



**Virgin Islands
Public Employee Occupational Safety and Health
(VIDOSH)**

***Federal Annual Monitoring Evaluation (FAME) Report
October 1, 2009 - September 30, 2010***

**U.S. Department of Labor
Occupational Safety and Health Administration
Region II – New York**

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I. EXECUTIVE SUMMARY

This evaluation of the Virgin Islands Public Employee Occupational Safety and Health (VIDOSH) State Program covers the period of October 1, 2009 through September 30, 2010.

For FY 2010, VIDOSH's initial total 23(g) grant amount was \$666,238 which included federal base grant of \$201,000, the state's match of \$1,000, and the 100% overmatch of \$464,238.

VIDOSH's FY10 Annual Performance Plan consisted of two broad-based strategic goals with complementary performance goals; (1) Improve Workplace Safety and Health for all Public Employees in the U. S. Virgin Islands., (2) Promote a safety and health culture within the U.S. Virgin Islands Public Sector Workplaces Improve Workplace Safety and Health for all Public Employees in the U. S. Virgin Islands.

a. Introduction

The Virgin Islands OSHA State Plan is currently administered by the Division of Occupational Safety and Health (VIDOSH), which is part of the U.S. Virgin Islands Department of Labor. The State Plan has offices on the two major islands: St. Croix and St. Thomas, for conducting enforcement activities in the public sector. VIDOSH conducts inspections at territorial-government facilities. All private sector and federal government agency complaints are forwarded to the Puerto Rico Federal OSHA Area offices for appropriate action.

The mission of the Virgin Islands Division of Occupational Safety and Health (DOSHS) is to implement the mandates of the Federal (OSH) Act, and to ensure a safe and healthful working environment for all employers and employees within its jurisdiction. This means to ensure as much as practicable, that employees work in an environment free from hazards and risks to their safety and health. VIDOSH ensures that this protection is provided to all employees in the Virgin Islands with a focus on public sector employees. This involves the application of standards, enforcement, and technical assistance.

The VI-OSH Act, as stated in the July 19th, 2006 amendment for Public Sector only, now contains provisions for the issuance of Failure-To-Abate monetary penalties for those public sector employers found not to be in compliance with applicable standards on a second instance basis. The revised Act contained provisions on all Failure to Abate violations.

The post citation issuance review proceedings are handled through a Hearing Examiner with the right to appeal to the Commissioner of Labor and the V.I. Superior Court in lieu of the Review Commission as in the Federal Program. The VI –OSH Act provides for the automatic adoption of federal standards applicable to public sector, with issuance on the effective date specified in the federal standard. The Commissioner for the VI Department of Labor publishes adopted standards and procedures as a rule or notice for a minimum of three days in local circulation written media and the V.I. Register to notify all impacted stakeholders.

Until June 30, 2003, VIDOSH and Federal OSHA had concurrent jurisdiction over safety issues in the private sector, with Federal OSHA retaining private sector health and maritime industry coverage. Public sector safety and health issues were covered by VIDOSH, as well as

consultative services in both private and public sectors. On July 1st, 2003, the Virgin Islands Government voluntarily withdrew its private sector enforcement coverage while continuing its coverage for public sector workers, and entered into a new 21(d) private-sector consultation cooperative agreement with Federal OSHA. This was due in large part to the unique geography and performance issues surrounding the Virgin Islands State Plan. On September 2005, the 21(d) private sector consultation program was transferred to the University of the Virgin Islands Community Engagement and Lifelong Learning (UVI-CELL) Division.

Performance Goals

Goal #1-1.1 Reduce occupational hazards exposures in the public sector by focusing on public employees with frequent Workers Compensation claims over the past 3 years. In order to accomplish this goal during FY 2010 VIDOSH Developed an LEP to target public sector agencies with high Workers Compensation claims and updated VI Public Sector Workers Compensation forms and database was configured to categorize public sector injuries and illnesses per agency and geographic location. VIDOSH targeted public sector agencies whose operations were Service providers, a total of twenty-seven (27) safety and seventeen (17) health inspections were conducted with 18 such industries including the VI Housing Authority, The VI Department of Finance and the VI Department of Health.

Goals #1-1.2 & #1-1.3 Reduce occupational hazards exposures in the public sector by ensuring that workplaces receive direct intervention. In order to accomplish these goals VIDOSH conducted programmed inspections, focusing on establishments that had not been inspected in the past three years and conduct health inspections, that included addressing indoor air quality (IAQ) issues This goal was partially met in that VIDOSH conducted a total of 15 health enforcement activities. The enforcement activities included planned and complaint inspections. During FY 2010 the percentage of IAQ inspection were 73% (11/15) for all public sector agencies. In addition VIDOSH will implement IAQ procedures and strategies based on VIDOSH FY2009 and FY 2010 performance for IAQ complaint inspections. The data will be used to develop a specific IAQ procedure applicable for this type of intervention.

Performance Goal #2-1

Promote a safety and health culture through consultation and training, education and seminars. VIDOSH planned to accomplish this goal by increasing training and education to public employers/employees to promote systematic approaches to safety and health and also by upgrading the level of V.I. Government awareness of health and safety issues.

Virgin Islands State Plan Profile

State Plan: Initial Plan Approval – August 31, 1973 – (38 FR24896)
Certification: September 10, 1981

Designee - Albert Bryan Jr., Commissioner
U S Virgin Islands Department of Labor
Division of Occupational Safety and Health

Excluded Coverage

- Maritime Issues (private sector)
- Maritime Cargo Handling, Long shoring
- Shipbuilding and Ship Repairing
- Occupational safety and health issues in the private sector
- Federal facilities (military installations, etc.)

Employee Coverage - Public Coverage Only

Per VIDOSH 2010 Application; VIDOSH covers 11,877 territorial employees

Operational Grant – Per VIDOSH’s Financial Close Out Report

FY 2010 Federal Share:	\$235,658
FY 2010 State Share:	\$ 35,658
FY 2010 100% State Funds:	<u>\$281,413</u>
FY 2010 Total Grant:	\$552,729

Allocated Staff: Total 7

Managers:	1
Enforcement:	4
Consultation:	0
Administrative:	2

b: Summary Of The Report

The 2009 EFAME report noted 23 recommendations. It is OSHA Region 2’s assessment that VIDOSH in its 2009 EFAME Corrective Action Plan completed corrective actions for 16 of the 23 items. The remaining 7 “open” items are in varying stage of completion and OSHA continues to monitor VIDOSH’s progress in completing its corrective actions.

OSHA continues to provide VIDOSH with assistance in completing its corrective actions and acknowledges that in certain cases budgetary limitations, availability of OSHA training, and difficulty on VIDOSH’s part in recruiting and retaining staff are challenges that VIDOSH faces when attempting to maintain and improve its program.

Complaint Inspections

The 2009 EFAME noted that in a significant number of complaint inspections reviewed that some complaint items were not addressed, nor were inspection and/or were not opened in a timely manner. This continued to be an issue in FY10 in that the average number of days it took VIDOSH to initiate a complaint was 24 and the average number of days to initiate an investigation was 3.75.

As of January 19, 2011; VIDOSH has implemented supervisory control in which the supervisor is apprised of any complaint that VIDOSH receives and the supervisor assigns the complaint to the appropriate compliance officer immediately. The VIDOSH Director tracks the timeliness of complaint inspections. VIDOSH has implemented 100% supervisory review of complaint case files to ensure that all complaint items are addressed prior to closing the inspection.

OSHA will continue to monitor this issue and recognizes that staffing limitations present a challenge in addressing this issue.

Enforcement Case File Documentation

The 2009 EFAME noted that a significant number of case reviewed were lacking prima facie evidence to support the citations issued. In the majority of citations reviewed the citations were misclassified.

In addition, information such as employer and employee representatives was insufficient, as was a case file narrative that would document conditions on site and the event that occurred before, during, and after the onsite inspection.

As of January 19, 2011; VIDOSH Director has trained the staff and has instructed the staff to ensure that prima facie information is documented for each citation issued.

VIDOSH has implemented 100% supervisory review of case files to ensure that all citations are supported by prima facie evidence – including documentation of employer knowledge.

The VIDOSH Director has trained CSHOs on the concept that they should categorize the severity of a hazard based on the most likely most severe injury/illness likely to result from employee exposure. The VIDOSH Director has implemented 100% case file review to address this issue.

Review of files is an ongoing process.

VIDOSH has implemented the use of an “Opening and Closing Conference” form for CSHOs to document the union’s representative’s involvement during the inspection activities.

A comprehensive contact/ mailing list with the Public Sector Union leadership contact information and organization mailing address was created. This tool is utilized for correspondence and notification. A revised VIDOSH Organizational brochure was created and includes a document that addresses Union and Employee Representative involvement in several areas. The Brochure is distributed employee representatives during enforcement consultation and outreach activities.

Provide additional training to all field staff to adequately classify violations with appropriate

severity and probability of potential resulting injury.

Abatement

The 2009 EFAME noted that in most of the cases reviewed adequate abatement was not received or documented in the case file.

The VIDOSH Director has implemented a policy of 100% case file review to ensure that, before they are closed, all files contain adequate abatement information and that all outstanding penalties have been collected. In addition the VIDOSH Director intends to include a discussion of case file management and quality of the case documentation as part of the employee performance review process.

Failure To Abate Penalties

The 2009 EFAME noted that VIDOSH's amended legislation provides authority for Failure-to-abate daily penalties, however, VIDOSH did not have a mechanism in place to collect these penalties. VIDOSH was not exercising that authority.

VIDOSH must ensure that their statutory authority to compel employers to abate hazards is exercised.

As of January 19, 2011; The VIDOSH Director recognizes that Failure-To-Abate (FTA) penalties must be collected and commits to collaborate with the Governor, Executive and Legislative Branches of the Virgin Islands to implement a way to compel employers to pay FTA penalties. As of this writing the government is in transition. Once the new cabinet is installed the VIDOSH Director will raise the issue of collecting FTA penalties with the cabinet.

Case Settlement

The overwhelming majority of cases do not go through a settlement process. Case file reviews indicated that when informal conferences are held, there is poor documentation of the informal conference notes.

OSHA Region 2 Personnel have discussed the proposed training that the VIDOSH Director and the VIDOSH Internal Auditor will be providing for the field staff. VIDOSH has committed to ensuring that the training that includes a explanation of the requirement of the field staff to explain the employer's appeal rights and right to request an informal settlement conference. The VIDOSH Director gave assurances that all settlement discussions are being documented.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

IMIS Database Management Information System

The 2009 EFAME noted that the management information system (IMIS) was not being effectively updated/maintained, nor was VIDOSH using IMIS management reports to identify discrepancies in data entries and updates, resulting in uncorrected rejects, outdated draft forms, lack of abatement, citations not issued within the statute of limitations.

The VIDOSH Director has begun reviewing the above mentioned reports. VIDOSH Staff are scheduled to participate in the OIS Enforcement Super User Training. (Consultation Super User Training was attended by UVI CEL Consultation Personnel).

VIDOSH Strategic Plan

VIDOSH submitted its original five-year strategic plan and corresponding annual performance plans in July 2005 but it was never fully implemented because of difficulties in establishing the requisite baseline to measure the performance of the program. An updated five-year strategic plan is being developed by VIDOSH and should be in place for FY 2011.

A baseline injury/illness measure was established and the updated 5 year strategic plan was implemented on October 1, 2010.

State Plan Narrative

Submission of a draft version of a revised State Plan Narrative was due on December 31, 2005. This document has not yet been received by OSHA but VIDOSH reports that it will be submitted to OSHA for approval by the end of FY 2010.

As of January 19, 2011, VIDOSH was in the process of completing a revised State Plan Narrative. This detailed document requires ample revisions. The VIDOSH Director and staff must review and enhance the report, and agree that the said operations are able to achieve VIDOSH goals and objectives.

VIDOSH Public Sector Consultation

As required by its 2003 developmental plan, the Virgin Islands has not developed nor maintained a public sector consultation program that can provide no cost safety and health services to public sector employers.

An Industrial Hygienist has been assigned to the public sector consultation program. The member has completed the OTI Course 1000 and OTI 1500 and is currently enrolled in Course OTI 1250. The other required mandatory courses are schedule to be finished at the end of FY 2011. The Virgin Islands Department of Labor and Region II will need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment will be required.

WHISTLEBLOWER

The 2009 EFAME identified several issues with VIDOSH's handling of whistleblower complaints, including a lack of structure for processing complaints, and lack of a public information poster or fact sheet.

VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position.

Region 2 agrees that VIDOSH has acted appropriately and that VIDOSH will continue to recruit and attempt to enroll staff in the Whistleblower training courses as they become available and budget allows.

VIDOSH has identified nine employees within the Virgin Islands Department of Labor to be familiarized with Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI training is unavailable in the near future or is not cost effective -- VIDOSH will request the National Office to provide onsite training.

As Of January 19, 2011; VIDOSH has access to the current web-based whistleblower application. When the OIS based Whistle application rolls out VIDOSH has committed to ensuring that the appropriate staff receives the OIS whistleblower training.

VIDOSH has committed to creating an 11(c) poster/fact sheet for the public sector by the second quarter FY 2011. The fact sheet will include the applicable 11(c) information. VIDOSH will produce the ad in both English and Spanish.

