

FY2010 EFAME Follow-up Report

**STATE OF VERMONT
DEPARTMENT OF LABOR
VERMONT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
23(G) PROGRAM
(VOSHA)**

Federal Fiscal Year 2010
(October 1, 2009 to September 30, 2010)



OSHA REGION I
MARTHE B. KENT, REGIONAL ADMINISTRATOR

TABLE OF CONTENTS

- I. EXECUTIVE SUMMARY (P.1)
 - A. INTRODUCTION (P. 1)
 - B. REPORT SUMMARY (P. 3)
 - C. MONITORING METHODOLOGY (P. 5)
- II. MAJOR NEW ISSUES (P. 6)
- III. ASSESSMENT OF STATE ACTIONS AND PERFORMANCE IMPROVEMENTS
IN RESPONSE TO RECOMMENDATIONS FROM THE FY2009 EFAME (P. 7)
- IV. FY2010 STATE ENFORCEMENT (P. 28)
 - A. INSPECTIONS (P. 28)
 - B. VIOLATIONS (P. 33)
 - C. PENALTIES (P. 38)
 - D. CITATION ISSUANCE (P. 39)
 - E. STATE ACTIVITY MANDATED MEASURES (P. 40)
 - F. INTERIM STATE INDICATOR REPORT (P. 42)
- V. OTHER (P. 43)
 - A. PROCESS SAFETY MANAGEMENT (PSM) TRAINING (P. 43)
 - B. OSHA-1, INSPECTION FORM (P. 43)
 - C. PUBLIC EMPLOYEE PROGRAM (P. 44)
 - D. INCIDENCE RATES IN VERMONT (P. 45)
 - E. STANDARD ACTIONS AND FEDERAL PROGRAM CHANGE (FPC)
ADOPTIONS (P. 46)
- VI. ASSESSMENT OF STATE PROGRESS IN ACHIEVEING ANNUAL
PERFORMANCE GOALS (P. 46)

TABLE OF CONTENTS *(CONTINUED)*

- **APPENDIX A:** FY 2010 FINDINGS AND RECOMMENDATIONS
- **APPENDIX B:** STATUS OF FY2009 EFAME FINDINGS AND RECOMMENDATIONS
- **APPENDIX C:** FY 2010 (AND FY2011 1ST QTR.) ENFORCEMENT ACTIVITY
- **APPENDIX D:** FY 2010 (AND FY2011 1ST QTR.) STATE ACTIVITY MANDATED MEASURES REPORTS (SAMM)
- **APPENDIX E:** FY 2010 (AND FY 2011 1ST QTR.) INTERIM STATE INDICATOR REPORTS
- **APPENDIX F:** THE STATE OF VERMONT FY 2010 STATE OSHA ANNUAL REPORT (SOAR)

I. EXECUTIVE SUMMARY

A. Introduction

Vermont State Plan Background

State Designee: **Anne Noonan, Commissioner of Labor¹**
Vermont Department of Labor
5 Green Mountain Drive
Montpelier, Vermont 05601
 Program Manager: **Robert McLeod**

Plan approved: **October 1, 1973**

Plan Certified (completion of developmental steps): **March 4, 1977**

Final Approval/18(e) Determination: **Pending**

<i>FY 2007-2011 Funding History</i>						
	Federal Award	State Match	100% State Funds	Total Funding	% of State Contribution	Unmatched / Deobligation/One-Time Only
2011	\$725,800	\$725,800	\$0	\$1,451,600	50	0
2010	\$725,800	\$725,800	\$0	\$1,451,600	50	\$30,900
2009	\$725,800	\$725,800	\$0	\$1,451,600	50	0
2008	\$713,100	\$713,100	\$12,700	\$1,438,900	50	0
2007	\$725,800	\$725,800	\$0	\$1,451,600	50	0

<i>Vermont 2010 Covered Workers</i>		
Public Sector Employees	Private Sector Employees	Total Employees Covered
40,646	241,619	282,264

¹ Appointed January 6, 2011; replaced Valerie Rickert.

FY 2010 Staffing <i>(Full-Time Equivalents [FTEs] as of September 30, 2010)</i>		
23(g) Compliance and Consultation	Safety	Health
Allocated Compliance Staff	6	4
On-Board Compliance Staff	6	4
Compliance Staffing Benchmarks	9	13
Allocated Consultation Staff	.45	.25
Total Allocated 23(g) Staff	14.61	

SIGNIFICANT PROGRAM HISTORY

VOSHA has been administered under the Vermont Department of Labor, Division of Workers' Compensation and Safety, since July 1, 2005. The Department of Labor is the enforcing agency for the program. The Commissioner has the authority to issue safety and health citations. The program is operated through the program's headquarters at 5 Green Mountain Drive, Montpelier, Vermont, as well as several field offices located throughout the state.

In FY2010, VOSHA's enforcement program was fully staffed with six safety and four health compliance safety and health officers (CSHOs), and one compliance assistance specialist (CAS)/Voluntary Protection Program (VPP) coordinator. VOSHA does not have sufficient funding to staff at its benchmark levels for compliance officers. Since Vermont currently does not have final approval status, it is not required to maintain its allocated staffing levels to meet its benchmarks.

VOSHA's public sector consultation program consists of two safety and health consultants who commit a fraction of their time to provide on-site consultation services to the public sector. The public sector staff is also utilized in support of the VOSHA Strategic Plan.

Vermont has adopted most federal standards by reference. The state has two unique standards; one addressing permissible exposure limits and one for electrical power generation, transmission and distribution. Construction, manufacturing, transportation and warehousing, non-durable goods wholesalers, and healthcare and social assistance sectors are the state's high-hazard targeted industries.

Vermont's coverage of public employees is identical to that of private employees including citation issuance and first instance sanctions. VOSHA offers a number of voluntary and cooperative programs, including Green Mountain (GM) VPP and Project WorkSAFE (consultation), SHARP, and Project RoadSAFE (funded by the Federal Highway Safety Administration, it informs employers on hazards associated with motor vehicles).

B. Report Summary

OVERVIEW OF THE STATUS OF CORRECTIVE ACTION IN RESPONSE TO THE FY2009 ENHANCED FAME RECOMMENDATIONS

VOSHA's Corrective Action Plan (CAP) addresses each of the 29 findings cited in the state's FY2009 Enhanced FAME. Region I and the Vermont state plan reached agreement on all corrective actions to remedy these findings. For most of the findings, Region I prescribed *more than one* corrective action, and VOSHA has implemented all but one.

Through analysis of VOSHA's progress in complying with its CAP, Region I has determined that the state has corrected 20 findings. The remaining nine findings have been designated as "pending," because they have either been partially corrected or not corrected at all. An example of a finding that has only been partially corrected is **Finding 09-#1**, which lists nine State Activity Mandated Measures (SAMM) that the plan did not meet in FY2009, and which required correction in FY 2010. To date, Region I has determined that only two of these nine SAMM measures have been met.

Region I has found that VOSHA corrected the findings related to: various case file deficiencies (such as the organization of documents in the case file, inadequate documentation of abatement; missing Petition for Modification of Abatement documents; complaint documents not contained in the case files, etc.); hazard identification; grouping violations; the misclassification of serious violations as other-than-serious; informal conference documentation; debt collection procedures; late adoption of standards; various findings related to the Voluntary Protection Program (VVP); and the 11(c) Whistleblower case files.

On the other hand, Region I found that VOSHA still needs to meet most of the SAMM and Interim State Indicator (SIR) measures that were not met in FY2009. VOSHA must also work harder to meet the standards set by Federal OSHA for the average violations per initial inspection and average current penalty per serious violation (although VOSHA has significantly narrowed the difference between its average and Federal OSHA's average).

In addition, VOSHA has not corrected the practice of failing to include documentation in the case files showing that labor unions have received copies of citations, and some case files continue to lack CSHOs' field notes. With regard to fatality investigations, VOSHA has corrected the finding that discussions between CSHOs and supervisors were not adequately documented. However, Region I found that a fatality case file did not contain evidence that an initial letter (along with copies of the citations) had been sent to the victim's next of kin.

Region I also found that the program's CSHOs still have not completed Course #2450 (Evaluation of Safety and Health Management Systems) as prescribed by the FY2009 EFAME. VOSHA has requested that the OSHA Training Institute (OTI) host this course in Vermont; however, no decision has been reached by OTI.

Region I is concerned that VOSHA has not made progress in correcting **Finding 09-#14** (Evidence of Violations). As discussed in the FY2009 EFAME, some of VOSHA's cases "lacked sufficient evidence to legally support the standards cited...." During the case file review, which Region I conducted in January 2011 of 13 of VOSHA's case files, the reviewer found that CSHOs were relying too heavily on citing "reasonable diligence" to establish employer knowledge of the hazardous condition(s).

While several findings cited in the FY2009 EFAME remain uncorrected, VOSHA has implemented most of the corrective measures in its CAP. For example, VOSHA runs the SAMM, SIR and IMIS reports regularly to monitor performance on timely complaint response, percent serious violations, citation lapse time, and average serious penalty, etc. In order to help assure that case files include all required documentation, and that all OSHA forms (such as the OSHA 1, 1A, 1B, 7, and 90) are properly completed, management reviews all case files using a "checklist." VOSHA has also retrained its staff on those chapters of OSHA's Field Operations Manual (FOM) that pertain to areas where the program showed deficiencies. With regard to the VPP program, VOSHA has implemented all recommended procedural requirements.

NEW AREAS OF CONCERN

Seven out of the program's 10 CSHOs work from five field offices in other areas of the state. Three CSHOs, along with VOSHA management, are stationed in Montpelier. As a result of this staffing arrangement, the program's CSHOs have very little to do with case file organization or management. The VOSHA director, compliance chief and administrative assistant perform all duties related to organization and maintenance of case file documents, issuance of letters to complainants, unions and outside parties, and printing of draft citations, etc.

In addition to this, VOSHA management reviews all case files to ensure compliance with all of OSHA's requirements. VOSHA should consider having its CSHOs organize and maintain their own case files. Although this may be difficult to implement (since all supervisors are located in Montpelier, and many of the CSHOs are dispersed in offices in other areas of the state), unburdening VOSHA management of some of these responsibilities may enhance their effectiveness in reviewing case files for deficiencies, and action on those found.

An IMIS scan report shows that VOSHA has classified only nine violations as willful in the past 5 ½ years. Region I is concerned that this track record may be sending the wrong message to employers who deliberately violate OSHA's standards. Therefore, VOSHA should ensure that CSHOs are not overlooking citing violations as willful that rightfully deserve this classification.

C. Monitoring Methodology

This report focuses on VOSHA’s responses to the recommendations in the FY2009 Enhanced Federal Annual Monitoring and Evaluation (EFAME) Report and its progress in achieving the actions specified in its Corrective Action Plan (CAP).

In addition to a detailed review of each of the steps (or corrective measures) the state has taken to accomplish its CAP (see Section III), this report also includes: a review of State Plan enforcement data for FY2010, including a comparison of State and Federal data; a review of the State Activity Mandated Measures (SAMM) report and the Interim State Indicator (SIR) report; and a review of the state’s achievement of its annual performance goals as detailed in the program’s FY2010 State OSHA Annual Report (SOAR).

From January 31-February 1, 2011, Region I conducted an onsite review of 13 of the program’s case files—most of which were opened during the first quarter of FY2011.² In choosing these particular case files, Region I selected those that had elements that related to the findings identified in the FY2009 EFAME.

The results of this case file review were used to help evaluate the plan’s progress in successfully completing its FY2009 EFAME corrective actions. The table below lists the case files that were reviewed.

	Case Opened Date	Case Closed Date	Type of Inspection	Type of Employer/Workforce
1	10/4/2010	1/10/2011	Programmed; Safety	Private sector/Non-union work force
2	12/1/2010	---	Complaint; Health	Private sector/Non-union work force
3	10/6/2010	---	Complaint; Health	Private sector/Non-union work force
4	10/15/2010	2/24/2011	Referral; Safety	Private sector/Non-union work force
5	10/13/2010	In contest	Self referral	Private sector/Non-union work force
6	10/19/2010	11/29/2010	Referral; Safety	Private sector/Non-union work force
7	10/26/2010	11/5/2010	Programmed; Safety	Private sector/Non-union work force
8	11/3/2010	---	Programmed; Safety	Private sector/Non-union work force

² Out of the 13 cases reviewed, 11 were opened during the first quarter of FY2011; one fatality investigation occurred during the fourth quarter of FY2010, and the Whistleblower case that was reviewed was opened during the second quarter of FY2011.

