

**FY 2013 Comprehensive  
Federal Annual Monitoring and Evaluation (FAME) Report**

**Virgin Islands Division of Occupational Safety and Health (VIDOSH)**



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## **I. Executive Summary**

### **A. Summary of the Report**

The purpose of this report is to assess the Virgin Islands Division of Occupational Safety and Health (VIDOSH) activities for Fiscal Year (FY) 2013 and its progress in resolving outstanding findings and recommendations from previous Federal Annual Monitoring Evaluations (FAMEs). This report also incorporated the findings of the FY 2012 FAME for VIDOSH's 23(g) program.

VIDOSH continues to be ineffective in accomplishing its stated purpose. Specifically, there are longstanding issues with VIDOSH's performance/productivity, in its ability to achieve abatement for cited hazards, and with its inability to establish an enforcement presence in the Virgin Islands.

During FY 2013, VIDOSH made very little to no progress in addressing the 13 findings and recommendations from the FY 2012 FAME. For example, VIDOSH consistently failed to meet its already artificially low inspection goals. In FY 2013, VIDOSH conducted a total of 49 inspections, which was well below its planned goal of 80 inspections.

Citations are not being issued in a timely manner and most case files are not being closed correctly. Of the 49 inspections conducted during FY 2013, only 14 were closed and available for review for the FY 2013 FAME. In addition, VIDOSH's citation lapse time for both safety and health, remains considerably above the national average.

Furthermore, VIDOSH's overdue abatement continues to be a significant issue, and rather than improving is getting worse – some inspections with overdue abatement date as far back as 2010. Despite clear guidance, assistance, and direction from the Region, VIDOSH does not utilize strategies such as follow-up inspections, issuing “failure-to-abate” (FTA) citations, and has not implemented any provision of 29 CR 1903 to ensure that cited hazards ever get abated. Years of such ineffective practices have led to feelings of distrust toward VIDOSH from key stakeholders due to VIDOSH's inability to protect workers' safety in their jurisdiction.

VIDOSH had three years to complete the developmental steps that were established in the July 23, 2003 Federal Register. However, in the following decade, VIDOSH has yet to complete these developmental steps. A specific example includes how VIDOSH's 23(g) consultation program remains non-operational due to having no staff to perform consultation visits.

Only two of the 13 findings from last year's FAME were either closed or completed. The Region conducted research on issues surrounding one of the previous FY 2012 FAME findings. This research led to the information that processes at Process Safety Management (PSM) facilities no longer met the requirements of the PSM standard, and as such, training VIDOSH staff to perform these types of inspections was no longer necessary; therefore, the Region closed this finding. One other finding was completed

due to signs of positive improvement though it is still not meeting a mandated requirement. Therefore, the Region converted this finding into a new observation in order to continue to monitor it in FY 2014.

The FY 2013 FAME and on-site case file review revealed that although VIDOSH has invited local unions to participate during inspections, unfavorable opinions of the unions toward VIDOSH have not changed since the FY 2012 FAME. Communication between the local unions and VIDOSH continue to be non-existent and unions are not receiving copies of inspection results. The feeling of distrust toward VIDOSH by the local unions was as present during this year's FAME as in previous FAMES.

Finally, recordkeeping violations directive (CPL 02-00-135) was not followed when issuing citations for lack of OSHA 300 logs. No documentation as to whether a recordable injury or illness had occurred and the citations were issued serious when they should have been issued other-than-serious. This is being introduced as a new FAME finding.

Since 2012, the Region has enhanced its monitoring of VIDOSH through requested monthly statistical data reports (that may or may not be provided by VIDOSH) and periodic meetings with the Department of Labor (DOL) Commissioner, the Assistant DOL Commissioner, and the Director of VIDOSH. Unfortunately, these efforts have not indicated any improvements in VIDOSH's performance in eliminating the on-going deficiencies and performance issues that have been consistently on-going since the early 1990s.

## **B. State Plan Introduction**

### *Historical Background:*

The Virgin Islands State Plan was initially approved on August 31, 1973, completed all of its State Plan developmental steps, and was certified as structurally complete on September 22, 1981. Pursuant to Section 18(e) of the OSH Act and procedures at 29 CFR 1902, OSHA determined that the Virgin Islands program met all requirements and, in actual operation, was "at least as effective" as the federal program, granted the Virgin Islands State plan final approval, and relinquished Federal enforcement authority effective April 17, 1984 (49 FR 16766). The Virgin Islands' Department of Labor (VIDOL) has been the designated agency for administering the OSHA funded enforcement program in the Virgin Islands through its Virgin Islands Division of Occupational Safety and Health (VIDOSH).

On November 13, 1995, OSHA announced, as a result of its monitoring, that it had determined that the Virgin Islands State Plan was no longer "at least as effective as" OSHA and that other 18(e) requirements were no longer being met. In response to this finding, the Virgin Islands Commissioner of Labor agreed to voluntarily relinquish the State Plan's final approval status under Section 18(e), to the reassertion of concurrent OSHA enforcement authority and jurisdiction, and to undertake necessary corrective action to regain final approval status (60 FR 56950).

The 1995 decision to reinstate concurrent jurisdiction allowed OSHA to exercise full discretionary concurrent enforcement authority to assure worker protection, while allowing the Virgin Islands time and assistance to improve its performance. However, between 1995 and 2003, VIDOSH was unable to institute improvements to its staffing and operational performance. A series of meetings between the Region and then Virgin Islands Governor Charles W. Turnbull were initiated to discuss these outstanding performance issues and next steps.

Pursuant to Governor Turnbull's May 12, 2003 letter, OSHA revised 29 CFR 1952 and 29 CFR 1956 in July 2003 to reflect the Virgin Islands' decision to exclude private sector employment from coverage under the plan while retaining coverage of public sector employment, and to reflect the new status of the plan as one that applies to the public sector only. State Plan coverage of all private sector employers and employees was terminated effective July 1, 2003 and exclusive OSHA jurisdiction over private sector employment in the Virgin Islands was resumed on the same date. This action made it possible for OSHA to devote its resources to providing safety and health protection in Virgin Islands workplaces, rather than expending its resources in a possibly lengthy and complex proceeding under 29 CFR 1955 to formally terminate State Plan approval. The agreement allowed the Virgin Islands to qualify for enhanced funding under a provision of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469 (d)), which authorizes OSHA to waive the requirement for Territorial matching funds for grant amounts under \$200,000. A new subpart H to 29 CFR part 1956 was added and codified the Virgin Islands State Plan as a developmental plan under 29 CFR part 1956, to allow the Territory to make certain adjustments to its public employee program structure, and to revise its State Plan document to reflect its more limited scope. This change also terminated the private sector consultation services that were provided under the 23(g) grant funding. To address this, OSHA provided funding for a new 21(d) private sector consultation program for the Virgin Islands in July 2003.