Standards Adoption

The 2009 EFAME noted that VIDOSH did not adopt federal standards in a timely manner. In FY10 of the 4 OSHA Federal Standards promulgated or changed VIDOSH showed intent to adopt 2 but no adoption dates were proposed.

VIDOSH has made progress in adopting federal standards, and OSHA Region 2 is currently working with VIDOSH to ensure that standards are adopted.

Training

VIDOSH covers employers in water and wastewater treatment activities, covered by the PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.

VIDOSH intends on seeking assistance from OSHA Region II to train the staff on the PSM and is encouraged to seek Federal technical assistance when faced with PSM-related issues.

c: Monitoring Methodology

Monitoring of VIDOSH consisted of both formal and ad hoc meetings, as well as regular review of data from a variety of sources to track the VIDOSH's progress in achieving its strategic goals, annual performance goals, that VIDOSH's actions in response to the 2009 EFAME were appropriate, and to ensure that VIDOSH is meeting its mandated responsibilities under the Act.

II. MAJOR NEW ISSUES

As noted elsewhere in this report, VIDOSH has suspended the start of its Public Sector Consultation Program pending completion of the required training for the 1 staff member slated for the consultation program.

III. ASSESSMENT OF VIDOSH ACTION AND PERFORMANCE IMPROVEMENTS IN RESPONSE TO RECOMMENDATIONS FROM THE FY2009 EFAME

ENFORCEMENT

Finding 09-1:

The 2009 EFAME noted that in 36% of the complaint case files reviewed, all of the complaint items were not addressed in the inspection and/or were not opened in a timely manner.

Recommendation 09-1:

Implement internal control measures to ensure that complaint inspections are conducted in a timely manner and that all complaint items are addressed during the inspection.

VIDOSH Response 09-1:

The VIDOSH Director will ensure the CSHO's are trained on addressing all the items identified in the complaint process by the end of the 2nd Qtr of FY 2011. The procedures will instruct the CSHO's to document all aspects of the complaint in the case fill. The VIDOSH staff will adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of a VIDOSH Complaint Data E-tool will facilitate and enhanced collection of pertinent data during the complaint process. The staff was formally trained on the use of the E-Tool on 1st Qtr of FY 2011. This training ensured the proper measures are adhered to and will improve the case file documentation process. The Director and auditor will review case files to ensure the new procedures are adhered to.

A signed document certifying the corrective action describing the training content will be provided to OSHA Region 2 by due date noted above. The E-Tool will be submitted for Regional review.

Corrective Action Plan 09-1:

See VIDOSH Response above.

Anticipated Completion Date 09-1:

As of January 19, 2011; VIDOSH has implemented supervisory control in which the supervisor is apprised of any complaint that VIDOSH receives and the supervisor will assign the handling of the complaint to the appropriate compliance officer immediately. The VIDOSH Director tracks the timeliness of complaint inspections. VIDOSH has implemented 100% supervisory review of complaint case files to ensure that all complaint items are addressed prior to closing the inspection.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review

Status 09-1:

Completed. .

Finding 09-2:

The 2009 EFAME noted that in 42% of the cases reviewed, employer knowledge was not properly documented.

Recommendation 09 - 2:

Provide additional training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements of prima facie case as set forth by federal OSHA and VIDOSH policy (Field Inspection Reference Manual or Field Operations Manual).

VIDOSH Response 09-2:

The VIDOSH Director will ensure the CSHO's and the staff are trained on the proper documentation procedures required to capture employer's knowledge by the end of the 2nd Qtr of FY 2011. The VIDOSH staff will also adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. This tool will ensure proper measure adhere to improve the case file documentation in the future.

Additionally, the utilization of a standardization inspection process will be developed and implemented. The guidelines will reflect the required enforcement compliance directives. These guidelines will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The forms will also document union representative's involvement. These standardization inspection forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be documented on these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be utilized by the director to assess effectiveness. The director and auditor will review case file to ensure the new procedures are adhered to.

Status 09-2:

Completed. As of January 19, 2011; VIDOSH Director has trained the staff and has instructed the staff to ensure that Employer Knowledge is documented for each citation issued. VIDOSH has implemented 100% supervisory review of complaint case files to ensure that all citations are supported by prima facie evidence – including documentation of employer knowledge. Review of files is an ongoing process.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-3:

The 2009 EFAME noted that in 57% of the cases reviewed, documentation of employee and/or union representative participation during the inspection was not present.

Recommendation 09-3:

Provide training to all field staff regarding the agency's policy of Union/Employee Representative involvement during and after inspections and the requirement to properly document compliance with this policy in case file.

VIDOSH Response 09-3:

VIDOSH has taken several measures to improve Union and Employee Representatives Involvement. The VIDOSH Director and the Department of Labor Commissioner will work on establishing a stakeholders meeting with the Public Sector Union leadership by the 3rd Qtr of FY 2011. Additionally, an Opening and Closing Conference Form will be utilized by the CSHO's to documents the union's representative's involvement during the inspection activities. The completion of the form will be completed by the 2nd Qtr of FY 2011.

A comprehensive contact/ mailing list with the Public Sector Union leadership contact information and organization mailing address was created. This tool is utilized for correspondence and notification. A revised VIDOSH Organizational brochure was created and includes a document that addresses Union and Employee Representative Involvement in several areas. The Brochure will be distributed employee representatives during enforcement consultation and outreach actives. VIDOSH completed these actions during the 1st Qtr of FY 2011.

Anticipated Completion Date 09-3:

These actions will be accomplished on or about March 31, 2011.

Status 09-3:

Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-4:

The 2009 EFAME noted that thirty-five cases underwent a comprehensive review, 20 (57%) of the case files lacked one or more of the following required documentation: employee interview notes, employee exposure and employer knowledge.

Recommendation 09-4:

Provide additional training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements of prima facie case as set forth by federal OSHA and VIDOSH policy (Field Inspection Reference Manual or Field Operations Manual).

VIDOSH Response 09-4:

The VIDOSH Director will ensure the staff is trained on the procedures to address and document employer and employee exposure and knowledge. The Field Operation Manual (FOM) File Review procedures were provided to the VIDOSH staff. The excerpt is utilized by the staff to ensure the correct case file documentation sequence. This standardized procedure ensures the case files are assembled correctly. The Staff has implemented these procedures.

Additionally, [the] Director [and] the technical auditor shall review each case file for correctness during the review process. VIDOSH has created a standardized Opening and Closing Conference Form. The form shall be used to document the union's representative's involvement during the inspection activities.

The VIDOSH Director will provide and ensure additional training to the staff to ensure the case files reflect the required documentation to cover employee and employer interview notes, employee exposure and employer knowledge by the 2nd Qtr of FY 2011.

Status 09-4:

Completed. As of January 19, 2011; VIDOSH has trained the field staff as described above and has implemented a policy of 100% case file review. This is an ongoing process.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-5:

The 2009 EFAME noted that in 75% of the cases reviewed, the violations were not classified correctly. All of the citations were classified as Medium/Lesser Serious citations with injury and illnesses ranging from cuts and bruises to death.

Recommendation 09-5:

Provide additional training to all field staff to adequately classify violations with appropriate severity and probability of potential resulting injury.

VIDOSH Response 09-5:

By the 2nd Qtr of FY 2011 the Director will ensure the VIDOSH Staff is trained on the proper classification of citations. VIDOSH is developing standardized templates to assist in the inspection process. These templates will incorporate the CSHO's field notes. VIDOSH is in the process of developing inspection templates to provide the CSHO a systematic guideline for the inspector's inspections. The templates will address citation classifications recommendations. The CSHO inspectors will have additional log items such as photo logs. These customized forms will be completed by the 3rd Qtr of FY 2011.

Anticipated Completion Date 09-5:

The VIDOSH Director has trained CSHOs on the concept that they should categorize the severity of a hazard based on the most likely most severe injury/illness likely to result from employee exposure. The VIDOSH Director has implemented 100% case file review to address this issue.

Recommendation 10-2 relates to the development of the “standardized templates” noted in VIDOSH’s response to Recommendation 09-5.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Status 09-5:

Completed

Finding 09-6:

The 2009 EFAME noted that case files reviewed did not include adequate documentation to support employee and/or employer knowledge.

Recommendation 09-6:

Implement internal controls to ensure that all cases are reviewed on a supervisory level to make certain that all violations issued meet the prima facie requirements.

VIDOSH Response 09-6:

The procedure to ensure adequate case file documentation reflecting employee exposure and knowledge will be enacted. VIDOSH will develop standardized inspection templates. These templates will be used to capture the CSHO’s field notes to include employee and/or employer knowledge. Customized Inspection templates will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies.

The VIDOSH Director will ensure these customized forms are completed and implemented completely by the 3rd Qtr of FY 2011.

Anticipated Completion Date 09-6:

Status 09-6:

Completed

As of April 18, 2011; The template(s) were created and the use of them has been implemented by field staff. The VIDOSH Director has implemented a policy of 100% case file review to ensure that the files contains adequate prima facie evidence – including documentation of employee exposure and employer knowledge.

Recommendation 10-3 relates to the development of the customized forms.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-7:

The 2009 EFAME noted that there were no willful citations issued during FY 2009. VIDOSH inspects the same government agencies (but at different locations) throughout the year. For example, the VI Department of Education may receive a dozen or more inspections a year. Similar hazards are found during each inspection but these are never issued as repeat violations.

Recommendation 09-7:

Provide additional training to CSHOs and supervisors on the Willful and Repeat Violation Policy and Procedures.

VIDOSH Response 09-7:

The Director will ensure the CSHOs will review the agency's citation history and applicable case files prior to conducting inspection activities. The procedures will be part of the inspection preparation process. The VIDOSH staff will be trained and these actions will be enacted by the 2nd Qtr. of FY 2011.

As of January 19, 2011; "Willful" training was given the staff. OSHA Region 2 advised the VIDOSH Director regarding the content of the training with a focus on ensuring the VIDOSH supported potentially willful citations with documentation of actual knowledge of the condition and that the employer made intentional decisions to disregard VIDOSH standards.

Anticipated Completion Date 09-7:

These activities will be accomplished on or about March 31, 2011.

Status 09-7:

As of January 19, 2011; "Willful" training is scheduled to take place by March 31' 2011. OSHA Region 2 advised the VIDOSH Director regarding the content of the training with a focus on ensuring the VIDOSH supported potentially willful citations with documentation of actual knowledge of the condition and that the employer made intentional decisions to disregard VIDOSH standards.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-8:

The 2009 EFAME noted that in 80% of the cases reviewed, adequate abatement was not received or documented in the case file.

Recommendation 09-8:

Provide additional training to all of the field staff, including supervisory staff, to ensure that abatement issues are handled in accordance with established policy, including:

1. Ensure appropriate abatement periods are assigned for unabated violations.
2. Ensure that all abatement information satisfies the notice of violations prior to closing the case.
3. For cases with CDI, ensure that the file documents the method of abatement and that the CSHO observed the abatement.
4. Ensure that Failure To Abate notices are issued where appropriate.
5. Provide training to staff on the Petitions for Modification of Abatement (PMA) policies and procedures.

VIDOSH Response 09-8:

VIDOSH will utilize the following standard reports to track and monitor the abatement process: Outstanding Abatement, Open Inspection Report, and Violation Abatement Report. The Director will instruct the CSHO's to contact the employers whom fail to abate in a timely manner. Additionally VIDOSH will use project management techniques to ensure all facets of the abatement process are completed. The director will use the in house tools to identify notification and the completion of abatement actions.

The VIDOSH Director will ensure the staff is provided the additional training by 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures

Status 09-8:

Completed. The VIDOSH Director has implemented a policy of 100% case file review to ensure that, before they are closed, all files contain adequate abatement information and that all outstanding penalties have been collected. In addition the VIDOSH Director intends on including a discussion of case file management and quality of the case documentation a part of the employee performance review process.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-9:

The 2009 EFAME noted that the overwhelming majority of cases do not go through a settlement process (i.e. informal conference, post contest meetings, etc). Case file reviews indicated that when informal conferences are held, there is poor documentation of the informal conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.

Recommendation 09-9:

Provide additional training to CSHOS and supervisory staff on the policies and procedures of informal and formal settlements, with the intent to promote abatement and settlement.

VIDOSH Response 09-9:

As of January 19, 2011 the VIDOSH Director trained the CSHO's on the correct documentation procedures to reflect accurate case file activities. The training will cover informal conference procedures, and informal conference notes.

The VIDOSH Director will ensure additional training is provided to the VIDOSH staff by the end of 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures

Anticipated Completion Date 09-9:

These activities were accomplished on or about January 19, 2011.

Status 09-9:

Completed.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-10:

The 2009 EFAME noted that case File[s] involved with an informal conference had poor documentation of the information conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.

Recommendation 09-10:

VIDOSH representatives must thoroughly document the following in the case file: The fact that notification to the parties of the date, time and location of the informal conference, was made; indicate the date of the informal conference was held in the diary sheet; at the conclusion of the conference, all main issues and potential courses of action must be summarized and documented.

VIDOSH Response 09-10:

VIDOSH management and staff will review directives and procedures pertaining to the Informal Conferences with the revised FOM. The staff will document the applicable information in the Management Information System (MIS).

