaints that are Settled		0			0		1257			
							85.9		National Data (3 years)	
		0			0		1464			

*MD 1Q 11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E

State Information Report (SIR)

- Original Fourth Quarter FY 2010 SIR
- Revised Fourth Quarter FY 2010 SIR

Appendix E State Information Report (SIR)

Original Fourth Quarter FY 2010 SIR

*MD 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

SIR Q4 SIR24 101007 093254 PROBLEMS - CALL Yvonne Goodhall 202 693-1734

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U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298 62.4 8493	253 89.1 284	11403 63.8 17860	365 85.7 426	21912 65.1 33647	597 80.3 743	43788 65.9 66434	1376 79.8 1725
B. HEALTH	488 30.6 1597	10 45.5 22	1094 33.7 3249	23 39.0 59	2232 35.0 6378	60 41.1 146	4202 35.1 11960	145 42.3 343
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663 72.7 6413	171 54.3 315	9421 71.2 13232	253 60.7 417	17649 69.1 25525	466 67.2 693	34350 67.1 51214	1164 75.2 1547
B. HEALTH	451 57.8 780	14 58.3 24	880 53.9 1632	34 68.0 50	1756 55.4 3168	61 65.6 93	3238 53.4 6066	146 65.2 224
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341 81.6	341 51.0	33678 81.5	716 49.9	62211 81.0	1305 50.9	117447 80.1	3079 51.0

Appendix E
State Information Report (SIR)

	21261	669	41304	1435	76839	2563	146593	6042
	3233	98	6183	237	11743	418	21554	802
B. HEALTH	69.6	46.2	70.5	38.0	70.2	38.3	69.6	32.1
	4645	212	8776	623	16725	1092	30947	2501
4. ABATEMENT PERIOD FOR VIOLS								
	3054	150	6515	284	12732	459	25040	977
A. SAFETY PERCENT >30 DAYS	15.0	28.6	16.3	25.6	17.2	23.2	17.7	21.1
	20398	524	39855	1111	74010	1981	141219	4624
	255	0	633	4	1406	4	2977	4
B. HEALTH PERCENT >60 DAYS	5.6	.0	7.3	1.0	8.5	.6	9.6	.3
	4548	180	8681	414	16580	711	30862	1369

1101007

Appendix E State Information Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

PAGE 2

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	13374	1106734	56295	2038916	113418	3500911	296514
OTHER-THAN-SERIOUS	837.5	371.5	803.1	507.2	894.3	470.6	967.6	497.5
	701	36	1378	111	2280	241	3618	596
B. HEALTH								
	249175	21575	434447	49062	732953	76074	1039303	146786
OTHER-THAN-SERIOUS	817.0	407.1	801.6	419.3	835.8	427.4	842.2	438.2
	305	53	542	117	877	178	1234	335
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	307	20529	468	38849	823	76136	1928
	5.8	5.7	5.7	2.8	5.5	2.4	5.5	2.7
	1679	54	3593	165	7112	341	13925	721
B. HEALTH								
	1864	35	3844	91	7547	202	14276	460
	2.1	1.6	2.0	1.7	1.9	1.8	1.8	1.6
	908	22	1940	55	3898	114	8070	281
7. VIOLATIONS VACATED %								
	1123	3	2474	14	5103	38	10425	193
	3.7	.4	4.3	.7	4.7	.9	5.0	1.9
	29962	798	57441	2107	108213	4045	207527	10237
8. VIOLATIONS RECLASSIFIED %								
	844	9	1978	21	4276	51	9196	203
	2.8	1.1	3.4	1.0	4.0	1.3	4.4	2.0
	29962	798	57441	2107	108213	4045	207527	10237
9. PENALTY RETENTION %								
	15767907	343978	30073309	606699	57457651	1102355	111052615	2516777
	64.5	53.0	63.9	48.8	63.0	50.7	62.8	48.0
	24439885	648440	47032897	1242384	91194322	2173077	176868726	5247185

Appendix E State Information Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

PAGE 3

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	253 89.1 284	2 66.7 3	365 85.7 426	5 62.5 8	597 80.3 743	9 40.9 22	1376 79.8 1725	52 61.2 85
B. HEALTH	10 45.5 22	3 75.0 4	23 39.0 59	9 56.3 16	60 41.1 146	11 50.0 22	145 42.3 343	11 28.9 38
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	341 51.0 669	14 82.4 17	716 49.9 1435	40 46.0 87	1305 50.9 2563	44 45.8 96	3079 51.0 6042	231 53.2 434
B. HEALTH	98 46.2 212	7 30.4 23	237 38.0 623	41 41.8 98	418 38.3 1092	116 55.0 211	802 32.1 2501	134 54.3 247

Appendix E State Information Report (SIR)

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 0

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610 22.5 2709	0 .0 42	1134 23.2 4888	4 3.8 104	2052 21.9 9366	24 9.1 263	3827 23.0 16668	39 12.9 303
2. VIOLATIONS RECLASSIFIED %	306 11.3 2709	0 .0 42	585 12.0 4888	0 .0 104	1100 11.7 9366	5 1.9 263	2217 13.3 16668	5 1.7 303
3. PENALTY RETENTION %	4940512 65.3 7563023	15150 56.3 26925	7526155 62.3 12074308	25295 55.2 45825	12856359 58.1 22143463	225366 71.4 315487	23378285 58.4 40052611	244278 73.5 332574

