

**FY 2015 Comprehensive  
Federal Annual Monitoring and Evaluation (FAME) Report**

**Virgin Islands Division of Occupational Safety and Health (VIDOSH)**



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## I. Executive Summary

### A. State Plan Activities, Trends, and Progress

The purpose of this report is to assess the Virgin Islands Division of Occupational Safety and Health (VIDOSH) State Plan activities for Fiscal Year (FY) 2015, and its progress in resolving outstanding findings and recommendations from previous FAME reports, with a focus being on the FY 2014 Follow-up FAME Report.

OSHA continues to be unsatisfied with VIDOSH's ability to address significant programmatic issues. During FY 2015, VIDOSH made little progress in addressing the issues identified in last year's report, and continues to be ineffective in protecting the safety and health of Virgin Islands' state and local government workers. Findings from this FAME, as well as previous FAMEs, show that VIDOSH fails to issue citations in a timely manner, achieve abatement for cited hazards, and establish an enforcement presence in the Virgin Islands (VI).

VIDOSH's programmatic issues have been outstanding for more than a decade, and it is OSHA's position that the program's ineffectiveness stems from program administration. OSHA's monitoring of the VI State Plan has documented its chronic inability to improve program performance with issues dating back to the withdrawal of its private sector portion of the plan in 2003. Years of continual ineffective practices have led to feelings of distrust toward VIDOSH from key stakeholders due to its inability to protect workers' safety in their jurisdiction.

One of the most serious issues yet to be addressed by VIDOSH is its number of cases with open abatement (no goals have been accomplished to date) which put VI state and local government workers at risk of injury or even death. Despite clear guidance, assistance, and direction from the Region, VIDOSH continues to not utilize strategies such as conducting follow-up inspections and issuing "failure-to-abate" (FTA) citations; nor have they implemented any provision of 29 CR 1903 to ensure the abatement of cited hazards. VIDOSH is accepting as final abatement statements from employers that "training will be scheduled" or "a draft program is being reviewed." This is not acceptable and continues to put VI state and local government workers' health and safety in danger.

VIDOSH continues to not issue citations in a timely manner and the majority of case files are closed incorrectly. Of the 99 inspections conducted during FY 2015, only 25 cases (25%) were closed and available for OSHA to review for this evaluation. In addition, VIDOSH fails to respond in a timely manner with their intent to adopt Federal Program Changes (FPCs) or federal standards. VIDOSH responded late in 12 of the 15 (80%) FPCs issued and to all (100%) of the federal standards issued during FY 2015. VIDOSH had three years to complete the developmental steps that were established in the July 23, 2003 Federal Register; however, after 13 years they have failed to accomplish this.

In FY 2015, OSHA identified the following five core mandatory grant activities that VIDOSH was required to accomplish with a set schedule for completion: 1) conducting training, 2) hiring staff, 3) meeting inspection goals, 4) meeting abatement schedule, and 5) revising developmental steps and timeline for certifying the State Plan. VIDOSH did not successfully complete these five mandatory activities. OSHA approved VIDOSH's FY 2016 State Plan grant; however, due

to the mandatory activities not being sufficiently addressed, on October 1, 2015, the VI State Plan was designated as a high-risk grantee in accordance with 2 Code of Federal Regulations (CFR) 200.207.

## **B. State Plan Introduction**

### *Historical Background:*

The Virgin Islands State Plan was initially approved on August 31, 1973, completed all of its State Plan developmental steps, and was certified as structurally complete on September 22, 1981. Pursuant to Section 18(e) of the OSH Act and procedures at 29 CFR 1902, OSHA determined that the Virgin Islands program met all requirements and, in actual operation, was "at least as effective" as the federal program, granted the Virgin Islands State plan final approval, and relinquished federal enforcement authority effective April 17, 1984 (49 FR 16766). The Virgin Islands' Department of Labor (VIDOL) has been the designated agency for administering the OSHA-funded enforcement program in the Virgin Islands through VIDOSH.

On November 13, 1995, OSHA announced, as a result of its monitoring, that it had determined that the Virgin Islands State Plan was no longer "at least as effective as" OSHA and that other 18(e) requirements were no longer being met. In response to this finding, the Virgin Islands Commissioner of Labor agreed to voluntarily relinquish the State Plan's final approval status under Section 18(e), to the reassertion of concurrent OSHA enforcement authority and jurisdiction, and to undertake necessary corrective action to regain final approval status (60 FR 56950).

The 1995 decision to reinstate concurrent jurisdiction allowed OSHA to exercise full discretionary concurrent enforcement authority to assure worker protection, while allowing the Virgin Islands time and assistance to improve its performance. However, between 1995 and 2003, VIDOSH was unable to institute improvements to its staffing and operational performance. A series of meetings between the Region and then Virgin Islands Governor Charles W. Turnbull were initiated to discuss these outstanding performance issues and next steps.

Pursuant to former Governor Turnbull's May 12, 2003 letter, OSHA revised 29 CFR 1952 and 29 CFR 1956 in July 2013. This reflected the Virgin Islands' decision to exclude private sector employment from coverage under the plan while retaining coverage of state and local government employment, and to reflect the new status of the plan as one that applies to the state and local government workers only. State Plan coverage of all private sector employers and workers was terminated effective July 1, 2003, and exclusive OSHA jurisdiction over private sector employment in the Virgin Islands was resumed on the same date. This action made it possible for OSHA to devote its resources to providing safety and health protection in Virgin Islands workplaces, rather than expending its resources in a possibly lengthy and complex proceeding under 29 CFR 1955 to formally terminate State Plan approval.

The agreement allowed the Virgin Islands to qualify for enhanced funding under a provision of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469 (d)), which authorizes OSHA to waive the requirement for Territorial matching funds for grant amounts under \$200,000. A new subpart H to 29 CFR part 1956 was added and codified the Virgin Islands State Plan as a

developmental plan under 29 CFR part 1956, to allow the territory to make certain adjustments to its state and local government worker program structure, and to revise its State Plan document to reflect its more limited scope. This change also terminated the private sector consultation services that were provided under the 23(g) grant funding. To address this, OSHA provided funding for a new 21(d) private sector consultation program for the Virgin Islands in July 2003.

*Current Background:*

The Virgin Islands State Plan is currently administered by VIDOSH which is part of VIDOL. VIDOL Commissioner Catherine Hendry oversees VIDOSH which has offices on St. Croix and St. Thomas. These offices cover all enforcement and consultation activities for state and local government workers in the Virgin Islands. VIDOSH covers both safety and health disciplines. All private sector and federal government agency complaints are forwarded to OSHA’s Puerto Rico Area Office for appropriate action.