VIDOSH will take the precautionary step in following the FOM. The VIDOSH staff will ensure all case files are documented to reflect the actions/decisions accomplished at Informal Conferences. The IMIS will reflect documentation in the case files. VIDOSH will assure employer and/or parties involved sign and receive the copies of the informal settlement agreements.

The VIDOSH Director will ensure the additional training is provided to the VIDOSH staff by the 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures.

Anticipated Completion Date 09-10:

These activities will be accomplished on or about March 31, 2011.

Status 09-10:

Completed. The VIDOSH Director gave assurances that all settlement discussions are being documented, that appropriate IMIS entries will be made, and that all documentation of settlements are distributed to the appropriate parties.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

INFORMATION MANAGEMENT

Finding 09-11:

The 2009 EFAME noted that VIDOSH was not using IMIS management reports to identify discrepancies in data entries and updates, resulting in uncorrected rejects, outdated draft forms lack of abatement, citations not issued within six months, cases not closed in a timely fashion, and lack of employer responses to non-formal complaints.

Recommendation 09-11:

In order to improve the integrity of OSHA data and transparency to the public VIDOSH must improve its performance with IMIS data management. Additionally VIDOSH Management must use IMIS reports as a tool to effectively manage both the program and the work product of its staff.

VIDOSH Response 09-11:

Beginning by the end of the 1st Qtr of FY, the VIDOSH Director will work with the technical auditor on a weekly basis. The VIDOSH staff will use IMIS Management reports as a tool to effectively manage both the program activities and the work assignment. These reports are Citation pending, Open Inspection, Unsatisfied, Violation Abatement Report, Employer Response to non formal complaints and rejects.

Anticipated Completion Date 09-11:

VIDOSH will provide these accomplished activities on or about January 31, 2011.

Status 09-11:

Completed. The VIDOSH Director has begun reviewing the above mentioned reports. VIDOSH Staff are scheduled to participate in the OIS Enforcement Super User Training. (Consultation Super User Training were attended by UVI CEL Consultation Personnel).

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-12:

The 2009 EFAME noted that VIDOSH-amended legislation provides authority for Failure-to-abate daily penalties.

Recommendation 09-12:

VIDOSH must ensure that their statutory authority to compel employers to abate hazards is exercised.

VIDOSH Response 09-12:

The VIDOSH Director is currently reviewing all outstanding existing failure to abate cases. Based on the severity of the penalties, VIDOSH will pursue the cases with the most severe penalties first. VIDOSH will exercise its statutory authority to assess and collect fines when the employer fails to abate hazards.

As of January 19, 2011; The VIDOSH Director recognizes that Failure-To-Abate (FTA) penalties must be collected and commits to collaborate with the Governor, Executive and Legislative Branches of the Virgin Islands to implement a way to compel employers to pay FTA penalties. As of this writing the government is in transition. Once the new cabinet is installed the VIDOSH Director will raise the issue of collecting FTA penalties with the cabinet.

For future cases beginning by the end of the 3rd Qtr FY2011, VIDOSH will provide the executive and legislative branches with quarterly reports identifying cases with penalties. VIDOSH anticipates periodic notification will allow both branches to budget for the penalties assessed. Additionally notification will also allow the executive branch to identify the agencies that consistently fail to adhere to safe practices.

Anticipated Completion Date 09-12:

VIDOSH will provide these accomplished activities on or about June 30, 2011.

Status 09-12:

Completed.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-13:

The 2009 EFAME noted that VIDOSH submitted its original five-year strategic plan and corresponding annual performance plans in July 2005 but it was never fully implemented because of difficulties in establishing the requisite baseline to measure the performance of the program. An updated five-year strategic plan is being developed by VIDOSH and should be in

place for FY 2011.

Recommendation 09-13:

VIDOSH should establish [a] baseline in FY 2010 and implement their new 5 year strategic plan.

VIDOSH Response 09-13:

A baseline injury/illness measure was established and the updated 5 year strategic plan was implemented on October 1, 2010.

VIDOSH manually collects and analyzes Workers Compensation data for the calendar years 2006, 2007, 2008, and 2009 from targeted Agencies/facilities. The average number of annual total Workers Compensation cases for the above years will be used as the baseline.

The VIDOSH Director will work with the Workers Compensation [data] to establish baseline by 2nd Qtr FY2011.

Anticipated Completion Date 09-13:

Completed.

Status 09-13:

Completed.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-14 (10-1):

The 2009 EFAME noted that submission of a draft version of revised State Plan Narrative was due on December 31, 2005. This document has not yet been received by OSHA but VIDOSH reports that it will be submitted to OSHA for approval by the end of FY 2010.

Recommendation 09-14 (10-1):

VIDOSH must ensure that the State Plan narrative, with amendments reflecting the more limited public sector scope of the program, is completed and submitted to OSHA. This includes the narrative document as well as all relevant appendices. VIDOSH must also provide documentation on all outstanding developmental components of its State Plan.

VIDOSH Response 09-14 (10-1):

The VIDOSH will strive to submit a completed draft of the State Plan Narrative by the end of the 3rd Qtr of FY 2011.

Anticipated Completion Date 09-14 (10-1):

This activity will be accomplished on or about June 30, 2011.

Status 09-14 (10-1):

As of January 19, 2011, VIDOSH was in the process of completing a revised State Plan Narrative. This detailed document requires ample revisions. The VIDOSH Director and staff must review and enhance the report, and agree that the said operations are able to achieve VIDOSH goals and objectives.

Completion Date 09-14 (10-1):

This activity will be accomplished on or about June 30, 2011.

Subject to further Federal review and monitoring and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.

Finding 09-15 (10-2):

The 2009 EFAME noted that as required by its 2003 developmental plan, the Virgin Islands has not developed nor maintained a public sector consultation program that can provide no cost safety and health services to public sector employers.

Recommendation 09-15 (10-2):

VIDOSH must ensure that a public-sector consultation program is fully operational and provides appropriate services to public-sector employers in the territory.

VIDOSH Response 09-15 (10-2):

VIDOSH will establish a Public Sector Consultation Program by 4th Qtr of FY2011. The Virgin Islands Department of Labor and Region II need to have discussions to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment are required.

The VIDOSH Director has selected the Consultant. The Consultant is awaiting mandatory OSHA training. By the end of the 2nd Qtr of FY2011, the Consultant is scheduled complete the course # 1500. Additionally, the VIDOSH Director has establish[ed] communication with other Public Sector only State Plans [to] shadow a state plan Consultant within Region II

Anticipated Completion Date 09-15 (10-2):

These activities will be accomplished on or about June 30, 2011.

Status 09-15 (10-2):

As of January 19, 2011; the VIDOSH Director has taken the following steps in the development of a public sector consultation program. The recently assigned Industrial Hygienist has been

assigned to the public sector consultation program. The member has completed the OTI Course 1000 and OTI 1500 and is currently enrolled in Course OTI 1250. The other required mandatory courses are scheduled to be finished at the end of FY 2011. The Virgin Islands Department of Labor and Region II will need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment will be required.

Subject to further Federal review and monitoring, and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.

WHISTLEBLOWER

Finding 09-16:

There is a lack of structure for processing 11(c) complaints, including no knowledge of the appeals process and what happens to a merit case after the Final Investigative Report (“FIR”) is submitted.

Recommendation 09-16 :

VIDOSH needs to follow the Federal manual and to implement a structure for processing 11(c) complaints including an independent reviewer to examine appealed cases. VIDOSH needs to work with the Virgin Island’s Attorney General’s Office to create a clear system for processing and tracking meritorious investigations.

VIDOSH Response 09-16:

VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island’s Attorney General’s Office to create a structure for processing 11(c) complaints. Once created, the system will be utilized to process and tracking meritorious investigations.

The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.

Anticipated Completion Date 09-16:

These actions will be accomplished on or about September 30, 2011.

Status 09-16:

Completed. Status as of January 19, 2011: Region 2 agrees that VIDOSH has acted appropriately and that VIDOSH will continue to attempt to enroll staff in the Whistleblower training courses as they become available and budget allows.

This is subject to further Federal review and monitoring, and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.

(A Whistleblower program is a necessary component of an approved State Plan.)

Finding 09-17 (10-3):

The 2009 EFAME noted that VIDOSH staff appeared to refer 11(c) cases to Federal OSHA, PROSHA, and the U.S. Virgin Islands Department of Labor, Division of Labor Relations. Staff members understood that private Sector 11(c) complaints should be forwarded to Federal OSHA. Staff members stated that they contacted Federal OSHA Regional Supervisory Investigator for questions. One investigator has attended the Basic Discrimination Investigator's Course 1420 at OTI.

Recommendation 09-17 (10-3):

VIDOSH staff needs to forward all complaints that allege retaliation to the discrimination investigator for screening. All staff members should be trained to answer basic questions about jurisdiction, coverage, and discrimination complaints. All screenings should be documented according to the guidelines in the Federal Manual. It is suggested that VIDOSH continue to refer cases out of their jurisdiction to Federal OSHA and contact Federal OSHA with any questions. VIDOSH should develop a working relationship with the Virgin Islands Department of Labor, Division of Labor Relations, so that each agency may refer appropriate cases to each other as complainants may concurrently file.

VIDOSH Response 09-17 (10-3):

See Response to Recommendation 09-16.

Anticipated Completion Date 09-17 (10-3):

These actions will be accomplished by the CSHOs on or about September 30, 2011.

Status 09-17 (10-3):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-18 (10-4):

The 2009 EFAME noted that staff and investigator(s) have no access to the IMIS Whistleblower Application. There is also no process for tracking case files.

Recommendation 09-18 (10-4):

Staff and investigators need to access to IMIS Whistleblower Application so that they may track investigations and pertinent information such as Complainant and Respondent contact information, timeliness, and jurisdiction.

VIDOSH Response 09-18 (10-4):

See Reponse to Recommendation 09-16. Once a Whistleblower CSHO is identified and trained the CSHO will be provided IMIS access to the Whistleblower Module.

VIDOSH has identified nine employees within the Virgin Islands Department of Labor to become familiar [with] Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI training is unavailable in the near future or is not cost effective -- VIDOSH will request the National Office to provide onsite training.

The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.

Anticipated Completion Date 09-18 (10-4):

These actions will be accomplished on or about September 30, 2011.

Status 09-18 (10-4):

As of January 19, 2011, VIDOSH will have access to the web based whistleblower applications.

This is subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-19 (10-5):

The 2009 EFAME noted that VIDOSH's Discrimination Program did not meet the § 1977.23 standards. In general, the VIDOSH discrimination program has not had any whistleblower cases since 1999, and is lacking the procedural knowledge, experience, and structure necessary to effectively execute investigations and meet program objectives.

Recommendation 09-19 (10-5):

VIDOSH needs to follow the Whistleblower Investigation Manual (CPL02-03-002 8/22/2003) to create a process to settle cases. VIDOSH should work with the Virgin Island's Attorney General's Office to create a clear path for settlement review and execution.

VIDOSH Response 09-19 (10-5):

See Response to Recommendation 09-18. VIDOSH will work with the Virgin Island's Attorney General's Office and the Department of Labor's Legal Counsel to create a clear path for settlement review and execution.

The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.

Anticipated Completion Date 09-19 (10-5):

The VIDOSH Director will work towards accomplishing these actions on or about September 30, 2011.

Status 09-19 (10-5):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-20 (10-6):

VIDOSH does not have templates for docket letters, FIRS, and other necessary investigative documents and correspondence.

Recommendation 09-20 (10-6):

VIDOSH should adopt the Federal Manual templates for all investigative documents including but not limited to docket letters, FIRs, and Secretary's Findings. These documents should be created as soon as possible, so that they are available when investigations arise.

VIDOSH Response 09-20 (10-6):

VIDOSH shall adopt the Federal Manual templates for all investigative documents, including but not limited to docket letters, FIRs and Secretary's Findings.

The VIDOSH staff will follow the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). Several control measures have been created and put into place by VIDOSH. The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. The staff will be formally trained on the use of the E-Tool during the weekly staff meeting

The utilization of standardized inspection processing will be developed and implemented. Inspection templates will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies. The guidelines will reflect the required enforcement compliance directives. VIDOSH inspection guidelines will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The form will also document the union representative's involvement during all inspection activities. These customized forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be documented by these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be used by the director to access effectiveness.

The VIDOSH Director will provide and ensure additional training is provided to the VIDOSH staff. These procedures will encompass established policies and procedures. The Director will ensure the staff utilizes the federal templates.

Anticipated Completion Date 09-20 (10-6):

These actions will be accomplished on or about September 30, 2011.

Status 09-20 (10-6):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-21:

The 2009 EFAME noted that in FY 2009 4 Federal standards were issued and that VIDOSH responded with their intent to adopt for two of the four standards timely. VIDOSH did not adopt any of the standards changes in a timely manner.

Recommendation 09-21:

VIDOSH should implement internal controls to ensure that all standards applicable to the public sector are promulgated within six months of the promulgation date of new Federal OSHA standards in accordance with the VI OSH Act.

VIDOSH Response 09-21:

Beginning on or about 2nd Qtr of FY 2011, VIDOSH management will ensure that the applicable standards are adopted within six months of publication. VIDOSH will continue to utilize its existing media accounts to disseminate federal standards.

