

**Appendix A**  
**FY 2009 California State Plan (Cal/OSHA) Enhanced FAME Report prepared by Region IX**  
**Summary of Findings and Recommendations**

Complaint Findings		Complaint Recommendations	
1	In eleven of the 109 complaint case files reviewed, Cal/OSHA did not respond to the complaint in a timely fashion. Twenty-four of the 109 complaint case files reviewed did not have initial letters to the complainant. Twenty-seven case files did not include follow-up letters to the complainant.	Ensure that complaints are responded to in a timely fashion. Ensure that initial notifications are made and all complainants are provided the results of their complaint in a timely manner.	
2	The Cal/OSHA Policy and Procedures Manual does not address elements that are required in the complaint process.	Adopt policies and procedures equivalent to Federal OSHA to include the following: E-Complaints Procedures (Federal FOM, page 9-2 and 9-5 to 9-7), the Handling/Processing of Referrals from Other Agencies (Federal FOM, page 9-2), Scheduling an Inspection of an Employer in an Exempt Industry (Federal FOM, page 9-5), Union Reference (Federal FOM, page 9-11), Complaint Questionnaire (Federal FOM, page 9-17 to 9-20), and the Five-day requirement for employer to submit written results of an investigation (Federal FOM, page 9-11)	
Fatalities Findings		Fatalities Recommendations	
3	Twenty-three of the 52 fatality inspections did not contain adequate information to determine whether Cal/OSHA communicated with the victim's family concerning the process and results of the investigations.	Ensure that family members of the fatality victim are contacted regarding the investigation and that all required correspondence is completed in a timely manner and documented in each case file.	
4	Two of the 52 fatality inspections were not initiated in a timely fashion and the reasons for the delay were not documented in the case file.	Ensure that Compliance Officers initiate fatality inspections timely after initial notification and that Compliance Officers communicate and document reasons for any delays in the case file.	
5	The CPPM does not address elements that are required in the fatality process	Adopt policies equivalent to Federal OSHA's on Interview Procedures and Informer's Privilege (Federal FOM, page 11-7); on Investigation Documentation, which includes: Personal Data—Victim, Incident Data, Equipment or Process Involved, Witness statements, Safety and Health Program, Multi-Employer Worksite, and Records Request (Federal FOM, page 11-9 to 11-10); and on Families of Victims, which includes Contacting Family Members, Information Letter, Letter to Victim's Emergency Contact, and Interviewing the Family (Federal FOM, page 11-12 to 11-13).	
Targeting and Inspections Findings		Targeting and Inspections Recommendations	
6	Cal/OSHA has not updated its protocols for its Agriculture Safety and Health Inspection Project (ASHIP), and Construction Safety and Health Inspection Project (CSHIP) since FY2000.	Update ASHIP and CSHIP protocols at least annually.	
7	Cal/OSHA's Program Targeting System is not identifying industries where serious hazards are more likely to exist.	Re-evaluate the targeting system and the focus of enforcement resources to ensure that programmed inspections are being conducted at establishments where serious hazards are most likely to exist.	
8	Cal/OSHA's policy on classifying violations does not ensure violations that would be considered "Serious" under the Federal FOM are classified as Serious.	Adopt Violation Classification policies and procedures equivalent to Federal OSHA regarding descriptions on Supporting "Serious" Classification (Federal FOM, page 4-10 to 4-11), Supporting "Willful" Violations (Federal FOM, page 4-30 to 4-32), and Combining/Grouping Violations (Federal FOM, page 4-37 to 4-39).	
9	When determining Repeat Violations, Cal/OSHA does not consider the employer's enforcement history statewide. Instead, employer history is only considered within each of the six regions (refer to Cal/OSHA's policies and procedures C-1B, page 14).	Consider employer history statewide when citing Repeat violations.	

Employee and Union Involvement Findings		Employee and Union Involvement Recommendations	
10	Employee representatives were not always afforded the opportunity to participate in all phases of the workplace inspection.	Ensure union representatives are presented the opportunity to participate in every aspect of the inspection and keep them informed as required in the Cal/OSHA Policies and Procedures Manual. If unions choose not to participate in the inspection, ensure it is documented.	
