

**Appendix A**  
**FY 2009 New Jersey Public Employee Only State Plan (PEOSH) Enhanced FAME Report**  
**prepared by Region II**  
**Summary of Findings and Recommendations**

	<b>Special Study Findings (In order as they appear in the E-FAME report)</b>	<b>Recommendations</b>
1	<p>The baseline special study revealed that IMIS data input and maintenance was not being managed in accordance with PEOSH and OSHA policy. Rejected forms were not being corrected, standard IMIS reports such as draft forms reports were not reviewed and uplinks and data transfer from the local IMIS to the NCR Host computer was not being ensured. In many instances data was not transferred from PEOSH to the host resulting inaccurate data available for evaluation, analysis, and review. (p.9)</p>	<p>PEOSH must ensure Compliance Staff and Management complete required IMIS forms and ensure IMIS standard reports are reviewed on a regular basis to ensure proper IMIS database management. Corrective actions should include comprehensive IMIS data entry training. OSHA is prepared to assist PEOSH with IMIS training.</p>
2	<p>PEOSH consultants and management indicated employees are conferred with in all interventions and that they are having problems entering this data into the IMIS. (p.34)</p> <p>A total of 18 Consultation case files were reviewed including 10 safety and 8 health files. All safety and health case files reviewed were organized however, each file lacked employer and employee interview documentation and sampling forms. (p. 65)</p>	<p>PEOSH Public Sector Consultation must ensure that consultants conferring with employees properly enter this data into the IMIS system.</p>
3	<p>The percent of serious hazards verified corrected in original time or on site is 12.77%. Out of the 329 total serious hazards identified, 42 were verified corrected on site and 37 were verified within the original time frame. The reference standard is 65%. (p.35)</p>	<p>PEOSH Consultation must improve its performance in verifying the abatement of serious hazards in a timely manner. Delaying abatement verification until follow-up visits delays verification of hazards that can be abated quickly.</p>
4	<p>The baseline special evaluation revealed PEOSH case file documentation is lacking, especially in safety cases. Case files reviewed lacked evidence of employee exposure, employer knowledge of the cited hazardous conditions, names and contact information for employee(s) interviewed and documentation addressing affirmative defense issues. In addition many files also did not include narratives or OSHA 1B forms or their equivalent (forms in which violations are documented). (p.8)</p>	<p>Provide training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements set forth in PEOSH's Field Inspection Reference Manual or Field Operations Manual and institutionalize established documentation requirements.</p>
5	<p>A total of 9 fatality case files were reviewed by Region II Team members. A common theme with regard to these inspections is the lack of documentation in the case files. None of the fatality inspections had hard copies of OSHA 36 (Accident Report), or OSHA 170 (Findings of the Accident Investigation) forms.</p> <p>There was no evidence of next of kin letters, or other contact with the families, including notification of enforcement action in any of the fatality files. (p.42)</p>	<p>Provide training to CSHOs to reiterate the policies relating to fatality investigations including the following:</p> <ul style="list-style-type: none"> <li>• Proper procedures relating to making the appropriate communication to the family of victims (i.e. next of kin letters, inspection findings, etc.) and the requirement of documenting such communication in the file.</li> <li>• Implement internal controls to ensure that all fatality investigations are opened within a timeframe established by agency policy.</li> <li>• Provide training to all field staff, including supervisory staff, to ensure that all accident/fatality investigations meet the minimum requirements of federal OSHA and the PEOSH FOM or FIRM (i.e. providing detailed narrative documenting the facts that surround the incident, field notes, evidence of employee exposure, evidence of employer knowledge and completion of the appropriate forms (i.e. OSHA 36's and OSHA 170's)).</li> </ul>