VIDOSH will also utilize the Department of Labor's Public Information Officer to create Public Service announcements for each new federal standard. All current Federal Program Changes will be adopted by the 2nd Qtr of FY 2011.

Anticipated Completion Date 09-21:

These actions will be adopted on or about March 31, 2011.

Status 09-21:

Completed. OSHA Region 2 is actively working with VIDOSH to ensure that VIDOSH adopts all pending standards in a timely manner, and that VIDOSH takes appropriate action, including legislative, regulatory or administrative change, to assure future adoption of all new standards.

As of this report VIDOSH has adopted 7 of 10 standards, and OSHA Region 2 is working with VIDOSH to finalize VIDOSH's disposition on the remaining 3.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-22:

The 2009 EFAME noted that VIDOSH does not have an 11(c), Health and Safety Poster, pamphlets, or fact sheet available for public sector agencies or complainants.

Recommendation 09-22:

VIDOSH needs to create a Health and Safety Poster for 24 V.I.C. § 40 as well as pamphlets, or a fact sheet available for state agencies, businesses, and complainants. These media should be available in both English and Spanish.

VIDOSH Response 09-22:

As of January 2011, VIDOSH will create an 11(c) poster/fact sheet for the public sector by the second quarter FY 2011. The fact sheet will include the applicable 11(c) details. VIDOSH will produce the ad in both English and Spanish.

Anticipated Completion Date 09-22:

Completed January 2011

Status 09-22:

Completed.

Finding 09-23 (10-7):

The 2009 EFAME noted that VIDOSH covers establishments in water and wastewater treatment activities, subject to PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.

Recommendation 09-23 (10-7):

Ensure that an adequate number of qualified VIDOSH staff are trained to the requirements of DIRECTIVE NUMBER: 09-06 (CPL 02), "PSM Covered Chemical Facilities National Emphasis Program"

VIDOSH Response 09-23 (10-7):

VIDOSH will identify the required PSM training for water and waste water treatment activities. The Director will dedicate time for staff to review and discuss Directive Number 09-06 (CPL 02). VIDOSH will seek assistance from Region II to train the staff on the PSM.

Anticipated Completion Date 09-23 (10-7):

These actions will be adopted on or about September 30, 2011.

Status 09-23 (10-7):

Subject to further Federal review and monitoring, and submission of documentation on revised procedures, training, etc. VIDOSH should seek Federal technical assistance when faced with PSM-related issues.

IV. FY 2010 State Enforcement

Inspection Activity

The FY 2010 Inspection Activity micro-to-host report (INSP8) shows that VIDOSH conducted a total of 33 inspections during the fiscal year: 18 safety inspections and 15 health inspections. This is 32% of the planned annual goal of 103 inspections. Of the 33 inspections, 18 were safety inspections which was 30% of the planned goal of 60; and 15 were health inspections which was 35% of the planned goal of 43.

OSHA's Directorate of Cooperative and State Program (DCSP) statistics differ from the VIDOSH SOAR. This difference may be the result of the fact the VIDOSH's source reports were run at a different time than DCSP's.

Of the 33 inspections conducted 14 or 42% were classified as unprogrammed inspections including 11 complaint inspections.

During FY 2010 VIDOSH issued a total of 198 violations - 12 Repeat, 146 Serious and 40 Other-than-Serious

VIDOSH public-sector consultation conducted a total of 4 public-sector consultation visits in FY10. This was 16% of the planned goal of 25 consultation visits. Of the 4 consultation visits: 4 were safety visits which was 26% of the planned goal of 15; and 0 health visits which was 0% of the planned goal of 10 visits.

Mandated Activities

State Activity Mandated Measures: VIDOSH performed unsatisfactorily relating to five of the fifteen established mandated enforcement measures discussed in this report. There were significant outliers in the areas of number of days to initiate a complaint inspection, number of days to initiate a complaint investigation, a high safety and health lapse time, and the number of serious, willful and repeat (SWR) violations verified abated within 30 days. VIDOSH performed satisfactorily and at 100% response in the notification of complainants regarding their complaints and in responding to imminent danger complaints and referrals in one day. OSHA has recommended that VIDOSH make a concerted effort to update the OSHA IMIS system in a timely manner upon receipt of abatement documentation submitted by employers.

Mandated Activities Report for Consultation (MARC): VIDOSH Management has indicated that 4 consultation visits were initiated; however the public sector consultation program was suspended due to loss of staff, and the 4 visits noted were carried over from previous years and the consultation visits were not completed. OSHA recommends that VIDOSH close out those 4 reports in its system.

State Activity Mandated Measures (SAMM) Report Statistics

(Source: SAMM Report – Nov. 12, 2010)

Complaint Inspections (SAMM 1)

During this evaluation period, VIDOSH received a total of 11 formal complaints, with an average of 24 days for initiating complaint inspections. In FY09 VIDOSH performance in this area was an average of 12.75 days. VIDOSH continues to not satisfy this mandated requirement for initiating complaint inspections within 5 working days from notification.

OSHA Recommendation: VIDOSH must ensure that CSHOs are adequately trained in complaint policies and procedures as specified in the recommendations of FY2009 FAME. OSHA is monitoring VIDOSH's status with regard to this issue.

Complaint Investigations (SAMM 2)

VIDOSH received a total of 28 non-formal complaints, with an average of 3.75 days for initiating the complaint investigations. In FY09 VIDOSH performance in this area was an average of 3.68 days. VIDOSH continues to not satisfy this mandated requirement for initiating complaint investigations within 1 working day from notification.

OSHA Recommendation: VIDOSH must ensure that CSHOs are adequately trained in complaint policies and procedures as specified in the recommendations of FY2009 FAME. OSHA is monitoring VIDOSH's status with regard to this issue.

Complainant Notification (SAMM 3)

Complainants were timely notified of the inspection results in 100% of the complaint inspections (8 out of 8). Reference point is 100%. VIDOSH has improved on this measure since FY09 where the rate was 93.75% (15 out of 16)

Response to Imminent Dangers (SAMM 4)

There was 1 referral/complaint for imminent danger conditions that was responded to in timely manner, for a 100% timely response rate. Reference point is 100%. VIDOSH has improved on this measure since FY09 where the rate was 50% (1 out of 2).

Right of entry (SAMM 5)

There were no denials of entry for FY 2010. Reference point is 0.

Timely Abatement of Violations (SAMM 6)

During FY 2010, VIDOSH assured timely abatement of S/W/R violations on average of only 29% (16 out of 55). The reference point is 100%. Although low, VIDOSH has improved on this measure from FY09 where the rate was 0% (0 out of 82)

OSHA Recommendation: Provide additional training to all of the field staff, including supervisory staff, to ensure that abatement issues are handled in accordance with established policy as specified in the recommendations of FY2009 FAME. OSHA is monitoring VIDOSH's status with regard to this issue.

Lapse time (SAMM 7)

During the evaluation period, VIDOSH issued citations in 46 cases, 34 safety and 12 health cases. For the safety cases, VIDOSH had a lapse time of 110.85 days (the national average was 47.3 days). The lapse time for the health cases was calculated at 118.33 days (the national

average was 61.9 days). Both safety and health indicators were higher than the national average.

OSHA Recommendation: VIDOSH must implement mechanisms (e.g., expedited case file reviews, review of management reports, and retrain employees) in order to improve its citation lapse times.

Classification of Violations (SAMM 8)

During FY 2010 VIDOSH issued citations in twenty nine (29) of the safety programmed inspections, or 80.56%, resulted in the issuance of violations classified as S/W/R. Seven (7) of the programmed health inspections, or 87.50%, resulted in the issuance of violations classified as S/W/R. The national averages were 58.4% for safety and 50.9% for health. In FY09 the VIDOSH safety inspections were at a rate of 85.71% and the health inspections were at 90%. VIDOSH continues to perform satisfactorily and exceed the national average in this area.

OSHA's Directorate of Cooperative and State Program (DCSP) statistics differ from the VIDOSH SOAR. This difference may be the result of the fact the VIDOSH's source reports were run at a different time than DCSP's.

Violations per Inspection (SAMM 9)

A total of 46 inspections resulted in violations issued; 157 violations classified as S/W/R and 41 classified as other-than-serious. This resulted in an average of 3.41 violations per inspection for S/W/R and 0.89 for other-than-serious. The national averages were 2.1 for S/W/R and 1.2 for other-than-serious. In FY09 VIDOSH performance in this area was 3.49 violations per inspection for S/W/R and 0.96 for other-than-serious. VIDOSH continue to perform satisfactorily in this area and exceed the national average.

Penalties (SAMM 10)

Average penalty per serious violations in the private sector: N/A for VIDOSH

Public Employee Program (SAMM 11)

Percent of total inspections in public sector: 100% for VIDOSH.

Review Procedures (SAMM 12)

Average lapse time from the receipt of contest to the first level decision. Zero (0) for VIDOSH.

Discrimination Program (SAMM 13, 14, 15)

A total of seven (0) discrimination complaints were completed in FY 2010 for VIDOSH.

PUBLIC SECTOR CONSULTATION

According to VIDOSH, in 2009 they initiated 4 public sector consultation visits, but did not complete them due to loss of staff. The reports remain in draft on VIDOSH IMIS system and the consultation visits are considered to be open.

OSHA recommends that VIDOSH close the 4 open visits on their IMIS system.

In FY 2010 no public sector consultation visits were conducted and that public sector consultation was suspended.

In FY10 the VIDOSH Director, appointed a consultant for public sector agencies, a Certified Industrial Hygienist to run the VIDOSH Consultation Program. This individual is currently completing the required OTI courses. The previous director and a CSHO had resigned from this division creating a significant loss. Therefore, the Virgin Islands Public Sector Consultation Program was not fully developed and implemented.

Federal Program Changes and Standards Adoption

During FY 2010 a total of 10 Federal Program Changes (FPC) were issued that required a notice of intent to adopt. VIDOSH responded to 7 of the 10 changes in a timely manner with their intent.

In addition, four (4) Federal standards were issued during FY 2010; VIDOSH responded to 2 of the 4 notices in a timely manner.

- Final Rule – Revising Standards in the Acetylene Standards– 74 FR No. 153 (40441-40447) November 10, 2009; No anticipated adoption date submitted.
- Final Rule – Cranes and Derricks in Construction - confirmation of effective date; 75 FR, No. 152 (47906-48177), No anticipated adoption date submitted.

V. OTHER

VI. ASSESSMENT OF STATE PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

In addition to the Program's accomplishments with regard to their Strategic Plan, VIDOSH continues to demonstrate an enforcement presence in the public sector in Virgin Islands. According to the IMIS statistical reports generated on 11/09/10, VIDOSH conducted 33 inspections during FY 2010. The inspection number is 32% of their projected goal of 103 inspections. According to the IMIS statistical report, VIDOSH conducted a total 4 public-sector consultation visits in FY 2010, 84% below their projected goal of 25 visits.

In addition to the enforcement and consultation goals VIDOSH's FY10 Annual Performance Plan consisted of two broad-based strategic goals with complementary performance goals; (1) Improve Workplace Safety and Health for all Public Employees in the U. S. Virgin Islands., (2) Promote a safety and health culture within the U.S. Virgin Islands Public Sector Workplaces.

A. VIDOSH Strategic Goal 1

Improve Workplace Safety and Health for all Public Employees in the U. S. Virgin Islands.

Performance Goals

Goal #1-1 Reduce occupational hazards exposures in the public sector by conducting direct interventions in agencies with a history of Workers Compensation claims.

Year One Performance Goal #1-1.1: Reduce occupational hazards exposures in the public sector by focusing on public employees with frequent Workers Compensation claims over the past 3

years.

In order to accomplish this goal during FY 2010 VIDOSH developed an LEP to target public sector agencies with high Workers Compensation claims and updated VI Public Sector Workers Compensation forms and the database configured to categorize public sector injuries and illnesses per agency and geographic location.

Outcome Measures:

a) VIDOSH targeted public sector agencies whose operations were Service providers, a total of eighteen (18) safety and fifteen (15) health inspections were conducted with 18 such industries in specific NAICS codes noted below.

NAICS 925110	VI Housing Authority:
NAICS 926140	VI Department of Agriculture
NAICS 921130	VI Department of Finance
NAICS 6111	VI Department of Education
NAICS 71111	Casino Control Commission
NAICS 921190	VI Property & Procurement:
NAICS 221320	VI Waste Management Authority
NAICS 923120	VI Department of Health
NAICS 488310	VI Port Authority
NAICS 515120	VI Public TV System
NAICS 926150	VI Department of Labor
NAICS 926110	VI Department of Tourism
NAICS 923140	VI National Guard
NAICS 92411	VI Department of Planning and Natural Resources
NAICS 92311	VI Human Services
NAICS 922190	VI Law Enforcement Planning Commission
NAICS 922120	VI Police Department
NAICS 921110	Offices of the Governor

This goal was partially met in that VIDOSH conducted a total of 33 inspections and a total of 198 citations were issued for all enforcement activities. Those citations issued in FY 2010 by VIDOSH resulted from inspection reports which also included agencies with the higher quantity of workers compensation claims (such as VI Department of Education, VI Government Hospitals, and Public Administration agencies).