	Case Opened Date	Case Closed Date	Type of Inspection	Type of Employer/Workforce
9	11/15/2010	2/17/2011	Programmed; Safety	Private sector/Non-union work force
10	11/15/2010	3/14/2011	Programmed; Safety	Private sector/Non-union work force
11	11/2/2010	In contest	Programmed; Safety	Municipality/Union work force
12	8/13/2010	12/14/2010	Fatality	Private sector/Non-union
13	1/4/2011	Closed	11 (c) Whistleblower complaint	Private sector/Non-union

II. MAJOR NEW ISSUES

During FY 2010, Vermont faced tight budgetary restraints. While this is not a “new issue” (in the sense that the state has had to deal with tight budgets over the past few years), VOSHA staff (as well as all Vermont state workers) were newly impacted by having to take a three percent cut in salary as of July 1, 2010. In addition, step increases have been frozen for the next two years.

On a more positive note, the program has recently been allowed to enroll one CSHO in OSHA’s Process Safety Management training at the OSHA Training Institute (OTI). In addition, the CSHOs who have exceeded the three-year time limit for completing the CSHO career track have been enrolled in Course #1310 (Investigative Interviewing Techniques). This is a positive development, since VOSHA has been severely restricted in its out-of – state travel over the past few years.

III. ASSESSMENT OF STATE ACTIONS AND PERFORMANCE IMPROVEMENTS IN RESPONSE TO RECOMMENDATIONS FROM THE FY 2009 EFAME

This section of the report assesses VOSHA’s progress in responding to each of the recommendations from the FY2009 EFAME Report and in meeting the steps outlined in the state’s approved Corrective Action Plan (CAP). Region I has used both IMIS data and/or the results of the onsite case file review to determine the status of the FY2009 EFAME findings. This section also contains recommendations for findings that have not been corrected.

As discussed in the executive summary, VOSHA managers are using a case file review checklist to assist them in controlling for most of the inspection and case file deficiencies that were found in the FY2009 EFAME. In addition, although the CAP calls for the VOSHA managers to inspect a small percentage of each CSHO’s files for the deficiencies found in the FY2009 EFAME, VOSHA managers are reviewing *all* case files. Therefore, these corrective actions have not been listed repeatedly for each finding; rather, one should assume that they are ongoing and apply to most of the FY2009 EFAME findings.

- **Finding 1 of 29**

Finding 09-#1: State Activities Mandated Measures (SAMM) not met: *Nine out of 19 State Activity Mandated Measures (SAMM) standards were not met – % of complaints/referrals responded to within one day (imminent danger); % of Serious/Willful/Repeat (S/W/R) violations verified (private and public); average no. of calendar days from opening conference to citation issuance; average violations per inspections with violations (S/W/R and other-than-serious); average initial penalty per serious violation-private sector only; % of total inspections in the public sector; and % of 11(c) investigations completed within 90 days.*

Note: % of S/W/R violations verified (private and public) is counted as two measures—one for the private sector and the other for the public sector. Average violations per inspections with violations is also counted as two measures (S/W/R and other-than-serious).

Recommendation 09-#1: VOSHA must improve its performance with respect to the nine standards of the SAMM report that have not been met.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will run the SAMM monthly to monitor its performance. If performance measures are not met, the manager will meet with CSHOs to analyze the data and take corrective measures immediately to resolve the issues that are causing SAMM deficiencies.	Completed (ongoing).	SAMM #4 (Percent of complaints and referrals responded to in 1 day – Imminent Danger)— Pending (the standard was not met in FY2010 or in 1 st Qtr. of FY 2011).
VOSHA will implement a system for tracking employer progress in abating violations by January 31, 2011.	Completed (ongoing).	*SAMM #6 (Percent of S/W/R violations verified)— Pending (the standard was not met in FY2010 but was met in the 1 st qtr. of FY2011).

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

Corrective Action	Status of Corrective Action	Status of Finding
<p>VOSHA conducted training on the FOM, Chapter 4 (Violations), at the mandatory staff meeting in November 2010, and will conduct training on Chapter 6 (Penalties and Debt Collection), at the mandatory staff meeting in January 2011. VOSHA has documented that all CSHOs completed the November 2010 training and will document that all CSHOs complete the January 2011 training.</p>	<p>Completed.</p>	<p>SAMM #7 (Average number of calendar days from opening conference to citation issuance – health)—Pending (1st Qtr. data shows that VOSHA did not meet the standards for safety and health).</p> <p>**SAMM #9 (Average violations per inspection with violations S/W/R and Other-than-Serious)—Corrected (as of 1st Qtr.).</p> <p>SAMM #10 (Average initial penalty per serious violation – private sector)—Pending.</p> <p>SAMM #11 (Percent of total inspections in the public sector)—Corrected.</p> <p>SAMM #13 (Percent of 11(c) investigations completed within 90 days)—Pending.</p> <hr/> <p><i>*SAMM #6 (evaluated as two measures—one for the private sector and one for the public sector)</i></p> <p><i>**SAMM#9 (evaluated as two measures—S/W/R and Other-than-Serious)</i></p>

IMIS Data:
FY2010

- **SAMM#4** (Percent of complaints and referrals responded to within 1 day-imminent danger)—66.67; the 100% standard was not met;
- **SAMM#6** (Percent of S/W/R violations verified)—89.86 (private sector); the 100% standard was not met for the private sector;
- **SAMM#6** (Percent of S/W/R violations verified)—84.78 (public sector); the 100% standard was not met for the public sector;
- **SAMM#7** (Average number of calendar days from opening conference to citation issue)—49.64 days (health); the standard of 61.9 average days was met for health inspections;
- **SAMM#9** (Average violations per inspection with violations) 1.73 (S/W/R); the standard of 1.73 was not met for S/W/R violations;
- **SAMM#9** (Average violations per inspections with violations) .85 (other-than serious violations; the standard of 1.2 was met for other-than-serious violations);
- **SAMM#10** (Average initial penalty per serious violation)--\$1064.59; the standard of \$1360.40 was not met;
- **SAMM#11** (Percent of total inspections in the public sector)—9.29%; the standard of 9.2% was met; and

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

- **SAMM#13** (Percent of 11(c) investigations completed within 90 days)—50.00; the 100% standard was not met.

FY2011 1st Qtr

- **SAMM#4** (Percent of complaints and referrals responded to within 1 day-imminent danger)—0 (No imminent danger complaints in the first qtr.);
- **SAMM#6** (Percent of S/W/R violations verified)—100 (private sector); the 100% standard was met for the private sector;
- **SAMM#6** (Percent of S/W/R violations verified)—100 (public sector); the 100% standard was met for the public sector;
- **SAMM#7** (Average number of calendar days from opening conference to citation issue—80.73 (health); the standard of 61.9 days for health inspections was not met;
- **SAMM#9** (Average violations per inspections with violations) 2.28 (S/W/R); the standard of 2.1 was met for S/W/R violations;
- **SAMM#9** (Average violations per inspection with violations) .52 (other-than-serious violations); the standard of 1.2 was met for other-than-serious violations;
- **SAMM#10** (Average initial penalty per serious violation)--\$1358.35; the standard of \$1361.50 was not met);
- **SAMM#11** (Percent of total inspections in the public sector)—3.8%; the standard of 9.5% was not met); and
- **SAMM#13** (Percent of 11(c) investigations completed within 90 days)—0 (None in the 1st Qtr.)

	FY2010		FY2011 (1 st Qtr.)	
	Standard MET	Standard NOT MET	Standard MET	Standard NOT MET
SAMM #4		X	N/A (No imminent danger complaints in the 1 st Qtr.)	
SAMM #6 <i>(Counted as two measures: one for the private sector and one for the public sector)</i>		X (Not met for either private or public sectors)	X (Met for both private and public sectors)	
SAMM #7	X (Met for health)			X (Not met for health)
SAMM #9 <i>(Counted as two measures: S/W/R violations and other-than-serious violations)</i>	X (Met for other-than-serious violations)	X (Not met for S/W/R violations)	X (Met for S/W/R and other)	
SAMM #10		X		X
SAMM #11	X			X
SAMM #13		X	N/A	

Additional Information: As stated in its CAP, VOSHA now has two CSHOs who have been trained to conduct 11 (c) investigations, but in FY2010, the most recently trained CSHO was still facing a learning curve. Now that this CSHO has gained more experience, VOSHA should be able to complete discrimination cases within the 90 day deadline. Although VOSHA was only a few dollars short of meeting the standard for SAMM #10 (average initial penalty per serious violation), the program has shown marked improvement over past years' averages.

Finding 10-#1: SAMM measures cited in the FY2009 EFAME as “not met” (SAMM#4; SAMM#6-private and public sector inspections; SAMM#7; SAMM#9- S/W/R and other-than-serious violations; SAMM#10; and SAMM#11)— Based on both the FY2010 SAMM *and* the FY2011 (1st Qtr.) SAMM, VOSHA has not shown consistent improvement in the measures cited as “not met” in the FY2009 EFAME.

Recommendation 10-#1: VOSHA must continue to strive to meet the SAMM measures cited in the FY2009 EFAME—and all SAMM measures—by the end of FY2011.

- **Finding 2 of 29**

Finding 09-#2: State Indicator Report (SIR) standards were not met— *private sector serious safety/health violations; private sector average penalty for other-than-serious safety/health violations; private sector safety inspections/100 hrs.; private sector penalty retention; % of violations reclassified; and % of penalty retention.*

Recommendation 09-#2: VOSHA must improve its performance with respect to the eight standards of the SIR report that have not been met.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will review the SIR report on a quarterly basis. If performance measures are not met, the manager will meet with CSHOs to analyze the SIR data and take action immediately to correct problems that are causing SIR deficiencies.	Completed (ongoing).	C.3.A. Private Sector Serious Safety Violations— Pending.
VOSHA conducted training on the FOM, Chapter 4 (Violations), at the mandatory staff meeting in November 2010, and will conduct training on Chapter 6 (Penalties and Debt Collection), at the mandatory staff meeting in January 2011. VOSHA has documented that all CSHOs completed the November 2010 training and will document that all CSHOs complete the January 2011 training.	Completed (ongoing).	C.3.B. Private Sector Serious Health Violations— Pending. C.5.A. Private Sector Average Penalty for Other-than-Serious Safety Violations— Pending. C.5.B. Private Sector Average Penalty for Other-than-Serious Health Violations— Pending. C.6.A Private Sector Safety Inspections Per 100 Hours— Pending.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

Corrective Action	Status of Corrective Action	Status of Finding
		C.9. Private Sector Penalty Retention— Pending. E.2. Percent of Violations Reclassified— Corrected. E.3. Percent of Penalty Retention— Corrected.

IMIS Data:

FY2010 SIR: As shown in the table below, VOSHA met two of the nine standards in FY2010.

Measure	VOSHA DATA	Federal Data	Comment
C.3.A. Private Sector Serious Safety Violations (%)	68.4	81.0	Standard set by Federal OSHA was not met.
C.3.B. Private Sector Serious Health Violations (%)	43.3	70.2	Standard was not met.
C.5.A. Private Sector Average Penalty for Other-than-Serious Safety Violations (\$)	100.0	894.3	Standard was not met.
C.5.B. Private Sector Average Penalty for Other-than-Serious Health Violations (\$)	300.0	835.8	Standard was not met.
C.6.A Private Sector Safety Inspections Per 100 Hours	2.9	5.5	Standard was not met.
C.9. Private Sector Penalty Retention (%)	48.9	63.0	Standard was not met.
E.2. Percent of Violations Reclassified (Review Procedures)	4.2	11.7	Standard was met.
E.3. Percent of Penalty Retention	59.6	58.1	Standard was met.

FY2011 (1st Qtr.) SIR: As shown in the table below, VOSHA met two of the nine standards cited in the FY 2009 EFAME.