Case File Reviews Findings		Case File Reviews Recommendations	
11	In Fifty-eight of 157 case-files Employee Interviews are not capturing employer knowledge, exposure to hazard(s), and/or the length of time hazardous conditions existed. In addition, interviews are not capturing the employee's full legal name, address and phone number(s). In all cases reviewed, employer knowledge is not being adequately documented in a narrative form to assure a legally sufficient case.	Ensure that employees are interviewed to determine employer knowledge, exposure to hazard(s), length of time hazardous condition existed, and obtain the employee's full legal name, address and phone number(s). Adopt policies for conducting employee interviews equivalent to Federal OSHA's. Train employees on interviewing techniques. (Federal FOM, page 3-23 to 3-27).	
12	Sixty-three of 157 Case files were missing copies of the OSHA 300 and did not indicate if information had been entered into the IMIS system. Citations were not issued to the employer for failing to maintain the log.	Ensure that compliance officers request and include copies of the 300 in the case file for each inspection for the last three years and enter the data into IMIS. If the employer cannot provide them, document it in the file and issue appropriate citations.	
13	Twenty-eight of 157 case files lacked complete injury and illness descriptions and did not clearly describe the hazard or exposure. And in 91 cases, photos did not always describe the violation, exposure, specific equipment/process, location, and employee job title (if applicable), the date and time of the picture and the inspection number.	Ensure that all aspects of the injury and illness documentation are included in the 1B or equivalent form to identify the hazard in enough detail to clearly describe the hazard or exposure. Ensure that photos identify the violation, exposure, specific equipment/process, location and employee job title (if applicable) and include the date and time of picture and the inspection number.	
14	In 50 of 157 case files, narratives were either missing or lacked important details about what occurred during the inspection. And in 60 cases, diary sheets did not reflect inspection history.	Ensure that inspection narratives adequately describe the inspection and that diary sheets adequately reflect inspection activity, including but not limited to, opening conference date, closing conference date, supervisor review, telephone communications, and informal conference dates.	
15	Exposure monitoring was not conducted prior to issuing citations to employers in four health inspections.	Ensure that health inspectors conduct appropriate sampling to evaluate exposure and support violations. Ensure the information is properly entered into IMIS.	
Abatement Findings		Abatement Recommendations	
16	There were 209 Serious/Willful/Repeat (S/W/R) violations identified in the SAMM Report that were not abated timely.	Develop a tracking system to ensure all violations are abated timely and/or ensure abatement data is accurately entered into IMIS.	
Review Procedures Findings		Review Procedures Recommendations	
17	Informal Conference policy allows conferences to be held beyond 15 days and lacks guidance on obtaining counsel and does not require conference information to be posted properly and consistently throughout the state.	Provide Specific guidelines for the "Conduct of the Informal Conference," which includes conference subjects, subjects not to be addressed, and closing remarks (Federal FOM, page 7-4 to 7-5); and hold informal conferences within the 15 working day contest period (Federal FOM, page 7-2). Also ensure guidance obtaining Counsel should an employer bring an attorney to the informal conference (Federal FOM, page 7-3) is provided and that Posting Requirements (Federal FOM, page 7-4) are clearly articulated	
18	The percent of penalty retention during post-contest procedures has decreased since FY 2007 and the percent of violations reclassified continues to increase.	Assess pre-contest procedures to ensure violations and penalties are being appropriately reclassified and decreased respectively and develop procedures to increase the percentage of penalties being retained during the post-contest.	

Information Management Findings		Information Management Recommendations
19	Cal/OSHA does not receive accurate and up to date information on the status of outstanding penalties from the DIR Accounting Office. Penalties are not being effectively collected and those that are no longer collectible are not being identified and removed from the system in a timely manner.	Assure that the DIR Accounting office is providing information on penalty payments and update the details in IMIS. Ensure that penalties are either effectively collected and identify those cases where penalties are no longer collectible in [to] order reduce the high number of old cases in the system.
20	The 15-day “due date” following issuance of the citations on the Debt Collection report is not entered. This date is important for tracking appeals.	Ensure that the 15-day due date for all issued citations is tracked
21	The Complaint Response Log and Complaint Query revealed that half of all complaints inspected were not opened until after five days from receipt of the complaint. Also, the Complaint Employer Response Due standard report revealed outstanding complaints dating back to December of 2008 with employer response pending.	Ensure that complaint IMIS reports are updated and accurate so that they can assist with properly managing the complaint process, And ensure that the Employer Response Due report and Complaint Response Log are regularly updated and cases are followed up on to ensure proper response was received.