VIDOSH database is currently updated and used to target and identify potential hazards and appropriately allocated CSHO resources. The final analysis summary aimed to assess and evaluate employer and employees knowledge with required OSHA regulations, verify recordkeeping procedures and public agency workplaces compliance. All data summary and analysis will be guided by OSHA Safety Pays injuries/illnesses cost template to substantiate requests and implementation for Local Emphasis Programs.

a. Number of hazards identified that could result in injuries:

A total of 198 citations were issued for all enforcement activities.

b. Reduction in number of injuries resulting in Workers Compensation claims:

The US Virgin Islands BLS data showed injuries/illnesses average rate decreased 26 % for CY 2009 compared with the baseline CY 2007. (A reported percentage range from 3.4% to 44 % per agencies is included on pages 15-16 within the narrative for VI Public Sector BLS Injuries and Illnesses Highlights, including also Tables I and II.)

*****The projected Local Emphasis Program to target public sector agencies with high Workers Compensation claims was not fully implemented. One factor that impacted VIDOSH operations was staff reduction due to the loss of three (3) employees (resignation, CSHO interim management appointment and retirement).***

Performance Goal #1-1.2 Reduce occupational hazards exposures in the public sector by ensuring that workplaces receive direct intervention.

Year One Performance Goal #1-1.2: Reduce occupational hazards exposures in the public sector by conducting programmed inspections, focusing on establishments that have not been inspected in the past three years. Achieve 1% reduction using baseline data established in FY 06 data of 2.9 per 100,000 people.

Outcome Measure

a) Number of establishments receiving direct enforcement interventions: 33
VIDOSH conducted a total of 33 inspections: eighteen (18) safety inspections and fifteen (15) health inspections.

b) Number of citations issued within LEP

A total of 198 citations were issued for all enforcement activities, all of them issued during FY 2010. Those citations issued in FY 2010 resulted from inspection reports which also included agencies with the higher quantity of workers compensation claims (such as VI Department of Education, VI Government Hospitals, and Public Administration agencies).

****A Local Emphasis Program to target public sector agencies with high Workers Compensation claims was not fully completed and implemented.***

**** One factor that impacted VIDOSH operations was staff reduction due to the loss of three (3) employees (resignation, management interim appointment and retirement).***

Performance Goal #1-1.3 Reduce occupational hazards exposures in the public sector by ensuring that workplaces receive direct intervention.

Year One Performance Goal #1-1.2: Conduct health inspections, including being able to address indoor air quality (IAQ) issues.

Outcome Measure

a) Number of health inspections: VIDOSH conducted a total of 15 health inspections. The enforcement activities included planned and complaint inspections. During FY 2010 the percentage of IAQ inspections was 73% (11/15) for all public sector agencies.

a) Number of IAQ health inspections /investigations conducted: 11

b) Number of IAQ issues observed: 11

c) Number of IAQ complaint received: 11

d) Number of IAQ complaint investigation completed: 11

B) VIDOSH will implement IAQ procedures and strategies based on VIDOSH FY2009 and FY 2010 performance for IAQ complaint inspections and data will be used to develop a specific IAQ procedure applicable for this type of intervention. Workplace and establishment inspections performed published OSHA references & guidelines, monitoring methodology procedures to follow through the OSHA Technical Manual.

** One factor that impacted VIDOSH operations was staff reduction due to the loss of three (3) employees (resignation, management interim appointment and retirement).*

Performance Goal #1-1.2 Reduce occupational hazards exposures in the public sector by ensuring that workplace receive direct intervention.

Year One Performance Goal #1-1.2: Reduce occupational hazards exposures in the public sector by conducting programmed inspections, focusing on establishments that have not been inspected in the past three years. Achieve 1% reduction using baseline data established in FY 06 data of 2.9 per 100,000 people.

Outcome Measure

c) Number of establishments receiving direct interventions: 33
VIDOSH conducted a total of 33 enforcement inspections: eighteen (18) safety inspections and fifteen (15) health inspections.

d) Number of citations issued within LEP
A total of 198 citations were issued for all enforcement activities, all of them issued during FY 2010.

B VIDOSH Strategic Goal 2

Promote a safety and health culture within the U.S. Virgin Islands Public Sector Workplaces.

Performance Goal #2-1

Promote a safety and health culture through consultation and training, education and seminars.

Year One Performance Goal #1-1.2: Increase training and education to public employers/employees to promote systematic approaches to safety and health.

VIDOSH planned to accomplish this goal by increasing training and education to public employers/employees to promote systematic approaches to safety and health and also by upgrading the level of V.I. Government awareness of health and safety issues.

Outcome Measure

a. Internal Training/Education.

Ensure that VIDOSH staff attended at least two courses per CSHO at OTI during FY 2010.

1. Number of training sessions VIDOSH staff attended during FY10: 4 VIDOSH Staff attended four (4) OTI courses. All CSHOs attended at least one training session at OTI/Chicago. This goal was partially accomplished in that one VIDOSH staff member attended two OTI courses and two others attended one course each for a total of four courses which were OTI #2450, OTI #1420, OTI #1310, and OTI #1280.

The staff reduction due to resignations impacted the accomplishment of the goals.

b. External Training Education Compliance Assistance

VIDOSH continued efforts to ensure that Territorial Government offices are educated about their responsibilities, and work toward creative avenues to achieve compliance with safety and health regulations. This goal was fully accomplished in that VIDOSH conducted 10 outreach and training activities throughout the fiscal year that impacted over 500 individuals. These activities also included specific industries, such as the food service industry, youth and in some case bilingual presentations were made. Several of these conferences addressed the topic of Indoor Air Quality (IAQ). There has been and will continue to provide radio, television talk shows and public service announcements (PSA) promoting VIDOSH initiatives and safe workplace information. Actively participate on VIDOL Labor month outreach.

A summary listing of some of the outreach events are listed below:

January 2010 VIDOSH delivered an overall OSHA Safety Awareness, Inspections Performance, Employer and Employees duties and responsibilities. St. Croix and St. Thomas.

Approximately 100 plus public sector employees (Each location)

May 2010 the second main outreach and training conference was VIDOSH staff participation in the 5th VI Governor's Safety and Health Conference. The Conference was held on St Croix and St Thomas. Some of the topics included Emergency Response, Indoor Air Quality, Safety and Health Management Systems, OSHA 10H Certification courses on General Industry and Construction Standards and included youth participation.

Approximately 100 plus public sector employees

May 2010 VIDOSH & Labor Relations provided an Outreach and Educational workshop to the local Hispanic Community. The VIDOSH presentation to include such topics as, General Safety awareness topics and, OSHA compliance duties and functions.

September 2010 Labor Month, VIDOSH actively participated in several VI Department of Labor Month outreach activities. The VIDOSH Indoor Environmental Quality Conference provide information to the Public Sector in St. Croix and St. Thomas. .

Approximately 125 public sector employees (Each location)

September 2010 The Department of Labor conducted the 2010 Get Connected EXPO provided employment information to employer and/or employees. VIDOSH distributed OSHA publications and answered questions. A session was provided on St. Thomas and St. Croix.

Approximately 150 attendees (Each location)

September 2010 VIDOSH provided Safety and Health information on a local Bilingual Radio Program. During the program, VIDOSH Indoor Environmental Quality Conference was also addressed.

Radio Audience size unknown

September 2010 VIDOSH Staff and the Marian L. Heyman, MPH provided a one-on-one interaction the VIDOL employees during an offsite at Gertrude's Restaurant in St. Croix. The topic addressed was customized to address the Indoor Environmental Quality pertinent to their workspace. The information provided the VIDOL Commissioner with first rate Indoor Environmental Quality information and guidelines.

28 public sector employees

In addition VIDOSH conducted several other outreach and seminars (listed below)

OUTREACH PROGRAMS AND SEMINARS

VIDOSH hosted four main outreach programs and OSHA awareness conferences titled

1. St Croix, Department of Education—Professional Development Conference—Occupational Hazards on Food Services Industry (Jan FY 2010),
2. St Croix, Department of Education—OSHA Safety Hazards and HAZCOM Awareness; L.O.T.O; Personal Protective Equipment (Jan FY 2010)
3. St Croix VIDOL and VIDOSH Hispanic Community Outreach (May FY 2010)
4. St Croix, 5^h Annual Governor's Conference (May FY 2010)
5. St Thomas, 5^h Annual Governor's Conference (May FY 2010)
6. St Croix, VIDOSH Indoor Environmental Quality Conference (Sep FY 2010);
7. St Thomas, VIDOSH Indoor Environmental Quality Conference (Sep FY 2010)
8. St Croix, VIDOL VIDOSH Indoor Environmental Quality briefing (Sep FY 2010)
9. St Croix, VIDOL Get Connected EXPO Labor Month (Sep FY 2010);
10. St Thomas, VIDOL Get Connected EXPO Labor Month (Sep FY 2010).

VIDOSH exceeded the required target for Outreach and Educational activities. VIDOSH has and will continue to provide radio, television talk shows and public service announcements (PSA) promoting VIDOSH initiatives and safe workplace information, and to actively participate on VIDOL Labor month outreach.

Appendix A

New and Continuing Recommendations

Finding 09-14 (10-1):

The 2009 EFAME noted that submission of a draft version of revised State Plan Narrative was due on December 31, 2005. This document has not yet been received by OSHA but VIDOSH reports that it will be submitted to OSHA for approval by the end of FY 2010.

Recommendation 09-14 (10-1):

VIDOSH must ensure that the State Plan narrative, with amendments reflecting the more limited public sector scope of the program, is completed and submitted to OSHA. This includes the narrative document as well as all relevant appendices. VIDOSH must also provide documentation on all outstanding developmental components of its State Plan.

VIDOSH Response 09-14 (10-1):

The VIDOSH will strive to submit a completed draft of the State Plan Narrative by the end of the 3rd Qtr of FY 2011.

Anticipated Completion Date 09-14 (10-1):

This activity will be accomplished on or about June 30, 2011.

Status 09-14 (10-1):

As of January 19, 2011, VIDOSH was in the process of completing a revised State Plan Narrative. This detailed document requires ample revisions. The VIDOSH Director and staff must review and enhance the report, and agree that the said operations are able to achieve VIDOSH goals and objectives.

Subject to further Federal review and monitoring and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.

Finding 09-15 (10-2):

The 2009 EFAME noted that as required by its 2003 developmental plan, the Virgin Islands has not developed nor maintained a public sector consultation program that can provide no cost safety and health services to public sector employers.

Recommendation 09-15 (10-2):

VIDOSH must ensure that a public-sector consultation program is fully operational and provides appropriate services to public-sector employers in the territory.

VIDOSH Response 09-15 (10-2):

VIDOSH will establish a Public Sector Consultation Program by 4th Qtr of FY2011. The Virgin Islands Department of Labor and Region II need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment are required.

The VIDOSH Director has selected the Consultant. The Consultant is awaiting mandatory OSHA training. By the end of the 2nd Qtr of FY2011, the Consultant is scheduled complete the course # 1500. Additionally, the VIDOSH Director has establish[ed] communication with other Public Sector only State Plans [to] shadow a state plan Consultant within Region II

Anticipated Completion Date 09-15 (10-2):

These activities will be accomplished on or about June 30, 2011.

Status 09-15 (10-2):

As of January 19, 2011; the VIDOSH Director has taken the following steps in the development of a public sector consultation program. The recently assigned Industrial Hygienist has been assigned to the public sector consultation program. The member has completed the OTI Course 1000 and OTI 1500 and is currently enrolled in Course OTI 1250. The other required mandatory courses are scheduled to be finished at the end of FY 2011. The Virgin Islands Department of Labor and Region II will need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment will be required.

Subject to further Federal review and monitoring, and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.

Finding 09-17 (10-3):

The 2009 EFAME noted that VIDOSH staff appeared to refer cases to Federal OSHA, PROSHA, and the U.S. Virgin Islands Department of Labor, Division of Labor Relations. Staff members understood that private Sector 11(c) complaints should be forwarded to Federal OSHA. Staff members stated that they contacted Federal OSHA Regional Supervisory Investigator for questions. One investigator has attended the Basic Discrimination Investigator's Course 1420 at OTI.

Recommendation 09-17 (10-3):

VIDOSH staff needs to forward all complaints that allege retaliation to the discrimination investigator for screening. All staff members should be trained to answer basic questions about jurisdiction, coverage, and discrimination complaints. All screenings should be documented according to the guidelines in the Federal Manual. It is suggested that VIDOSH continue to refer cases out of their jurisdiction to Federal OSHA and contact Federal OSHA with any questions. VIDOSH should develop a working relationship with the Virgin Islands Department of Labor, Division of Labor Relations, so that each agency may refer appropriate cases to each other as complainants may concurrently file.

VIDOSH Response 09-17 (10-3):

See Response to Recommendation 09-16.

Anticipated Completion Date 09-17 (10-3):

These actions will be accomplished by the CSHO's on or about September 30, 2011.

Status 09-17 (10-3):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-18 (10-4):

The 2009 EFAME noted that staff and investigator(s) have no access to Whistleblower Application. There is also no process for tracking case files.

