

Appendix B
FY 2010 Virginia State Plan (VOSH) EFAME Follow-up Report
Prepared by Region III
FY 2009 Findings & Recommendations & Corrective Action Taken

	Special Study Findings - Complaints	Recommendations	Corrective Action Taken
09-1	Case files lacked written documentation of why a nonformal complaint resulted in an inspection.	Written documentation should be contained in case files to justify why a non-formal complaint resulted in an inspection.	Refresher training was provided, and completed by January 20, 2011. Case file diary sheets will be placed in all case files. Remarks concerning changes in the status/classification of complaints will appear on the Case File Diary Sheet. The Compliance Managers will be responsible for this entry. In addition to this entry, the same or supporting information may also be found on the OSHA 167 (c) form and/or the inspection narrative.
09-2	Standard language was not being used in response letters to complainants. For example, some letters gave a lot of detailed information to the complainant regarding the outcome of the inspection while others simply responded "complaint was confirmed."	Response letters must include an appropriate response detailing the outcome of the inspection or investigation activity for each alleged complaint item as outlined in VOSH's FOM.	Refresher training was provided, and completed by January 20, 2011. In all response letters to complainants, the CSHOs will incorporate and the Compliance Manager will approve appropriate AVD language or other descriptive language into the letter to clarify the inspection findings for each complaint item.
	Special Study Findings – Victim Rights	Recommendations	Corrective Action Taken
09-3	Families of fatality victims were not kept up-to-date about investigations and/or informed of the outcome of investigations.	Families of fatality victims must be kept up-to date about investigations and informed of the outcome of VOSH investigations.	Refresher training was provided, and completed by January 20, 2011. VOSH will continue to contact victims' next-of-kin and will also maintain follow-up contact with the next-of-kin to inform and provide copies of citations and settlement agreements. Compliance Managers and Regional Directors are responsible for establishing and maintaining contact, providing copies, etc.

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	Special Study Findings – Fatalities	Recommendations	Corrective Action Taken
09-4	Interviews with employer representatives and employees were not always documented	Ensure that interviews with employer representatives and employees are documented in case files.	CSHOs received refresher training on documenting employee and employer interviews in all cases and at all times. All training was completed by January 20, 2011.
	Special Study Findings – Case File Documentation	Recommendations	Corrective Action Taken
09-5	Case file documentation is not in conformance with the requirements of VOSH's FOM.	The requirements for case file documentation are outlined in Chapter III of VOSH's FOM. These policies and procedures should be reviewed with all management and compliance staff to assure that all employees are following these procedures and understand what specifically is required to be contained in a case file.	CSHOs received refresher training on the VOSH FOM Chapter III and the proper use of the OSHA 1-B form as they pertain to the documentation required. All training was completed by January 20, 2011.
09-6	Case file diary sheets were not found in inspection files.	Case file diary sheets must be used in accordance with VOSH's FOM procedures. 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.	CSHOs received refresher training. Case File Diary Sheets are required in all case files. VOSH personnel are required to make proper entries on the Case File Diary Sheet for all actions regarding enforcement activities. All training was completed by January 20, 2011.
	Special Study Findings – Hazard Identification	Recommendations	Corrective Action Taken
09-7	Employee exposure was not always adequately documented on OSHA 1B forms.	VOSH must ensure that OSHA 1Bs are adequately documented. Provide additional training to investigators on case file documentation and the importance of having each OSHA 1B fully documented.	CSHOs received refresher training on the proper use of the OSHA 1-B with emphasis on the documentation required to issue citations. All training was completed by January 20, 2011.

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09-8	Alleged violation descriptions (AVDs) on OSHA-2 forms were not specific enough to address hazardous condition.	Alleged violation descriptions should reflect specific hazards noted on OSHA-2 forms for each violation.	CSHOs received refresher training on the proper use of the OSHA 2 citation/penalty form. All training was completed by January 20, 2011.
	Special Study Findings – Records Review	Recommendations	Corrective Action Taken
09-9	OSHA-300 logs were not always obtained from employers and reviewed by compliance officers during on-site inspection activity.	OSHA-300 logs for three years must be obtained from employers and reviewed by compliance officers, pursuant to VOSH’s FOM, while on-site during inspection activity.	CSHOs received refresher training on the proper collection of OSHA 300 forms. All training was completed by January 20, 2011.
	Special Study Findings – Violation Classification	Recommendations	Corrective Action Taken
09-10	Proper documentation to justify violation severity classification was not always contained in inspection files.	VOSH must retrain compliance staff in the proper type of documentation needed to justify violation severity classification in accordance with VOSH FOM procedures.	CSHOs received refresher training on the proper assessment of severity on the 1-B form. All training was completed by January 20, 2011.
	Special Study Findings – Settlement Agreement	Recommendations	Corrective Action Taken
09-11	Copies of signed informal settlement agreements were not always contained in case files. Deleted by Region III	Copies of signed settlement agreements must be maintained in case files. Deleted by Region III	Region III has agreed to delete item 11 as an outlier. All cases reviewed contained the necessary Informal Settlement Agreements or were final order cases where no ISA was required. The Regional Director or other VOSH personnel who negotiate settlements will continue to place copies of ISAs and/or EISAs into all settled files.
	Special Study Findings – Penalties	Recommendations	Corrective Action Taken
09-12	Case files did not always contain documentation of how penalty reduction factors were granted to	Case files must be documented by Regional Directors to explain why the maximum penalty	Refresher training was provided and completed by January 20, 2011. VOSH personnel will document the allowance of all penalty relief offers