*Current Background:*

The Virgin Islands State Plan is currently administered by the Division of Occupational Safety and Health (VIDOSH) which is part of the United States (U.S.) Virgin Islands Department of Labor. Commissioner Albert Bryan Jr. oversees the State Plan which has offices on St. Croix and St. Thomas. These offices cover all public sector enforcement and public sector consultation activities in the Virgin Islands. VIDOSH covers both safety and health disciplines. All private sector and federal government agency complaints are forwarded to OSHA's Puerto Rico Area Office for appropriate action.

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 VI-OSH Act 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 first instance basis. VIDOSH's review procedures are handled through a Hearing Examiner with the right to appeal to the Commissioner of Labor and the Virgin Islands Superior Court in lieu of the Review Commissioner as is the case in the federal program.

The table below shows VIDOSH's funding levels from FY 2010 through FY 2013.

<b>FY 2010-2013 Funding History</b>						
<b>Fiscal Year</b>	<b>Federal Award (\$)</b>	<b>State Match (\$)</b>	<b>100% State Funds (\$)</b>	<b>Total Funding (\$)</b>	<b>% of State Contribution</b>	<b>Deobligated/ One-Time Only Requested/ Reobligated (\$)</b>
<b>2013</b>	\$193,700	\$2,100	\$422,990	\$616,690	69%	0/71,500/19,000
<b>2012</b>	\$202,100	\$2,100	\$421,387	\$625,587	68%	0/100,000/0
<b>2011</b>	\$202,100	\$2,100	\$466,188	\$670,388	70%	0/81,500/0
<b>2010</b>	\$201,000	\$1,000	\$464,238	\$666,238	70%	0/33,558/0

\*An agreement reached on July 1, 2003 between OSHA and the Virgin Islands resulted in the Virgin Islands qualifying for enhanced funding under a provision of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469 (d)) which authorizes OSHA to waive the requirement for Territorial matching funds for grant amounts under \$200,000.

The table below shows the number of full-time and part-time staff as of the end of FY 2013.

<b>FY 2013 Staffing</b>					
<b>23(g) Grant Positions</b>	<b>Allocated FTE* Funded 50/50</b>	<b>Allocated FTE 100% State Funded</b>	<b>Total</b>	<b>50/50 Funded FTE On Board as of 09/30/13</b>	<b>100% State Funded FTE On Board as of 09/30/13</b>
<b>Managers/Supervisors (Administrative)</b>	1.0	0.0	1.0	1.0	0.0
<b>First Line Supervisors (Program)</b>	0.0	1.0	1.0	0.0	1.0
<b>Safety Compliance Officers</b>	0.0	2.0	2.0	0.0	0.0
<b>Health Compliance Officers</b>	0.0	1.0	1.0	0.0	1.0
<b>Public Sector Safety Consultants</b>	0.0	0.0	0.0	0.0	0.0
<b>Public Sector Health Consultants</b>	0.0	1.0	1.0	0.0	0.0
<b>Compliance Assistance Specialist</b>	0.0	0.0	0.0	0.0	0.0
<b>Clerical</b>	0.0	2.0	2.0	0.0	2.0
<b>Other (all positions not counted elsewhere)</b>	0.0	0.0	0.0	0.0	0.0
<b>Total 23(g) FTE</b>	<b>1.0</b>	<b>7.0</b>	<b>8.0</b>	<b>1.0</b>	<b>4.0</b>

\*FTE=Full-Time Equivalent

### **C. Data and Methodology**

Monitoring of the Virgin Islands State Plan consisted of a team of OSHA personnel from both the safety and the health sides. The team conducted the onsite audit starting on January 23, 2014 and ending on January 24, 2014. The evaluation of VIDOSH covered FY 2013, the period of October 1, 2012 through September 30, 2013, and included the following documents:

- State Activity Mandated Measures (SAMM) Report
- Inspection (INSP-8) Report

The OSHA team reviewed a total of 14 closed enforcement case files broken down by the following:

- Four safety case files – one complaint and three programmed planned
- Ten health case files – all ten were programmed planned

The Region also collected qualitative data from local unions by telephone which was then compared to data collected for the FY 2012 FAME. The Region prepared an interview guide in advance that was used consistently across the board when conducting interviews with the local unions. Once the data was collected, the information was analyzed. The findings and recommendations are presented in Section D of this report.

### **D. Findings and Recommendations**

During FY 2013, VIDOSH made little to no progress in addressing the 13 findings and recommendations from last year's evaluation. Only one finding was adequately addressed and completed. Five corrective actions are still awaiting verification, six continue to remain open, and one is closed due to it no longer being applicable to VIDOSH. Also identified during this year's on-site review was one new finding that will need corrective action and VIDOSH will need to improve its communication when providing necessary follow-up regarding the status of these items in FY 2014.

The FY 2013 FAME noted items that still need to be addressed. Details of these findings can be found in Section III and Appendix A of this report.

- Enforcement Program:

Productivity –Number of inspection visits per enforcement staff member was 49 in FY 2013. VIDOSH continues to only meet 61% of its annual inspection goals.

Lapse Time – Lapse time for safety cases continues to be above the national average. In FY 2013, VIDOSH's safety lapse time was 115.77 days and its health lapse time was 77.78 days.

Overdue abatement – Inspections with overdue abatements continue to be high. Since FY 2010, VIDOSH had 34 inspections with overdue abatement. VIDOSH

management continues to not follow protocol and procedures described in their Field Operations Manual (FOM) Chapter 7, Post-Citation Procedures and Abatement Verification. Abatement is not being obtained under 1903.19 and follow-up inspections are not being assigned when abatement has not been received from cited employers.

- Consultation Program:

VIDOSH's 23(g) consultation program is non-operational due to lack of staff to perform consultation visits.

- State Plan Developmental Steps:

Despite ongoing assurances from VIDOSH to OSHA that progress is being made, VIDOSH is significantly behind in the implementation of the Comprehensive Developmental Steps for the Virgin Islands' State Plan as listed in 29 CFR 1956.71.

- Program Administration:

Enforcement case files are not being issued appropriately. The average number of days from opening conference to citation issuance ranges from one to 150 days.

Enforcement case files are not being closed correctly. Of the 49 inspections conducted during FY 2013, only 14 case files (28%) were closed and available for review for this year's FAME.

- Staffing:

Staffing levels continue to remain below the allocated number.

The on-site review revealed a new issue:

- Injury/Illness Data:

The review of case files showed that VIDOSH has improved in reviewing and collecting OSHA 300 logs; however, the procedures outlined in the CPL 02-00-135 regarding issuing recordkeeping citations are not being followed.

The FY 2012 FAME noted one observation. Details of this observation can be found in Section III and Appendix B of this report.