Measure	VOSHA DATA	Federal Data	Comment
C.3.A. Private Sector Serious Safety Violations (%)	83.0	79.7	Standard was met.
C.3.B. Private Sector Serious Health Violations (%)	52.3	69.1	Standard was not met.
C.5.A. Private Sector Average Penalty for Other-than-Serious Safety Violations (\$)	.0	936.6	Standard was not met.
C.5.B. Private Sector Average Penalty for Other-than-Serious Health Violations (\$)	.0	846.0	Standard was not met.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

Measure	VOSHA DATA	Federal Data	Comment
C.6.A Private Sector Safety Inspections Per 100 Hours	2.4	5.7	Standard was not met.
C.9. Private Sector Penalty Retention (%)	56.8	64.5	Standard was not met.
E.2. Percent of Violations Reclassified (Review Procedures)	.0	13.4	Standard was met.
E.3. Percent of Penalty Retention	50.0	52.4	Standard was not met.

Finding 10-#2: SIR Measures—SIR measure E2 (Percent of Violations Reclassified) was the only SIR measure (out of the nine cited in the FY2009 EFAME) that VOHSA consistently met in both FY2010 and in the first quarter of FY2011.

Recommendation 10-#2: VOSHA must continue to work to meet the standards for the SIR measures cited in the FY2009 EFAME (with the exception of E2, which the program has met), by the end of FY2011.

- **Finding 3 of 29**

Finding 09-#3: Average Violations per Initial Inspection/Average Current Penalty per Serious Violation—Based on statistical comparison of enforcement performance with other State Plans and Federal OSHA, VT's average violations per initial inspection and average current penalty per serious violation marked below the data for all State Plans and Federal OSHA.

Recommendation 09-#3: VOSHA must improve its performance with respect to these averages in order to come more into line with the Federal system.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA managers will ensure that all penalties are assessed in accordance with the FOM, Chapter 6, Penalties and Debt Collection. VOSHA managers will closely review assessments of severity and probability before citations are issued.	Completed (ongoing).	Average Violations per Initial Inspection—Pending.
VOSHA will run IMIS reports to monitor its performance with respect to these averages on a monthly basis. If the averages are not in keeping with Federal OSHA's averages, the VOSHA manager will meet with the CSHOs to the correct problems that are causing the deficiencies during the quarterly meetings.	Completed (ongoing).	Average Current Penalty per Serious Violation—Pending.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

IMIS Data:

FY2010 Enforcement Data:

Average Number of Violations /Initial Inspection

VOSHA—2.6

Federal OSHA—3.2

Average Current Penalty/Serious

VOSHA--\$735.90

Federal OSHA—\$1052.80

FY2011 Enforcement Data:

Average Number of Violations /Initial Inspection

VOSHA— 2.2

Federal OSHA— 2.6

Average Current Penalty/Serious

VOSHA--\$1228.90

Federal OSHA—\$1900.70

Additional Information: In FY2009, VOSHA's average for violations per initial inspection was 2.4, compared to 3.1 for Federal OSHA. VOSHA's average current penalty per serious violation was \$592 compared to \$970.20 for Federal OSHA.

Finding 10-#3: Average Violations per Initial Inspection/Average Current Penalty per Serious

Violation—Although VOSHA has shown improvement over its FY2009 averages, the program's averages for these two indicators are below Federal OSHA's averages.

Recommendation 10-#3: VOSHA must meet the Federal averages for both of these indicators. By 9/30/2011, VOSHA's averages for violations per initial inspection and current penalty per serious violation will be more closely aligned with those of the Federal system.

- **Finding 4 of 29**

Finding 09-#4: Case file deficiencies—VOSHA's case files were found to have the following deficiencies: *absence of CSHOs' field notes; inadequate documentation of abatement verification; and failure to document labor organization notification of the informal conference. Also, the CSHOs were not meeting the FOM diary sheet requirements and documents were not in the order established by Appendix C of ADM 03-01-005.*

Recommendation 09-#4: VOSHA staff members must review and follow Appendix C of ADM 03-01-005, which provides detailed information regarding "Inspection Case File Organization." This directive provides detailed instructions about which materials should appear on the left of the case file and which materials should appear on the right side of the file, and the specific order in which these documents should be placed.

No corrective actions were required in the CAP other than use of the case file review checklist and management review of case files. **Status of Finding: Corrected.**

Results of Onsite Case File Review: VOSHA does not organize case files according to OSHA's guidelines in Appendix C of ADM 03-01-005. However, the program manager indicated that VOSHA follows its own methodology for organizing case file documents. Documents in the case files were found to follow the same order, but the order was not in accordance with the ADM. None of the deficiencies cited in the FY2009 EFAME with respect to case files were observed during the onsite review.

- **Finding 5 of 29**

Finding 09-#5: Complaint documents—*The case file review found that in several instances the OSHA-7 complaint form was not contained in the case files. A few files did not contain copies of the letter sent to the complainant advising of the outcome of the inspection.*

Recommendation 09-#5: VOSHA must send all response letters to complainants advising them of the results of the inspections or investigations resulting from their complaints. In accordance with the FOM, the letters must include an appropriate response detailing the outcome of the inspection or investigation for each alleged complaint item.

No corrective actions were required in the CAP other than use of the case file review checklist and management review of case files. **Status of Finding: Corrected.**

Results of Onsite Case File Review: VOSHA's case files contain the OSHA -7 complaint form. Letters from VOSHA to the complainant are maintained (with a copy of the complaint) in a file in the Montpelier office.

- **Finding 6 of 29**

Finding 09-#6: Fatality investigations

(A) *Discussions between CSHOs and supervisors regarding investigations were not well documented.*

Recommendation: VOSHA must ensure that important discussions between CSHOs and supervisors regarding fatality investigations are documented in the case file diary sheet.

(B) *The CSHO did not reconstruct the scene of the accident.*

Recommendation: In addition to discussions between CSHOs and their supervisors, all information relevant to the fatality investigation must be documented in the case file diary sheet in accordance with the Field Operations Manual (FOM) (Chapter 5, Section X), which states that: "All case files shall contain an activity diary sheet, which is designed to provide a ready record and summary of all actions relating to a case. It will be used to document important events or actions related to the case, especially those not noted elsewhere in the case file"

(C) *There was no evidence that an initial letter and a copy of the citations had been sent to the victim's family.*

Recommendation: VOSHA must adhere to the FOM, Chapter 11, Section II.G., which discusses the requirements to follow with regard to contact with families of victims during an inspection.

Corrective Action	Status of Corrective Action	Status of Finding
The VOSHA managers, in addition to a compliance officer with experience in conducting fatality investigations, will conduct an extensive review of the FOM, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response, by December 31, 2010.	Completed.	(A) Discussions between CSHOs and supervisors regarding investigations were not well documented— Corrected . (B) The CSHO did not reconstruct the scene of the accident— Corrected .
By this date (12/31/2010), VOSHA managers will also thoroughly review CPL-02-00-137 (Fatality/Catastrophe Investigation Procedures—April 14, 2005).	Completed.	(C) There was no evidence that an initial letter and a copy of the citations had been sent to the victim's family.— Pending .

Results of Onsite Case File Review: Since no fatalities occurred during the first quarter of FY2011, Region I reviewed a fatality case file for an event that occurred during the fourth quarter of FY2010 (August 2010). This case was closed on December 14, 2010. Region I found no issues with regard to (A) and (B) of this finding. However, with regard to (C), Region I found that no letter was sent to the family when citations were originally issued. The program manager stated that he felt that the timing was too close to the holidays, and did not want to upset the family at that time. The program manager said that he had planned to send the citations at a later date (after the holidays), but as of the date of the onsite review (February 1, 2011) no letter had been sent.

Finding 10-#4: Fatality investigations— There was no evidence in the case file that an initial letter and a copy of the citations had been sent to the victim's family.

Recommendation 10-#4: VOSHA must ensure that the victim's family members receive copies of the citations and the initial letter, and that documentation that the letter and citations have been sent is included in the case file.

- **Findings 7 of 29**

Finding 09- #7: Incorrect standards—*VOSHA cited the incorrect standard (cited 1910.26(c) (2) (iv) but should have cited 1910.26(c) (3) (i)), and the [fatality] case file did not contain notes reconstructing the scene of the accident.*

Recommendation 09-#7: VOSHA must review and follow the FOM, Chapter 11, Section II.E.2., which discusses potential items to be documented in the case file, such as how and why the incident occurred; the physical layout of the worksite; sketches/drawings; measurements; video/audio/photos to identify sources; and whether the accident was work-related.

Corrective Action	Status of Corrective Action	Status of Finding
The VOSHA managers will conduct an extensive review of the FOM, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response, by December 31, 2010.	Completed.	Corrected.
VOSHA will conduct training for all CSHOs on the FOM, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response, at the mandatory staff meeting in March 2011. VOSHA will record attendance.	Completed.	

- **Finding 8 of 29**

Finding 09-#8: Average Number of Violations Cited per Initial Inspection—*VOSHA’s average of 2.4 violations cited per initial inspection is below the Federal OSHA average of 3.1 violations.*

Recommendation 09-#8: VOSHA’s average violations cited per inspection should increase to align with Federal OSHA’s average of 3.1 violations per initial inspection.

This finding was addressed in Finding #3.

- **Finding 9 of 29**

Finding 09-#9: Hazard identification issues—*The case file review revealed several hazard identification issues: all apparent violations were not cited or some [standards] were misclassified in the citations sent to the employer.*

Recommendation 09-#9: VOSHA should review the pictures taken by CSHOs more closely and do more research and also should train and network with appropriate staff throughout region to improve hazard recognition and referencing of the correct standards when hazards are identified.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will devote a portion of monthly staff meetings to training on standards and hazard recognition.	Ongoing.	Corrected.

Results of Onsite Case File Review: During the onsite review, Region I reviewed all photos in the case files to ensure that no violations were missed and that no standards were cited improperly. The supervisor indicated that he closely reviews all photos to ensure that all violations are cited and cited properly. The case file review confirmed that the CSHOs were not overlooking violations and that the appropriate standard(s) were cited for these violations.

- **Finding 10 of 29**

Finding 09-#10: Grouping violations—*CSHOs grouped serious violations that should not have been grouped, which also reduces penalties. Nine out of 137 (6.5%) serious violations were grouped as serious. Of these nine grouped citations, we found that four were grouped incorrectly.*

Recommendation 09-#10: CSHOs must adhere to the guidelines established in the FOM for grouping. Chapter 4, Section X of the FOM lists the situations that normally call for grouping violations.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA conducted training on the FOM, Chapter 4, Violations, at the mandatory staff meeting in November 2010. VOSHA recorded attendance and ensured that all CSHOs completed the training.	Completed.	Corrected.

Results of Onsite Case File Review: The supervisor indicated that VOSHA does not frequently group violations. The case file review confirmed that VOSHA was, overall, properly grouping violations.

- **Finding 11 of 29**

Finding 09-#11: Gravity/probability assessments—*In a number of cases, the CSHOs did not correctly assess the gravity of the violation, and erred on the side of assessing lower probability and severity than warranted, thus reducing the overall penalties.*

Recommendation 09-#11: VOSHA must ensure that CSHOs use penalty calculations that conform to the FOM. The minimum and maximum penalties are discussed in Chapter 6.II.C. and D, respectively. Section III discusses the four factors to take into consideration. VOSHA staff should also review the Gravity-based Penalty (GBP) section of the FOM, which is discussed in Chapter 6.III, sections 3, 4, and 5.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA conducted training on the FOM, Chapter 4 (Violations), at the mandatory staff meeting in November 2010, and will conduct training on Chapter 6 (Penalties and Debt Collection), at the mandatory staff meeting in January 2011. VOSHA will provide attendance records to Region I upon request.	Completed.	Pending.

Results of Onsite Case File Review: The manager indicated that he is reviewing the gravity and probability assessments closely. Even though the average penalty per serious violations has increased from FY2009, a review of the case files reveal that VOSHA still has a tendency to assess lower probability and severity than warranted. For example, the case file review found more than a few instances where VOSHA assessed a low

severity for injuries that should have been assessed as high severity, because they involved permanent disability or death.