22	Complaint Letters G and H are not being consistently entered in the database.	Ensure that appropriate G and H notification letters are entered and being sent to all complainants
23	The Referral Log identified that the five offices had referrals that had not been appropriately inspected or investigated in a timely fashion, including some referrals that were deemed Serious in nature. Thirteen referrals showed no response at all.	Generate and review the Referral Log on a regular basis and ensure that all referrals are handled appropriately and timely.
24	Seven fatalities were not opened within one day of reporting; lapse time for inspection of all accident reports ranged from 7.6 days to 38.4 days.	Ensure accidents are opened timely. Generate and review a Fat/Cat tracker to ensure that accidents reports are being evaluated and classified appropriately in order to improve accident lapse time.
25	The Citations Pending Report revealed that in three of the five offices, 19 cases have citations pending that are over 180 days old and in the four offices, of the 225 citations that have not been issued, 207 show either no opening or no closing date. The Unsatisfied Activity Report identified unsatisfied activity in four of the five offices.	Generate and Review a Citations Pending Report to monitor that citations are reviewed and issued in a timely manner. Generate and review the Unsatisfied Activity Report to identify outstanding activities which need to be scheduled for inspection.
Federal Program Changes Findings		Federal Program Changes Recommendations
26	Cal/OSHA’s evaluation and adoption of Federal Program Changes has not been timely. Cal/OSHA has not adopted both the Employer Payment for Personal Protective Equipment, Final Rule, published November 15 2007 and the <i>Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee</i> , published December 12, 2008. They adopted the <i>Final Rule on Electrical Installation Requirements -29 CFR 1910 Subpart S</i> , effective February 18, 2010; they were two and a half years late adopting this rule. In addition, California has not submitted a supplement in response to <i>CPL-02-00-148 2009, Field Operations Manual</i> . Many of the procedural issues discussed in this report relate to items not covered in the State’s current Policies and Procedures Manual which should be addressed in the response to the Federal FOM.	Implement measures to ensure that new Federal Program Changes are evaluated and adopted in a timely manner, as per 29 CFR 1953.4(b)(1) and (b)(3).
Standards Findings		Standards Recommendations
27	State initiated rulemaking promulgated a Standard on Bakery Ovens that was deemed not to be at least as effective as Federal OSHA standards.	Ensure standards are at least as effective as Federal OSHA standards and initiate actions to update deficient standards.

Discrimination Program Findings		Discrimination Program Recommendations
28	Of the 128 WB investigations, 96% were not completed within the 90-day period as required.	Take necessary measures to ensure that investigations are completed within 90 day period (Section 11 (c) of the OSH Act and implementing regulation 29 CFR Part 1977.6 Section 98.7(e) of the California Labor Code establishes an even shorter timeframe – 60 days.)
29	Oral complaints are not accepted and docketed in WB cases.	Accept and docket orally filed and emailed complaints in IMIS upon receipt and do not require a Complainant to submit a complaint in writing (Form 205) (DIS 0-0.9 Federal Whistleblower Manual, Chapter 7, Section V (A)).
30	Opening and closing letters were inconsistently sent to both Complainant and Respondent or not placed in the case files, and dates were not recorded on the DLSE 900 diary sheet.	Consistently maintain and track opening and closing letters and phone calls in the case file. All documents received and telephone calls made during the course of the investigation should be written in the DLSE 900 diary sheet (DIS 0-0.9 Federal Whistleblower Manual, Chapter 3 and 4 2, Section IVB.2 III(D&E), Chapter 3, Sections IV (B)(1) and IV (K), and Chapter 4, Section IV(B)(2). Ensure that the DLSE 900 is regularly updated (Retaliation Complaint Investigation Manual, Chapter 2).
31	Complainant interviews were not conducted or documented in each case file and signed statements were not always obtained feasible. Interviews with all relevant witnesses, including management and third parties are not being interviewed.	DLSE should attempt to interview all relevant witnesses, including management and third parties. Attempt to obtain signed statements from each relevant witness when possible. Witnesses should be interviewed separately and privately to avoid confusion and to maintain confidentiality. (Retaliation Complaint Investigation Manual, Chapter 3 and DIS 0-0.9 Federal Whistleblower Manual, Chapter 3).