The VI-OSH Act provides for the automatic adoption of federal standards applicable to state and local government, with issuance on the effective date specified in the federal standard. The VI-OSH Act contains provisions for the issuance of failure-to-abate monetary penalties for those state and local government employers found not to be in compliance with applicable standards on a first instance basis. VIDOSH’s review procedures are handled through a hearing examiner with the right to appeal to the Commissioner of Labor and the Virgin Islands Superior Court in lieu of the Review Commissioner as is the case in the federal program.

The table below shows VIDOSH’s funding history from FY 2011 through FY 2015:

<b>FY 2011-2015 Funding History</b>					
<b>Fiscal Year</b>	<b>Federal Award (\$)</b>	<b>State Match (\$)*</b>	<b>100% State Funds (\$)</b>	<b>Total Funding (\$)</b>	<b>% of State Plan Contribution</b>
2015	\$195,700	0	\$504,092	\$699,792	72%
2014	\$194,800	0	\$463,637	\$658,437	72%
2013	\$193,700	\$2,100	\$422,990	\$616,690	69%
2012	\$202,100	\$2,100	\$421,387	\$625,587	68%
2011	\$202,100	\$2,100	\$466,188	\$670,388	70%

\*An agreement reached on July 1, 2003 between OSHA and the Virgin Islands resulted in the Virgin Islands qualifying for enhanced funding under a provision of the Omnibus Insular Areas Act of 1977 (48 U.S.C. Section 1469 (d)) which authorizes OSHA to waive the requirement for territorial matching funds for grant amounts under \$200,000.

The table below shows VIDOSH’s staffing breakdown in FY 2015:

<b>FY 2015 Staffing</b>					
<b>23(g) Grant Positions</b>	<b>Allocated FTE* Funded 50/50</b>	<b>Allocated FTE 100% State Plan Funded</b>	<b>Total</b>	<b>50/50 Funded FTE On Board</b>	<b>100% State Plan Funded FTE On Board</b>
<b>Managers/ Supervisor (Administrative)</b>	1.0	0.0	1.0	1.0	0.0
<b>First Line Supervisors (Program)</b>	0.0	1.0	1.0	0.0	1.0

<b>Safety Compliance Officers</b>	0.0	2.0	2.0	0.0	1.0
<b>Health Compliance Officers</b>	0.0	1.0	1.0	0.0	1.0
<b>State and Local Government Safety Consultants</b>	0.0	0.0	0.0	0.0	0.0
<b>State and Local Government Health Consultants</b>	0.0	1.0	1.0	0.0	1.0**
<b>Compliance Assistance Specialist</b>	0.0	0.0	0.0	0.0	0.0
<b>Clerical</b>	0.0	2.0	2.0	0.0	2.0
<b>Other (all positions not counted elsewhere)</b>	0.0	0.0	0.0	0.0	0.0
<b>Total 23(g) FTE</b>	1.0	7.0	8.0	1.0	6.0

\*FTE=Full-Time Equivalent

\*\*Consultant was onboard August 2015

### C. Data and Methodology

OSHA established a two-year cycle for the FAME process. This is the comprehensive year, and as such, OSHA performed on-site case file reviews. Monitoring of the VI State Plan consisted of a team of OSHA personnel from both the safety and the health sides. The team conducted the on-site evaluation from January 20, 2016 – January 22, 2016. The evaluation of VIDOSH covered FY 2015 (October 1, 2014 through September 30, 2015) and included the State Activity Mandated Measures (SAMM) Report. The OSHA team reviewed a total of 25 closed enforcement case files broken down by the following:

- Sixteen (16) safety case files – nine programmed planned, four complaints, and three follow-ups
- Nine (9) health case files – three programmed planned and six complaints

### D. Findings and Observations

This report contains 13 findings (five new, seven continued, and one observation converted to a finding) and two new observations. VIDOSH made little progress in addressing the previous 13 findings. VIDOSH also needs to substantially improve its communication when providing necessary follow-up regarding the status of these items during the FY 2016 performance period.

#### FY 2015 Findings

Unlike previous years when VIDOSH was unable to meet its projected goal of enforcement inspections, VIDOSH conducted a total of 99 enforcement inspections in FY 2015 which was 116% of their projected goal of 85 inspections. However, it is important to note that out of the 99 inspections conducted, only 25 (25%) were closed and available for review.

Enforcement case files are not closed in an expedient manner. Seventy-four of the 99 (75%) inspections conducted during FY 2015 remain open. The lapse time continues to be above the

national average. In FY 2015, VIDOSH's safety lapse time was 52.04 days and its health lapse time was 99.20 days.

VIDOSH program management continues to not follow protocol, policies, and procedures as described in its Field Operations Manual (FOM) Chapter 7, *Post-Citation Procedures and Abatement Verification*. Abatement is not obtained under 1903.19 and follow-up inspections are not assigned when abatement has not been received from cited employers.

Although a consultant was hired in August 2015, the VIDOSH's 23(g) consultation program remains non-operational due to no on-site consultation visits being conducted.

Twenty-two (22) of the case files had authorized unions. All 22 (100%) lacked documentation that the union was notified of the results and given a copy of the citation. This was an FY 2014 observation and was converted to a finding in FY 2015.

VIDOSH's adoption of federal standards and FPCs continues to be an issue. During FY 2015, a total of 15 FPCs required a response as to whether VIDOSH would adopt. A late response was received for 12 of the 15 (80%) FPCs. Two responses have still not been answered. The notice of intent to adopt was received past the response due date for all five (100%) of the federal standards issued during FY 2015.

#### New Findings

OSHA identified six new findings during this year's FAME. The OSHA New York Regional Office received a Complaint About State Program Administration (CASPA) from a worker regarding alleged workplace retaliation. VIDOSH did not conduct an investigation into the allegations and therefore did not follow policies and procedures. VIDOSH's response to the conclusions/recommendations was overdue, even after OSHA granted them extensions. Furthermore, violation classification was not appropriate when assigning a low severity to burns and fractures, and union representatives were not involved in the inspection process and/or closing conferences. Details of the FY 2015 findings and recommendations can be found in Appendix A of this report.

#### FY 2015 Observations

One of the two observations noted in the FY 2014 Follow-up FAME report was closed and the other converted to a finding. There were two new observations identified and noted in this report. Details of the FY 2015 observations can be found in Appendix B of this report.

