

Appendix A
FY 2009 Tennessee State Plan (TOSHA) Enhanced FAME Report prepared by Region IV
Summary of Findings and Recommendations

Italics = paraphrase

	Findings	Recommendations
1	<i>Field notes are destroyed at the instruction of the state's attorney when the compliance officer completes the violation form and worksheet. Except for fatality case files, many of the case files reviewed did not contain witness or management statements. (p. 9)</i>	In accordance with the state's Field Operations Manual, all field notes, diagrams, photos, and any other documentation obtained or produced during inspections should be included in the case file.
2	<i>Most case files did not contain a case file diary sheet or log to document significant actions associated with that particular file. (p. 9)</i>	Tennessee's case file should include a diary to document: significant actions; communication between management and the CSHO; communication between TOSHA and the employer.
3	<i>Current employees are encouraged to formalize their complaints and TOSHA conducts inspections for all formalized complaints regardless of the nature of the hazard. 30% of the 31 complaint inspection case files reviewed were in-compliance inspections. (p. 10)</i>	Management should evaluate complaints including formal complaints to determine when an investigation would be more appropriate to allow a more effective use of their resources.
4	<i>Letters are sent to the next of kin at the beginning of fatality investigations informing them of the investigation and that "the results will be made available upon their request without charge." However, TOSHA does not contact the next of kin after the inspection is complete unless it is initiated by the next of kin. (p. 12)</i>	At the conclusion of a fatality investigation the state should send the next-of-kin a letter and a copy of any citation(s) issued, or a letter advising them that no violations were found. The next-of-kin should be informed of informal conferences and hearings, as well as any changes in the citations as a result of a settlement or hearing. A copy of the letter should be maintained in the file.
5	<i>A number of the case files reviewed did not include injury or illness data from the OSHA 300 logs or an explanation for the lack of the data. (p. 13)</i>	Tennessee should assure that each case file includes documentation of the company's injury and illness experiences and that the data is entered into IMIS.
6	<i>Although TOSHA follows the same procedures as Federal OSHA for determining the classification of violations, the State classifies a lower percentage as serious. In addition, the Regions review of case files indicated that Federal OSHA may have classified some of the State's non-serious violations as serious and some of the low or medium severity as high severity. (p. 15)</i>	Tennessee should assure that each violation is documented accurately for severity and probability and reviewed for proper classification.
7	<i>Many case files did not establish adequate knowledge, noting only reasonable diligence and/or plain view. (p. 14-16) The Region notes that this may contribute to the relatively low number of willful violations.</i>	Tennessee should require compliance officers to establish and document specific knowledge to support violations.
8	<i>TOSHA's VPP performance is demonstrated by reductions in TCIR and DART rates of its participating worksites, but the State has not established a system to continually monitor the program's overall performance. (p. 23)</i>	TOSHA should develop an effectively implement an internal self-evaluation program to assess the overall performance of the VPP program and ensure that proper controls are in place.
9	<i>TOSHA does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual. (p. 25)</i>	Tennessee should develop and implement a formal internal self-evaluation program. The procedure should assure that internal evaluations possess integrity and independence. Resulting report from these evaluations should be made available to federal OSHA.