One finding from the FY 2012 FAME was completed and one finding was closed (details can be found in Appendix C of this report):

1) Training: *(closed)*

After numerous requests from the Region that VIDOSH provide more information about the number of these types of sites in VIDOSH's jurisdiction and receiving no response, the Region researched the issue and found that processes at PSM facilities no longer meet the requirements of the PSM standard; therefore, training VIDOSH staff to perform these types of inspections was no longer required and this finding was closed by the Region.

2) Timeliness of State Response: *(completed)*

VIDOSH assigned the duties of a Territorial Duty Officer (TDO) to a staff member who is responsible for handling and processing non-formal and phone/fax complaint investigations. The number of days to initiate the complaint investigation has been reduced from 22.60 days to 1.57 days. Although this is an improvement, it is still not meeting a mandated requirement. Therefore, the Region converted this finding into a new observation in order to continue to monitor it in FY 2014.

This report contains twelve findings/recommendations and two observations. Performance issues and minimal progress have become consistent trends for VIDOSH over the past decade. These same performance issues – the lack of productivity, the inability to achieve abatement for cited hazards, and multiple vacancies – continue to remain as relevant today as 10 years ago when the Virgin Islands lost its private sector coverage.

## II. Major New Issues

In addition, the FY 2013 on-site case review revealed a major new issue:

- Injury/Illness Data:

The review of case files showed that VIDOSH has improved in reviewing and collecting OSHA 300 logs, however, the procedures outlined in the CPL 02-00-135 regarding issuing recordkeeping citations is not being followed.

## III. Assessment of State Plan Performance

### 1. ENFORCEMENT

#### a) Complaints

During this evaluation period, VIDOSH responded to three complaints with an average response time of 4.33 days from notification. (SAMM report FY 2013-SAMM #1)

Based on the SAMM measure provided, VIDOSH met the requirement for initiating complaint inspections with five working days from notification.

*Timeliness of State Response*

**Observation 13-01 (Finding 12-01)**

VIDOSH received a total of 22 non-formal complaints with an average of 1.57 days for initiating the complaint investigation which is above the mandated one day requirement. (SAMM report FY 2013 - SAMM #2)

**Federal Monitoring Plan 13-01**

In FY 2014, a limited number of case files will be randomly selected and reviewed to determine if this item was addressed. The Region will also address this item during the quarterly meetings.

*Case File Documentation/Formal Complaints/Notification to Complainant*

**Finding 13-01 (12-02)**

The one complaint file that was closed lacked documentation that the complainant had been notified of the results of the inspection. The OSHA 7 was also missing from the case file.

**Recommendation 13-01 (12-02)**

Ensure case files include all required forms and all letters or communications related to the complaint in accordance with VIDOSH's FOM.

b) Fatalities

During FY 2013 no fatalities occurred under VIDOSH's jurisdiction.

c) Targeting and Programmed Inspections

*Goals*

**Finding 13-02 (12-03)**

VIDOSH conducted a total of 49 inspections during FY 2013 (61% of the planned annual goal of 80). Of the 49 inspections, 20 were safety inspections which were 36% of the planned goal of 55 and 29 were health inspections which were 116% of the planned goal of 25. Of the 49 inspections, five were unprogrammed (complaints and a follow-up) and the remaining 41 were programmed planned. (INSP8 report 11-12-13)

**Recommendation 13-02 (12-03)**

VIDOSH must develop an inspection scheduling system that ensures its Annual Performance Plan inspection goals are met.

*In-compliance inspections*

The percent of in-compliance inspections according to VIDOSH's SOAR is 56.4%.

*Hazard identification*

In FY 2013, the percent of serious/willful/repeat (S/W/R) violations issued was 100% for safety and 72.73% for health.

*Violations per inspection*

VIDOSH issued an average of 3.62 S/W/R violations per inspection and 1.12 other-than-serious violations per inspection. The 3.62 average was significantly above the national average of 2.04 and the 1.12 average for other-than-serious was above the 0.88 national average as well. (SAMM report FY 2013 - SAMM #9a and #9b)

*Number and percentage of serious, willful, and repeat violations*

VIDOSH issued 114 violations compared to 121 violations issued in FY 2012 – a decrease of seven violations. Of the 114 violations issued, 76% were issued as S/W/R violations. Seventy-four were serious, 13 were repeats, none were willful or FTAs, and the remaining 27 were other-than-serious. (INSP8 report 11-12-13)

d) Citations and Penalties

***Adequate Evidence to Support Violations***

***Recordkeeping***

**Finding 13-03 (12-04)**

Injury and illness data (OSHA 300 logs) was not collected in three of the four safety case files (75%) reviewed, nor was there documentation that the logs were reviewed by the CSHO for injury and illness trends.

**Recommendation 13-03 (12-04)**

Ensure that CSHOs are collecting the previous three years of OSHA 300 logs and documenting in the case files in order to provide adequate evidence to support violations.

**Finding 13-04**

Recordkeeping violations directive (CPL 02-00-135) was not followed when issuing citations for lack of OSHA 300 logs. Four of the 10 (40%) health case files reviewed cited employers for failure to maintain OSHA 300 injury/illness logs; however, there was no documentation as to whether a recordable injury or illness had occurred and the citations were issued serious when they should have been issued other-than-serious.

**Recommendation 13-04**

Train compliance officers to follow procedures outlined in the recordkeeping directive (CPL 02-00-135) when issuing citations under the 1904 standard.

***Lack of Case File Documentation***

**Finding 13-05 (12-05)**

The audit revealed that four of the five case files (80%) completed by the safety officer lacked *prima facie* evidence to support the specific citations issued. For example, 80% of the case files lacked field notes completed by the safety compliance officer. Field notes were discovered in an unlabeled folder. One of the safety case files contained only a diary sheet with notations of an inspection being performed. The case file was missing an OSHA 1 and OSHA 1A. One of the safety files showed citations were issued but the OSHA 1B was missing from the case file. These findings were not discovered in the review of case files completed by the VIDOSH health compliance officer.

**Recommendation 13-05 (12-05)**

Ensure the case files include required documentation in accordance with VIDOSH's Field Operations Manual (FOM).

***Lapse Time***

**Finding 13-06 (12-06)**

In FY 2013, VIDOSH's lapse time for citations (the average number of calendar days from opening conference to citation issuance) was calculated at 115.77 days for safety which is significantly above the national average of 43.4 days. (SAMM report FY 2013 SAMM #23a)

**Recommendation 13-06 (12-06)**

VIDOSH must use the Integrated Management Information System (IMIS) data/reports as a tool to effectively manage both the program and the work product of its staff.