#### Status of FY 2014 Findings

VIDOSH completed five of the 13 findings from the FY 2014 evaluation. Staffing improved with the hiring of a safety CSHO and a consultant and inspection goals were met for FY 2015. Case file documentation improved somewhat. Details of the status of FY 2014 findings and recommendations can be found in Appendix C of this report.

## **II. Major New Issues**

In January 2015, a new governor took office, creating a change of personnel at all levels throughout the Virgin Islands. Governor Kenneth Mapp became the eighth elected Governor of the U.S. Virgin Islands. Governor Mapp, along with newly elected Lieutenant Governor Osbert Potter, appointed Catherine Hendry to serve as Commissioner of VIDOL and Kendra Roach Assistant Commissioner.

As stated previously, due to the on-going history of unsatisfactory progress and performance, an addendum was attached to the FY 2015 23(g) grant award letter. A set schedule of five core mandatory grant activities were identified that VIDOSH was required to complete. Only three of the five mandatory activities were completed, therefore in September 2015, VIDOSH was designated as a high-risk grantee in FY 2016.

In accordance with 2 CFR 200.338, OSHA withholds cash payments by putting a hold on VIDOSH's Payment Management System (PMS) account. Pending review of each specific mandatory activity along with the related supportive documentation and the completion schedule in the addendum, OSHA Region 2 notifies VIDOSH if the activity has been met satisfactorily on schedule.

OSHA included an addendum to the FY 2016 grant approval letter which identified three core mandatory grant activities and supplementing deadlines which must be completed, on schedule, during the FY 2016 performance period. All progress on these mandatory activities, along with supportive documentation, must be reported to OSHA Region 2. To be considered for removal of the high-risk grantee designation, VIDOSH must complete these three mandatory activities by September 30, 2016.

## **III. Assessment of State Plan Performance**

### **A. STATE PLAN ADMINISTRATION**

#### **1) Training**

VIDOSH continued to offer its CSHOs the opportunity to attend the OSHA Training Institute (OTI) for the much needed safety and health technical training. During FY 2015, VIDOSH personnel attended a total of eight formal OTI courses.

#### **2) Funding**

During FY 2015, VIDOSH drew down a total of \$188,629.45 of their \$195,700 authorized federal base award resulting in a lapse of \$7,070.55. VIDOSH needs to ensure that awarded money is exhausted.



### 3) Staffing

One of the core activities identified in the FY 2015 grant addendum was VIDOSH hiring staff. During FY 2015, VIDOSH successfully filled the vacant safety compliance officer position as well as the consultant position. Currently, VIDOSH has one vacant position.

#### *State Plan Developmental Steps*

##### **Finding 15-01 (14-11)**

The draft narrative submitted by VIDOSH lacks the mandatory required appendices as part of the State Plan narrative.

##### **Recommendation 15-01 (14-11)**

VIDOSH must submit the mandatory required appendices with amendments reflecting its State Plan's limited state and local government scope by the due dates established in the agreed upon timeline.

### 4) OSHA Information System (OIS) –Use of OIS Reports for State Plan Management

During FY 2015, VIDOSH transitioned from the Integrated Management Information System (IMIS) to the OSHA Information System (OIS).

#### *OIS*

##### **Finding 15-02 (14-12)**

During FY 2015, VIDOSH produced 25 closed enforcement case files for review. This represents only 25% of the total 99 inspections conducted for the fiscal year. VIDOSH did not utilize OIS system reports to ensure proper monitoring and closure of case files.

**Recommendation 15-02 (14-12)** VIDOSH must utilize OIS reports as a tool to effectively manage both the program and work product of its staff. This ensures proper monitoring and closure of case files in accordance with adopted policy in the Field Operations Manual (FOM).

#### *Lapse Time*

##### **Finding 15-03 (14-06)**

In FY 2015, VIDOSH's average lapse time for citations was calculated at 52.04 days for safety – a slight decrease from 52.07 days in FY 2014, but still above the one-year OIS national rate of 42.78; the health lapse time was calculated at 99.20 days – a slight decrease from 106.58 days in FY 2014, but still above the one-year OIS national rate of 53.48. (SAMM report SAMM #11)

##### **Recommendation 15-03 (14-06)**

VIDOSH must utilize OIS reports as a tool to effectively manage both the program and work product of its staff. This ensures proper monitoring and closure of case files in accordance with adopted policy in the Field Operations Manual (FOM).

## **B. ENFORCEMENT**

### 1) Complaints

Eight of the nine complaint case files reviewed were formal complaints. Complaint items were adequately addressed in all eight (100%) of the files reviewed. During this evaluation period, VIDOSH responded to 37 complaints with an average response time of 4.72 days from notification (SAMM report SAMM #1a) – a slight increase from 3.9 days in FY 2014. Based on the SAMM measure provided, VIDOSH met the requirement for initiating complaint inspections with five working days from notification.

VIDOSH responded to one non-formal complaint during FY 2015. The average response time was one day. (SAMM report SAMM #2a)

#### *Notification to Complainant*

#### **Finding 15-04 (14-01)**

All eight (100%) complaint case files lacked documentation that the complainant had been notified of the results of the inspection.

#### **Recommendation 15-04 (14-01)**

VIDOSH must ensure case files include all required forms and all letters or communications related to the complaint in accordance with VIDOSH's FOM.

### 2) Fatalities

During FY 2015, no fatalities occurred within VIDOSH's jurisdiction.

### 3) Targeting and Programmed Inspections

VIDOSH conducted a total of 99 inspections during FY 2015 which exceeded the goal of 85 inspections by 16%. Of these 99 inspections, 57 were safety inspections which were 95% of the planned goal of 60; 42 were health inspections which were 116% of the planned goal of 25. Of the 99 inspections, 56 were unprogrammed (complaints, accident, and a follow-up) and the remaining 43 were programmed planned (VIDOSH FY 2015 SOAR). The percent of in-compliance inspections according to VIDOSH's SOAR is 56.4%. In FY 2015, the number of serious/willful/repeat (S/W/R) violations issued was 192 and for other-than-serious the number was 143 (VIDOSH FY 2015 SOAR).

VIDOSH issued an average of 4.24 S/W/R violations per inspection and 3.18 other-than-serious violations per inspection. The 4.24 average was significantly above the one-year OIS national rate of 1.92 for S/W/R and .87 for other-than-serious (SAMM report SAMM #5).

VIDOSH issued 335 violations compared to 165 violations issued in FY 2014, an increase of 170 violations. Of the 335 violations issued, 57% were issued as S/W/R violations. One hundred eighty were serious, 12 were repeats, none were willful or FTAs, and the remaining 143 were other-than-serious (VIDOSH FY 2015 SOAR). During FY 2015, no significant cases were noted.