	Special Study Findings (In order as they appear in the E-FAME report)	Recommendations
6	The state developed a new Strategic Plan that focused on four high hazard areas within the public sector. There were numerous inspections conducted in those specific SIC codes, but there is no formal policy relating to targeting methodologies. (p.44)	OSHA recommends that PEOSH develop a consistent inspection selection criteria for the selection of sites within targeted NAICs codes for inspection and that inspections that are opened as a result of unprogrammed activity (e.g., complaints and referrals, etc.) in targeted NAICs that have not recently received a comprehensive inspection are expanded to comprehensive inspections under the program.
7		PEOSH should develop a formal policy relating to the industries targeted under its Strategic Plan for FY09-2013 including: <ol style="list-style-type: none"> <li>1) The identification and selection of sites targeted for inspection</li> <li>2) Guidance for CSHOs on conducting inspections of sites targeted (e.g., common hazards that may be causing the high injury and illness rates, when to expand unprogrammed inspections to comprehensive, etc..)</li> <li>3) Proper coding of targeted inspections.</li> </ol>
8	The baseline special evaluation revealed PEOSH case file documentation is lacking, especially in safety cases. Case files reviewed lacked evidence of employee exposure, employer knowledge of the cited hazardous conditions, names and contact information for employee(s) interviewed and documentation addressing affirmative defense issues. In addition many files also did not include narratives or OSHA 1B forms or their equivalent (forms in which violations are documented).  In 100% of the cases reviewed in which citations were issued; prima facie information regarding evidence of employer knowledge and employee exposure was either inadequate or missing. (p.8)	Provide additional training to all field staff, including supervisory staff, to ensure that all inspection case file documentation meets the minimum requirements of a prima facie case as set forth by federal OSHA and the State of New Jersey policy (Field Inspection Reference Manual or Field Operations Manual).
9	Employee/employee representative involvement is not documented in the case file notes in both safety and health files. (p.8)	Provide training to all field staff regarding the agency's policy of Union/Employee Representative involvement during and after inspections and the requirement to properly document compliance with this policy in case file.
10	The baseline special evaluation revealed PEOSH case file documentation is lacking, especially in safety cases. Case files reviewed lacked evidence of employee exposure, employer knowledge of the cited hazardous conditions, names and contact information for employee(s) interviewed and documentation addressing affirmative defense issues. In addition many files also did not include narratives or OSHA 1B forms or their equivalent (forms in which violations are documented).  In 100% of the cases reviewed in which citations were issued; prima facie information regarding evidence of employer knowledge and employee exposure was either inadequate or missing. (p.8)	Provide training to all field staff, including supervisory staff, to ensure that all inspection case files contain all of the documentation required by Federal OSHA FIRM and the equivalent requirements of the State of New Jersey FIRM. Implement internal controls to ensure that all cases are reviewed on a supervisory level to make certain that all violations issued meet the prima facie requirements. Prima Facie documentation includes evidence of employee exposure to a hazard, evidence of employer knowledge, an assessment of the severity of the injury/illness resulting from exposure to the hazard, and the probability of that exposure.
11	In both the health and safety cases reviewed; the overwhelming majority of violations in which abatement periods granted were given 60 day abatement periods. In many cases, given the nature of the violations, the abatement time period assessed was excessive. (p.9)	Provide additional training to all field staff, including supervisory staff, to ensure that abatement issues are handled in accordance with established policy including: <ul style="list-style-type: none"> <li>• Ensure appropriate abatement periods are assigned for unabated violations.</li> <li>• Ensure that all abatement information accepted satisfies the order to comply prior to closing the case.</li> <li>• For cases with CDI, ensure that the file documents the method of abatement and that the CSHO observed</li> </ul>

	Special Study Findings (In order as they appear in the E-FAME report)	Recommendations
		<p>the abatement.</p> <ul style="list-style-type: none"> <li>• Implement internal controls to ensure that all Petitions for Modification of Abatement (PMA) Dates are reviewed on a supervisory level to ensure that all required information is contained in the request prior to granting the PMA.</li> <li>• Ensure that Failure To Abate Notices are issued where appropriate.</li> </ul> <p>Additional recommendations related to Abatement taken from the Summary of Recommendations (p.12) in the Enhanced FAME Report:</p> <p>Internal controls should be developed to ensure that appropriate PEOSH staff tracks the status of abatement for every citation issued by PEOSH. OSHA recommends that staff reviews IMIS generated abatement status reports to identify citations with pending or overdue abatement dates. Prior to the abatement due date PEOSH personnel should follow up with employers requesting the required abatement information and re-emphasizing the abatement due date. If at that time, the employer needs additional time, a timely and proper PMA can be submitted to PEOSH.</p> <p>Internal controls should be developed to ensure that abatement is reviewed and entered into IMIS as soon as possible once it is received and determined to be sufficient. The date entered into IMIS as completion of the abatement should either be the date that the employer has certified the abatement was completed, or absent that information, the date that PEOSH received the information, not the date the information was reviewed.</p>
12	Based on case file reviews it was determined that appropriate informal conference notes were not maintained in the files thus it was not possible to determine whether correct procedures were followed. No documentation was included in the files indicating who was present or what was discussed. (p.59)	Relating to informal conferences, PEOSH representatives must thoroughly document the following in the case file: The fact that notification to the parties was made (employee and/or employee representative notification) and the date such notification was made, time and location the informal conference was held; at the conclusion of the informal conference, all main issues and potential courses of action must be summarized and documented in accordance with PEOSH policy.
13	The baseline special study revealed that IMIS data input and maintenance was not being managed in accordance with PEOSH and OSHA policy. Rejected forms were not being corrected, standard IMIS reports such as draft forms reports were not reviewed and uplinks and data transfer from the local IMIS to the NCR Host computer was not being ensured. In many instances data was not transferred from PEOSH to the host resulting inaccurate data available for evaluation, analysis, and review. (p.9)	Provide IMIS Administration training for PEOSH IT personnel, Supervisors, CSHO's, Consultants and Compliance Assistance Specialists and ensure appropriate IMIS management is implemented. Federal OSHA Region II is willing to assist in providing retraining for PEOSH personnel who use and manage the IMIS system.
14	Prior to the study, Region II identified eight ( <i>discrimination</i> ) cases which indicated an inordinate number of days open. The cases indicated the number of days pending from 377 days to 1896 days. A review of this matter revealed that the eight cases entered into the IMIS system were duplicates/triplicates that were created erroneously. (p.66)	It is recommended that supervisors continue to review IMIS Reports in order to eliminate duplicate discrimination case reporting. (A procedure has already been put in place to address this concern.)
15	At the time of the study there were two investigators assigned to investigate complaints within the entire state	It is recommended that the state plan review the number of discrimination investigators that are qualified and assigned