VIDOSH issued an average of 3.62 S/W/R violations per inspection and 1.12 other-than-serious violations per inspection. The 3.62 average was significantly above the national average of 2.04 and the 1.12 average for other-than-serious was above the 0.88 national average as well. (SAMM report FY 2013 - SAMM #9a and #9b)

VIDOSH issued 114 violations compared to 121 violations issued in FY 2012 – a decrease of seven violations. Of the 114 violations issued, 76% were issued as S/W/R violations. Seventy-four were serious, 13 were repeats, none were willful or FTAs, and the remaining 27 were other-than-serious. (INSP8 report 11-12-13)

VIDOSH issues penalties only when citing for FTA and as such, did not issue any penalties during FY 2013.

e) Abatement

***Overdue Abatement, Adequate Verification/Evidence of Abatement – Follow-up Inspections not Performed***

As aforementioned, VIDOSH’s overdue abatement is a significant issue that has not been addressed. Since 2010, VIDOSH has had 34 case files that lack abatement verification. The FY 2013 case file review revealed that abatement verification continues to be an outstanding issue.

**Finding 13-07 (12-07)**

Failing to obtain abatement verification continued to be a trend during FY 2013. Fifteen percent of the case files reviewed lacked evidence that violations were abated. VIDOSH is not utilizing strategies such as follow-up inspections (VIDOSH conducted only one follow-up inspection [INSP8 report 11-12-13]), FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner.

The Region continues to monitor the violation abatement reports for VIDOSH. Based on the current reports, the number of case files with overdue abatement has almost doubled.

Below is a breakdown of the lack of progress VIDOSH has made in reducing the number of inspections with open abatements:

<b>VIOLATION ABATEMENT REPORT (CASES WITH ABATEMENT PENDING)</b>							
<b>Date of Report</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>TOTAL</b>
<b>06/21/2012</b>	-	-	-	-	-	-	142
<b>10/02/2012</b>	8	26	17	15	16	N/A	82
<b>01/10/2013</b>	8	24	17	14	21	N/A	84
<b>02/11/2013</b>	0	1	10	16	19	1	47
<b>03/21/2013</b>	0	1	10	17	18	5	51
<b>04/18/2013</b>	0	1	10	16	18	5	50
<b>05/10/2013</b>	0	0	10	17	18	5	50
<b>07/01/2103</b>	0	0	10	17	16	4	47
<b>07/30/2013</b>	0	0	10	17	16	4	47
<b>08/06/2013</b>	0	0	7	16	12	4	39
<b>11/18/2013</b>	0	0	7	13	11	3	34

Furthermore, VIDOSH needs to improve its case file documentation of abatement. Specific examples of discrepancies noted during the on-site review include the following: notation that fire extinguisher/hazcom training would be

conducted and marked in the case file as abated, but no documentation verifying that this training had been conducted; notation in the case file that abatement had been completed, but no evidence or documentation that this had occurred.

**Recommendation 13-07 (12-07)**

VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner, and improve case file documentation of abatement.

f) Worker and Union Involvement

In six of the 14 (43%) case files reviewed, less than half revealed workplaces with union representation participating during inspections. In several cases, when union representation was not available, case file documentation showed that the CSHO selected a unionized employee to participate.

**Observation 13-02 (OB 12-01)**

On-site review of case files showed that copies of inspection results are not being sent to the unions. Results from the data collected during the interviews conducted as well as the on-site review revealed that union involvement and communication needs to improve significantly.

**Federal Monitoring Plan 13-02**

The Region will address these concerns during the monthly calls with the VIDOL Commissioner and VIDOSH Director. The Region will also continue to contact local unions to determine progress in this area qualitatively.

***Worker Interviews and Documentation of Worker Interviews***

**Finding 13-08 (12-08)**

VIDOSH implemented a case file template that includes an interview/comments page. The review of case files revealed that the template was not used in the four safety case files and the case files lacked documentary evidence that workers were interviewed. This was not the case in the review of the health files where all seven case files contained a completed worker interview template.

**Recommendation 13-08 (12-08)**

Provide training to staff to include interview/comments template in case files.

**2. REVIEW PROCEDURES**

- a) Informal Conferences – In FY 2013 VIDOSH did not conduct any informal conferences.
- b) Formal Review of Citations – In FY 2013, VIDOSH did not have any cases that went through the formal review process.

### 3. STANDARDS AND FEDERAL PROGRAM CHANGES ADOPTION

In accordance with 29 CFR 1902, State Plans are required to adopt standards and Federal Program Changes (FPCs) within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. During this period, VIDOSH responded in a timely manner to all but one standard adoption. The tables below provide a complete list of the federal directives and standards which required action during this period:

#### a) Standards Adoption

Standards Requiring Action	Federal Register Date	Adopted Identical	Date Promulgated
National Consensus Standards; Head Protection	November 2012	Yes	June 2013
Cranes & Derricks in Construction: Underground Construction & Demolition	April 2013	-- (A response of "No" was received 2/28/14)	N/A

#### b) OSHA/State Plan-Initiated Changes

FPCs Requiring Action and Federal Directive Number	Date of Directive	Adopted Identical	Adoption Date
Inspection & Citation Guidance for Roadway & Hwy Construction Work Zones	10/16/2012	Yes	4/09/13
Site-Specific Targeting SST-12	01/04/2013	No	N/A
NEP-Occupational Exposure to Isocyanates	09/24/2013	Yes	9/24/13
Inspection Scheduling for Construction	09/06/2013	No	N/A
Maritime Cargo gear Stds. & 29 CFR Part 1919 Certification	09/30/2013	No	N/A

#### **4. VARIANCES**

There were no requests for variances received or processed during FY 2013.

#### **5. PUBLIC EMPLOYEE PROGRAM**

One hundred percent (100%) of all inspections conducted by VIDOSH occurred in the public sector.

VIDOSH does not contain provisions for the issuance of monetary penalties for public employers found not to be in compliance with applicable standards on a first instance basis, except in cases of FTA violations.

#### **6. DISCRIMINATION PROGRAM**

VIDOSH has jurisdiction on discrimination cases arising from public sector workers in the Virgin Islands. There were no discrimination cases received or processed during FY 2013.

#### **7. SPECIAL STUDY – STATE PLAN TARGETING PROGRAMS**

The purpose of the Special Evaluation Study is to evaluate the State Plans' targeting programs. The Special Study contains two components: an analysis of how the State Plan develops a targeting program and an analysis of how the State Plan evaluates the effectiveness of its program. The findings of the study can be found in the separate template provided by the National Office. State Plan adoption of Local Emphasis Programs (LEPs) is not required per CPL 2-0.102A (11/10/99) and as such, VIDOSH does not have any LEPs.

#### **8. Complaints About State Program Administration (CASPs)**

There were no CASPs received during FY 2013.

#### **9. VOLUNTARY COMPLIANCE PROGRAM**

VIDOSH does not administer a voluntary compliance program.

#### **10. PUBLIC SECTOR ON-SITE CONSULTATION PROGRAM**

##### **Finding 13-09 (12-13)**

The VIDOSH public sector consultation program is presently not operational. VIDOSH does not have a consultant on staff to perform consultation visits.