#### 4) Citations and Penalties

##### *Inadequate Evidence to Support Violations*

##### **Observation 15-01 (Finding 14-04)**

In four of the 20 (20%) case files reviewed with violations, there was inadequate evidence documented to support the violation. Examples of missing documentation include: issuing a citation for no emergency action plan without documenting what standard requires the emergency action plan under CPL 2-1.037 (Compliance Policy for Emergency Action Plans and Fire Prevention Plans); recordkeeping violations directive (CPL 02-00-135) was not followed in one of the case files; and documentation was lacking as to whether a recordable injury or illness had occurred. One of the case files reviewed contained repeat violations. The citation did not contain the repeat paragraph and there was no documentation in the case file referring to the previous inspection for repeat basis.

##### **Federal Monitoring Plan 15-01 (Finding 14-04)**

During FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action. All apparent violations cited were based on the case files reviewed for FY 2015. VIDOSH issued 335 violations compared to 165 violations issued in FY 2014 – an increase of 170 violations. Of the 335 violations issued, 57% were issued as S/W/R violations. One hundred eighty were serious, 12 were repeats, none were willful or FTAs, and the remaining 143 were other-than-serious (VIDOSH FY 2015 SOAR).

##### *Appropriateness of Violation Classification*

##### **Finding 15-05**

Violations in eight of the 20 (60%) case files reviewed were not classified correctly. Examples include: citing other-than serious for not providing and mounting fire extinguishers with burns/smoke inhalation listed as the injury, assigning low severity when entrapment, smoke inhalation, burns, and fractures are identified as likely outcomes of the exposure.

##### **Recommendation 15-05**

VIDOSH needs to ensure that violations are properly classified in accordance with the FOM.

Violations for the most part appeared to be appropriately grouped. One of the case files reviewed contained repeat violations. VIDOSH issues penalties only when citing for FTA and as such, did not issue any penalties during FY 2015.

#### 5) Abatement

The review of case files during this audit revealed that appropriate abatement periods were applied to the condition cited.

VIDOSH's overdue abatement continues to be a significant issue. Outstanding abatement was one of VIDOSH's FY 2015 mandatory grant activities and as such, there was an associated deadline to complete this activity. VIDOSH was required to eliminate the number of case files

that have abatement issues over 60 days old and to provide supporting documentation by the deadline established. VIDOSH is accepting abatement responses from employers without adequate evidence. For example: VIDOSH is accepting a statement from an employer that training will be scheduled or the draft program is being reviewed as final abatement. This is insufficient. VIDOSH is not obtaining the final verification that the training has been completed and/or the program has been finalized.

#### *Adequate Verification or Evidence of Abatement*

##### **Finding 15-06**

VIDOSH accepted abatement responses from employers and closed the cases without adequate evidence in 11 of the 20 (55%) case files reviewed.

##### **Recommendation 15-06**

VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner, and improve case file documentation of abatement.

#### *Overdue Abatement*

##### **Finding 15-07 (14-07)**

Thirty-one (31) of the 56 (55%) inspections with citations issued have open abatement of cited hazards. Not protecting workers from identified hazards by verifying abatement has been an on-going, continuous trend by VIDOSH for years.

##### **Recommendation 15-07 (14-07)**

VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner.

#### 6) Worker and Union Involvement

##### *Worker Involvement – Inspection Process*

##### **Observation 15-02**

Unions were present in 22 of the 25 (88%) case files reviewed. Union representatives were involved in the opening conference in all but four of the case files and were involved in the walkaround and closing conference in 14 of the case files. Documentation was lacking in 36% (eight of 22) of the case files reviewed as to why union representatives were not involved in the walkaround and closing conferences during inspections.

##### **Federal Monitoring Plan 15-02**

During FY 2016, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

### *Worker Notification of Inspection Results*

#### **Finding 15-08 (14-OB-02)**

All 22 of the case files (100%) with union representation lacked documentation that the union was notified of the inspection results and provided with a copy of the citations.

#### **Recommendation 15-08**

VIDOSH must ensure that representative of workers are notified of the inspection results and provided with a copy of the citation.

### **C. REVIEW PROCEDURES**

#### 1) Informal Conferences

During FY 2015, VIDOSH had two employers request informal conferences. Of the two informal conferences requested, only one (50%) was conducted.

#### *Informal Conferences*

#### **Finding 15-09**

VIDOSH did not schedule or conduct an employer requested informal conference. The contested violation remains on the employer's official record.

#### **Recommendation 15-09**

Ensure that requested informal conferences are conducted in a timely manner.

#### 2) Formal Review of Citations

In FY 2015, VIDOSH did not have any cases that underwent the formal review process.

### **D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION**

In accordance with 29 CFR 1902, State Plans are required to adopt standards and Federal Program Changes (FPCs) within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. VIDOSH's adoption of federal standards and FPCs continues to be untimely.

#### *Federal Program Changes*

#### **Finding 15-10 (14-13)**

VIDOSH's adoption of federal standards and FPCs is not timely. During FY 2015, 15 FPCs required a response as to whether VIDOSH would adopt. A late response was received for 12 of the 15 (80%) FPCs. Responses for two still remain outstanding. The notice of intent to adopt was received past the response due date for all five (100%) of the federal standards issued during FY 2015.

**Recommendation 15-10 (14-13)**

VIDOSH needs to respond to all standards and FPCs within the established timeframe.

The tables below provide a complete list of the federal directives and standards which required action during this period:

## a) Standards Adoption

Standards Requiring Action	Federal Register Date	Adopted Identical	Response Due Date	Date Response Received	Date Promulgated
Final Rule for Electric Power Generation, Transmission & Distribution; Electrical Protective Equipment	April 2014	Yes	06/11/2014	09/17/2015	Anticipate 04/30/2016
Longshoring & Marine terminals; Vertical Tandem Lifts (Revised 4/21/2014)	May 2014	No	No date provided		
Occupational Injury & Illness Recording & Reporting Requirements – NAICS Update & Reporting Revisions	October 2014	Yes	11/19/2014	12/16/2014	03/18/2015
Cranes & Derricks in Construction – Operator Certification Final Rule	October 2014	Yes	11/26/2014	09/17/2015	Anticipate 04/30/2016
Final Rule for Confined Spaces in Construction	May 2015		07/04/2015		