32	Investigators do not conduct closing conferences with Complainants but should do so as per OSHA’s whistle blower manual (See DIS 0-0.9, Ch. 3, Section J). and the equivalent of OSHA’s Final Investigative Report or similar summary of relevant facts is not prepared for all WB case files.	Conduct closing conferences with Complainants as per DIS 0-0.9 Federal Whistleblower Manual, Chapter 3, Section J, and prepare a summary of relevant facts for case files that are signed and dated by both the Investigator and the evaluating Team Leader. (DIS 0-0.9 Federal Whistleblower Manual, Chapter 4, Section III, and Chapter 5, Section IV).
33	DLSE presently does not prepare a “Summary of Relevant Facts”, or the equivalent of OSHA’s Final Investigative Reports for their case files and should adopt the identical format prescribed in OSHA’s whistleblower manual (see DIS 0-0.9, Ch. 4, Section III).	Prepare a Summary of Relevant Facts, or the equivalent of OSHA’s Final Investigative Reports, for case files. The reports should be signed and dated by both the Investigator and the evaluating Team Leader. DLSE should adopt the identical format prescribed in the DIS 0-0.9 Federal Whistleblower Manual, Chapter 4, Section III). Case files should be reviewed for accuracy and accountability regardless of the type of determination made
Voluntary Compliance Programs Findings		Voluntary Compliance Programs Recommendations
34	Applicants in the Cal/VPP are not disqualified for open enforcement investigations, contested citations, notices under appeal, or affirmed 11(c) violations that are unresolved or outstanding enforcement within the last three years.	Adopt Federal OSHA’s specific “disqualifying” factors (CSP 03-01-003 VPP Policies and Procedures Manual, Chapter V).
35	Cal/VPP participants are not required to submit a new statement of commitment, signed by both management and any authorized collective bargaining agents, as appropriate within 60 days of a change.	Adopt Federal OSHA’s “60 day” policy for submission of a new statement of commitment. (CSP 03-01-003, VPP Policies and Procedures Manual, page 49).
36	Detailed Specific Team Member qualifications are not required for participation in a Cal/VPP onsite investigation.	Adopt detailed qualifications for both the Team Leader and Special Team Member (STM) positions to ensure qualified personnel are reviewing potential VPP sites. (CSP 03-01-003, VPP Policies and Procedures Manual, Chapter VI).
37	The Cal/OSHA program does not require a Medical Access Order (MAO) or equivalent to review establishments’ medical records.	Adopt MAO procedures and have the employer post it prior to the on-site visit.

Program Administration Findings		Program Administration Recommendations
38	Budgetary constraints, including 3 days a month furloughs and hiring freezes, are potentially impacting Cal/OSHA's ability to provide effective enforcement coverage at workplaces throughout the State, during regular working hours and in response to .	Cal/OSHA must ensure that it has sufficient on-board staff available to provide effective worker protection.
39	Cal/OSHA operated with only 375 out of 419.5 authorized positions. Also, the current benchmark positions allocated are 122 (36.6%) for safety and 75 (16.0%) for health.	Increase efforts to hire additional staff to fill the 44.5 vacant positions. Continue to reconcile staffing levels with realistic revised benchmarks, taking into consideration allocated versus filled positions, covered workers, and employment in the State.
40	Cal/OSHA failed to process the unpaid bills of 1,229, 548.69 before December 30. Also, after the end of the grant year closeout, DIR drew down FY 2009 funds on January 21, 2009 in the amount of \$1,201,656.98.	Ensure all bills are processed timely and closely monitor grant draw downs of funding to ensure grant funds are properly managed. Liquidate all obligations incurred under the award no later than 90 days after the end of the funding period.
41	The Standards Board and Appeals Board could not provide actual hours, time-sheets or employment status at any given time for all employees.	Provide periodic certifications of employment status for all employees.
42	Travel costs in October 2009 (FY 2010) were paid with money from FY 2009 and some area office rent payments were erroneously charged to the current year grant funds and some funds are used improperly.	Ensure expenditures are paid with funds from that funding period and any miss-allocated expenditures should be reallocated to State matching funds or return the grant monies that were incorrectly allocated.
43	Indirect cost rates were incorrectly applied and are not allowable costs to the grant.	Ensure that the correct indirect cost rate is properly applied to the costs associated with the appropriate period of the fiscal year. Ensure that expenditures posted to the general ledger are listed individually with as much detail as possible.