Recommendation 09-18 (10-4):

Staff and investigators need to access to IMIS Whistleblower Application so that they may track investigations and pertinent information such as Complainant and Respondent contact information, timeliness, and jurisdiction.

VIDOSH Response 09-18 (10-4):

See Reponse to Recommendation 09-16. Once a Whistleblower CSHO is identified and trained the CSHO will be provided IMIS access to the Whistleblower Module.

VIDOSH has identified nine employees within the Virgin Islands Department of Labor to become familiar [with] Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI training is unavailable in the near future or is not cost effective -- VIDOSH will request the National Office to provide onsite training.

The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.

Anticipated Completion Date 09-18 (10-4):

These actions will be accomplished on or about September 30, 2011.

Status 09-18 (10-4):

As Of January 19, 2011; VIDOSH will have access to the web based whistleblower applications.

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-19 (10-5):

The 2009 EFAME noted that VIDOSH's Discrimination Program did not meet the § 1977.23 standards. In general, the VIDOSH discrimination program has not had any whistleblower cases since 1999, and is lacking the procedural knowledge, experience, and structure necessary to effectively execute investigations and meet program objectives.

Recommendation 09-19 (10-5):

VIDOSH needs to follow the Whistleblower Investigation Manual (CPL02-03-002 8/22/2003) to create a process to settle cases. VIDOSH should work with the Virgin Island's Attorney General's Office to create a clear path for settlement review and execution.

VIDOSH Response 09-19 (10-5):

See Response to Recommendation 09-18. VIDOSH will work with the Virgin Island's Attorney General's Office and the Department of Labor's Legal Counsel to create a clear path for settlement review and execution.

The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.

Anticipated Completion Date 09-19 (10-5):

The VIDOSH Director will work towards accomplishing these actions on or about September 30, 2011.

Status 09-19 (10-5):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-20 (10-6):

VIDOSH does not have templates for docket letters, FIRS, and other necessary investigative documents and correspondence.

Recommendation 09-20 (10-6):

VIDOSH should adopt the Federal Manual templates for all investigative documents including but not limited to docket letters, FIRs, and Secretary's Findings. These documents should be created as soon as possible, so that they are available when investigations arise.

VIDOSH Response 09-20 (10-6):

VIDOSH shall adopt the Federal Manual templates for all investigative documents, including but not limited to docket letters, FIRs and Secretary's Findings.

The VIDOSH staff will follow the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). Several control measures have been created and put into place by VIDOSH. The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of

pertinent data during the complaint process. The staff will be formally trained on the use of the E-Tool during the weekly staff meeting

The utilization of standardized inspection processing will be developed and implemented. Inspection template will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies. The guidelines will reflect the required enforcement compliance directives. VIDOSH inspection guidelines will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The form will also document the union representative's involvement during all inspection activities. These customized forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be documented by these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be used by the director to assess effectiveness.

The VIDOSH Director will provide and ensure additional training is provided to the VIDOSH staff. These procedures will encompass established policies and procedures. The Director will ensure the staff utilizes the federal templates.

Anticipated Completion Date 09-20 (10-6):

These actions will be accomplished on or about September 30, 2011.

Status 09-20 (10-6):

Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

Finding 09-23 (10-7):

The 2009 EFAME noted that VIDOSH covers establishments in water and wastewater treatment activities, subject to PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.

Recommendation 09-23 (10-7):

Ensure that an adequate number of qualified VIDOSH staff are trained to the requirements of DIRECTIVE NUMBER: 09-06 (CPL 02), "PSM Covered Chemical Facilities National Emphasis Program"

VIDOSH Response 09-23 (10-7):

VIDOSH will identify the required PSM training for water and waste water treatment activities. The Director will dedicate time for staff to review and discuss Directive Number 09-06 (CPL 02). VIDOSH will seek assistance from Region II to train the staff on the PSM.

Anticipated Completion Date 09-23 (10-7):

These actions will be adopted on or about September 30, 2011.

Status 09-23 (10-7):

Subject to further Federal review and monitoring, and submission of documentation on revised procedures, training, etc. VIDOSH should seek Federal technical assistance when faced with PSM-related issues.

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	The 2009 EFAME noted that in 36% of the complaint case files reviewed, all of the complaint items were not addressed in the inspection and/or were not opened in a timely manner.	Implement internal control measures to ensure that complaint inspections are conducted in a timely manner and that all complaint items are addressed during the inspection	<p>The VIDOSH Director will ensure the CSHO's are trained on addressing all the items identified in the complaint process by the end of the 2nd Qtr of FY 2011. The procedures will instruct the CSHO's to document all aspects of the complaint in the case fill. The VIDOSH staff will adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of a VIDOSH Complaint Data E-tool will facilitate and enhanced collection of pertinent data during the complaint process. The staff was formally trained on the use of the E-Tool on 1st Qtr of FY 2011. This training ensured the proper measures are adhered to and will improve the case file documentation process. The Director and auditor will review case files to ensure the new procedures are adhered to.</p> <p>A signed document certifying the corrective action describing the training content will be provided to OSHA Region 2 by due date noted above. The E-Tool will be submitted for Regional review.</p>	<p>As of January 19, 2011; VIDOSH has implemented supervisory control in which the supervisor is apprised of any complaint that VIDOSH receives and the supervisor will assign the handling of the complaint to the appropriate compliance officer immediately. The VIDOSH Director tracks the timeliness of complaint inspections. VIDOSH has implemented 100% supervisory review of complaint case files to ensure that all complaint items are addressed prior to closing the inspection.</p> <p>Subject to further Federal review and monitoring and VIDOSH submission of</p>	Completed.

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
				documentation on revised procedures, training, etc., for Regional review	
09-2	The 2009 EFAME noted that in 42% of the cases reviewed, employer knowledge was not properly documented.	Provide additional training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements of prima facie case as set forth by federal OSHA and VIDOSH policy (Field Inspection Reference Manual or Field Operations Manual).	<p>The VIDOSH Director will ensure the CSHO's and the staff are trained on the proper documentation procedures required to capture employer's knowledge by the end of the 2nd Qtr of FY 2011. The VIDOSH staff will also adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. This tool will ensure proper measure adhere to improve the case file documentation in the future.</p> <p>Additionally, the utilization of a standardization inspection process will be developed and implemented. The guidelines will reflect the required enforcement compliance directives. These guidelines will</p>	As of January 19, 2011; VIDOSH Director has trained the staff and has instructed the staff to ensure that Employer Knowledge is documented for each citation issued. VIDOSH has implemented 100% supervisory review of complaint case files to ensure that all citations are supported by prima facie evidence – including documentation of employer knowledge. Review of files is an ongoing process. Subject to further Federal review and monitoring and	Completed.

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
			<p>include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The forms will also document union representative's involvement. These standardization inspection forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be documented on these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be utilized by the director to assess effectiveness. The director and auditor will review case file to ensure the new procedures are adhered to.</p>	<p>VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>	
09-3	<p>The 2009 EFAME noted that in 57% of the cases reviewed, documentation of employee and/or union representative participation</p>	<p>Provide training to all field staff regarding the agency's policy of Union/Employee Representative</p>	<p>VIDOSH has taken several measures to improve Union and Employee Representatives Involvement. The VIDOSH Director and the</p>	<p>These actions will be accomplished on or about March 31, 2011.</p>	<p>Completed. Subject to further Federal</p>

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	<p>during the inspection was not present.</p>	<p>involvement during and after inspections and the requirement to properly document compliance with this policy in case file.</p>	<p>Department of Labor Commissioner will work on establishing a stakeholders meeting with the Public Sector Union leadership by the 3rd Qtr of FY 2011. Additionally, an Opening and Closing Conference Form will be utilized by the CSHO's to documents the union's representative's involvement during the inspection activities. The completion of the form will be completed by the 2nd Qtr of FY 2011.</p> <p>A comprehensive contact/ mailing list with the Public Sector Union leadership contact information and organization mailing address was created. This tool is utilized for correspondence and notification. A revised VIDOSH Organizational brochure was created and includes a document that addresses Union and Employee Representative Involvement in several areas. The Brochure will be distributed employee representatives during enforcement consultation and outreach actives. VIDOSH completed these actions during the 1st Qtr of FY 2011.</p>		<p>review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-4	<p>The 2009 EFAME noted that thirty-five cases underwent a comprehensive review, 20 (57%) of the case files lacked one or more of the following required documentation: employee interview notes, employee exposure and employer knowledge.</p>	<p>Provide additional training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements of prima facie case as set forth by federal OSHA and VIDOSH policy (Field Inspection Reference Manual or Field Operations Manual).</p>	<p>The VIDOSH Director will ensure the staff is trained on the procedures to address and document employer and employee exposure and knowledge. The Field Operation Manual (FOM) File Review procedures were provided to the VIDOSH staff. The excerpt is utilized by the staff to ensure the correct case file documentation sequence. This standardized procedure ensures the case files are assembled correctly. The Staff has implemented these procedures.</p> <p>Additionally, [the] Director [and] the technical auditor shall review each case file for correctness during the review process. VIDOSH has created a standardized Opening and Closing Conference Form. The form shall be used to document the union's representative's involvement during the inspection activities.</p> <p>The VIDOSH Director will provide and ensure</p>	<p>As of January 19, 2011; VIDOSH has trained the field staff as described above and has implemented a policy of 100% case file review. This is an ongoing process</p>	<p>Completed. . Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review</p>

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-5	The 2009 EFAME noted that in 75% of the cases reviewed, the violations were not classified correctly. All of the citations were classified as Medium/Lesser Serious citations with injury and illnesses ranging from cuts and bruises to death.	Provide additional training to all field staff to adequately classify violations with appropriate severity and probability of potential resulting injury.	By the 2 nd Qtr of FY 2011 the Director will ensure the VIDOSH Staff is trained on the proper classification of citations. VIDOSH is developing standardized templates to assist in the inspection process. These templates will incorporate the CSHO's field notes. VIDOSH is in the process of developing inspection templates to provide the CSHO a systematic guideline for the inspector's inspections. The templates will address citation classifications recommendations. The CSHO inspectors will have additional log items such as photo logs. These customized forms will be completed by the 3 rd Qtr of FY 2011.	The VIDOSH Director has trained CSHOs on the concept that they should categorize the severity of a hazard based on the most likely most severe injury/illness likely to result from employee exposure. The VIDOSH Director has implemented 100% case file review to address this issue. Recommendation 10-2 relates to the development of the "standardized templates" noted in VIDOSH's response to Recommendation 09-5.	Completed Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

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09-6	The 2009 EFAME noted that case files reviewed did not include adequate documentation to support employee and/or employer knowledge.	Implement internal controls to ensure that all cases are reviewed on a supervisory level to make certain that all violations issued meet the prima facie requirements	<p>The procedure to ensure adequate case file documentation reflecting employee exposure and knowledge will be enacted. VIDOSH will develop standardized inspection templates. These templates will be used to capture the CSHO's field notes to include employee and/or employer knowledge. Customized Inspection templates will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies.</p> <p>The VIDOSH Director will ensure these customized forms are completed and implemented completely by the 3rd Qtr of FY 2011.</p>	<p>As of April 18, 2011; The template(s) were created and the use of them has been implemented by field staff. The VIDOSH Director has implemented a policy of 100% case file review to ensure that the files contains adequate prima facie evidence – including documentation of employee exposure and employer knowledge.</p> <p>Recommendation 10-3 relates to the development of the customized forms.</p>	Completed Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-7	The 2009 EFAME noted that there were no willful citations issued during FY 2009. VIDOSH inspects the same government agencies (but at different locations) throughout the year. For example, the VI Department of Education may receive a dozen or more inspections a year. Similar hazards are found during each inspection but these are never issued as repeat violations.	Provide additional training to CSHOs and supervisors on the Willful and Repeat Violation Policy and Procedures.	The Director will ensure the CSHOs will review the agency's citation history and applicable case files prior to conducting inspection activities. The procedures will be part of the inspection preparation process. The VIDOSH staff will be trained and these actions will be enacted by the 2 nd Qtr. of FY 2011. These activities will be accomplished on or about March 31, 2011	As of January 19, 2011; "Willful" training was given the staff. OSHA Region 2 advised the VIDOSH Director regarding the content of the training with a focus on ensuring the VIDOSH supported potentially willful citations with documentation of actual knowledge of the condition and that the employer made intentional decisions to disregard VIDOSH standards.	Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.
09-8	The 2009 EFAME noted that in 80% of the cases reviewed, adequate abatement was not received or documented in the case file.	Provide additional training to all of the field staff, including supervisory staff, to ensure that abatement issues are handled in accordance with established policy, including: <ol style="list-style-type: none"> 1. Ensure appropriate abatement periods are assigned for unabated violations. 2. Ensure that all abatement information satisfies the notice of violations prior to closing the 	VIDOSH will utilize the following standard reports to track and monitor the abatement process: Outstanding Abatement, Open Inspection Report, and Violation Abatement Report. The Director will instruct the CSHOs to contact the employers whom fail to abate in a timely manner. Additionally VIDOSH will use project management techniques to ensure all facets of the abatement process are completed. The director will use the in house tools to identify notification and the completion of abatement	The VIDOSH Director has implemented a policy of 100% case file review to ensure that, before they are closed, all files contain adequate abatement information and that all outstanding penalties have been collected. In addition the VIDOSH Director intends on including a	Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
		<p>case.</p> <p>3. For cases with CDI, ensure that the file documents the method of abatement and that the CSHO observed the abatement.</p> <p>4. Ensure that Failure To Abate notices are issued where appropriate.</p> <p>5. Provide training to staff on the Petitions for Modification of Abatement (PMA) policies and procedures.</p>	<p>actions.</p> <p>The VIDOSH Director will ensure the staff is provided the additional training by 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures</p>	<p>discussion of case file management and quality of the case documentation a part of the employee performance review process.</p>	
09-9	<p>The 2009 EFAME noted that the overwhelming majority of cases do not go through a settlement process (i.e. informal conference, post contest meetings, etc). Case file reviews indicated that when informal conferences are held, there is poor documentation of the informal conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.</p>	<p>Provide additional training to CSHOS and supervisory staff on the policies and procedures of informal and formal settlements, with the intent to promote abatement and settlement.</p>	<p>As of January 19, 2011 the VIDOSH Director trained the CSHO's on the correct documentation procedures to reflect accurate case file activities. The training will cover informal conference procedures, and informal conference notes.</p> <p>The VIDOSH Director will ensure additional training is provided to the VIDOSH staff by the end of 2nd Qtr of FY 2011. These procedures</p>	<p>These activities were accomplished on or about January 19 2011.</p>	<p>Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional</p>