## b) Federal Program Changes Adoption

FPCs Requiring Action and Federal Directive Number	Date of Directive	Adopted Identical	Response Due Date	Date Response Received	Adoption Date
OSHA Strategic Partnership Program for worker Safety and Health CPL 03-02-003	11/06/2014	No	01/14/2014	06/03/2014	N/A
Site-Specific Targeting 2014 (SST-14) CPL 02-14-01	02/02/2014		04/02/2014		
Shipyards Employment Tool Bag CPL 02-00-156	02/06/2014	No	04/12/2014	02/28/2014	N/A
Inspection Procedures for the Respiratory Protection Standard CPL 02-00-158	06/26/2014	Yes	09/05/2014	12/08/2015	
Inspection Procedures for Accessing Communication Towers CPL 02-01-056	07/17/2014	Yes	09/17/2014	12/08/2015	

Mandatory Training Program for OSHA Compliance Personnel TED 01-00-019	07/21/2014	Yes	09/21/2014	12/08/2015	
Cranes & Derricks in Construction CPL 02-01-057	10/17/2014	Yes	12/17/2014	12/18/2015	Anticipate 05/17/2015
NEP – Primary Metal Industries CPL 03-00-018	10/20/2014	No	12/20/2014	03/30/2015	N/A
Whistleblower Investigations Manual CPL 02-03-005	04/21/2015	Yes	07/21/2015	08/08/2015	Anticipate 10/30/2015
Enforcement Procedures & Scheduling for Occupational Exposure to TB CPL 02-02-078	06/30/2015	Yes	08/30/2015	01/14/2016	Anticipate 05/30/2016
NEP – Amputations CPL 03-00-019	06/30/2015		10/30/2015		
Inspection Procedures for the Haz Com Std. (HCS 2012) CPL 02-02-079	07/09/2015	Yes	09/09/2015	01/14/2016	Anticipate 01/01/2016
OSHA Alliance Directive TED 04-01-002	07/29/2015	No	09/29/2015	01/14/2016	N/A
SGE Program Policies & Procedures Manual for OSHA VPP TED 03-01-004	07/30/2015	No	09/30/2015	01/14/2016	N/A
Alternative Dispute Resolution Process for Whistleblower Protection Program CPL 02-03-006	08/18/2015	Yes	12/07/2015	01/14/2016	Anticipate 03/01/2016

## **E. VARIANCES**

There were no requests for variances received or processed during FY 2014 and FY 2015.

## **F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM**

One hundred percent (100%) of all inspections conducted by VIDOSH occurred in state and local government workplaces. VIDOSH does not contain provisions for the issuance of monetary penalties for state and local government employers found not to be in compliance with applicable standards on a first instance basis, except in cases of FTA violations.

## **G. WORKPLACE RETALIATION PROGRAM**

VIDOSH has jurisdiction on discrimination cases arising from state and local government workers in the Virgin Islands. According to VIDOSH, there were no discrimination cases received or processed during FY 2015.

### **Finding 15-11**

The New York Regional Office received a Complaint About State Program Administration (CASPA) from a worker regarding alleged workplace retaliation. VIDOSH did not conduct an investigation into the allegations, and therefore did not follow policies and procedures in

accordance with the Whistleblower Investigation Manual.

**Recommendation 15-11**

Ensure that the Whistleblower Investigation Manual, adopted in March 2012, is followed with regard to all workplace retaliation allegations.

**H. Complaint About State Program Administration (CASPA)**

During FY 2015, VIDOSH received one Complaint About State Program Administration (CASPA).

**Finding 15-12**

VIDOSH responded untimely to the conclusions/recommendations regarding the CASPA. A response was due May 2015; VIDOSH requested an extension which was granted by the Region. The new response date was August 2015. The Region received an inadequate response six months later in February 2016.

**Recommendation 15-12**

VIDOSH must ensure a timely response is provided for CASPAs.

There were no CASPAs filed against VIDOSH in FY 2015.

**I. VOLUNTARY COMPLIANCE PROGRAM**

VIDOSH does not administer a voluntary compliance program.

**J. STATE AND LOCAL GOVERNMENT 23(G) ON-SITE CONSULTATION PROGRAM**

**Finding 15-13 (14-09)**

The VIDOSH state and local government consultation program is not operational.

**Recommendation 15-13 (14-09)**

VIDOSH must ensure that a state and local government consultation program is fully operational and provide the necessary services to state and local government employers in the territory.



#### **IV. Assessment of State Plan Progress in Achieving Annual Performance Goals** (Source: FY 2015 APP and FY 2015 SOAR)<sup>1</sup>

This section focuses on VIDOSH's progress toward meeting its targeted performance goals, as outlined in its FY 2015 Annual Performance Plan (APP), which consisted of two strategic goals and performance goals. FY 2015 is the fifth year of VIDOSH's current Five-Year Strategic Plan.

##### Strategic Goal #1-1

Improve workplace safety and health for all state and local government workers in the U.S. Virgin Islands as evidenced by fewer hazards, reduced exposures, fewer injuries, illnesses, and fatalities.

Performance Goal #1-1: Reduce the total number of worker compensation claims by 1% per year for a total of 5% for five years compared to the baseline.

In FY 2015, VIDOSH conducted 99 state and local government agency inspections, issued a total of 335 violations, and conducted 14 outreach sessions.

##### Strategic Goal #1-2:

Improve workplace safety and health for state and local government workers in the U.S. Virgin Islands Department of Health Services agencies/facilities using worker compensation data by focusing on employers with a history of injury and illness related claims.

Performance Goal #1-2: Reduce the number of worker compensation claims relating to healthcare in the Department of Health Services agencies/facilities by 1% per year for a total of 5% for the five years compared to the baseline.

During FY 2015, VIDOSH conducted 43 health inspections.

##### Strategic Goal #2.0:

Improve the workplace safety and health for all state and local government workers in the U.S. Virgin Islands as evidenced by fewer hazards, reduced exposures and fewer injuries, and illnesses and fatalities by developing or enhancing effective safety and health programs and through effective outreach and consultation.

Performance Goal #2.0: Foster the development or enhancement of effective safety and health management systems (SHMS) by 50% (10% per year for five years) within state and local government agencies.

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<sup>1</sup>VIDOSH gathered data for their FY 2015 SOAR which is independent from OSHA's FAME process. While this data depicts VIDOSH's self-reported experiences, data in this section may not be consistent with data reported by OSHA throughout the FAME report.

VIDOSH reported participating in outreach sessions at the governor's safety and health conferences. VIDOSH has ongoing training and educational sessions for state and local government agencies and workers.