Finding 10-#5:—Gravity/probability assessments—In some instances, VOSHA is not properly assessing the probability and severity of a violation. The program still has a tendency to err on the side of assessing lower probability and severity than warranted.

Recommendation 10-#5: VOSHA must adhere to the guidelines in Chapter 6 of the FOM for severity and probability assessments. The case file review for the FY2011 FAME will show that VOSHA is properly assessing probability and severity.

- **Finding 12 of 29**

Finding 09-#12: Violation classification—*A few violations were incorrectly classified as “other” rather than “serious.”*

Recommendation 09-#12: VOSHA staff should review Chapter 4, Section II of the FOM, which discusses the factors that determine whether a violation is to be classified as serious, and also Chapter 4, Section IV of the FOM, which discusses the factors that determine whether violations should be classified as other-than-serious.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA conducted training on the FOM, Chapter 4 (Violations), at the mandatory staff meeting in November 2010. VOSHA recorded attendance and ensured that all CSHOs completed the training.	Corrected.	Corrected.

Results of Onsite Case File Review: All violations were properly classified as serious or other-than-serious.

- **Finding 13 of 22**

Finding 09-#13: Copies of citations— *Six of the case files involving unions did not contain any documentation to indicate that the union had been sent a copy of the citations. In addition, field notes, which likely contained the information obtained from the employees during interviews, were not kept in the files.*

Recommendation 09-#13: VOSHA should adhere to the FOM, Chapter 5, Section XI.B.2, by sending a notification to the unions of the citations sent to the employer and retaining a copy of such in the case file. In addition, VOSHA should review the FOM, Chapter 5, Section XII.A.2 regarding maintaining field notes in the official case files.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will conduct training on the FOM, Chapter 5, Case File Preparation, at the mandatory staff meeting in February 2011. VOSHA will record attendance.	Completed.	Pending.

Results of Onsite Case File Review: Region I reviewed one case file where a union represented employers and there were no notes indicating that the citations were sent to the union. However, the manager insisted that the citations were sent. While most of the files reviewed contained CSHO field notes, some did not.

Finding 10-#6: Letters to unions—VOSHA did not provide adequate documentation that citations were sent to the labor union. Some files did not contain CSHOs’ field notes.

Recommendation 10-#6: VOSHA must ensure that case files contain documentation that the program has properly notified labor unions of citations. All files must contain CSHOs’ field notes.

- **Finding 14 of 29**

Finding 09-#14: Evidence of violations—*Some cases lacked sufficient evidence to legally support the standards cited or the actions taken by VOSHA to delete citations. In other cases, the CSHO cited the incorrect standard or assessed the penalties incorrectly*

Recommendation 09-#14: VOSHA must review and follow the FOM, Chapter 4, which discusses the evidence necessary to support violations.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA conducted training on the FOM, Chapter 4 (Violations), at the mandatory staff meeting in November 2010. VOSHA recorded attendance and ensured that all CSHOs completed the training.	Completed.	Pending.

Results of Onsite Case File Review: In many files, sufficient evidence was lacking in order to substantiate violations. For example, the CSHO did not list the make/model/serial number for equipment that was referenced in electrical violations. In addition, photos of this equipment did not show data plates that display this type of information. In another example, the program determined the slope of a roof without documenting how the pitch of the roof was actually calculated. For one case involving a repeat violation, sufficient information was lacking in the case file to substantiate the violation.

Finding 10-#7: Evidence of Violations—In some case files, the CSHO did not provide adequate evidence to substantiate the violations that were cited.

Recommendation 10-#7: VOSHA must ensure that case files include all evidence necessary to substantiate the violations that were cited. The case file review for the FY2011 FAME will indicate that VOSHA is performing adequately in terms of providing all evidence necessary in case files to substantiate violations.

- **Finding 15 of 29**

Finding 09- #15: SAMM#6—Percent of S/W/R Violations Verified Timely—See Finding #1.

Results of Onsite Case File Review: In all case files reviewed, it appeared that abatements were obtained timely, except for one instance where the company indicated that it “has or will procure” safety training. The VOSHA manager is tracking abatements in order to obtain the information in a timely manner. Region I provided VOSHA with a sample abatement letter that the Concord Area Office issues to employers along with citations.

- **Finding 16 of 29**

Finding 09-#16: Evidence of abatement— *Some of the case files we reviewed lacked proper evidence of abatement. (A)- (B) We found that 13 out of the 76 cases (17%) we reviewed did not contain adequate documentation of abatement. Some of these case files had been closed without any documentation of adequate proof of abatement. (C) In addition to providing written verification of hazard abatement, employers must also provide relevant documents, plans and progress reports. In some cases, we noted that the file did not contain such documents, such as written hazard communication programs, evidence of training, and emergency action plans, that were required to be provided by the employer.*

Recommendation 09-#16:

(A) VOSHA must adhere to the directives in Chapter 7 of the FOM, Section IV (b), which also states the “case file remains open throughout the inspection process and is not closed until the Agency is satisfied that abatement has occurred. If abatement was not completed, annotate the circumstances or reasons in the case file and enter the proper code in the IMIS.”

(B) VOSHA should also ensure that Chapter 7 of the FOM, Section XV is adhered to. This section states: “The closing of a case file without abatement certification(s) must be justified through a statement in the case file by the Area Director or his/her designee, addressing the reason for accepting each uncertified violation as an abated citation.”

(C) VOSHA must thoroughly review and adhere to Chapter 7 of OSHA’s FOM on Abatement Documentation, particularly Section B, which relates to Adequacy of Abatement Documentation. As stated in that section, examples of documents that demonstrate that abatement is complete include “(a) copy of program documents if the citation was related to a missing or inadequate program, such as a deficiency in the employer’s respirator or hazard communication program.”

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA management will review Chapter 7 of the FOM on Post-Citation Procedures and Abatement Verification.	Completed by 12/31/10.	Corrected.
VOSHA will implement a system for tracking employer progress in abating violations by January 31, 2011. On a weekly basis, VOSHA management (and/or CSHOs) will review case files with open abatements and contact with the employers to remind them of their abatement due dates. If the employer indicates that the violations have been abated, the VOSHA manager or CSHO will also remind them of their obligation to provide proper documentation of abatement (if they have not already done so).	Ongoing. The VOSHA manager has trained the administrative assistant to review all case files with open abatements on a weekly basis and to contact employers with abatements that are overdue.	
Managers will review case files to ensure that employers who do not provide adequate documentation of abatement are cited under 1903.19 (c).	Ongoing. VOSHA has not had to cite any employers under 1903.19(c).	

Additional Information: At any given time, VOSHA typically has no more than 20 open cases. Therefore, the administrative assistant has no difficulty in managing the workload of contacting employers with overdue abatements.

Results of Onsite Case File Review: No issues were found during the case file review. All abatement documentation was present in the case files and appeared to be adequate and timely.

- **Finding 17 of 29**

Finding 09-#17: Petitions for Modification of Abatement (PMAs) documentation— *Case files with PMAs were missing the abatement completion date or interim protections to be followed during the PMA.*

Recommendation 09-#17: VOSHA must ensure that all documentation related to PMAs are contained in the relevant case files, such as copies of the petition itself, as well as VOSHA’s approval (or denial) of the PMA, and any written objections by employees to the PMA. See Chapter 7 of the FOM, Section III for more information on PMAs.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA managers will work with CSHOs to develop a system for tracking PMAs using Microsoft Outlook reminders by January 31, 2011.	Completed by 12/31/10. The VOSHA manager has trained the administrative assistant to review all case files with open abatements and PMAs.	Corrected.

Additional Information: VOSHA typically has so few cases with PMAs (approximately three per quarter) that the administrative assistant has no difficulty in reviewing PMA case files weekly.

Results of Onsite Case File Review: Proper PMA documentation was present (where applicable) in all case files reviewed.

- **Finding 18 of 29**

Finding 09-#18: Informal conference documentation—*There were a few cases in which the proper [informal conference] procedures were not followed (e.g., missing original citation following violation reclassification; inadequate documentation on the reason for citation deletion, on the informal settlement agreement or abatement; or held after the 15-day period).*

Recommendation 09-#18:

(A) VOSHA should review and follow the FOM, Chapter 7, which discusses the procedures to follow for informal conferences and informal settlement agreements. It states that the informal conference will be conducted within the 15 calendar day contest period. In addition, this section discusses the requirement that an affected employee or his representative shall be given the opportunity to participate, and VOSHA must be sure to follow this direction.

(B) The VOSHA supervisor who conducts the informal conference must be sure to document reasons for granting any penalty reductions (and extended abatement dates) on the case file diary sheet.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA managers will review Chapter 7 of the FOM.	Completed by 12/31/10.	Corrected.
Based on the findings and recommendations contained in a previous audit conducted by Region I, the case file diary sheet reflects notes on the discussions that occur during informal conferences. The diaries also document VOSHA's reasoning for changes to standard citations, violation classifications, and penalties; requests for PMAs are documented in the diary sheet.	Ongoing.	
As part of the citation package, VOSHA includes a copy of the notice to affected employees, and instructions regarding the rights of affected employees and/or their representative.	Ongoing.	
VOSHA CSHOs must notify employers of these rights at the closing conference. Any request for an informal conference must contain a statement from the employer that the employee notice has been posted.	Ongoing.	

Results of Onsite Case File Review: VOSHA is adhering to the informal conference procedures discussed in the FOM (Chapter 7). Evidence was included in the case files for penalty changes and/ or penalty deletions. The manager obtained either a copy of the Notice of the Informal Conference, or verbal assurance from the employer that the notice was visibly posted at the worksite.

- **Finding 19 of 29**

Finding 09-#19: Debt Collection Procedures— *VOSHA was in the process of having legal counsel establish a formal policy on debt collection procedures.*

Recommendation 09-#19: VOSHA must follow through on establishing formal debt collection procedures based on those set forth in Chapter 6 of the FOM. State Plan programs must have “an effective debt collection mechanism in place” in accordance with the State Plan grant requirements established in OSHA Directive 09-02 (CSP-02). This debt collection mechanism must also be documented in the State Plan. VOSHA

procedures, once finalized, should be sent to the regional office for approval and then will become part of VOSHA's State Plan.

This finding was corrected in April 2010, prior to the development of the corrective action plan.

- **Finding 20 of 29**

Finding 09-#20: Adoption of Standards—*VOSHA has fallen behind in the promulgation and adoption of new and revised Federal OSHA standards, due to the State's time-consuming rulemaking procedures. One of the effects of severe budgetary constraints has been to hold off on advertising some FPCs (\$2,500 per advertisement), which is a factor for the delay in some FPCs.*

Recommendation 09-#20: VOSHA must respond in a timely manner to FPCs and Federal Standard Actions.

Corrective Action	Status of Corrective Action	Status of Finding
The VOSHA Director will begin the rulemaking process upon notification that a final rule has been promulgated by OSHA. VOSHA will notify the Regional Office within three days of the date on which the rule has been submitted to the Secretary of State.	Ongoing.	Corrected.

Additional Information: With the exception of (CPL 02-02-076) NEP-Hexavalent Chromium and CPL -02 (10-05) 2010 381 –Chemical Facilities NEP, VOSHA has been timely in notifying the Region of its intent to adopt Federal Program Changes (FPCs). VOSHA adopted all FPCs within an acceptable time frame (i.e., within six months of the issuance of the FPC directive). VOSHA adopted all standards issued in FY2010 within the required time frame. Region I will continue to closely monitor VOSHA's FPC and standard adoption progress on a quarterly basis.

- **Finding 21 of 29**

Finding 09-#21: Green Mountain VPP (GMVPP) (Obtaining permission to use Special Government Employees (SGEs)— *Two SGEs participated in the IBM onsite on April 2-10, 2008 without having received approval from the SGE Coordinator.*

Recommendation 09-#21: VOSHA must request prior approval from the SGE Coordinator at the National Office to use SGEs on GM VPP onsite reviews.

This finding was corrected prior to the development of the corrective action plan.