Appendix E State Information Report (SIR)

Revised Fourth Quarter FY 2010 SIR

1110119

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5319	370	11421	482	21936	714	43813	1493
	61.6	85.3	63.4	83.4	64.9	79.8	65.8	79.5
	8631	434	18018	578	33823	895	66610	1877
B. HEALTH	492	14	1097	27	2236	64	4206	149
	30.1	33.3	33.4	33.3	34.8	38.1	35.0	40.8
	1632	42	3287	81	6419	168	12001	365
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4705	174	9462	256	17689	469	34392	1167
	70.5	51.0	69.9	57.8	68.5	65.2	66.8	74.2
	6672	341	13532	443	25826	719	51516	1573
B. HEALTH	462	13	892	33	1767	60	3249	145
	56.1	54.2	52.9	66.0	54.8	64.5	53.1	64.7
	823	24	1685	50	3223	93	6121	224

Appendix E State Information Report (SIR)

3. SERIOUS VIOLATIONS (%)

	16869	341	33005	708	61339	1296	116508	3070
A. SAFETY	80.2	49.4	80.6	48.6	80.4	50.1	79.8	50.6
	21042	690	40924	1457	76321	2585	146038	6064
	3157	90	6056	225	11562	406	21358	790
B. HEALTH	68.4	43.9	69.6	36.5	69.6	37.4	69.3	31.7
	4613	205	8707	616	16624	1085	30835	2494

4. ABATEMENT PERIOD FOR VIOLS

	3180	153	6671	286	12856	461	25165	979
A. SAFETY PERCENT >30 DAYS	15.9	29.4	17.0	26.1	17.6	23.4	17.9	21.2
	20006	520	39233	1097	73178	1966	140319	4609
	380	0	778	4	1562	4	3133	4
B. HEALTH PERCENT >60 DAYS	8.5	.0	9.1	1.0	9.5	.6	10.2	.3
	4474	167	8568	395	16393	692	30653	1350

Appendix E State Information Report (SIR)

1110119

U. S. D E P A R T M E N T O F L A B O R

PAGE 2

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	664862	17549	1221859	60820	2161716	117943	3642411	301039
OTHER-THAN-SERIOUS	922.1	461.8	869.7	533.5	937.8	483.4	997.1	502.6
	721	38	1405	114	2305	244	3653	599
B. HEALTH								
	250577	19875	437449	45362	743255	72374	1052380	143086
OTHER-THAN-SERIOUS	832.5	397.5	811.6	405.0	847.5	418.3	851.4	433.6
	301	50	539	112	877	173	1236	330
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10062	460	20844	623	39182	978	76470	2083
	5.5	5.5	5.5	3.2	5.4	2.6	5.4	2.8
	1829	84	3765	195	7297	371	14112	751
B. HEALTH								
	1942	63	3933	121	7641	232	14370	490
	1.9	2.3	1.9	2.0	1.9	2.0	1.8	1.7
	998	27	2039	60	4000	118	8171	286
7. VIOLATIONS VACATED %								
	1692	15	3088	26	5729	50	11055	205
	5.9	1.6	5.5	1.1	5.4	1.2	5.4	2.0
	28813	938	56269	2322	107006	4295	206317	10487
8. VIOLATIONS RECLASSIFIED %								
	1230	17	2369	49	4668	80	9596	232
	4.3	1.8	4.2	2.1	4.4	1.9	4.7	2.2
	28813	938	56269	2322	107006	4295	206317	10487
9. PENALTY RETENTION %								
	16211080	343978	30573193	606699	57958402	1102355	111246285	2516777
	64.4	53.0	63.9	48.8	63.0	50.7	62.8	48.0
	25181324	648440	47850136	1242384	92033736	2173077	177283880	5247185

Appendix E State Information Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

PAGE 3

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	370 85.3 434	3 60.0 5	482 83.4 578	6 60.0 10	714 79.8 895	10 41.7 24	1493 79.5 1877	53 60.9 87
B. HEALTH	14 33.3 42	6 66.7 9	27 33.3 81	12 57.1 21	64 38.1 168	14 51.9 27	149 40.8 365	14 32.6 43
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	341 49.4 690	14 82.4 17	708 48.6 1457	40 46.0 87	1296 50.1 2585	44 45.8 96	3070 50.6 6064	231 53.2 434
B. HEALTH	90 43.9 205	7 30.4 23	225 36.5 616	41 41.8 98	406 37.4 1085	116 55.0 211	790 31.7 2494	134 54.3 247

Appendix E State Indicator Report (SIR)

1110119

U. S. D E P A R T M E N T O F L A B O R

PAGE 4

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = MARYLAND

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	615 22.8 2702	0 .0 3	1151 23.5 4904	4 6.2 65	2078 22.2 9343	24 10.7 224	3852 23.2 16574	39 14.8 264
2. VIOLATIONS RECLASSIFIED %	302 11.2 2702	0 .0 3	586 11.9 4904	0 .0 65	1107 11.8 9343	5 2.2 224	2181 13.2 16574	5 1.9 264
3. PENALTY RETENTION %	4829537 65.2 7402498	3050 50.0 6100	7423325 62.2 11925258	13195 52.8 25000	12560179 57.9 21707763	213266 72.4 294662	20456330 55.4 36902511	232178 74.5 311749

Appendix F

FY 2010 State OSHA Annual Report (SOAR)

(Available Separately)