	<b>Special Study Findings (In order as they appear in the E-FAME report)</b>	<b>Recommendations</b>
	of New Jersey. One investigator has just been promoted to Assistant Chief leaving only one investigator assigned to handle discrimination complaints. (p.67)	to handle discrimination investigations and adjust staffing based on demand throughout the state.
16	For several years the New Jersey State Plan has been unable to send Safety and Health Compliance and discrimination investigation personnel to the OSHA Training Institute for technical training. The lack of training is directly attributed to the New Jersey Department of Labor and Workforce Development's (LWD) policy that precludes state funds from being expended for employees to travel outside the state due to budgetary restrictions. (p.67)	It is recommended that the State Plan ensure discrimination investigators assigned to the program are properly trained. Means to send investigators to required training should be developed.
17	There is a lack of consistency with the methods and procedures followed for the investigation of discrimination complaints. (p.67) The plan utilizes a "Discrimination Complaint Form" which is filled out by the complainant, is signed and dated and then mailed to the Office of Public Employee Safety. This form initiates the start of an investigation. The Complaint Form aside there is no formal documentation of interviews with either complainants, witnesses or other involved or interested parties. The plan does not use written or recorded statements or memorandums to file to document the underlying elements of a discrimination complaint. The plan does not use the Case Activity Log or any other means to document the flow of investigative activity with respect to each case. (p.67)	It is recommended that the State Plan adopt a case file organization system such as the system which is outlined in the discrimination investigators manual.
18	The plan utilizes a "Discrimination Complaint Form" which is filled out by the complainant, is signed and dated and then mailed to the Office of Public Employee Safety. This form initiates the start of an investigation. The Complaint Form aside there is no formal documentation of interviews with either complainants, witnesses or other involved or interested parties. The plan does not use written or recorded statements or memorandums to file to document the underlying elements of a discrimination complaint. The plan does not use the Case Activity Log or any other means to document the flow of investigative activity with respect to each case. (p.67)	It is recommended that the state plan use either a statement form or a memorandum to file to document statements made by complainants, witnesses or other interested parties, utilize the Case Activity Log and the Final Investigative Report format.
19	The study found that for several years PEOSH has not sent Safety and Health CSHOs or their supervisors to the OSHA Training Institute or any other out of state location for technical training. This is directly attributed to a State policy that prohibits state funds from being used for employee travel outside the state (ostensibly due to budgetary restrictions). (p.5)	It is recommended that the PEOSH resolve the budgetary restrictions which prohibit investigators from attending courses at The OSHA Training Institute and the Annual Discrimination Investigator Training Conference should be lifted.
20	There are several CSHOs who did not receive mandatory training, for example; 50% of the enforcement staff (both safety and health) did not have Legal Aspects training. (p.7)	Develop and implement a comprehensive training plan to provide mandatory training to CSHOs and their supervisors to bring them up to the minimum training standards established in OSHA Instruction TED-01-00-018 "Initial Training Program for OSHA Compliance Personnel" and to providing adequate training for discrimination investigators. PEOSH must also ensure the allocation of necessary funding to accomplish the training plan.