- **Finding 22 of 29**

Finding 09-#22: Process Safety Management (PSM) Training—*The GMVPP onsite evaluation that involved the PSM standard was conducted on September 17-20, 2007, although none of the seven team members had received PSM Level 1 auditor training.*

Recommendation 09-#22: VOSHA must have at least one CSHO trained in PSM to ensure compliance with the PSM Standard.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will schedule a safety or health CSHO for the PSM course series beginning in FY2011. By November 30, 2010 VOSHA will have a CSHO enrolled in the OSHA 3300 PSM course.	Completed. One CSHO completed Course #3300 on April 1, 2011 and is scheduled to complete the two remaining courses in FY2011.	Corrected.

Additional Information: VOSHA has enrolled one CSHO in all three of the PSM courses prescribed by the OSHA Training Institute. This CSHO will complete all of these courses in FY2011. The course offerings and dates are as follows:

#3300—Safety and Health in Chemical Processing Industries (March 22-April 1, 2011)/Location: Northern New Jersey;

#3400—Hazard Analysis in Chemical Processing Industries (May 17-27, 2011)/Location: Albany, New York or Northern New Jersey; and

#3430—Advanced PSM (September 13-23, 2011)/Location: New York, New Jersey or Region IV

- **Finding 23 of 29**

Finding 09-#23: PSM Questionnaires—*The PSM questionnaire was not sent to the VOSHA GMVPP site covered under the PSM standard.*

Recommendation 09-#23: VOSHA must send the PSM questionnaires for completion by the VPP site covered under PSM for completion. These questionnaires must be included in the site's 2009 annual self-evaluation.

This finding was corrected prior to the development of the corrective action plan.

- **Finding 24 of 29**

Finding 09-#24: Medical Access Orders (MAOs)—*Effective April 18, 2008, CSP 03-01-003 modifies procedures for VPP onsite evaluations. A review of the GMVPP files found discrepancies related to Medical Access Orders (MAOs), final reports containing 90-day items, abatement verification or documentation.*

Recommendation 09-#24: VOSHA should use the revised report format for initial and recertification of VPP onsite evaluations.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA will use CSP 03-01-003 when performing all activities associated with GMVPP. Each file will have a copy of the MAO and the State will require that all 90 day items are corrected before approval is granted.	Corrected.	Corrected.

Results of Onsite Case File Review: VOSHA did not have any information available to ensure that CSP-03-01-003 was being followed.

- **Finding 25 of 29**

Finding 09-#25: OSHA 55 Intervention Form—*CSHOs are required to enter an OSHA 55 intervention form for each GMVPP onsite evaluation that is conducted. Staff must also enter the OSHA form 31 timesheet into IMIS.*

Recommendation 09-#25: VOSHA must ensure that all CSHOs enter their weekly activity on the OSHA form 31 timesheets. The OSHA 55 intervention form should be incorporated into the OSHA form 31 when appropriate.

Results of Onsite Case File Review: Region verified compliance with this recommendation. This Finding has been corrected.

- **Finding 26 of 29**

Finding 09-#26: GMVPP Files—*The GMVPP manager verbally accepts the application and schedules the onsite within two months at the convenience of the applicant. Files did not contain the dates the applications were received and accepted.*

Recommendation 09-#26: VOSHA should ensure that GMVPP files contain the date the application was received and the date the application was accepted. In addition, VOSHA should send a letter to the applicant acknowledging receipt of the VPP application.

This finding was corrected prior to the development of the corrective action plan.

- **Finding 27 of 29**

Finding 09-#27: GMVPP Records—*The GMVPP records are located on the GMVPP program manager’s personal drive.*

Recommendation 09-#27: All of the GMVPP electronic documents must be placed on the “S” (public) drive to allow management in the Montpelier office to access the files in the event of a public request.

This finding was corrected prior to the development of the corrective action plan.

- **Finding 28 of 29**

Finding 09-#28: Discrimination Files— *Some [discrimination] files had detailed phone logs, and others did not contain any phone log. The OSHA Form 87 (or the IMIS Case Activity Worksheet) was not found in some of the files. In addition, copies of notification letters and closing letters to the complainant and respondent were not included in some of the case files.*

Recommendation 09-#28: VOSHA must assemble discrimination case files in an orderly fashion and in accordance with OSHA’s Discrimination Manual, Chapter 5.III.B.1, which includes a Case Activity Worksheet, or OSHA 87 and notification and closing letters to the parties. In addition, an activity/telephone log must be accurately documented with telephone calls and significant events that occur with respect to the case.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA management will complete a review of Chapter 5.III.B.1 of the Discrimination Manual by February 1, 2011 (or at an earlier date should there be a discrimination complaint in the interim) with the discrimination investigators and will follow the requirements in the section.	Completed.	Corrected.
Discrimination case files will be organized per the instructions in the Discrimination Manual and will include a case file activity/telephone log to track all case file activity.	Completed.	

Results of Onsite Case File Review: One current discrimination file had a detailed phone log and a completed OSHA Form 87. Closure letters were being prepared to send out. The case was properly organized.

- **Finding 29 of 29**

Finding 09-#29: CSHO training— *Some CSHOs have exceeded the time frame of three years from date of hire to complete all courses required under TED 01-00-018.*

Recommendation 09-#29: Since some of the program’s CSHOs have not met this timeframe, the VOSHA director should ensure that all CSHOs complete their remaining courses as soon as possible.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA staff members will be scheduled to attend the #1310 Investigative Interviewing Techniques by January 14, 2011.	Completed	Pending.
On December 1, 2010, VOSHA submitted a request to the Regional Administrator to hold course #2450 in Vermont.	Pending response from OTI.	

Additional Information: Region I wholeheartedly endorsed VOSHA’s request to hold Course #2450 in Vermont and forwarded it to OTI. VOSHA is awaiting a response from OTI.

ISSUES IDENTIFIED WITH INFORMAL SUGGESTIONS

- **Finding: Longshoring and Marine Terminal Standard**— *VOSHA did not adopt the longshoring and marine terminal standard because there is no maritime industry in the state. However, according to the IMIS and as a result of further research on Maritime enforcement, it was found that Vermont may in fact have sites subject to Section 29 CFR 1915 and 1917 (p. 48).*
- **Recommendation:** VOSHA must reevaluate the need to adopt the longshoring and marine terminal standard and advise the region of its findings.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA plans to adopt this standard by May 1, 2011.	Pending.	Pending.

Additional Information: Upon further review, VOSHA determined that Vermont has two marinas that provide maintenance, repair and storage services. Therefore, in August 2010, VOSHA advised Region I that it would adopt 29 CFR PART 1915—Occupational Safety and Health Standards for Shipyard Employment.

- **Finding: Use of Appropriate Forms**—*VOSHA was using OSHA-1 inspection numbers to assign a case number to 11(c) cases and also was filing the 11(c) complaint on an OSHA-7 complaint form.*
- **Recommendation:** VOSHA management and investigators were informed *that safety and health inspection forms have a separate purpose from 11(c) forms*, and were instructed not to use the OSHA-1 and the OSHA-7 forms for 11(c) complaints. Following this practice will avoid duplication of files. In addition, in writing up the final analysis in a case, listing the elements separately will help ensure that all required elements are covered.

Corrective Action	Status of Corrective Action	Status of Finding
VOSHA has discontinued using safety and health inspection forms for Discrimination cases and will follow the directions in the Discrimination Manual.	Completed.	Corrected.

Results of Onsite Case File Review: VOSHA is not using the OSHA-1 and OSHA-7 for 11(c) complaints.

IV. FY2010 STATE ENFORCEMENT

This section provides an assessment of the State’s enforcement related functions, and focuses on inspections, violations, abatement verification, penalties and citation issuance. Information sources include Federal/State IMIS comparison data for FY 2010 and the first quarter of FY2011 (**Appendix C**); the SAMM report for FY 2010 and the first quarter of FY2011 (**Appendix D**); the SIR for FY 2010 and the first quarter of FY2011 (**Appendix E**); and the VOSHA FY2010 SOAR (**Appendix F**). FY2010 year-end data (and in some cases FY2011 first quarter data) is compared to previous years in order to show trends in performance. This data was provided by OSHA’s Directorate of Cooperative and State Programs (DCSP), Office of State Programs (OSP), and the dates that these reports were run are shown in the table below.

	<i>FY2010 Federal/State IMIS Data</i>	<i>FY2011 First Quarter Federal/State IMIS Data</i>	<i>FY2010 SAMM</i>	<i>FY2011 First Quarter SAMM</i>
<i>Report Run Dates</i>	11/9/2010	1/3/2011	11/12/2010	1/28/2011

Where relevant, Region I also used information gained from the onsite case file review to help evaluate some of the enforcement related functions discussed below. In addition to new findings and recommendations that have been made as a result of this evaluation, the Region references some of the continued recommendations made in Section III (when discussing deficiencies that were cited in the FY2009 EFAME and that persisted in FY2010).

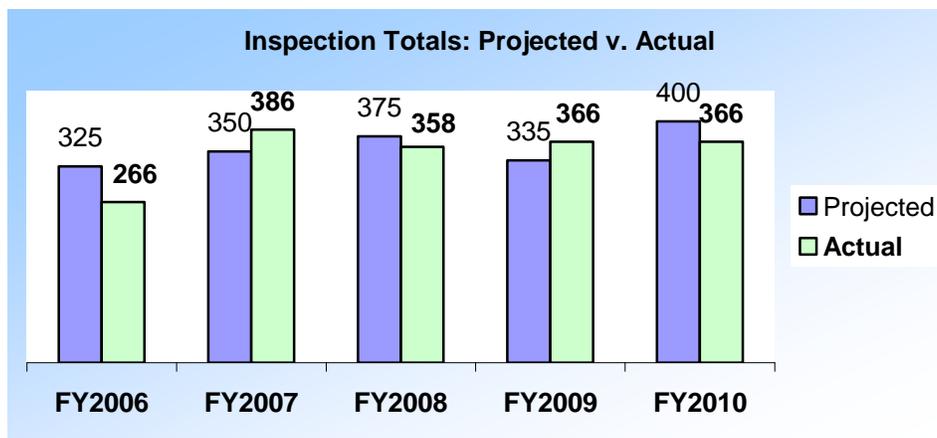
INSPECTIONS

PROJECTED V. ACTUAL

During FY2010, VOSHA completed a total of 366 inspections out of 400 projected. The table below breaks out of the number of inspections projected and completed by safety and health.

<i>FY2010 Inspections</i>			
	Projected	Actual	Actual as Percent of Number Projected
<i>Safety</i>	300	267	89
<i>Health</i>	100	99	99
TOTAL	400	366	92

In FY2010, the program was fully staffed with six safety and four health CSHOs. However, one safety CSHO was on restricted duty for medical reasons for several months. In FY2009, VOSHA also conducted 366 inspections, or 105 percent of its goal of 335. The chart below compares VOSHA's projected to actual number of inspections for fiscal years 2006- 2010.



As of the end of the first quarter of FY2011, VOSHA had conducted 66 inspections, or only 17 percent of the program's total projection of 400 inspections for FY2011. This first quarter total is well below the 25 percent mark. On the other hand, VOSHA's first quarter has traditionally been slower than the three remaining quarters in terms of inspection activity largely because of weather issues.

INSPECTIONS BY TYPE

The table below provides a comparison of programmed to complaint inspections.

	FY2009		FY2010		FY2011 (1 st Qtr.)	
	VOSHA	OSHA	VOSHA	OSHA	VOSHA	OSHA
Percent Programmed	67	62	61	60	43	58
Percent Complaint	17	17	24	20	43	21

With the exception of the first quarter of FY2011, VOSHA's percentages for programmed and complaint inspections are more or less in line with Federal OSHA's percentages.

COMPLAINT ACTIVITY MEASURES

SAMM measures 1-4 provide an assessment of the program's efficiency in handling complaint inspections.

SAMM#1 measures the average number of days it takes the program to initiate complaint inspections. The standard for this measure is five days. As shown in the table below,

VOSHA’s average number of days has decreased considerably since FY2006. However, the State did not meet the standard in FY2010. FY2011 first quarter results, however, show that the program’s average is only 1.61 days.