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			will encompass established policies and procedures		review.
09-10	The 2009 EFAME noted that case File[s] involved with an informal conference had poor documentation of the information conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.	VIDOSH representatives must thoroughly document the following in the case file: The fact that notification to the parties of the date, time and location of the informal conference, was made; indicate the date of the informal conference was held in the diary sheet; at the conclusion of the conference, all main issues and potential courses of action must be summarized and documented.	<p>VIDOSH management and staff will review directives and procedures pertaining to the Informal Conferences with the revised FOM. The staff will document the applicable information in the Management Information System (MIS).</p> <p>VIDOSH will take the precautionary step in following the FOM. The VIDOSH staff will ensure all case files are documented to reflect the actions/decisions accomplished at Informal Conferences. The IMIS will reflect documentation in the case files. VIDOSH will assure employer and/or parties involved sign and receive the copies of the informal settlement agreements.</p> <p>The VIDOSH Director will ensure the additional</p>	The VIDOSH Director gave assurances that all settlement discussions are being documented, that appropriate IMIS entries will be made, and that all documentation of settlements are distributed to the appropriate parties.	Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.

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			<p>training is provided to the VIDOSH staff by the 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures.</p> <p>These activities will be accomplished on or about March 31, 2011.</p>		
09-11	<p>The 2009 EFAME noted that VIDOSH was not using IMIS management reports to identify discrepancies in data entries and updates, resulting in uncorrected rejects, outdated draft forms lack of abatement, citations not issued within six months, cases not closed in a timely fashion, and lack of employer responses to non-formal complaints.</p>	<p>In order to improve the integrity of OSHA data and transparency to the public VIDOSH must improve its performance with IMIS data management. Additionally VIDOSH Management must use IMIS reports as a tool to effectively manage both the program and the work product of its staff.</p>	<p>Beginning by the end of the 1st Qtr of FY, the VIDOSH Director will work with the technical auditor on a weekly basis. The VIDOSH staff will use IMIS Management reports as a tool to effectively manage both the program activities and the work assignment. These reports are Citation pending, Open Inspection, Unsatisfied, Violation Abatement Report, Employer Response to non formal complaints and rejects.</p> <p>VIDOSH will provide these accomplished activities on or about January 31, 2011.</p>	<p>The VIDOSH Director has begun reviewing the above mentioned reports. VIDOSH Staff are scheduled to participate in the OIS Enforcement Super User Training. (Consultation Super User Training were attended by UVI CEL Consultation Personnel).</p>	<p>Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>
09-12	<p>The 2009 EFAME noted that VIDOSH-amended legislation provides authority for Failure-to-abate daily penalties.</p>	<p>VIDOSH must ensure that their statutory authority to compel employers to abate hazards is exercised.</p>	<p>The VIDOSH Director is currently reviewing all outstanding existing failure to abate cases. Based on the severity of the penalties, VIDOSH will pursue the cases</p>	<p>VIDOSH will provide these accomplished activities on or about June 30, 2011.</p>	<p>Completed. Subject to further Federal review and</p>

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
			<p>with the most severe penalties first. VIDOSH will exercise its statutory authority to access and collect fines when the employer fails to abate hazards.</p> <p>As of January 19, 2011; The VIDOSH Director recognizes that Failure-To-Abate (FTA) penalties must be collected and commits to collaborate with the Governor, Executive and Legislative Branches of the Virgin Islands to implement a way to compel employers to pay FTA penalties. As of this writing the government is in transition. Once the new cabinet is installed the VIDOSH Director will raise the issue of collecting FTA penalties with the cabinet.</p> <p>For future cases beginning by the end of the 3rd Qtr FY2011, VIDOSH will provide the executive and legislative branches with quarterly reports identifying cases with penalties. VIDOSH anticipates periodic notification will allow both branches to budget for the penalties assessed. Additionally notification will also allow the executive branch to identify the agencies</p>		<p>monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>

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Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
			that consistently fail to adhere to safe practices.		
09-13	The 2009 EFAME noted that VIDOSH submitted its original five-year strategic plan and corresponding annual performance plans in July 2005 but it was never fully implemented because of difficulties in establishing the requisite baseline to measure the performance of the program. An updated five-year strategic plan is being developed by VIDOSH and should be in place for FY 2011.	VIDOSH should establish [a] baseline in FY 2010 and implement their new 5 year strategic plan.	A baseline injury/illness measure was established and the updated 5 year strategic plan was implemented on October 1, 2010. VIDOSH manually collects and analyzes Workers Compensation data for the calendar years 2006, 2007, 2008, and 2009 from targeted Agencies/facilities. The average number of annual total Workers Compensation cases for the above years will be used as the baseline.	Completed. The VIDOSH Director will work with the Workers Compensation [data] to establish baseline by 2 nd Qtr FY2011.	Completed. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.
09-14	The 2009 EFAME noted that submission of a draft version of revised State Plan Narrative was due on December 31, 2005. This document has not yet been received by OSHA but VIDOSH reports that it will be submitted to OSHA for approval by the end of FY 2010.	VIDOSH must ensure that the State Plan narrative, with amendments reflecting the more limited public sector scope of the program, is completed and submitted to OSHA. This includes the narrative document as well as all relevant appendices. VIDOSH must also provide documentation on all outstanding developmental components of its State	The VIDOSH will strive to submit a completed draft of the State Plan Narrative by the end of the 3 rd Qtr of FY 2011.	As of January 19, 2011, VIDOSH was in the process of completing a revised State Plan Narrative. This detailed document requires ample revisions. The VIDOSH Director and staff must review and enhance the	Pending. This activity will be accomplished on or about June 30, 2011. Subject to further Federal review and

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		Plan.		report, and agree that the said operations are able to achieve VIDOSH goals and objectives.	monitoring and VIDOSH completion of all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.
09-15	The 2009 EFAME noted that as required by its 2003 developmental plan, the Virgin Islands has not developed nor maintained a public sector consultation program that can provide no cost safety and health services to public sector employers.	VIDOSH must ensure that a public-sector consultation program is fully operational and provides appropriate services to public-sector employers in the territory.	<p>VIDOSH will establish a Public Sector Consultation Program by 4th Qtr of FY2011. The Virgin Islands Department of Labor and Region II need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment are required.</p> <p>The VIDOSH Director has selected the Consultant. The Consultant is awaiting mandatory OSHA training. By the end of the 2nd Qtr of FY2011, the Consultant is scheduled complete the</p>	As of January 19, 2011; the VIDOSH Director has taken the following steps in the development of a public sector consultation program. The recently assigned Industrial Hygienist has been assigned to the public sector consultation program. The member has completed the OTI Course 1000 and OTI 1500 and is currently	<p>Pending.</p> <p>These activities will be accomplished on or about June 30, 2011.</p> <p>Subject to further Federal review and monitoring, and VIDOSH completion of all actions and submission of all</p>

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			course # 1500. Additionally, the VIDOSH Director has established communication with other Public Sector only State Plans [to] shadow a state plan Consultant within Region II	enrolled in Course OTI 1250. The other required mandatory courses are scheduled to be finished at the end of FY 2011. The Virgin Islands Department of Labor and Region II will need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment will be required.	documentation necessary to demonstrate completion of its developmental steps.
09-16	There is a lack of structure for processing 11(c) complaints including no knowledge of the appeals process and what happens to a merit case after the Final Investigative Report ("FIR") is submitted.	VIDOSH needs to follow the Federal manual and to implement a structure for processing 11(c) complaints including an independent reviewer to examine appealed cases. VIDOSH needs to work with the Virgin Island's Attorney General's Office to create a clear system for processing and tracking	VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands	Status As Of January 19, 2011; Region 2 agrees that VIDOSH has acted appropriately and that VIDOSH will continue to attempt to enroll staff in the Whistleblower	Completed. Subject to further Federal review and monitoring, and VIDOSH completion of

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		meritorious investigations.	<p>Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island's Attorney General's Office to create a structure for processing 11(c) complaints. Once created, the system will be utilized to process and tracking meritorious investigations.</p> <p>The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.</p> <p>These actions will be accomplished on or about September 30, 2011.</p>	<p>training courses as they become available and budget allows.</p> <p>(A Whistleblower program is a necessary component of an approved State Plan.)</p>	all actions and submission of all documentation necessary to demonstrate completion of its developmental steps.
09-17	The 2009 EFAME noted that VIDOSH staff appeared to refer cases to Federal OSHA, PROSHA, and the U.S. Virgin Islands Department of Labor, Division of Labor Relations. Staff members understood that private Sector 11(c) complaints should be	VIDOSH staff needs to forward all complaints that allege retaliation to the discrimination investigator for screening. All staff members should be trained to answer basic questions about jurisdiction, coverage, and	See Response to Recommendation 09-16.	These actions will be accomplished by the CSHOs on or about September 30, 2011.	<p>Pending.</p> <p>Subject to further Federal review and monitoring</p>

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	forwarded to Federal OSHA. Staff members stated that they contacted Federal OSHA Regional Supervisory Investigator for questions. One investigator has attended the Basic Discrimination Investigator's Course 1420 at OTI.	discrimination complaints. All screenings should be documented according to the guidelines in the Federal Manual. It is suggested that VIDOSH continue to refer cases out of their jurisdiction to Federal OSHA and contact Federal OSHA with any questions. VIDOSH should develop a working relationship with the Virgin Islands Department of Labor, Division of Labor Relations, so that each agency may refer appropriate cases to each other as complainants may concurrently file.			and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.
09-18	The 2009 EFAME noted that staff and investigator(s) have no access to Whistleblower Application. There is also no process for tracking case files.	Staff and investigators need to access to IMIS Whistleblower Application so that they may track investigations and pertinent information such as Complainant and Respondent contact information, timeliness, and jurisdiction	See Response to Recommendation 09-16. Once a Whistleblower CSHO is identified and trained the CSHO will be provided IMIS access to the Whistleblower Module. VIDOSH has identified nine employees within the Virgin Islands Department of Labor to become familiar [with] Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI	As Of January 19, 2011; VIDOSH will have access to the web based whistleblower applications These actions will be accomplished on or about September 30, 2011.	Pending. Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional

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			<p>training is unavailable in the near future or is not cost effective -- VIDOSH will request the National Office to provide onsite training.</p> <p>The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.</p>		review.
09-19	The 2009 EFAME noted that VIDOSH's Discrimination Program did not meet the § 1977.23 standards. In general, the VIDOSH discrimination program has not had any whistleblower cases since 1999, and is lacking the procedural knowledge, experience, and structure necessary to effectively execute investigations and meet program objectives.	VIDOSH needs to follow the Whistleblower Investigation Manual (CPL02-03-002 8/22/2003) to create a process to settle cases. VIDOSH should work with the Virgin Island's Attorney General's Office to create a clear path for settlement review and execution.	<p>See Response to Recommendation 09-18.</p> <p>VIDOSH will work with the Virgin Island's Attorney General's Office and the Department of Labor's Legal Counsel to create a clear path for settlement review and execution.</p> <p>The VIDOSH Director will work towards accomplishing these actions by 4th Qtr of FY 2011.</p>	The VIDOSH Director will work towards accomplishing these actions on or about September 30, 2011	<p>Pending.</p> <p>Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>
09-20	VIDOSH does not have templates for docket letters, FIRS, and other necessary investigative documents and correspondence.	VIDOSH should adopt the Federal Manual templates for all investigative documents including but not limited to docket letters, FIRs, and Secretary's Findings.	<p>VIDOSH shall adopt the Federal Manual templates for all investigative documents, including but not limited to docket letters, FIRs and Secretary's Findings.</p> <p>The VIDOSH staff will</p>	These actions will be accomplished on or about September 30, 2011	<p>Pending.</p> <p>Subject to further Federal</p>