44	A "Program Report Narrative" that describes in detail the ARRA activity for each quarter was not submitted in a timely fashion.	Submit all required ARRA reports in a complete and timely fashion.
Training Findings		Training Recommendations
45	There are substantive gaps in training noted for new hires. Staff members hired as of December 2008 are not scheduled to take the Initial Compliance Course until February 2010. None of Cal/OSHA's VPP staff has attended the OTI Course #2450 Evaluation and Safety and Health Management Systems (SHMS). DLSE investigators and team leaders have not attended the Basic Whistleblower training course.	Ensure staff members receive appropriate training such as the Initial Compliance Course; OTI Course #2450 Evaluation of Safety and Health Management Systems (SHMS) as required by TED 01-00-018, Appendix C and CSP 03-01-003, pages 59-60; or equivalent; and ensure DLSE investigators and team leaders attend the Basic Whistleblower training course or equivalent.
46	Cal/OSHA has not established a curriculum of core courses that all CSHOs are required to take and could not provide a complete list of courses offered as classes are not scheduled on a regular basis. A review of the courses revealed a lack of consistency and appropriate length in comparison to TED 01-00-018 Initial Training Program for OSHA Compliance Personnel.	Establish a curriculum of core courses for newly hired compliance officers that are equivalent to Federal OSHA (TED 01-00-018 Initial Training Program for OSHA Compliance Personnel). Ensure that training is scheduled on a regular and timely basis and that course curriculums are equivalent to OSHA OTI courses in quality, content, and length. Need to develop a course equivalent to OTI courses 2000 Construction Standard, 2450 Evaluation of Safety and Health Management, multi-disciplinary courses (e.g. OTI course #1280 Safety Hazard Awareness for Industrial Hygienists and #1080 Health Hazard Awareness for Safety Officers), and 8200 Incident Command System.

**Special Study on California Occupational Safety and Health Appeals Process**  
**prepared by Region IX**  
**Summary of Findings and Recommendations**

	<b>Special Study Findings</b>	<b>Special Study Recommendations</b>
<b>1</b>	In its decisions OSHAB is not defining “serious hazard” or interpreting “substantial probability” consistent with Federal OSHA interpretations, OSH Review Commission, and with Court of Appeals decisions. The “more likely than not” construct used by OSHAB is not consistent with the intent of the OSH Act nor the requirements of Section 18 that a State Plan must provide a program of standards and enforcement that is at least as effective as the OSHA program.	Cal/OSHA must take appropriate action – administrative, judicial, or legislative – to ensure that OSHAB’s interpretation of “serious hazard” is consistent with and at least as effective as the Federal definition.
<b>2</b>	Writs of Mandate on OSHAB Decisions and DARs that result in loss of citations, citation classifications, or penalties are not being filed by Cal/OSHA in many cases where warranted.	Cal/OSHA must select sufficiently strong cases for appeal that would set precedent to challenge OSHAB decisions and practices regarding the classification of violations as serious in order to ensure that California meets the criteria in 29 CFR 1902.37(b)(14), which states: Wherever appropriate, the State agency has sought administrative and judicial review of adverse adjudications. This factor also addresses whether the State has taken the appropriate and necessary administrative, legislative or judicial action to correct any deficiencies in its enforcement program resulting from an adverse administrative or judicial determination.
<b>3</b>	The rules of evidence used by OSHAB prevent many serious hazards from being appropriately classified without the use of “Expert” testimony and relevant medical training on specific injuries. Federally, expert testimony is not always required to establish whether a hazard is serious. In some cases, expert testimony may be needed, but the OSHAB appears to be applying a test that far exceeds well-settled law in both the OSHRC and Federal courts.	Cal/OSHA must take appropriate action – administrative, judicial, or legislative – to ensure that OSHAB’s test for acceptance of compliance officers’ testimony is as least as effective as the test at the federal level and results in a similar classification of violations as serious.
	Cases have been identified showing an extreme standard of evidence to prove classification of violations where the Compliance Officer’s ability to identify, evaluate, and document conditions in the workplace are not considered.	[See recommendation #3]
	A medically qualified person(s) is necessary to sustain violations based on exposure and “work relatedness” under the current Appeals process.	[See recommendation #3]
<b>4</b>	OSHAB’s reduction of penalties including those for violations of 342(a), result in Cal OSHA’s having a significantly lower percentage of penalty retention rate post content.	Cal/OSHA, using all available appeal resources, must select sufficiently strong cases for appeal that would set precedent regarding retention of penalties overall and a minimum penalty for violations of 342(a).