**Recommendation 13-09 (12-13)**

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

**11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAMS  
(KENTUCKY, PUERTO RICO, AND WASHINGTON)**

N/A

**12. STATE PLAN ADMINISTRATION**

**Training**

VIDOSH continued to offer their CSHOs the opportunity to attend the OSHA Training Institute (OTI) for the much needed safety and health technical training. During FY 2013, VIDOSH personnel attended a total of six formal OTI courses.

**Funding**

Due to a sequestration order from Congress, the federal base grant was reduced to \$193,700 from \$202,100.

**Staffing (*including benchmarks, furloughs, hiring freezes, etc.*)**

Continuing the trend of past years, staffing levels continue to remain below the allocated number. As other State Plans are currently experiencing, VIDOSH has also been experiencing a hiring freeze.

**Finding 13-10 (12-09)**

VIDOSH staffing level is allocated for eight employees, but currently there are only two enforcement staff, two administrative staff, and one manager on board (five total).

**Recommendation 13-10 (12-09)**

VIDOSH must fill current staffing vacancies with qualified staff.

***State Plan Developmental Steps***

**Finding 13-11 (12-11)**

VIDOSH did not meet all of the revised developmental steps established in July 2003. A draft version of revised State Plan narrative was due on December 31, 2005. This document was received by the Region but still lacks the mandatory required sections and appendices.

**Recommendation 13-11 (12-11)**

Ensure that the revised developmental steps established in July 2003 are met. VIDOSH must work with the Region to establish new timelines for development and implementation of the Comprehensive Developmental Steps for the Virgin Islands' State Plan. VIDOSH must submit their State Plan narrative (with mandatory required sections and appendices) with amendments reflecting its State Plan's limited public sector scope. VIDOSH must also provide documentation on all outstanding components of its State Plan.

***Integrated Management Information System (IMIS)***

**Finding 13-12 (12-12)**

During FY 2013, VIDOSH produced 14 closed enforcement case files for review. This represents only 28% of the total 49 inspections conducted for the fiscal year. Of the 35 case files still open, the average number of days these cases have remained open ranged from one to 150 days.

**Recommendation 13-12 (12-12)**

VIDOSH needs to develop and implement mechanisms to ensure that inspection case files are closed correctly and in accordance with adopted policy in the Field Operations Manual (FOM).

**IV. Assessment of State Plan Progress in Achieving Annual Performance Goals**

(Source: FY 2013 APP and FY 2013 SOAR)

This section focuses on VIDOSH's progress toward meeting its targeted performance goals as outlined in its FY 2013 Annual Performance Plan (APP) which consisted of two strategic goals and performance goals. During FY 2013, VIDOSH reported the following results as they related to the following:

**Strategic Goal #1**

Improve workplace safety and health for all public workers in the Virgin Islands.

**Performance Goal #1-1:** Reduce occupational hazards exposures in the public sector by conducting direct interventions (inspections, consultations, and outreach) in agencies with a history of workers' compensation claims.

Overall in state and local government, the Virgin Islands BLS data showed a TRC rate decrease of 10.7% from the CY 2009 baseline:

**Virgin Islands BLS Non-Fatal Injuries and Illnesses  
Total Recordable Case (TRC) Rates Trends (CY 2009 – CY 2012)**

NON-FATAL INJURIES AND ILLNESSES	TOTAL RECORDABLE CASE RATE	TOTAL RECORDABLE CASE RATE	TOTAL RECORDABLE CASE RATE	TOTAL RECORDABLE CASE RATE	% RATE
INDUSTRY	2009	2010	2011	2012	-/+%
STATE AND LOCAL GOVERNMENT	2.8	2.9	2.5	2.5	-10.7%

According to OSHA data, VIDOSH did not meet its inspection goals, nor did it meet its consultation goals; therefore, this goal was not met.

**Performance Goal #1-2:** Reduce occupational hazards exposures in the public sector by ensuring that workplaces receive direct interventions (inspections, consultations, and outreach).

According to VIDOSH's SOAR, the number of inspections conducted in targeted agencies was 55 which included 24 safety and 31 health inspections. The total number of violations issued was 124.

According to OSHA data, VIDOSH did not meet its inspection goals, nor did it meet its consultation goals; therefore, this goal was not met.

**Performance Goal #1-3:** Reduce occupational hazards exposures in the public sector by ensuring that workplaces receive direct intervention.

VIDOSH conducted a total of 31 health enforcement activities. These activities included programmed and unprogrammed (complaint) inspections. VIDOSH implemented procedures to handle Indoor Air Quality (IAQ) issues by assigning a TDO who will work on the handling and processing of non-formal and phone/fax complaint investigations. Although an improvement, this still did not the mandated requirement.

**Strategic Goal #2**

**Promote a safety and health culture within the Virgin Islands public sector workplaces.**

**Performance Goal #2-1:** Promote safety and health consultation and training, education, seminars, etc.

**a. Internal Training/Education**

Ensure that VIDOSH staff attended at least two courses per CSHO at OTI during FY 2013.

Number of training sessions VIDOSH staff attended during FY 2013:

- Three VIDOSH staff attended six OTI courses.

**b. External Training Education Compliance Assistance**

Continue 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.

- VIDOSH completed two intervention/training sessions and hosted an annual safety and health seminar.

**V. Other Special Measures of Effectiveness and Areas of Note**

None

## Appendix A – New and Continued Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

FY-Rec #	Findings	Recommendations	FY 2012
13-01	<p><i>Case file documentation/formal complaint/notification to complainant:</i> The one complaint file that was closed lacked documentation that the complainant had been notified of the results of the inspection. The OSHA 7 was also missing from the case file reviewed.</p>	Ensure case files include all required forms and all letters or communications related to the complaint in accordance with VIDOSH's FOM.	12-02
13-02	<p><i>Goals:</i> VIDOSH conducted a total of 49 inspections during FY 2013. This is 61% of the planned annual goal of 80. Of the 49 inspections, 20 were safety inspections which were 36% of the planned goal of 55, and 29 were health inspections which were 116% of the planned goal of 25. Of the 49 inspections, five were unprogrammed (complaints and a follow-up) and the remaining 41 were programmed planned.</p>	VIDOSH must develop an inspection scheduling system that ensures its Annual Performance Plan inspection goals are met.	12-03
13-03	<p><i>Adequate evidence to support violations and recordkeeping:</i> Injury/illness data (OSHA 300 logs) was not collected in three of the four (75%) safety case files reviewed nor was there documentation that the logs were reviewed by the CSHO for injury/illness trends.</p>	Ensure that CSHOs are collecting the previous three years of OSHA 300 logs and documenting in the case files in order to provide adequate evidence to support violations.	12-04
13-04	<p><i>Adequate evidence to support violations and recordkeeping:</i> Recordkeeping violations directive (CPL 02-00-135) was not followed when issuing citations for lack of OSHA 300 logs. 40% of health case files cited employers for failure to maintain OSHA 300 injury/illness logs, but there was no documentation as to whether a recordable injury or illness had occurred and the citations were issued serious when they should have been issued other-than-serious.</p>	Train compliance officers to follow procedures outlined in the recordkeeping directive (CPL 02-00-135) when issuing citations under the 1904 standard.	
13-05	<p><i>Lack of case file documentation:</i> The audit revealed that four of the five case files (80%) completed by the safety officer lacked <i>prima facie</i> evidence to support the specific citations issued.</p>	Ensure the case files include required documentation to support specific citations issued in accordance with VIDOSH's Field Operations Manual (FOM).	12-05
13-06	<p><i>Lapse time:</i> VIDOSH's citation lapse time (the average number of calendar days from opening conference to citation issuance) was calculated at 115.77 days for safety (above the national average of 43.4 days).</p>	VIDOSH must use IMIS data/reports as a tool to effectively manage both the program and the work product of its staff.	12-06

