

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

Special Study Findings – Complaints		Recommendations
1	Case files lacked written documentation of why a non-formal complaint resulted in an inspection.	Written documentation should be contained in case files to justify why a non-formal complaint resulted in an inspection.
2	Standard language was not being used in response letters to complainants. For example, some letters gave a lot of detailed information to the complainant regarding the outcome of the inspection while others simply responded “complaint was confirmed.”	Response letters must include an appropriate response detailing the outcome of the inspection or investigation activity for each alleged complaint item as outlined in VOSH’s FOM.
Special Study Findings – Victim Rights		Recommendations
3	Families of fatality victims were not kept up-to-date about investigations and/or informed of the outcome of investigations.	Families of fatality victims must be kept up-to date about investigations and informed of the outcome of VOSH investigations.
Special Study Findings – Fatalities		Recommendations
4	Interviews with employer representatives and employees were not always documented.	Ensure that interviews with employer representatives and employees are documented in case files.
Special Study Findings – Case File Documentation		Recommendations
5	Case file documentation is not in conformance with the requirements of VOSH’s FOM.	The requirements for case file documentation are outlined in Chapter III of VOSH’s FOM. These policies and procedures should be reviewed with all management and compliance staff to assure that all employees are following these procedures and understand what specifically is required to be contained in a case file.
6	Case file diary sheets were not found in inspection files.	Case file diary sheets must be used in accordance with VOSH’s FOM procedures. 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.
Special Study Findings – Hazard Identification		Recommendations
7	Employee exposure was not always adequately documented on OSHA 1B forms.	VOSH must ensure that OSHA 1Bs are adequately documented. Provide additional training to investigators on case file documentation and the importance of having each OSHA 1B fully documented.
8	Alleged violation_descriptions (AVDs) on OSHA-2 forms were not specific enough to address hazardous condition.	Alleged violation descriptions should reflect specific hazards noted on OSHA-2 forms for each violation.
Special Study Findings – Records Review		Recommendations
9	OSHA-300 logs were not always obtained from employers and reviewed by compliance officers during on-site inspection activity.	OSHA-300 logs for three years must be obtained from employer and reviewed by compliance officers, pursuant to VOSH’s FOM, while on-site during inspection activity.
Special Study Findings – Violation Classification		Recommendations
10	Proper documentation to justify violation severity classification was not always contained in inspection files.	VOSH must retrain compliance staff in the proper type of documentation needed to justify violation severity classification in accordance with VOSH FOM procedures.
Special Study Findings – Settlement Agreement		Recommendations
11	Copies of signed informal settlement agreements were not always contained in case files.	Copies of signed settlement agreements must be maintained in case files.
Special Study Findings – Penalties		Recommendations
12	Case files did not always contain documentation of how penalty reduction factors were granted to employers where minimal abatement was required to come into compliance.	Case files must be documented by Regional Directors to explain why the maximum penalty reduction of 40% was granted to employers where minimal abatement was required to come into compliance. Penalty reduction factors should be reviewed in detail with Regional Directors.
Special Study Findings – Sampling		Recommendations
13	Bulk samples were not always taken when suspected combustible dust was identified in a work place.	Bulk samples should be taken by industrial hygienists whenever suspected combustible dust is encountered in a work place.

Special Study Findings – Abatement Verification		Recommendations
14	OSHA-166 forms were not being entered into the database to track abatement verification.	Promptly enter OSHA-166 (particularly item 22) data into database.
15	VOSH was not calling employers or sending abatement letters on all cases where abatement had not been received by VOSH.	VOSH must, 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 VOSH.
Special Study Findings – Data Entry		Recommendations
16	OSHA 91 sampling data is not being entered into the IMIS system. The forms were contained in case files; however, the forms were never entered into the database and could therefore not be tracked by running a report from the IMIS system.	OSHA 91 data should be entered into the IMIS system for all sampling.
Special Study Findings – Federal Program Changes		Recommendations
17	Not all Federal Program Changes are adopted within the six month period. (The State has not yet adopted the new Federal FOM.)	VOSH must adopt Federal Program Changes within the six month period.
Special Study Findings – Whistleblower		Recommendations
18	VOSH is using an outdated Discrimination manual that needs to be updated, which lacks guidance for proper organization of cases and documentation required to support actions taken by investigators.	<p>VOSH must update its current directive. Chapter 2 should list all current whistleblower acts that are referred to Federal OSHA or reference Chapter 1 of Federal OSHA’s Discrimination manual, which lists the current whistleblower acts to include ones that need to be referred to Federal OSHA for investigation:</p> <p>(a) Use Chapter 5 of the Federal Whistleblower manual to describe the organization of its investigation files.</p> <p>(b) Adopt Chapter 2, Section III – E of the Federal Whistleblower manual, which states that the notification to respondents can initially be done via letter.</p> <p>(c) Adopt Chapter 2, Section III – B of the Federal Whistleblower manual which indicates that a memorandum will be prepared documenting the screening interview and sending a letter to the complainant verifying the administrative closure of the case.</p> <p>(d) Adopt Chapter 3, Section IV, G-2 of the Federal Whistleblower manual which indicates that in the event that a signed statement cannot be obtained from a witness, interview notes should be taken and a memorandum to the file should be prepared by the investigator setting forth all of the pertinent information that was received from the witness.</p> <p>(e) Adopt Chapter 3, Section IV, E and G of the Federal Whistleblower manual which indicates what evidence should be obtained during the course of the investigation.</p> <p>(f) Files must be documented to demonstrate why a case is being dismissed and what the proper grounds are for that dismissal. It is recommended that VOSH adopt Chapter 3, Section IV, E and G of the Federal Whistleblower manual which outlines the basis for dismissing a complaint.</p>