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	employers where minimal abatement was required to come into compliance.	reduction of 40% was granted to employers where minimal abatement was required to come into compliance. Penalty reduction factors should be reviewed in detail with Regional Directors.	in Informal Conferences, Post-Conference litigation, etc.
	Special Study Findings – Sampling	Recommendations	Corrective Action Taken
09-13	<p>Bulk samples were not always taken when suspected combustible dust was identified in a work place.</p> <p>Deleted by Region III.</p>	<p>Bulk samples should be taken by industrial hygienists whenever suspected combustible dust is encountered in a work place.</p> <p>Deleted by Region III.</p>	<p>Region III has agreed to delete item 13 as an outlier.</p> <p>The case in question (312762412) did not contain a citation for combustible dust nor was there any evidence of accumulations of combustible dust at the facility.</p> <p>VOSH Industrial Hygienists will continue to collect bulk samples where there are potential combustible dust hazards in accordance with the Combustible Dust National Emphasis Program, VOSH Directive # 14-236A.</p>
	Special Study Findings – Abatement Verification	Recommendations	Corrective Action Taken
09-14	OSHA-166 forms were not being entered into the database to track abatement verification.	Promptly enter OSHA-166 (particularly item 22) data into database.	Refresher training was provided to Compliance Managers and completed by January 20, 2011. OSHA 166 forms (or equivalent) will be kept in all files in which cited items are not corrected onsite during an inspection.
09-15	VOSH was not calling employers or sending abatement letters on all cases where abatement had not been received by VOSH.	VOSH must, 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 VOSH.	Regional Directors and Compliance Managers received refresher training in the requirements of the VOSH Abatement Verification Directive and will adhere to its requirements in verifying abatement. All training was completed by January 20, 2011.

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	Special Study Findings – Data Entry	Recommendations	Corrective Action Taken
09-16	OSHA 91 sampling data is not entered into the IMIS system. The forms were contained in case files; however, the forms were never entered into the database; therefore, could not be tracked by running a report from the IMIS system.	OSHA 91 data should be entered into the IMIS system for all sampling.	Refresher training was provided and completed by January 20, 2011. OSHA 91 data will continue to be entered into the IMIS system as required. OSHA 91 sampling data was entered beginning in April 2010. All OSHA 91 sampling data was retroactively entered from October 1, 2009 case files.
	Special Study Findings – Federal Program Changes	Recommendations	Corrective Action Taken
09-17	Not all Federal Program Changes are adopted within the six month period. (The State has not yet adopted the new Federal FOM.)	VOSH must adopt Federal Program Changes within the six month period.	During FY 2010, VOSH continued the revision process of their new FOM using the Federal OSHA FOM as a template. The new FOM will be issued as a VOSH Directive during the 3 rd Quarter of FY 2011.
	Special Study Findings – Whistleblower	Recommendations	Corrective Action Taken
09-18	VOSH is using an outdated Discrimination manual that needs to be updated, which lacks guidance for proper organization of cases and documentation required to support actions taken by investigators.	VOSH must update its current directive. Chapter 2 should list all current whistleblower acts that are referred to Federal OSHA or reference Chapter 1 of Federal OSHA's Discrimination manual, which lists the current whistleblower acts to include ones that need to be referred to Federal OSHA for investigation: (a) Use Chapter 5 of the Federal Whistleblower manual to describe the organization of its investigation files. (b) Adopt Chapter 2, Section III – E of the	VOSH's Discrimination Manual has been rewritten using Federal OSHA's Discrimination manual as guidance. The new VOSH Discrimination Manual will be issued as a VOSH Directive during the 3 rd Quarter of FY 2011. Discrimination investigator activities will be verified during FY 2011 monitoring activities.

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		<p>Federal Whistleblower manual, which states that the notification to respondents can initially be done via letter.</p> <p>(c) Adopt Chapter 2, Section III – B of the Federal Whistleblower manual which indicates that a memorandum will be prepared documenting the screening interview and sending a letter to the complainant verifying the administrative closure of the case.</p> <p>(d) Adopt Chapter 3, Section IV, G-2 of the Federal Whistleblower manual which indicates that in the event that a signed statement cannot be obtained from a witness, interview notes should be taken and a memorandum to the file should be prepared by the investigator setting forth all of the pertinent information that was received from the witness.</p> <p>(e) Adopt Chapter 3, Section IV, E and G of the Federal Whistleblower manual which indicates what evidence should be obtained during the course of the investigation.</p> <p>(f) Files must be documented to demonstrate why a case is being</p>
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		<p>dismissed and what the proper grounds are for that dismissal. It is recommended that VOSH adopt Chapter 3, Section IV, E and G of the Federal Whistleblower manual which outlines the basis for dismissing a complaint.</p>	
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