Average Number of Days to Initiate Complaint Inspections (SAMM #1)					
	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Avg. No. of Days	16.52	4.26	8.06	4.46	5.35

SAMM #2 measures the average number of days to initiate complaint investigations; **SAMM#3** measures the percent of complaints where complainants were notified on time. In FY2010, VOSHA met the standard of one day for responding to complaint investigations, with an average of .86 days. In FY2009, VOSHA also met the standard, with an average of 0.81 days. For SAMM #3, VOSHA notified 100 percent of all 80 complainants in a timely manner, and initiated inspections in all of the complaints filed. VOSHA also met the 100 percent standard in FY2009 as well for SAMM#3.

SAMM #4 measures the percent of imminent danger complaints and referrals responded to within one day. The standard is 100 percent. In FY2010, VOSHA did not meet the standard, responding to two out of three imminent danger complaints within one day, for a percentage of 66.67. In FY2009, VOSHA had the same percentage as in FY2010—66.67 percent.

Since VOSHA has not shown improvement with regard to SAMM #4, Region I continues to recommend that VOSHA strive to meet the standard for this measure, and that it do so by the end of FY2011 (See **Recommendation 10-#01 for 09-#01** in Section III).

FATALITIES

In FY2010, there was one reported fatality that was caused by workplace conditions in Vermont. This fatality was caused by a highway work zone accident. Since FY2006, the number of fatalities within VOSHA’s jurisdiction has remained constant at one per year.

Number of Fatalities	
FY2005	4
FY2006	1
FY2007	1
FY2008	1
FY2009	1
FY2010	1

In addition to the fact that Vermont’s fatalities have leveled off to one each year over the past five years, data from the table below³ also show a downward trend in workplace illnesses and injuries over the past few years. For example, Vermont’s total employment decreased by more than 6,000 from 2008 to 2009 (or by about 2 percent). Total reported injuries and illnesses also declined from 2008 to 2009, but by a larger percentage (7 percent) than the drop in total employment. In 2009, Vermont’s number of recordable cases per 100 employees was the lowest since at least 2005.

<i>Calendar Year</i>	<i>Total Reported Injuries and Illnesses</i>	<i>Total Vermont Employment</i>	<i>Number of Recordable Cases per 100 Employees</i>	<i>Number of Workplace Fatalities Covered by VOSHA</i>
2005	14,700	292,300	6.1	4
2006	13,500	294,600	5.7	1
2007	14,100	297,300	6.0	1
2008	12,800	298,600	5.4	1
2009	11,900	292,200	5.1	1

As discussed under **Finding 09-#6**, Region I reviewed the case file that related to the one fatality that occurred in FY 2010, and found that VOSHA did not send copies of the citations to the victim’s next of kin. Since this particular case closed on December 14, 2010, the VOSHA manager said that it was “too close to the holidays” to send the citations to the victim’s family members. While Region I understands VOSHA’s concern for the family members, these citations should have been sent to the family by the time Region I conducted the onsite case file review (January 31- February 1, 2011). (See **Recommendation 10-#4 (for 09-#6)** in Section III.)

INSPECTIONS WITH VIOLATIONS CITED

As shown in the table below, VOSHA compares favorably to Federal OSHA in terms of the percentage of inspections with violations cited. On the other hand, VOSHA does not cite as many serious violations as Federal OSHA when inspecting employers that are not in compliance.

Although VOSHA’s percentage of not in-compliance inspections with serious violations cited was 12 percentage points below Federal OSHA’s percentage in FY2009, and 16 points below the Federal percentage in FY2010, the program improved its performance at the end of the first quarter of FY2011 by decreasing the gap to nine percentage points.

³ Data obtained from Bureau of Labor Statistics (BLS) at <http://www.bls.gov/iif/oshstate.htm#VT>.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

	% Inspections with Violations Cited			% Not In Compliance with Serious Violations		
	Fiscal Year	09	10	11 (Q1)	09	10
VOSHA	80	72	48	75	72	81
Federal OSHA	70	71	42	87	88	88

Although VOSHA has a weaker track record than Federal OSHA in terms of its percentage of not in compliance inspections with serious violations, the program fared better in terms of its performance on **SAMM #8**, which measures the percent of *programmed* inspections with Serious/Willful/Repeat (S/W/R) violations.

The table below shows VOSHA's results for **SAMM #8** over the past three fiscal years (and the first quarter of FY2011). Overall, VOSHA's percentages for both safety and health were higher than Federal OSHA's (with the exception of the first quarter of FY2011).

SAMM #8								
	FY2008		FY2009		FY2010		FY2011 (1 st Qtr.)	
	VOSHA (%)	National Data (%)	VOSHA (%)	National Data (%)	VOSHA (%)	National Data (%)	VOSHA (%)	National Data (%)
Safety	60.95	59.0	76.12	58.5	60.34	58.4	81.63	58.3
Health	55.56	51.4	54.55	51.1	58.33	50.9	50.00	50.9

SAMM #9 measures the average number of Serious/Willful/Repeat (S/W/R) and other-than-serious violations per inspection with violations. In FY2010, VOSHA conducted 266 inspections that had 466 S/W/R violations cited (for an average of 1.73 S/W/R violations per inspection with violations cited). This average is lower than the national average of 2.1, and comparable to the FY2009 average of 1.74.

SAMM #9						
	FY2009		FY2010		FY2011 (1 st Qtr.)	
	VOSHA	National Data	VOSHA	National Data	VOSHA	National Data
Avg. number of S/W/R violations per inspection with violations	1.74	2.1	1.73	2.1	2.28	2.1

As discussed in more detail in the following section on violations, VOSHA must increase its percentage of violations cited as serious to align more closely with Federal OSHA's percentage.

VIOLATIONS

CLASSIFICATION OF VIOLATIONS AS SERIOUS AND OTHER-THAN-SERIOUS

As shown in the table below, VOSHA's percentage for all violations cited as serious did not align closely with Federal OSHA in FY2010. As a matter of fact, this percentage actually decreased from FY2009 to FY2010. As for the first quarter of FY2011, VOSHA appears to be off to a good start, with a percentage for all violations cited as serious which is almost as high as Federal OSHA's.

<i>Fiscal Year</i>	<i>VOSHA Percent Serious</i>	<i>Federal OSHA Percent Serious</i>	<i>VOSHA Percent Other- than-serious</i>	<i>Federal OSHA Percent Other- than-serious</i>
FY2009	65	77	32	19
FY2010	60	77	37	18
FY2011 (1st Qtr.)	76	77	21	18

The SIR for FY2010 and the first quarter of FY2011 break out the percentage of all violations cited as serious for safety and health, for both VOSHA and Federal OSHA (private sector only).

<i>SIR (Serious Violations %)</i>						
	FY2009		FY2010		FY2011 (1st Qtr.)	
	State	Federal	State	Federal	State	Federal
Safety	73.4	80.0	68.4	81.0	83.0	79.7
Health	45.9	69.7	43.3	70.2	52.3	69.1

WILLFUL (AND REPEAT) VIOLATIONS

IMIS data shows that VOSHA did not classify any violations as willful in FY2010, although in FY2009 and in the first quarter of FY2011, the program's percentages for willful violations were higher than Federal OSHA's. As for repeat violations, the program has a tendency to classify fewer than Federal OSHA in proportion to the number of violations cited, as indicated in the table below.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

	Repeat (%)		Willful (%)		S/W/R (%)	
	VOSHA	Federal OSHA	VOSHA	Federal OSHA	VOSHA	Federal OSHA
FY2009	1.7	3.1	.68	.47	70	81
FY2010	2.3	2.8	--	1.6	65	82
FY2011 (1st Qtr.)	1.2	3.9	1.2	.82	81	82

During the onsite review, the Region found one issue involving the classification of one violation as repeat, and in the same case file, the Region also questioned why VOSHA did not pursue a willful classification for another violation.

<i>Violations: Classification and Willful, Repeat</i>	
<i>Case File Number</i>	<i>Finding</i>
8	<p>The CSHO classified a violation as repeat based on a previous violation that occurred in another state. In addition, the file did not contain any documentation regarding the basis for the repeat violation, and the charging language did not contain a final order date.</p> <p>The file indicated that the employer knew that fall protection was required. However, it did not appear that VOSHA was attempting to pursue a willful classification for this particular violation.</p>

Finding 10-#8: S/W/R Violations —Although VOSHA has shown improvement during the first quarter of FY2011 in terms of aligning its percentages of S/W/R violations more closely with Federal OSHA’s percentages, the program’s percentages in FY2009 and FY2010 were not comparable to Federal OSHA’s.

Recommendation 10-#8: As of the end of FY2011, VOSHA’s percentages for serious, willful, repeat and S/W/R violations should be comparable to Federal OSHA’s.

ABATEMENT VERIFICATION

In FY2009, VOSHA came close to, but did not meet, the standard of 100 percent in **SAMM#6** for verifying S/W/R violations abated in a timely manner. In FY2010, VOSHA’s percentages declined from those achieved in FY2009.

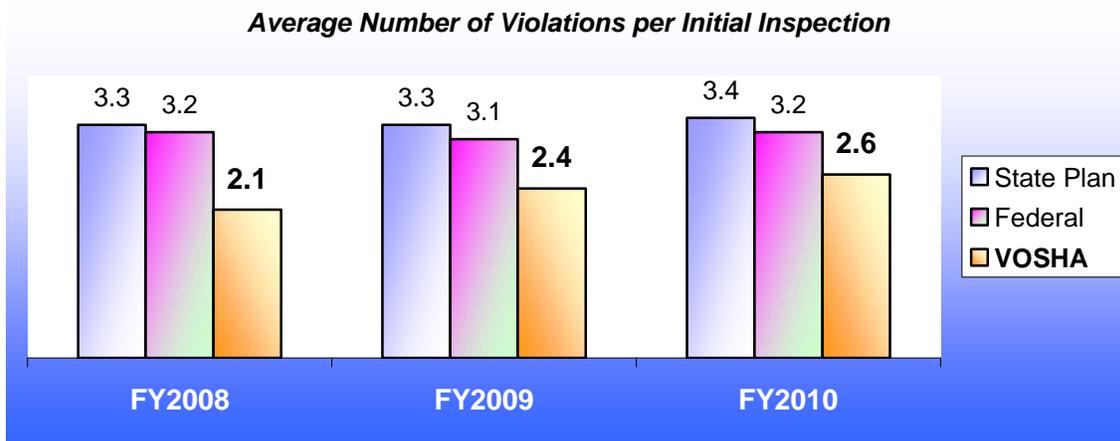
	SAMM#6							
	FY2008		FY2009		FY2010		FY2011 (1 st Qtr.)	
	Private	Public	Private	Public	Private	Public	Private	Public
Sector								

Percent S/W/R Violations Verified Timely	76.87	86.21	93.81	93.55	89.86	84.78	100	100
---	-------	-------	-------	-------	-------	-------	-----	-----

As recommended in **Finding 10-#1 (for Finding 09-#1)**, the SAMM for FY2011 should show that VOSHA has met the 100 percent standard for SAMM #6. The program is already off to a good start, with a percentage of 100 percent for both private and public sector inspections as of the first quarter of FY2011.

AVERAGE NUMBER OF VIOLATIONS PER INITIAL INSPECTION

The chart below shows VOSHA’s average number of violations per initial inspection over the past three fiscal years. FY2009 and FY2010 were typical years for VOSHA, with averages of 2.4 and 2.6 respectively. These averages continue to be below Federal OSHA’s averages (and also the national state plan averages).



As discussed in **Finding 10-#3 for (Finding 09-#3)** in Section III, the IMIS Enforcement Report for FY2011 should indicate that VOSHA has met the Federal average.

GROUPING VIOLATIONS

In the FY2009 EFAME, Region I found that CSHOs grouped some serious violations that should not have been grouped, and that as a consequence of this grouping, penalties were reduced.

During the onsite review, Region I found only one instance of grouping that was inappropriate.

Violations: Grouping	
Case File Number	Finding
3	Citation 1 Items 5a and 5b: These two items (5a was for >one day's use of flammables stored in a spray area and 5b was for failing to bond and ground) were inappropriately grouped.

ESTABLISHING SERIOUS VIOLATIONS

Region I also found in its most recent case file review that VOSHA still has some weaknesses in terms of citing sufficient evidence to substantiate violations.