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		<p>These documents should be created as soon as possible, so that they are available when investigations arise.</p>	<p>follow the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). Several control measures have been created and put into place by VIDOSH. The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. The staff will be formally trained on the use of the E-Tool during the weekly staff meeting</p> <p>The utilization of standardized inspection processing will be developed and implemented. Inspection template will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and</p>		<p>review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>

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			<p>Legislative Agencies. The guidelines will reflect the required enforcement compliance directives.</p> <p>VIDOSH inspection guidelines will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The form will also document the union representative's involvement during all inspection activities. These customized forms will be utilized by the CSHO's.</p> <p>Inspection activities pertaining to hazard recognition and compliance assessment will be documented by these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be used by the director to access effectiveness.</p> <p>The VIDOSH Director will provide and ensure additional</p>		

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			training is provided to the VIDOSH staff. These procedures will encompass established policies and procedures. The Director will ensure the staff utilizes the federal templates.		
09-21	The 2009 EFAME noted that in FY 2009 4 Federal standards were issued and that VIDOSH responded with their intent to adopt for two of the four standards timely. VIDOSH did not adopt any of the standards changes in a timely manner.	VIDOSH should implement internal controls to ensure that all standards applicable to the public sector are promulgated within six months of the promulgation date of new Federal OSHA standards in accordance with the VI OSH Act.	<p>Beginning on or about 2nd Qtr of FY 2011, VIDOSH management will ensure that the applicable standards are adopted within six months of publication. VIDOSH will continue to utilize its existing media accounts to disseminate federal standards.</p> <p>VIDOSH will also utilize the Department of Labor's Public Information Officer to create Public Service announcements for each new federal standard. All current Federal Program Changes will be adopted by the 2nd Qtr of FY 2011.</p> <p>These actions will be adopted on or about March 31, 2011.</p>	<p>As of this report VIDOSH has adopted 7 of 10 standards, and OSHA Region 2 is working with VIDOSH to finalize VIDOSH's disposition on the remaining 3.</p> <p>OSHA Region 2 is actively working with VIDOSH to ensure that VIDOSH adopts all pending standards in a timely manner, and that VIDOSH takes appropriate action, including legislative, regulatory or administrative change, to assure future adoption of all new standards.</p>	<p>Completed.</p> <p>Subject to further Federal review and monitoring and VIDOSH submission of documentation on revised procedures, training, etc., for Regional review.</p>

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09-22	The 2009 EFAME noted that VIDOSH does not have an 11(c), Health and Safety Poster, pamphlets, or fact sheet available for public sector agencies or complainants.	VIDOSH needs to create a Health and Safety Poster for 24 V.I.C. § 40 as well as pamphlets, or a fact sheet available for state agencies, businesses, and complainants. These media should be available in both English and Spanish.	As of January 2011, VIDOSH will create an 11(c) poster/fact sheet for the public sector by the second quarter FY 2011. The fact sheet will include the applicable 11(c) details. VIDOSH will produce the ad in both English and Spanish.	Completed January 2011	Completed
09-23	The 2009 EFAME noted that VIDOSH covers establishments in water and wastewater treatment activities, subject to PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.	Ensure that an adequate number of qualified VIDOSH staff are trained to the requirements of DIRECTIVE NUMBER: 09-06 (CPL 02), "PSM Covered Chemical Facilities National Emphasis Program"	VIDOSH will identify the required PSM training for water and waste water treatment activities. The Director will dedicate time for staff to review and discuss Directive Number 09-06 (CPL 02). VIDOSH will seek assistance from Region II to train the staff on the PSM.	These actions will be adopted on or about September 30, 2011.	Pending. Subject to further Federal review and monitoring, and submission of documentation on revised procedures, training, etc. VIDOSH should seek Federal technical assistance when faced with PSM-related issues

Appendix C

Virgin Islands Public Employee Only State Plan FY 2010 Enforcement Activity

	VI*	State Plan Total	Federal OSHA
Total Inspections	33	57,124	40,993
Safety	18	45,023	34,337
% Safety	55%	79%	84%
Health	15	12,101	6,656
% Health	45%	21%	16%
Construction	-	22,993	24,430
% Construction	0%	40%	60%
Public Sector	33	8,031	N/A
% Public Sector	100%	14%	N/A
Programmed	19	35,085	24,759
% Programmed	58%	61%	60%
Complaint	11	8,986	8,027
% Complaint	33%	16%	20%
Accident	-	2,967	830
Insp w/ Viols Cited	22	34,109	29,136
% Insp w/ Viols Cited (NIC)	67%	60%	71%
% NIC w/ Serious Violations	100%	62.3%	88.2%
Total Violations	198	120,417	96,742
Serious	146	52,593	74,885
% Serious	74%	44%	77%
Willful	-	278	1,519
Repeat	12	2,054	2,758
Serious/Willful/Repeat	158	54,925	79,162
% S/W/R	86%	46%	82%
Failure to Abate	-	460	334
Other than Serious	40	65,031	17,244
% Other	20%	54%	18%
Avg # Violations/ Initial Inspection	4.7	3.4	3.2
Total Penalties	\$ 7,000	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 47.90	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	N/A	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	0.0%	47.7%	40.9%
% Insp w/ Contested Viols	0.0%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	35.9	16.2	18.6
Avg Case Hrs/Insp- Health	14.5	26.1	33
Lapse Days Insp to Citation Issued- Safety	77.1	33.6	37.9
Lapse Days Insp to Citation Issued- Health	86.2	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	88	1,715	2,510

Appendix D

State Activity Mandated Measures (SAMM) Report

State Activity Measures (SAMMs)			
Measure	Reference	FY10	FY11 1 st Quarter
1. Avg days to Initiate Cmp Inspections	5 days/ 5 days Strat Goal	24.09	0
2. Average days to Initiate Cmp Investigations	1 day	3.75	1.71
3. % Complaints where complainants were notified on time	100%	100%	100%
4. % Complaints/referral responded within 1 day - Imminent Danger	100%	100%	0
5. # Denials where entry not obtained	0	0	0
6. % SWR verified abated within abatement date plus 30 days			
Private	100%	N/A	N/A
Public	100%	29.09%	0
7. Avg. days from opening conference to Citation Issuance			
Safety	47.3	110.85	128.50
Health	61.9	118.33	144.60
8. % Programmed Inspections with SWR Violations			
Safety	58.3%	80.56	100%
Health	50.9%	87.5	100%
9. Avg. Violations per inspections with violations			
S/W/R	2.1	3.41	3.57
Other	1.2	0.89	0.71

Appendix D

State Activity Mandated Measures (SAMM) Report

State Activity Measures (SAMMs)			
Measure	Reference	FY10	FY11 1 st Quarter
10. Avg. Initial Penalty per Serious (Private Sector Only)	\$1,361.3	N/A	N/A
11. % of Total Inspections in Public Sector	100%	100%	0
12. Avg. Contest Lapse Time	215.1	0	0
13. % 11c Cases completed within 90 days	100%	0	0
14. % 11c meritorious cases	21.2%	0	0
15. % 11c meritorious cases settled	85.9%	0	0

Appendix E

State Indicator Report (SIR) – VIDOSH

Q4 SIR78 101007 093321 PROBLEMS - CALL Yvonne Goodhall 202 693-1734

1101007

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010
STATE = VIRGIN ISLANDS

INTERIM STATE INDICATOR REPORT (SIR)

MONTHS-----	-----24 MONTHS-----		----- 3 MONTHS-----		----- 6 MONTHS-----		-----12
	PERFORMANCE MEASURE STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)							
1. PROGRAMMED INSPECTIONS (%)							
0	43788	0	5298	0	11403	0	21912
A. SAFETY			62.4	.0	63.8	.0	65.1
.0	65.9	.0	8493	0	17860	0	33647
0	66434	0	488	0	1094	0	2232
B. HEALTH	4202	0	30.6	.0	33.7	.0	35.0
.0	35.1	.0	1597	0	3249	0	6378
0	11960	0					
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)							
0	34350	0	4663	0	9421	0	17649
A. SAFETY			72.7	.0	71.2	.0	69.1
.0	67.1	.0	6413	0	13232	0	25525
0	51214	0	451	0	880	0	1756
B. HEALTH	3238	0	57.8	.0	53.9	.0	55.4
.0	53.4	.0	780	0	1632	0	3168
0	6066	0					
3. SERIOUS VIOLATIONS (%)							
0	117447	0	17341	0	33678	0	62211
A. SAFETY			81.6	.0	81.5	.0	81.0
.0	80.1	.0	21261	0	41304	0	76839
0	146593	0	3233	0	6183	0	11743
B. HEALTH	21554	0	69.6	.0	70.5	.0	70.2
.0	69.6	.0	4645	0	8776	0	16725
0	30947	0					
4. ABATEMENT PERIOD FOR VIOLS							

Appendix E

State Indicator Report (SIR) – VIDOSH

	0	25040	0	3054	0	6515	0	12732
A. SAFETY	PERCENT >30 DAYS			15.0	.0	16.3	.0	17.2
	.0	17.7	.0	20398	0	39855	0	74010
	0	141219	0					
	0	2977	0	255	0	633	0	1406
B. HEALTH	PERCENT >60 DAYS			5.6	.0	7.3	.0	8.5
	.0	9.6	.0	4548	0	8681	0	16580
	0	30862	0					

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010
STATE = VIRGIN ISLANDS

INTERIM STATE INDICATOR REPORT (SIR)

MONTHS-----	-----24 MONTHS-----			----- 3 MONTHS-----		----- 6 MONTHS-----		-----12
PERFORMANCE MEASURE	STATE	FED	STATE	FED	STATE	FED	STATE	FED
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	0	3500911	0	587112	0	1106734	0	2038916
	OTHER-THAN-SERIOUS			837.5	.0	803.1	.0	894.3
	.0	967.6	.0	701	0	1378	0	2280
	0	3618	0					
B. HEALTH								
	0	1039303	0	249175	0	434447	0	732953
	OTHER-THAN-SERIOUS			817.0	.0	801.6	.0	835.8
	.0	842.2	.0	305	0	542	0	877
	0	1234	0					
6. INSPECTIONS PER 100 HOURS								
	18	76136	85	9778	1	20529	9	38849
A. SAFETY				5.8	.0	5.7	1.8	5.5
	1.3	5.5	3.0	1679	0	3593	5	7112
	14	13925	28					
	15	14276	49	1864	5	3844	12	7547
B. HEALTH				2.1	1.0	2.0	1.2	1.9
	.8	1.8	1.5	908	5	1940	10	3898
	19	8070	32					
7. VIOLATIONS VACATED %								
	0	10425	0	1123	0	2474	0	5103
				3.7	.0	4.3	.0	4.7
	.0	5.0	.0	29962	0	57441	0	108213
	0	207527	0					

Appendix E

State Indicator Report (SIR) – VIDOSH

	0	9196	0	844	0	1978	0	4276
8. VIOLATIONS RECLASSIFIED %				2.8	.0	3.4	.0	4.0
	.0	4.4	.0					
	0	207527	0	29962	0	57441	0	108213
				15767907	0	30073309	0	57457651
9. PENALTY RETENTION %				64.5	.0	63.9	.0	63.0
	.0	62.8	.0					
	0	176868726	0	24439885	0	47032897	0	91194322

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

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010
STATE = VIRGIN ISLANDS

INTERIM STATE INDICATOR REPORT

MONTHS----	-----	24 MONTHS----		-----	3 MONTHS-----	-----	6 MONTHS-----	-----
PERFORMANCE MEASURE				PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE
PUBLIC	PRIVATE	PUBLIC						
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
	16	0	52	0	1	0	8	0
A. SAFETY				.0	100.0	.0	88.9	.0
	88.9	.0	61.2					
	18	0	85	0	1	0	9	0
				0	1	0	2	0
B. HEALTH				.0	20.0	.0	16.7	.0
	3	0	13					
	20.0	.0	26.5	0	5	0	12	0
	15	0	49					
2. SERIOUS VIOLATIONS (%)								
	118	0	220	0	16	0	43	0
A. SAFETY				.0	72.7	.0	78.2	.0
	79.2	.0	77.2					
	149	0	285	0	22	0	55	0
				0	2	0	9	0
B. HEALTH				.0	50.0	.0	69.2	.0
	28	0	138					
	57.1	.0	76.2	0	4	0	13	0
	49	0	181					

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010
STATE = VIRGIN ISLANDS

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

MONTHS-----	----- 24 MONTHS-----		----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12
	PERFORMANCE MEASURE STATE	FED STATE	FED	STATE	FED	STATE	FED
E. REVIEW PROCEDURES							
0	3827	0	610	0	1134	0	2052
1. VIOLATIONS VACATED %			22.5	.0	23.2	.0	21.9
.0	23.0	.0	2709	0	4888	0	9366
0	16668	14					
0	2217	0	306	0	585	0	1100
2. VIOLATIONS RECLASSIFIED %			11.3	.0	12.0	.0	11.7
.0	13.3	.0	2709	0	4888	0	9366
0	16668	14					
0	23378285	0	4940512	0	7526155	0	12856359
3. PENALTY RETENTION %			65.3	.0	62.3	.0	58.1
.0	58.4	.0	7563023	0	12074308	0	22143463
0	40052611	0					

Appendix F

VIDOSH 2010 State OSHA Annual Report (SOAR)

available separately