## **V. Other Special Measures of Effectiveness and Areas of Note**

N/A

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2015-#	Finding	Recommendation	FY 2014-#
FY 2015-01	<p><i>State Plan Developmental Steps</i>                      The draft narrative submitted by VIDOSH lacks the mandatory required appendices as part of the State Plan narrative.</p>	VIDOSH must submit the mandatory required appendices with amendments reflecting its State Plan’s limited state and local government scope by the due dates established in the agreed-upon timeline.	FY 2014-11
FY 2015-02	<p><i>OSHA Information System (OIS)</i>                      During FY 2015, VIDOSH produced 25 closed enforcement case files for review. This represents only 25% of the total 99 inspections conducted for the fiscal year. VIDOSH did not utilize OIS system reports to ensure proper monitoring and closure of case files.</p>	VIDOSH must utilize OIS reports as a tool to both effectively manage both the program and work product of its staff. This ensures proper monitoring and closure of case files in accordance with adopted policy in the Field Operations Manual (FOM).	FY 2014-12
FY 2015-03	<p><i>Lapse Time</i>                      In FY 2015, VIDOSH’s average lapse time for citations was calculated at 52.04 days for safety, a slight decrease from 52.07 days in FY 2014, but still above the one year OIS national rate of 42.78; the health lapse time was calculated at 99.20 days, a slight decrease from 106.58 days in FY 2014 but still above the one year OIS national rate of 53.48.</p>	VIDOSH must utilize OIS reports as a tool to both effectively manage both the program and work product of its staff. This ensures proper monitoring and closure of case files in accordance with adopted policy in the Field Operations Manual (FOM).	FY 2014-06
FY 2015-04	<p><i>Notification to the Complainant</i>                      All eight (100%) complaint case files lacked documentation that the complainant had been notified of the results of the inspection.</p>	VIDOSH must ensure case files include all required forms and all letters or communications related to the complaint in accordance with VIDOSH’s FOM.	FY 2014-01
FY 2015-05	<p><i>Appropriateness of Violation Classification</i>                      Violations in eight of the 20 (60%) case files reviewed were not classified correctly. Examples include: citing other-than serious for not providing and mounting fire extinguishers with burns/smoke inhalation listed as the injury, assigning low severity when entrapment, smoke inhalation, burns, and fractures are identified as likely outcomes of the exposure.</p>	VIDOSH needs to ensure that violations are properly classified in accordance with the FOM.	

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2015-#	Finding	Recommendation	FY 2014-#
FY 2015-06	<p><i>Adequate Verification or Evidence of Abatement</i>  VIDOSH accepted abatement responses from employers and closed the cases without adequate evidence in 11 of the 20 (55%) case files reviewed. VIDOSH is accepting statements from employers such as training will be scheduled or the draft program is being reviewed as final abatement. VIDOSH is not obtaining the final verification that the training has been completed and/or the program has been finalized.</p>	<p>VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner, and improve case file documentation of abatement.</p>	
FY 2015-07	<p><i>Overdue Abatement</i>  Thirty-one (31) of the 56 (55%) inspections with citations issued have open abatement of cited hazards. Not protecting workers from identified hazards by verifying abatement has been an on-going, continuous trend by VIDOSH for years.</p>	<p>VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards is achieved in a timely manner, and improve case file documentation of abatement.</p>	FY 2014-07
FY 2015-08	<p><i>Worker Notification of Inspection Results</i>  All 22 (100%) of the case files reviewed with union representation lacked documentation that the union was notified of the inspection results and given a copy of the citations.</p>	<p>VIDOSH must ensure that worker representatives are provided with a copy of the citation and notified of the inspection results.</p>	FY 2014-OB-02
FY 2015-09	<p><i>Informal Conferences</i>  VIDOSH did not schedule or conduct an employer requested informal conference. The contested violation remains on the employer's official record.</p>	<p>VIDOSH must ensure that when requested, informal conferences are conducted in a timely manner.</p>	

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2015-#	Finding	Recommendation	FY 2014-#
FY 2015-10	<p><i>Federal Program Changes</i>            Adoption of federal standards and Federal Program Changes (FPC) is not timely. During FY 2015, 15 FPCs required a response as to whether VIDOSH would adopt. A late response was received for 12 of the 15 (80%) FPCs. Responses for two still remain outstanding. The notice of intent to adopt was received past the response due date for all five (100%) of the federal standards issued during FY 2015.</p>	<p>VIDOSH needs to respond to all standards and FPCs within the established timeframe.</p>	FY 2014-13
FY 2015-11	<p><i>Workplace Retaliation</i>            The New York Regional Office received a Complaint About State Program Administration (CASPA) from a worker alleging workplace retaliation. VIDOSH did not conduct an investigation into the allegations; therefore, policies and procedures in accordance with the Whistleblower Investigation Manual were not followed.</p>	<p>VIDOSH must ensure that the Whistleblower Investigation Manual, adopted in March 2012, is followed during investigation of all workplace retaliation allegations.</p>	
FY 2015-12	<p><i>Complaint About State Program Administration (CASPA)</i>            VIDOSH responded untimely to the conclusions/recommendations regarding the CASPA. A response was due in May 2015; VIDOSH requested an extension which was granted by the Region. The new response date was August 2015. An inadequate response was received in February 2016.</p>	<p>VIDOSH must ensure a timely response is provided for CASPAs.</p>	
FY 2015-13	<p><i>State and Local Government On-Site Consultation Program</i>            The VIDOSH state and local government consultation program is presently not operational.</p>	<p>VIDOSH must ensure that its state and local government consultation program is fully operational and provides the necessary services to state and local government workplaces in the territory.</p>	FY 2014-09

**Appendix B – Observations Subject to New and Continued Monitoring**  
**FY 2015 VIDOSH Comprehensive FAME Report**

<b>Observation #</b>	<b>Observation# or Previous Finding#</b>	<b>Observation</b>	<b>Federal Monitoring Plan</b>	<b>Current Status</b>
	FY 2014-OB-01	<i>Complaint Processing Response Time</i> VIDOSH received one non-formal complaint with an average of one day for initiating a response.		Closed
	FY 2014-OB-02	<i>Worker Notification of Inspection Results</i> On-site review of case files revealed that all 22 (100%) of establishments with union representation lacked documentation that the union was notified of the inspection results and given a copy of the citations.		Converted to a Finding
FY 2015-OB-01	FY 2014-04 (Converted from a Finding)	<i>Inadequate Evidence to Support Violations</i> In four of the 20 (20%) case files reviewed with violations, there was inadequate evidence documented to support the violation. Examples of missing documentation include: issuing a citation for no emergency action plan without documenting what standard requires the emergency action plan as required under CPL 2-1.037 (Compliance Policy for Emergency Action Plans and Fire Prevention Plans); recordkeeping violations directive (CPL 02-00-135) was not followed in one of the case file; and documentation was lacking as to whether a recordable injury or illness had occurred. One of the case files reviewed contained repeat violations. The citation did not contain the repeat paragraph and there was no documentation in the case file referring to the previous inspection for repeat basis.	During next year's FAME, a sample of case files will be reviewed to determine trends.	New
FY 2015-OB-02		<i>Worker Involvement during the Inspection Process</i> Union representatives were not involved in the walkaround and closing conference in eight of the 22 (36%) case files reviewed.	During next year's FAME, a sample of case files will be reviewed to determine trends.	New