Violations: Evidence	
Case File Number	Finding
3	Citation 1 Items 3a and 3b: Evidence is lacking. The OSHA 1B does not describe the electrical equipment that is inappropriate for the location.
4	Citation 1 Item 1: The OSHA 1B did not contain adequate evidence. The CSHO did not include information on the make and model of the equipment referred to in the citation.
5	Citation 1 Items 1-3: the OSHA 1B did not contain adequate evidence. For citations referring to a "Porta Cable" saw and an "air Compressor" as "high ampere drawing equipment," there was no specific information regarding the actual draws involved, nor any listing of make/model of equipment.
8	The CSHO evidently accepted the employer's word that the slope of the roof was a 4 pitch. Based upon a review of the photos, it was clear that the roof was closer to a 6 pitch. As a result, it appears that the incorrect standard was cited. The file contained no information to indicate that the CSHO made an independent assessment of the slope of the roof.

As recommended for **Finding10-#7** in Section III, VOSHA must ensure that case files include all evidence necessary to substantiate the violations that were cited. The case file review for the FY2011 FAME will indicate that VOSHA is performing adequately in terms of providing all evidence necessary in case files to substantiate violations.

During the onsite case file review, Region I found several instances where the CSHO resorted to using the term "reasonable diligence" to establish employer knowledge of the hazardous condition.

Establishing Serious Violations	
Case File Number	Finding
3	Citation 1 Items 3a and 3b; Citation 1 Item 4a; Citation 1 Items 5a and 5b: The CSHO's attempt to establish employer knowledge of the hazardous condition was weak; reasonable diligence was used and not adequately substantiated.
4	Citation 1 Item 1: The CSHO's attempt to establish employer knowledge of the hazardous

<i>Establishing Serious Violations</i>	
Case File Number	Finding
	condition was weak; reasonable diligence was used and not adequately substantiated.
9	The CSHO's attempt to establish employer knowledge of the hazard was weak. Reasonable diligence continues to be used.
10	The CSHO's attempt to establish employer knowledge of the hazard was weak. Reasonable diligence continues to be used, and does not adequately substantiate that the employer had knowledge of the hazardous condition.
11	The CSHO's attempt to establish employer knowledge of the hazard was weak. Reasonable diligence continues to be used

Rather than repeatedly resorting to this terminology, the CSHO should make every attempt to document that the employer has *actual* knowledge that the hazard exists. For example, the CSHO should attempt to show that the employer saw the condition, or that an employee reported it to the employer, or that an employee was previously injured by the condition and the employer knew of the injury.

If it cannot be determined that the employer has *actual* knowledge, “the knowledge requirement may be established if there is evidence that the employer could have known of it through the exercise of reasonable diligence [FOM, Chapter 4, Section II].” However, the CSHO must record evidence that substantiates that the employer could have known of the hazardous condition.

Chapter 4 of the FOM includes the following examples of such evidence:

- the violation/hazard was in plain view and obvious;
- the duration of the hazardous condition was not brief;
- the employer failed to regularly inspect the workplace for readily identifiable hazards; and
- the employer failed to train and supervise employees regarding the particular hazard.

Finding 10-#9: Establishing Serious Violations—During the case file review, Region I found that the CSHO did not provide adequate evidence to substantiate that the employer could have known of the hazardous condition through “reasonable diligence.”

Recommendation 10-#9: VOSHA managers and staff should review Chapter 4 of the FOM, Section II. B on the four factors used to determine whether a violation is to be classified as serious. Although VOSHA has already completed a review of Chapter 4 of the FOM, this section should be reviewed once again by the end of the third quarter of FY2011.

PENALTIES

AVERAGE CURRENT PENALTY PER INITIAL INSPECTION

VOSHA’s average current penalty per initial inspection continues to fall below that of Federal OSHA; however, the program’s average as of the first quarter of FY2011 has more than doubled since FY2009.

<i>Fiscal year</i>	<i>Average Current Penalty/Initial Inspection (\$)</i>	
	VOSHA	OSHA
2009	592	970.20
2010	735.90	1,052
2011 (1st Qtr.)	1228.90	1,900

Finding 10-#10: Average Penalty per Initial Inspection—Although VOSHA’s average penalty per initial inspection has shown an upward trend since FY2009, it still falls below Federal OSHA’s average.

Recommendation 10-#10: VOSHA’s average current penalty per initial inspection should come closer to achieving Federal OSHA’s average by the end of FY2011. The State Plan and Federal Inspection and Enforcement Report for FY2011 will show that VOSHA has more or less achieved Federal OSHA’s average.

GRAVITY BASED PENALTIES

In addition to the fact that VOSHA’s percentages for violations classified as serious should be more in line with Federal OSHA’s (as demonstrated by the IMIS data from the SAMM, SIR and Federal OSHA’s State Plan Federal Inspection and Enforcement Reports discussed above) the Region’s case file review revealed several instances where VOSHA did not properly assess the severity of the violation, erring on the side of lower severity than warranted.

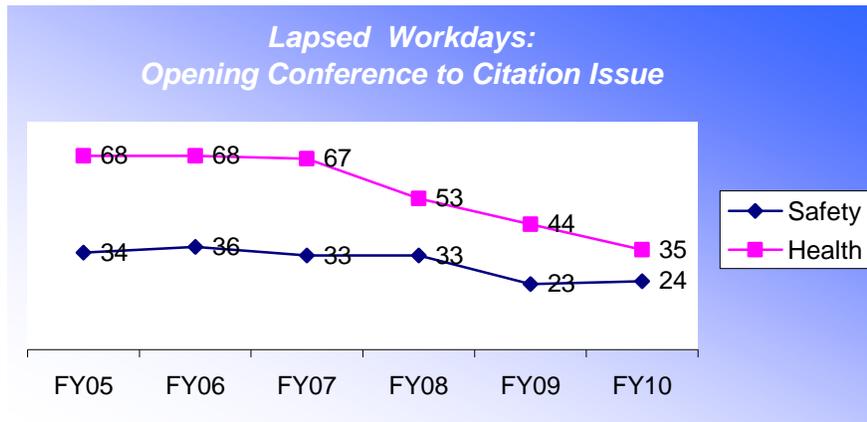
<i>Violations: Severity Assessments</i>	
<i>Case File Number</i>	<i>Finding</i>
1	Citation 2 Item 1: A 10’ fall hazard that was coded as medium severity should have been coded as high severity. Citation 2 Item 5: Lack of a GFCI was listed as low severity for the injury of electric shock. Such

Violations: Severity Assessments	
Case File Number	Finding
	hazards should be assessed as high severity. Citation 2 Item 6: A low severity was listed for the injury of electric shock. Such hazards should be assessed as high severity.
2	Citation 1 Item 2: The issue related to the abrasion of 220VAC conductors on a metal edge. The use of low severity was not appropriate. A high severity should have been assessed.
3	Citation 1 Item 1: The injury was listed as “death, cancer,” but the severity was listed as medium. Citation 1 Item 2: The injury was listed as “death, cancer,” but the severity was listed as medium. Citation 1 Items 3a and 3b: The injury was listed as “death, cancer,” but the severity was listed as medium. Citation 1 Items 4a and 4b: The injury was listed as “death, cancer,” but the severity was listed as medium.
5	Citation 1 Items 1-3: The OSHA 1B lists the potential injury as “electrical shock,” but this type of injury is assessed as medium severity. Citation 1 Item 4: The OSHA 1B describes a 14’ fall hazard, but assesses the potential injury that would result as medium severity. A high severity assessment should have been made by the CSHO.

CITATION ISSUANCE

LAPSE DAYS FROM OPENING CONFERENCE TO CITATION ISSUE

OSHA's Inspection and Enforcement IMIS reports calculate the average lapse time from opening conference to citation issuance in terms of *workdays*. VOSHA's performance with regard to this particular measure has been a longstanding concern for the program as well as Region I. While VOSHA's performance with regard to safety inspections has historically been comparable to Federal OSHA's, the program has had some difficulty over the years achieving Federal OSHA's average lapse time for health inspections. In FY2009, VOSHA met the average of 40 days for safety and health inspections. In FY2010, the program continued to show improvement, posting its lowest average lapse time for health inspections since at least FY2005.



SAMM #7, on the other hand, calculates the average lapse days from opening conference to citation issuance in terms of *calendar* days. Consequently, VOSHA’s performance with regard to this measure is not as satisfactory as the averages that are calculated by using workdays. As shown in the table below, VOSHA did not meet the national standard for health inspections in FY2009, but achieved it in FY2010. During the first quarter of FY2011, however, VOSHA did not meet the standard for either safety or health inspections.

Lapsed Calendar Days: Opening Conference to Citation Issuance				
	Safety Inspections		Health Inspections	
	VOSHA	National Standard	VOSHA	National Standard
FY2009	32.04	43.8	60.11	57.4
FY2010	32.52	47.3	49.64	61.9
FY2011 (1st Qtr.)	56.65	47.3	80.73	61.9

As discussed under **Finding 10-#1 (for Finding 09-#1)**, The SAMM for FY2011 should reflect that VOSHA has met the national standards for lapse times for safety and health inspections in **SAMM#7**.

RECAP OF THE STATE ACTIVITY MANDATED MEASURES (SAMM)—FY 2010 (AND FY2011--1ST QTR.) AND THE INTERIM STATE INDICATOR REPORT (SIR)—FY2010 (AND FY2011--1ST QTR.)

The table below recaps VOSHA’s performance with respect to the entire FY2010 SAMM and SIR, and provides FY2011 (first quarter) data as well.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

SAMM				
Measure	State Data	Standard	Comment	
1. Average number of days to initiate complaint inspections	5.35 (FY2011-1 st Qtr: 1.61)	5	Standard not met in FY2010. Standard was met in FY2011 (1 st Qtr.)	
2. Average number of days to initiate complaint investigations.	.86 (FY2011-1 st Qtr: 1.80)	1.00	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)	
3. Percent of complaints where complainants were notified on time.	100 (FY2011-1 st Qtr: 100)	100	Standard was met.	
4. Percent of complaints and referrals responded to within 1 day.	66.67 (FY2011-1 st Qtr: 0)	100	Standard was not met in FY2010. N/A in FY2011 (1 st Qtr.)	
5. Number of denials where entry was not obtained.	0 (FY2011-1 st Qtr: 0)	0	N/A	
6. Percent of S/W/R violations verified.	Private	89.86 (FY2011 1 st Qtr: 100)	100	Standard was not met in FY2010. Standard was met in FY2011 (1 st Qtr.)
	Public	84.78 (FY2011-1 st Qtr: 100)	100	Standard was not met in FY2010. Standard was met in FY2011 (1 st Qtr.)
7. Average number of calendar days from opening conference to citation issue.	Safety	32.53 (FY2011-1 st Qtr: 56.65)	47.3	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)
	Health	49.64 (FY2011-1 st Qtr: 80.73)	61.9	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)
8. Percent of programmed inspections with S/W/R violations.	Safety	60.34 (FY2011-1 st Qtr: 81.63)	58.4	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)
	Health	58.33 (FY2011-1 st Qtr: 50.00)	50.9	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)
9. Average violations per inspection with violations.	S/W/R	1.85 (FY2011-1 st Qtr: 1.11)	2.1	Standard was not met.
	Other	2.23 (FY2011-1 st Qtr: 3.11)	1.00	Standard not evaluated.
10. Average initial penalty per serious violation – private sector only.		\$1064.89	\$1360.4	Standard was not met.
		(FY2011-1 st Qtr: \$1358.35)	\$1361.5	Standard was not met.
11. Percent of total inspections in public sector.	9.29 (FY2011-1 st Qtr: 3.80)	9.2	Standard was met in FY2010. Standard was not met in FY2011 (1 st Qtr.)	
12. Average lapse time from receipt of	N/A	213.2	N/A	

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

SAMM			
Measure	State Data	Standard	Comment
contest to first level of decision.			
13. Percent of 11(c) investigations completed within 90 days.	50.0 (FY2011-1 st Qtr: 0)	100	Standard was not met in FY2010. N/A in FY2011 (1 st Qtr.)
14. Percent of 11(c) complaints that are meritorious.	37.50 (FY2011-1 st Qtr: N/A)	21.2	Standard was met.
15. Percent of meritorious 11(c) complaints that are settled.	100 (FY2011-1 st Qtr: N/A)	86.0	Standard was met.