## Appendix A – New and Continued Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

13-07	<p><i>Overdue Abatement, Adequate Verification/Evidence of Abatement – Follow-up Inspections not Performed</i></p> <p>Since 2010, VIDOSH has had 34 case files that lack abatement verification and failing to obtain abatement verification continued to be a trend during FY 2013. Fifteen percent of the case files reviewed lacked evidence that violations were abated. VIDOSH is not utilizing strategies to ensure that abatement of cited hazards is achieved in a timely manner. VIDOSH also needs to improve its case file documentation of abatement.</p>	VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards are achieved in a timely manner, and improve case file documentation of abatement.	12-07
13-08	<p><i>Training and Documentation:</i></p> <p>VIDOSH implemented a case file template that includes an interview/comments page. The review of case files revealed that the template was not used in the four safety case files and the case files lacked documentary evidence that workers were interviewed.</p>	Provide training to staff to include worker interview/comments template in case files.	12-08
13-09	<p><i>Public Sector On-Site Consultation Program:</i></p> <p>The VIDOSH public sector consultation program is presently not operational. VIDOSH does not have a consultant on staff to perform consultation visits.</p>	VIDOSH must ensure that a public sector consultation program is fully operational and provides appropriate services to public sector employers in the territory.	12-13
13-10	<p><i>Staffing:</i></p> <p>The VIDOSH staffing level is allocated for eight employees, but currently there are only two enforcement staff, two administrative staff, and one manager on board (five total).</p>	VIDOSH must fill current staffing vacancies with qualified staff.	12-09
13-11	<p><i>State Plan Developmental Steps:</i></p> <p>Virgin Islands did not meet all of the revised developmental steps established in July 2003. A draft version of the revised State Plan narrative was due on December 31, 2005. This document was received by the Region but still lacks mandatory required sections and appendices.</p>	Ensure that the revised developmental steps established in July 2003 are met. VIDOSH must work with the Region to establish new timelines for development and implementation of the Comprehensive Developmental Steps for the Virgin Islands' State Plan. VIDOSH must submit their State Plan narrative (with mandatory required sections and appendices) with amendments reflecting its State Plan's limited public sector scope; VIDOSH must also provide documentation on all outstanding components of its State Plan.	12-11

## Appendix A – New and Continued Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

13-12	<i>IMIS:</i> During FY 2013, VIDOSH produced 14 closed enforcement case files for review. This represents only 28% of the total 49 inspections conducted for the fiscal year. Of the 35 case files still open the average number of days these cases have remained open ranged from one-150 days.	VIDOSH needs to develop and implement mechanisms to ensure that inspection case files are closed correctly and in accordance with adopted policy in the Field Operations Manual (FOM).	12-12
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**Appendix B – Observations Subject to Continued Monitoring**  
**FY 2013 VIDOSH State Plan Comprehensive FAME Report**

Observation # [FY13-OB-1]	Observation# [FY12-OB-1]	Observation	Federal Monitoring Plan	Current Status
<b>FY13-OB-01</b>		<i>Timeliness of State Plan response:</i> VIDOSH received a total of 22 non-formal complaints with an average of 1.57 days for initiating the complaint investigation which is above the mandated one day requirement.	In FY 2014, a limited number of case files will be randomly selected and reviewed to determine if this item was addressed. The Region will also address this item during the quarterly meetings.	New
<b>FY13-OB-02</b>	FY12-OB-01	<i>Union involvement:</i> On-site review of case files showed that copies of inspection results are not being sent to the unions. Results from the data collected during the interviews conducted as well as the on-site review revealed that union involvement and communication needs to improve.	The Region will address these concerns during the monthly calls with the VIDOL Commissioner and VIDOSH Director. The Region will also continue to contact local unions to determine progress in this area qualitatively.	Continued

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

FY 2013 Virgin Islands Division of Occupational Safety & Health (VIDOSH) State Plan Comprehensive FAME Report					
FY 12- Rec #	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status
12-01	<p><b><i>Timeliness of response:</i></b> VIDOSH received a total of ten non-formal complaints with an average of 22.60 days for initiating the complaint investigations. This number represents an increase in the average number of days from the FY 2011 FAME report of 1.35 days and the FY 2010 FAME report of 3.75 days. VIDOSH continues to not satisfy this mandated requirement for initiating complaint investigations within one working day from notification. (SAMM report 11-09-12 – SAMM #2).</p>	Implement internal control measure to ensure that complaint investigations are initiated within a timely manner.	The TDO will be responsible for the handling and processing of non-formal and phone/fax complaint investigations per VIDOSH FOM Chapter 9, complaint and Referral Processing. The VIDOSH Director is responsible for tracking complaint investigations using the Standard Complaint tracking report to ensure the investigations are initiated within one working day.	October 31, 2013	<p>VIDOSH assigned the duties of a Territorial Duty Officer (TDO) to a staff member in August 2013. <b>As of 11/26/13, the corrective action is in place. The FY 2013 year-to-date SAMM report shows the average number of days to initiate complaint inspections has been reduced from 22.60 days to 1.57 days. This item is completed but will be reclassified as an observation subject to continued monitoring by the OSHA.</b></p>
12-02	<p><b><i>Notification to complainant</i></b> Although the SAMM (SAMM report 11-09-12 – SAMM #3) report shows that VIDOSH met this measure and notified complainants in a timely manner 100% of the time the onsite review of case files differ. Five complaint files were reviewed. Three of the five complaint files lacked documentation that the complainant had been notified of the results of the inspection. In one of the five case files reviewed the OSHA 7 was missing.</p>	Ensure case files include all required forms and all letters or communications related to the complaint.	VIDOSH staff will receive training instructing them that case files involving complaint inspections must have documentation that the complainant was notified of the results of the inspections. The VIDOSH Director will be responsible for ensuring the required documentation is in the case file.	December 31, 2013	<p>As a group, VIDOSH will conduct a two day training session to address all the FAME items. VIDOSH hopes to hold this training session off-site in November 2013. <b>Verification that the two day training has been accomplished has not been obtained for this finding. This item remains open.</b></p>