**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-01	<p><i>Case File Documentation/Formal Complaint/Notification to Complainant</i></p> <p>In case files reviewed, there was evidence that complainants were not always notified of the results of the inspection.</p>	<p>Ensure case files include all required forms and all letters or communications related to the complaint in accordance with VIDOSH's FOM.</p>	<p>On October 31, 2014, the OSHA New York Regional Office developed and delivered training to VIDOSH staff on proper case file documentation and complainant notification procedures in accordance with VIDOSH's FOM. During review, the VIDOSH director will ensure that all case files include the required forms and all letters or communications related to the complaint in accordance with VIDOSH's FOM.</p>		Open
FY 2014-02	<p><i>Inspection Goals</i></p> <p>VIDOSH conducted 54 inspections in FY 2014 which is 98% of the 55 inspection goal; however, out of these 54 inspections, 47 (87%) cases remain open. Safety staff conducted 28 inspections (93% of the goal) and industrial hygiene staff conducted 26 inspections (100% of their goal).</p>	<p>VIDOSH must develop an inspection scheduling system that ensures its Annual Performance Plan (APP) inspection goals are met.</p>	<p>VIDOSH will utilize OIS data/reports as a tool to effectively manage both the program and the work product of staff. This will ensure that the VIDOSH APP's inspection goals are met.</p>	September 30, 2015	Completed
FY 2014-03	<p><i>Adequate Evidence to Support Violations and Recordkeeping</i></p> <p>In the case files reviewed, CSHOs are not always collecting the previous three years of OSHA 300 logs and documenting in order to provide adequate evidence to support violations.</p>	<p>VIDOSH must ensure that CSHOs are collecting the previous three years of OSHA 300 logs and documenting in the case files in order to provide adequate evidence to support violations.</p>	<p>The OSHA New York Regional Office developed and delivered training to VIDOSH staff on proper case file documentation in accordance with VIDOSH's FOM. During review, the VIDOSH director will ensure adequate evidence to support violations is included in the case file.</p>	October 31, 2014	Completed

**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-04	<p><i>Adequate Evidence to Support Violations and Recordkeeping</i>                      The directive (CPL 02-00-135) was not followed in the one case file where a recordkeeping citation (1904.29(a)) was issued. There was no documentation in the case file as to whether there were injuries/illnesses.</p>	<p>Train compliance officers to follow procedures outlined in the recordkeeping directive (CPL 02-00-135) when issuing citations under the 1904 standard.</p>	<p>On October 31, 2014, the OSHA New York Regional Office developed and delivered training to VIDOSH staff on how to follow proper procedures outlined in the recordkeeping directive (CPL 02-00-135) when issuing citations under the 1904 standard. During review, the VIDOSH director will ensure that compliance officers followed proper procedure when issuing citations under the 1904 standard.</p>		<p>Converted to an observation</p>
FY 2014-05	<p><i>Lack of Case File Documentation</i>                      Case files lacked prima facie evidence to support specific citations issued in accordance with VIDOSH's Field Operations Manual (FOM).</p>	<p>Ensure the case files include required documentation to support specific citations issued in accordance with VIDOSH's FOM.</p>	<p>The OSHA New York Regional Office developed and delivered training to VIDOSH staff on proper case file documentation in accordance with VIDOSH's FOM. During review, the VIDOSH director will ensure that the case files include required documentation to support specific citations issued.</p>	<p>October 31, 2014</p>	<p>Completed</p>



**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-06	<p><i>Lapse Time</i>  VIDOSH showed a decrease in the safety lapse time for citations (the average number of calendar days from opening conference to citation issuance) from 115.77 days in FY 2013 to 57.03 days in FY 2014, but was still substantially above the national average of 43.4 days. VIDOSH's health lapse time increased to 106.58 days from 77.78 days in FY 2013 – a significant increase from FY 2013 and again above the national average of 57.05 days.</p>	<p>VIDOSH must use OIS data/reports as a tool to effectively manage both the program and the work product of its staff.</p>	<p>VIDOSH will utilize OIS data/reports as a tool to effectively manage both the program and the work product of staff including lapse time for citations.</p>		Open
FY 2014-07	<p><i>Overdue Abatement</i>  Forty-two (42) of the 54 (78%) inspections conducted have open abatement of cited hazards. Not protecting workers from identified hazards by verifying abatement has been an on-going, continuous trend by VIDOSH for years.</p>	<p>VIDOSH must utilize strategies such as follow-up inspections, FTA citations, and 29 CFR 1903.19 provisions to ensure that abatement of cited hazards are achieved in a timely manner.</p>	<p>VIDOSH will conduct follow-up inspections, and issue FTA citations in accordance with policies and procedures stated in 29 CFR1903.19. In addition, VIDOSH will seek support from the State and Local Government Safety and Health Council to ensure that abatement is obtained from employers.</p>		Open

**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-08	<i>Training and Documentation</i> In the case files reviewed, worker interview documentation was not evident.	VIDOSH must provide training to staff to include worker interview/comments template in case files.	The OSHA New York Regional Office developed and delivered training to VIDOSH staff on proper case file documentation in accordance with VIDOSH's FOM. During review, the VIDOSH director will ensure that the case files include worker interview documentation.	October 31, 2014	Completed
FY 2014-09	<i>State and Local Government On-Site Consultation Program</i> The VIDOSH state and local government consultation program continues to remain non-operational.	VIDOSH must ensure that a state and local government consultation program is fully operational and provides the necessary services to the state and local government employers in the territory.	VIDOSH hired a full-time consultant (8/24/2015) to provide the necessary services to state and local government employers in the territory. As of the end of FY 2015, VIDOSH's consultation program is still not functional as no on-site consultation visits have been conducted.		Open
FY 2014-10	<i>Staffing</i> VIDOSH's staffing level is allocated for eight employees, but currently there are only three enforcement staff, two administrative staff, and one manager on board (six total).	VIDOSH must fill current staffing vacancies with qualified applicants.	VIDOSH currently has seven employees onboard following the safety CSHO hire and consultant hire. VIDOSH needs to fill one more position in order to meet its full staffing level of eight FTEs.	August 24, 2015	Completed

