

**Appendix A**  
**FY 2009 Maryland State Plan (MOSH) Enhanced FAME Report prepared by Region III**  
**Summary of Findings and Recommendations**

	Special Study Findings	Recommendations
<b>1</b>	<p>Formal complaint letters to employers and letters to complainants with inspection findings were maintained in separate files at the central office in Baltimore rather than in each Regional Office servicing the complaint.</p> <p>Information from the complaint letter is often re-typed or re-worded on the OSHA-7 complaint form to maintain complainant anonymity. This practice is problematic in that complaint inspection files are incomplete without the supporting documentation of a signed complaint letter or OSHA-7. Additionally, specific information about a hazard or facility is sometimes omitted from a re-typed or re-worded complaint.</p>	<p>Letters received from complainants must be maintained in the inspection file.</p>
<b>2</b>	<p>Response letters to complainants were found in files that are maintained in the Baltimore office as mentioned above. However, the response letters are not maintained in the inspection files after they are closed.</p>	<p>Response letters to complainants must be maintained in the inspection file.</p>
<b>3</b>	<p>During the period October 1, 2008 through September 30, 2009, Maryland received 110 serious complaints and 102 were inspected within five days for a response rate of 92%. MOSH's FOM outlines that formal complaints involving potentially serious hazards shall be investigated within 3 working days of assignment.</p>	<p>MOSH must respond to serious complaints within 3 days of assignment pursuant to its FOM or change its FOM.</p>
<b>4</b>	<p>Case file review revealed that no next-of-kin letters were sent on fatality inspections. MOSH began to send next-of-kin letters in December 2009. Another trend observed was that there was little or no communication with families at the conclusion of the inspections to inform the next-of-kin of inspection findings.</p>	<p>Continue to send condolence letters to next-of-kin at start of investigation. Families of fatality victims must be kept up-to-date about investigations and informed of the outcome of MOSH investigations.</p>
<b>5</b>	<p>A number of OSHA-170 forms contained inappropriate information in the narrative, e.g., name of compliance officer who conducted the inspection and/or the names of decedents and/or injured employees.</p>	<p>Retrain compliance officers and supervisors in the proper completion of OSHA-170 forms to ensure that names of compliance officers, decedents and/or injured employees are not contained in narrative portion of the OSHA-170 forms.</p>
<b>6</b>	<p>Violations cited on programmed inspections include a high percentage of other-than-serious citations for hazards that should be classified as serious.</p> <p>A number of files reviewed which had violations that were cited as other-than-serious and could have been classified as serious. Health compliance officers have a serious violation percentage of 28%, less than half the Federal rate of 70%.</p>	<p>Conduct training on hazard classification for compliance officers and supervisors to ensure consistency with violation classification.</p>
<b>7</b>	<p>MOSH does not assess penalties for first instance other-than-serious violations.</p>	<p>Revise MOSH Instruction 98-3 dated September 28, 1998 to eliminate Section C.3 that does not permit penalty assessment for first instance other-than-serious violations.</p>
<b>8</b>	<p>MOSH offers penalty reductions of approximately 54% and has a penalty retention rate of 46% percent compared to Federal rate of 63.2%.</p>	<p>Rescind Memorandum 01-2 dated April 9, 2001 titled "Employer Incentive 50% Penalty Reduction."</p>
<b>9</b>	<p>Abatement data was not being entered into the database.</p>	<p>Promptly enter abatement verification data into database.</p>

	Special Study Findings	Recommendations
10	Case file diary sheets were not found in inspection files.	Institute the use of a case file diary sheet. This form needs to be kept at the top of the case file so that a reviewer can tell at first glance the status of that case.
11	MOSH was not calling employers or sending abatement letters on all cases where abatement had not been received by MOSH.	MOSH should, in accordance with its own procedures as outlined in its FOM, call employers for outstanding abatement documentation and/or send abatement letters on all cases where abatement documentation has not been received by MOSH.
12	Abatement tracking reports are not routinely reviewed by management on a weekly basis.	Abatement tracker reports should be carefully reviewed weekly by all Regional Supervisors. If necessary, additional training should be provided to Regional Supervisors to ensure that this report is being properly utilized to track abatement.
13	Contested case information was not being entered into the database.	Retrain staff in the proper database entries for contested cases. Supervisors should review these data entry issues on a weekly basis to ensure that coding is being completed.
14	Not all Federal Program Changes are adopted within the six month period.	It is recommended that MOSH adopt Federal Program Changes within the six month period. (New FOM not yet adopted.)
15	Abatement verification data was not being properly entered into the database for 23(g) public sector consultation.	Maryland should regularly monitor its hazard verifications and ensure that data is promptly entered into the database and any coding errors are corrected.
16	Files were not properly maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.	Files should be set up and maintained in accordance with the Discrimination Manual, Chapter 2 through Chapter 5.
17	There were no opening (Docketing and Notification) letters to the complainants and respondents contained in the files.	Letters must be prepared, sent out and maintained in accordance with the Discrimination Manual, Chapter 2, § III(E) and Chapter 5, § III(B).
18	Case file documentation was inserted into the case file with no order and the files were not tabbed.	Case files be prepared and tabbed in accordance with the Discrimination Manual, Chapter 5, § III.
19	A recently closed case had no dismissal letters in the file.	Cases must be closed in accordance with the Discrimination Manual, Chapter 4, § IV.
20	Management and non-management interviews were not always conducted.	Interviews must be conducted and documented in accordance with the Discrimination Manual, Chapter 3, § IV.
21	There was incomplete case information in Web IMIS.	Input complete case information into the Web IMIS in accordance with the Web IMIS guide.
22	There was no documentation of settlement of Whistleblower cases.	Settlements must conform to and be documented in accordance with the Discrimination Manual, Chapter 6, § IV.
23	Investigations were not completed in accordance with MOSH FOM, Chapter X, § A3(b), which requires investigations to be completed with 90 days of filing. Section 5-604(d)(3) of the MOSH Act requires that "within 90 days after the Commissioner receives a complaint, the Commissioner shall notify the employee of the determination under this subsection."	Investigations must be completed within 90 days in accordance with MOSH FOM and the MOSH Act.
24	Numerous case files were open for extended periods of time with no current activity documented in the case files.	The Whistleblower program manager should monitor the Web IMIS system to determine what cases are open and determine what appropriate action is required in accordance with the Discrimination Manual and MOSH FOM.
25	Enforcement staff, designated as benchmark positions, are not performing enforcement activities.	MOSH must ensure that personnel designated as fulfilling its benchmark requirements pursuant to 29 CFR §1952.213 are performing enforcement activities and conducting inspections for the majority of their work time.

	<b>Special Study Findings</b>	<b>Recommendations</b>
<b>26</b>	Compliance officers' field notes were not contained in case files. (Are destroyed per State policy.)	Compliance officers' field notes must be maintained in case files. OSHA FOM Chapter XII, Inspection Records, should be adopted.