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

<p><b>12-03</b></p>	<p><b><i>Enforcement</i></b>  VIDOSH conducted a total of 18 inspections during FY 2012. This is 22.50% of the planned annual goal of 80. Of the 18 inspections, 11 were safety inspections which were 20% of the planned goal of 55 and seven were health inspections which were 28% of the planned goal of 25. Of the 18 inspections, five were unprogrammed (complaints) inspections. Thirteen (13) of the 18 inspections were programmed planned. (INSP8 report 1-24-13)</p>	<p>VIDOSH must develop an inspection scheduling system that ensures that its Annual Performance Plan inspection goals are met.</p>	<p>VIDOSH developed and implemented an Inspection Scheduling System. Each CSHO is assigned a monthly inspection quota by the VIDOSH Director who is responsible for ensuring the Annual Performance Plan inspection goals are met.</p>	<p>March 31, 2014</p>	<p>This item is currently being tracked by the Region on a monthly basis through conference calls with the VIDOSH Director, the Commissioner of Labor, and the Asst. Commissioner of Labor. The Inspection Scheduling System was implemented in May 2013.  <b>This item remains open.</b></p>
<p><b>12-04</b></p>	<p><b><i>Lack of case file documentation</i></b>  Injury/illness data was not collected. OSHA 300 logs were not placed in seven of the 11 case files (86%) reviewed, nor was there documentation that the logs were reviewed by CSHOs for injury/illness trends.</p>	<p>Ensure that CSHOs are collecting the previous 3 years of OSHA 300 logs and placing them in the case files. This data is required for calculating the Days Away, Restricted, or Transferred (DART) rate.</p>	<p>CSHOs will receive training and/or instructions on following the procedures in the FOM, Chapter 3 Inspection Procedures, Section VI Review of Records, A-1 and A-2. CSHOs will be required to review and obtain the previous three calendar years of Injury and Illness logs (OSHA 300) to be placed in each case file. The VIDOSH Director, during case file review, will ensure that this documentation is in each case file.</p>	<p>December 31, 2013</p>	<p>As a group, VIDOSH will conduct a two day training session to address all the FAME items. VIDOSH hopes to hold this training session off-site in November 2013.  <b>Verification that the two day training has been accomplished has not been obtained for this finding. This item remains open.</b></p>
<p><b>12-05</b></p>	<p><b><i>Lack of case file documentation</i></b>  Unlike last year's (FY 2011) case file review when the two cases made available did not have citations issued, this year (FY 2012) the team reviewed 11 closed case files. The audit revealed that that all 11 case files (100%) reviewed lacked <i>prima facie</i> evidence to support the specific citations issued.</p>	<p>Ensure case files include required documentation in accordance with VIDOSH's FOM.</p>	<p>CSHOs will be trained to ensure the necessary case file documentation (e.g., narrative, field notes, <i>prima facie</i> evidence on the OSHA1Bs etc.) is included in each case file per the VIDOSH FOM. The VIDOSH Director will be responsible for ensuring that all the documentation is in each case file.</p>	<p>December 31, 2013</p>	<p>As a group, VIDOSH will conduct a two day training session to address all the FAME items. VIDOSH hopes to hold this training session off-site in November 2013.  <b>Verification that the two day training has been accomplished has not been obtained for this finding. This item remains open.</b></p>

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

	<p>For example: Of the 11 case files reviewed field notes were lacking in three safety (50%) and two health (50%). One of the six safety case files showed citations were issued but the OSHA 1B was missing from the case file as well any documentation as to what was cited. Narrative documentation was missing in two health files and one safety file. Seven of the 11 case files (86%) lacked CSHO signature and four case files (25%) lacked documentation that a supervisor had reviewed the file prior to issuing citations and/or closing the case file.</p>				
<p><b>12-06</b></p>	<p><b><i>Lapse time</i></b>          VIDOSH's citation lapse time (the average number of calendar days from opening conference to citation issuance) for FY 2012 was calculated at 135.52 days for safety, an increase from 113.75 days in FY 2011 and above the national average of 55.9 days. The lapse time for health was 178.15 days - an increase from 157.25 days in FY 2011 also above the national average of 67.9 days. (SAMM report 11-09-12-SAMM #7)          One health case file reviewed revealed excessive time between the inspection and the issuance of citations. The other-than-serious citations</p>	<p>VIDOSH must use IMIS data/reports as a tool to effectively manage both the program and the work product of its staff.</p>	<p>VIDOSH developed and Implemented an Inspection Scheduling System. Each CSHO is assigned a monthly inspection quota by the VIDOSH Director who is responsible for ensuring the Annual Performance Plan inspection goals are met.</p>	<p>March 31, 2014</p>	<p>This item is currently being tracked by the Region on a monthly basis through conference calls with the VIDOSH Director, the Commissioner of Labor, and the Asst. Commissioner of Labor. The Inspection Scheduling System was implemented in May 2013.  <b>This item remains open.</b></p>

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

	were issued more than four months after the inspection was completed.				
<b>12-07</b>	<b><i>Overdue abatement</i></b> During FY 2012, the percentage of serious, willful, repeat violations cited that was verified as abated within the abatement date plus 30 days was 40.30% instead of the 100% national average (27 SWR out of 67). (SAMM report-11-09-12-SAMM #6)	VIDOSH must fully utilize strategies such as follow-up inspections, “failure to abate” citations, and 29 CFR 1903 provisions to ensure that abatement of cited hazards is achieved in a timely manner.	VIDOSH staff will receive training to include: ensuring appropriate abatement periods are assigned for unabated violations, ensuring abatement data received satisfies the citation prior to closing the case file, for inspections with CDI (Corrected during Inspection) ensuring the file documents the method of abatement and that the CSHO observed the abatement. The VIDOSH Director will be responsible for reviewing the Violation Abatement Report weekly to determine the status of case files with open abatements.	December 31, 2013	As a group, VIDOSH will conduct a two day training session to address all the FAME items. VIDOSH hopes to hold this training session off-site in November 2013. <b>Verification that the two day training has been accomplished has not been obtained for this finding. This item remains open.</b>
<b>12-08</b>	<b><i>Worker Participation</i></b> A total of 11 case files were reviewed, seven of the case files or 86% (four health and three safety) had no mention or documentation of employee interviews. Case files containing field notes also lacked documentary evidence that workers were interviewed.	Provide training to all field staff to include interview notes and documentation in case files.	Field staff will receive training and instructions on the requirement that documentation of employee interviews, including field notes, shall be placed in each case file. The VIDOSH Director, during case file review, will ensure that this documentation is in each case file.	December 31, 2013	As a group, VIDOSH will conduct a two day training session to address all the FAME items. VIDOSH hopes to hold this training session off-site in November 2013. <b>Verification that the two day training has been accomplished has not been obtained for this finding. This item remains open.</b>
<b>12-09</b>	<b><i>Staffing</i></b> Staffing continues to be an issue with VIDOSH having multiple vacancies. VIDOSH staffing level is allocated for eight employees, but currently there are only two enforcement, two administrative, and one manager on board.	VIDOSH must fill current staffing vacancies with qualified staff.	The VIDOL Commissioner is working with the Governor’s Office to fill two of the three vacant CSHO positions. The two VIDOSH positions to be filled are a Consultant and Safety Compliance Officer.	September 30, 2014	VIDOSH will work with federal OSHA to resolve this staffing issue. The Region will be monitoring progress on a regular basis via calls with the Commissioner and VIDOSH. <b>This item remains open.</b>