**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-11	<p><i>State Plan Developmental Steps</i>            VIDOSH has not submitted a draft of the State Plan narrative in almost a decade (due on December 31, 2005).</p>	<p>VIDOSH must ensure that the revised developmental steps established in July 2003 are met. VIDOSH must show effort by working with the Region to establish a new timeline for development and implementation of the Comprehensive Developmental Steps for the Virgin Islands' State Plan. VIDOSH must submit their State Plan narrative (with mandatory required sections and appendices) with amendments reflecting its State Plan's limited state and local government scope and provide documentation on all outstanding components of its State Plan.</p>	<p>VIDOSH will ensure that the revised developmental steps established in July 2003 are met. Actions include: establishing a new timeline for development and implementation of the comprehensive developmental steps; submitting its revised State Plan narrative (with mandatory required sections, appendices, and amendments) reflecting its limited scope; and providing all necessary documentation.</p>		Open

**Appendix C - Status of FY 2014 Findings and Recommendations**  
**FY 2015 VIDOSH Comprehensive FAME Report**

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status and Date
FY 2014-12	<p><i>IMIS/OIS</i>            During FY 2014, VIDOSH only presented seven of 54 (13%) closed enforcement case files for review. VIDOSH did not utilize the integrated management information system reports to ensure proper monitoring and closure of case files in accordance with adopted policy in the Field Operations Manual (FOM).</p>	<p>VIDOSH must utilize OIS reports as a tool to both effectively manage both the program and work product of its staff. This ensures proper monitoring and closure of case files in accordance with adopted policy in the FOM.</p>	<p>VIDOSH will utilize OIS reports to ensure proper monitoring and closure of case files in accordance with the FOM. In addition, VIDOSH will seek support from the State and Local Safety and Health Council to ensure abatement is obtained from employers.</p>		Open
FY 2014-13	<p><i>Federal Program Changes</i>            Adoption of standards and Federal Program Changes (FPCs) is not timely. During FY 2014, six FPCs required a response as to whether VIDOSH would adopt. A response was not received in four of the six (67%) FPCs. The notice of intent to adopt was not received for one of the two (50%) federal standards issued during FY 2014.</p>	<p>VIDOSH needs to respond to all standards and FPCs within the established due dates.</p>	<p>VIDOSH will respond and adopt all federal standards and FPCs within the required timeframe.</p>		Open

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 VIDOSH Comprehensive FAME Report**

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA’s ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the “Notes” column below for further explanation on the calculation of each SAMM. All of the Virgin Islands State Plan’s enforcement data was captured in OIS during FY 2015. The Virgin Islands State Plan opened 87 enforcement inspections, and they were all captured in OIS.

<b>U.S. Department of Labor</b>				
<b>Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)</b>				
<b>State Plan: Virgin Islands – VIDOSH FY 2015</b>				
<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	4.72	5	State Plan data is pulled only from OIS.  Further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	2.80	N/A	State Plan data is pulled only from OIS.  This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	1.00	1	State Plan data is pulled only from OIS.  Further review level is negotiated by OSHA and the State Plan.

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 VIDOSH Comprehensive FAME Report**

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
2b	Average number of work days to initiate complaint investigations (federal formula)	1.00	N/A	State Plan data is pulled only from OIS.  This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	State Plan data is pulled only from OIS.  Further review level is fixed for every State Plan.  N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2015.
4	Number of denials where entry not obtained	0	0	State Plan data is pulled only from OIS.  Further review level is fixed for every State Plan.
5	Average number of violations per inspection with violations by violation type	SWRU: 4.24	+/-20% of SWRU: 1.92	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
		Other: 3.18	+/-20% of Other: .87	
6	Percent of total inspections in state and local government workplaces	100%	100%	Since this is a State and Local Government State Plan, all inspections are in state and local government workplaces.
7	Planned v. actual inspections – safety/health	S: 46	+/-5% of S: 60	State Plan data is pulled only from OIS.  Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 41	+/-5% of H: 25	

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 VIDOSH Comprehensive FAME Report**

<b>SAMM Number</b>	<b>SAMM Name</b>	<b>State Plan Data</b>	<b>Further Review Level</b>	<b>Notes</b>
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	N/A	+/-25% of \$2,002.86	N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	N/A	+/-25% of \$1,402.49	N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	N/A	+/-25% of \$2,263.31	N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	N/A	+/-25% of \$3,108.46	N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	N/A	+/-25% of \$3,796.75	N/A – This is a State and Local Government State Plan. Further review level is based on a one-year national rate, pulled only from OIS.
<b>9</b>	Percent in compliance	S: 3.85%	+/-20% of S: 28.47%	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		H: 0.00%	+/-20% of H: 33.58%	
<b>10</b>	Percent of work-related fatalities responded to in one workday	N/A	100%	State Plan data is pulled only from OIS. Further review level is fixed for every State Plan. N/A – The State Plan did not have any fatalities in FY 2015.

**Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report**  
**FY 2015 VIDOSH Comprehensive FAME Report**

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
11	Average lapse time	S: 52.04	+/-20% of S: 42.78	State Plan data is pulled only from OIS.
		H: 99.20	+/-20% of H: 53.48	Further review level is based on a one-year national rate, pulled only from OIS.
12	Percent penalty retained	100.00%	+/-15% of 67.96%	State Plan data is pulled only from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
13	Percent of initial inspections with worker walk around representation or worker interview	98.85%	100%	State Plan data is pulled only from OIS.  Further review level is fixed for every State Plan.
14	Percent of 11(c) investigations completed within 90 days	0%	100%	State Plan data is pulled from WebIMIS.  Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	0%	+/-20% of 24%	State Plan data is pulled from WebIMIS.  Further review level is based on a three-year national average, pulled from WebIMIS.
16	Average number of calendar days to complete an 11(c) investigation	0	90	State Plan data is pulled from WebIMIS.  Further review level is fixed for all State Plans.
17	Percent of enforcement presence	N/A	+/- 25% of 1.35%	N/A – This is a State and Local Government State Plan and is not held to this SAMM.  Further review level is based on a one-year national rate, pulled only from OIS.