<b>5</b>	Cal/OSHA field staff do not have sufficient legal training or background to present cases at hearings.	Cal/OSHA must take appropriate action to assure that their enforcement actions are appropriately defended at contest either through attorney representation or, if necessary, through a system where Cal/OSHA field staff are trained and provided with adequate access to technical and legal resources to ensure at least as effective presentation of cases to OSHAB.
<b>6</b>	OSHAB schedules multiple cases for the same Cal/OSHA staff member on the same day or in the same week without consideration for the time each party indicates is necessary to present their case.	Cal/OSHA must take appropriate action – administrative, judicial, or legislative – to address the problems associated with over scheduling of cases and assure that CSHOs or attorneys have adequate time between scheduled dates to prepare for upcoming hearings. If CSHOs are to continue to present their own cases, Cal/OSHA must provide adequate legal and administrative support to help them review the case file and prepare to testify.

	<b>Special Study Findings</b>	<b>Special Study Recommendations</b>
<b>7</b>	OSHA's notification system is inaccurate and inefficient, Reconsideration Orders are unclear on the specific issue(s) being reconsidered and notifications are not always sent to the correct Cal/OSHA office.	Cal/OSHA must take appropriate action to assure that the system for hearing contested cases includes a method of notification that ensures clear, concise, accurate and timely notification to parties involved in the appeals process and is at least as effective as the OSHRC method.
<b>8</b>	Prehearing conferences are not recorded, some stipulated agreements are rejected by ALJs and hearings convened, decisions are amended through the Decision After Reconsideration process and Furlough Fridays have affected the amount of time ALJs have to hear cases and issue Decisions.	Cal/OSHA must take appropriate – administrative, judicial, or legislative – action to assure that all parties are afforded opportunity for hearings in an appropriate manner consistent with the OSH Act including following the protocols outlined in the policies and procedures “Gold Book”; formally documenting the Pre-hearing conferences; and developing a system which results in timely and objective ALJ hearing procedures and decisions.
<b>9</b>	[See Finding #8]	Cal/OSHA must determine whether the problems associated with the current system of having CSHOs defend their own cases during contest can be corrected. (See Recommendation #6). If not, they should utilize Cal/OSHA attorneys during the entire appeals process including settlements as is done in the Federal Program and most other OSHA-approved State Plans.
<b>10</b>	ALJs follow the OSHA regulations (Gold Book) for amending Cal/OSHA citations.	Cal/OSHA must take appropriate action to establish the necessary rules and/or practices with OSHA that allow amendment of citations in a manner at least as effective as Federal case law and OSHRC procedures - including amendment for technical errors and to conform with evidence presented. Cal/OSHA should also take steps to assure that case files contain accurate information, especially regarding company name and standards cited, through staff training and improved case file review, and fully utilize all appeals processes when citations/cases are vacated for minor technical errors.
<b>11</b>	Witness availability has affected the outcome of appealed cases.	When an appeal does occur, Cal/OSHA should consider witnesses availability when determining whether settlement is warranted. Utilize informal conferences as a means of lowering the appeals rate and more successful retention of citations including violation classifications and appropriate penalties.
<b>12</b>	Cal/OSHA's Informal Conference policies do not encourage informal settlement and are not similar to the Federal Program.	Cal/OSHA must discontinue the automatic 50% reduction of proposed penalties based on an assumption of future abatement. Cal/OSHA should adopt policies on informal conferences that are at least as effective as federal policies.
<b>13</b>	Through its practices Cal/OSHA is effectively extending the 15 working day contest period established by statute by 10 days by accepting contests by phone, allowing 10 additional days for submission of documentation regarding the grounds for contest, and allowing the use of a “check-off box” form, in lieu of a written submission, for the filing process.	Cal/OSHA must determine whether this practice is in accordance with State Law and evaluate how these practices affect their contest rate. The State should determine whether the adoption of contest, informal conference, and settlement procedures more in line with statutory requirements and Federal practice would resolve many of the issues identified in this report. Absent a determination to change these practices, the State must submit a plan change supplement for Federal review, documenting its entire appeals process with a detailed comparison to the Federal program showing how it is "at least as effective," and a legal opinion that it is in accordance with State law.