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

<p><b>12-10</b></p>	<p><b>Training</b> VIDOSH covers public sector employers in water and wastewater treatment activities, covered by the PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.</p>	<p>Ensure adequate number of qualified staff specifically trained in accordance with “PSM Covered Chemical Facilities NEP.”</p>	<p>VIDOSH will ensure that an adequate number of qualified staff is specifically trained in accordance with “PSM Covered Chemical Facilities NEP.”</p>	<p>FY 2015</p>	<p>Finding 12-10 –Training is being removed from the CAP due to changes in the processes at PSM facilities which no longer meet the requirements of the PSM standard. <b>This item is closed.</b></p>
<p><b>12-11</b></p>	<p><b>IMIS</b> 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 the second quarter of FY 2012.</p>	<p>VIDOSH must submit their State Plan narrative (with mandatory required sections and appendices) with amendments reflecting its State Plan’s limited public sector scope; VIDOSH must also provide documentation on all outstanding components of its State Plan.</p>	<p>VIDOSH will submit their State Plan narrative (and mandatory required sections and appendices ) with amendments reflecting its State Plan’s’s more limited public sector scope and also provide documentation on all outstanding components of its State Plan.</p>	<p>September 30, 2014</p>	<p>VIDOSH submitted a draft version of their revised State Plan narrative to the Region for review.  <b>Status 12-11</b> VIDOSH submitted a draft version of their revised State Plan narrative to the Region for review. The Region is following-up with VIDOSH regarding a timeline for the submission of the mandatory required sections and appendices. <b>This item remains open.</b></p>
<p><b>12-12</b></p>	<p><b>IMIS</b> During the on-site review for the FY 2012 FAME, VIDOSH produced 21 enforcement case files. Of the 21 case files reviewed only 11 were closed. Of the ten files still open the average number of days from the opening conference to citations being issued and the average number of days from the closing conference to citations being issued was 151 days. Overdue abatement was</p>	<p>VIDOSH needs to develop and implement mechanisms to ensure that inspection case files are closed in an expedient manner and in accordance with adopted policy in the Field Operations Manual (FOM).</p>	<p>VIDOSH developed and Implemented an Inspection Scheduling System. Each CSHO is assigned a monthly inspection quota by the VIDOSH Director who is responsible for ensuring the Annual Performance Plan inspection goals are met. Additionally IMIS data and/or reports will be utilized to ensure that these goals are met.</p>	<p>March 31, 2014</p>	<p>This item is currently being tracked on a monthly basis through conference calls with the VIDOSH Director, the Commissioner of Labor, and the Asst. Commissioner of Labor. The Inspection Scheduling System was implemented in May 2013. The Region will be monitoring progress on a regular basis. <b>This item remains open.</b></p>

## Appendix C - Status of FY 2012 Findings and Recommendations

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

	extensive for these ten open case files. The average number of days abatement was overdue was 71.4 days.				
<b>12-13</b>	<b><i>Public Sector On-Site Consultation Program</i></b> The VIDOSH public sector consultation program is presently not operational.	VIDOSH must ensure that a public sector consultation program is fully operational and provides appropriate services to public sector employers in the territory.	VIDOSH has administrative measures and equipment in place to provide public sector consultation services and is working to fill the consultant position which is critical to the program. The VIDOL Commissioner is working with the Governor's Office and the Division of Personnel to fill the consultant position.	September 30, 2014	VIDOSH will work with OSHA to resolve this staffing issue. The Region will be monitoring progress on a regular basis via calls with the Commissioner and VIDOSH. <b>This item remains open.</b>

## Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Virgin Islands			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	4.33	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	1.57	(Negotiated fixed number for each state) - 1	State data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	0%	100%	State data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State data taken directly from SAMM report generated through IMIS.

## Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

<b>9a</b>	Average number of violations per inspection with violations by violation type	3.62	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
<b>9b</b>	Average number of violations per inspection with violations by violation type	1.12	Other: .88	
<b>11</b>	Percent of total inspections in the public sector	100	(Negotiated fixed number for each state) - 100%	State data taken directly from SAMM report generated through IMIS.
<b>13</b>	Percent of 11c Investigations completed within 90 calendar days		100%	State data taken directly from SAMM report generated through IMIS.
<b>14</b>	Percent of 11c complaints that are meritorious		24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
<b>16</b>	Average number of calendar days to complete an 11c investigation		90 Days	State data taken directly from SAMM report generated through IMIS.
<b>17</b>	Planned vs. actual inspections - safety/health	20/29	(Negotiated fixed number for each state) - 60/25	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
<b>18a</b>	Average current serious penalty - 1 -25 Employees	a.		Not applicable to state and local government only State Plans.
<b>18b</b>	Average current serious penalty - 26-100 Employees	b.		
<b>18c</b>	Average current serious penalty - 101-250 Employees	c.		

## Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

### FY 2013 VIDOSH State Plan Comprehensive FAME Report

<b>18d</b>	Average current serious penalty - 251+ Employees	d.		
<b>18e</b>	Average current serious penalty - Total 1 - 250+ Employees	e.		
<b>19</b>	Percent of enforcement presence		National Average 1.5%	Not applicable to state and local government only State Plans.
<b>20a</b>	20a) Percent In Compliance – Safety	Safety -	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>20b</b>	20b) Percent In Compliance – Health	Health -	Health - 34.1	
<b>21</b>	Percent of fatalities responded to in 1 work day	N/A	100%	State data is manually pulled directly from IMIS for FY 2013
<b>22</b>	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
<b>23a</b>	Average Lapse Time - Safety	115.77	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>23b</b>	Average Lapse Time - Health	77.78	57.05	

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<b>24</b>	Percent penalty retained			Not applicable to state and local government only State Plans.
<b>25</b>	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.