SIR						
Measure	State Data FY 2010	Federal Data FY 2010	Comment	State Data FY 2011 (Q1)	Federal Data FY 2011 (Q1)	Comment
C.1.A. Private Sector Programmed Inspections Safety (%)	66.5	65.1	Standard set by Federal OSHA is met.	82.0	62.0	Standard set by Federal OSHA is met.
C.1.B. Private Sector Programmed Inspections Health (%)	45.9	35.0	Standard is met.	42.0	33.0	Standard is met.
C.2.A. Private Sector Programmed Inspections with Safety Violations (%)	63.4	69.1	Standard is not met.	77.3	73.1	Standard is met.
C.2.B Private Sector Programmed Inspections with Health Violations (%)	83.8	55.4	Standard is met.	77.8	56.6	Standard is met.
C.3.A. Private Sector Serious Safety Violations (%)	68.4	81.0	Standard is not met.	83.0	79.7	Standard is met.
C.3.B. Private Sector Serious Health Violations (%)	43.3	70.2	Standard is not met.	52.3	69.1	Standard is not met.
C.4.A. Private Sector Abatement Greater Than 30 Days for Safety Violations (%)	35.0	17.2	Standard is not met.	13.8	15.5	Standard is met.
C.4.B. Private Sector Abatement Greater Than 30 Days for Health Violations (%)	1.1	8.5	Standard is met.	0	6.7	Standard is met.
C.5.A. Private Sector Average Penalty for	100.0	894.3	Standard is not met.	0	936.6	Standard is not met.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
OSHA REGION I

SIR						
Measure	State Data FY 2010	Federal Data FY 2010	Comment	State Data FY 2011 (Q1)	Federal Data FY 2011 (Q1)	Comment
Other-than-Serious Safety Violations (\$)						
C.5.B. Private Sector Average Penalty for Other-than-Serious Health Violations (\$)	300.0	835.8	Standard is not met.	0	846.0	Standard is not met.
C.6.A. Private Sector Safety Inspections Per 100 Hours	2.9	5.5	Standard is not met.	2.4	5.7	Standard is not met.
C.6.B. Private Sector Health Inspections Per 100 Hours	1.6	1.9	Standard is not met.	1.0	2.1	Standard is not met.
7. Private Sector Violations Vacated (%)	5.5	4.7	Standard is met.	2.5	4.9	Standard is met.
8. Private Sector Violations Reclassified (%)	3.9	4.0	Standard is met.	2.5	3.3	Standard is met.
9. Private Sector Penalty Retention (%)	48.9	63.0	Standard is not met.	56.8	64.5	Standard is not met.
D.1.A. Public Sector Programmed Safety Inspections (%)	82.6 <i>(public sector VT)</i>	66.5 <i>(private sector)</i>	Private sector standard is met.	100	82.0	Private sector standard is met.
D.1.B. Public Sector Programmed Health Inspections (%)	10.0 <i>(public sector VT)</i>	45.9 <i>(private sector VT)</i>	Private sector standard is not met.	0	42.9	Private sector standard is not met.
D.2.A. Public Sector Serious Safety Violations (%)	60.0 <i>(public sector VT)</i>	68.4 <i>(private sector VT)</i>	Private sector standard is not met.	91.7	83.0	Private sector standard is met.
D.2.B. Public Sector Serious Health Violations (%)	73.0 <i>(public sector VT)</i>	43.3 <i>(private sector VT)</i>	Private sector standard is met.	100	52.3	Private sector standard is met.
E.1. Percent of Violations Vacated	29.2	21.9	Standard is not met.	.0	23.0	Standard is met.
E.2. Percent of Violations Reclassified	4.2	11.7	Standard is met.	.0	13.4	Standard is met.
E.3. Percent of Penalty Retention	59.6	58.1	Standard is met.	50.0	52.4	Standard is not met.

V. OTHER

PSM INSPECTIONS

Region I has provided VOSHA with the Environmental Protection Agency's (EPA) Risk Management Plan (RMP), which OSHA uses for targeting employers who are covered under OSHA's PSM standard. Region I has also provided VOSHA with the results of a PSM NAICS code search that yielded 656 companies in Vermont that may be covered under OSHA's PSM standard.

As discussed under **Finding 09-#22** in Section III, VOSHA has enrolled one CSHO in all three of the PSM training courses offered by OSHA's Training Institute. Once this CSHO has completed PSM training, VOSHA should be prepared to implement the PSM NEP which will soon be issued by Federal OSHA.

Finding 10-#11: VOSHA has not developed a list of employers that would be subject to inspection under the PSM standard.

Recommendation 10-#11: VOSHA must begin the process of refining the list of employers who may potentially be covered by OSHA's PSM standard, in preparation for adoption of OSHA's PSM NEP.

OSHA-1, INSPECTION FORM

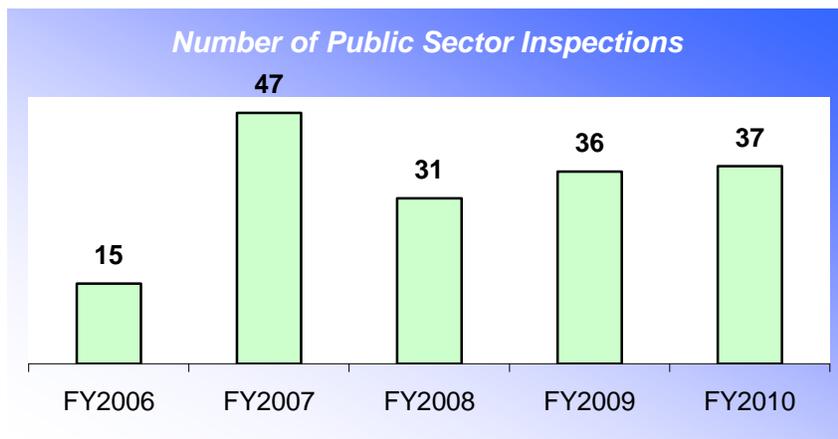
During the onsite review, Region I determined that VOSHA is using an outdated version of the OSHA-1 inspection report. The OSHA-1 is used to record national emphasis and local emphasis codes to allow for tracking these types of inspections. The OSHA-1 is also used to record OSHA 300 Log injury and illness data. However, the OSHA -1 currently used by VOSHA, which dates back to 1993, does not contain fields to enter data related to emphasis programs or the OSHA 300 log.

As a result, VOSHA has not been using OSHA's codes for any inspections related to emphasis programs, or entering any 300 log information into the current database. This problem will soon be corrected, however, by the new OSHA Information System (OIS), which is scheduled for deployment later this year fiscal year. The current OSHA-1 will cease to exist in its current form; however, the OIS will collect even more inspection data and information than what appeared on the current OSHA-1.

PUBLIC EMPLOYEE PROGRAM

In FY2010, VOSHA conducted 37 out of 40 public sector inspections projected, or 93 percent. In terms of public sector consultation visits, Project WorkSAFE more than doubled the number it projected for the fiscal year, by conducting 46 out of 20 projected. In FY2009, VOSHA also surpassed its goal for public sector consultation visits, by completing 27 out of 20 projected. VOSHA treats public sector entities the same as those in the private sector in

terms of monetary penalties. The chart below shows VOSHA’s public sector inspection activity over the past five years.



INCIDENCE RATES⁴ IN VERMONT

The injury and illness rates in the public and private sectors in Vermont have consistently decreased from 2007 through 2009 in both the private and public sectors, as shown in the tables below. This is in keeping with the national trend of decreasing rates for total recordable cases (TCR) and cases with days away from work, job transfer, or restriction (DART).

In terms of the private sector, however, Vermont’s TCR and DART rates have been consistently higher than the national TCR and DART rates. Nonetheless, Vermont’s average TCR and DART rates decreased more from 2007 to 2009 than did the national average rates.

Private Sector												
	Total Case Rate			Percent Change			DART Rate			Percent Change		
	2007	2008	2009	07-08	08-09	07-09	2007	2008	2009	07-08	08-09	07-09
Vermont	5.9	5.5	4.9	-6.8	-10.9	-16.9	2.8	2.5	2.2	-10.7	-12.0	-21.4
National	4.2	3.9	4.9	-7.1	-7.7	-14.3	2.1	2	1.8	-4.8	-10.0	-14.3
State Plans*			3.6						2.0			

*Rates calculated by OSHA’s Directorate of Enforcement

⁴ Data obtained from Bureau of Labor Statistics (BLS) at <http://www.bls.gov/iif/oshstate.htm#VT> (unless otherwise stated).

Government												
	Total Case Rate			Percent Change			DART Rate			Percent Change		
	2007	2008	2009	07-08	08-09	07-09	2007	2008	2009	07-08	08-09	07-09
Vermont	6.5	5.1	4.7	-21.5	-7.8	-27.7	2	1.4	1.3	-30.0	-7.1	-35.0
National *			5.8						2.5			
State Plan*			5.5						2.9			

STANDARD ACTIONS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTIONS

In FY2010, VOSHA adopted all standard actions in a timely manner and in a form identical to the federal version. In terms of FPCs, VOSHA did not adopt the following: (CPL 03-00-011) National Emphasis Program (NEP)-Flavorings; and (CPL-02 (10-05) 2010 381 Chemical Facilities NEP. Mandatory adoption was not required by OSHA for either of these FPCs. All other FPCs were adopted in a form identical to the federal version and in a timely manner.

VI. ASSESSMENT OF STATE PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

FY 2010 was the second year of VOSHA’s five-year strategic plan, which extends from FY 2009 to FY 2013. In FY 2010, VOSHA accomplished most of its FY 2010 annual performance plan goals. However, the program did not hit its target for total number of inspections, conducting 366 out of 400 projected, or 92 percent of its goal. In FY2009, the program also conducted the same number of inspections, but accomplished 109 percent of its goal of 355.

In developing its five-year strategic plan, VOSHA identified nine industries in Vermont that had higher than average DART rates compared to all other industries in the state. By the end of the five year plan, VOSHA intends to effect a 15 percent reduction in each of these industries’ DART rates, and a 25 percent reduction in fatalities, from the FY2006 baseline rates. The table below lists these high-hazard industries and compares VOSHA’s baseline data to calendar year 2009 results (the latest year for which the BLS has currently published statistics).

In two of these nine industries (wood product manufacturing and health and social assistance), the 2009 DART rate increased from the baseline rates, and in one (transportation and warehousing) there was no change in DART rate from the baseline.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

Industry	NAICS	2006 DART (baseline)	2008 DART	2009 DART	Pct. Change (from 2008 to 2009)	Pct. Change (from baseline to 2009 DART)
Construction	23	5.5	4.0	3.8	(5)	(30)
Wood Product Manufacturing	321	3.0	4.7	4.0	(15)	33
Transportation & Warehousing	48-49	3.6	2.9	3.6	24	0
Paper Manufacturing	322	3.9	6.0	3.0	(50)	(23)
Food Manufacturing	311	6.9	4.7	3.6	(23)	(48)
Plastics & Rubber Products Manufacturing	326	6.9	4.2	4.2	0	(39)
Non metallic Mineral Product Manufacturing	327	5.0	3.7	2.3	(38)	(54)
Wholesalers, Non durable Goods	424	5.9	3.5	4.3	23	(27)
Healthcare & Social Assistance	62	2.5	3.2	2.8	(13)	12

In FY2010 as in past years, VOSHA continued its strong presence in the business community, working in partnership with five organizations and eight VPP employers to provide training and other compliance assistance services to Vermont's workers (including young, inexperienced workers) in a variety of professions and trades.

The next two tables summarize VOSHA's progress in meeting its FY2010 Annual Performance Plan and objectives. The information presented in these tables was derived from the VOSHA's FY2010 State OSHA Annual Report (SOAR), the full contents of which are contained in **Appendix F**.

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

Annual Performance Goal	Outcome Measures	Results																																	
<p>1.1: Reduce the rate of workplace injuries and illnesses in construction by 3% and reduce fatalities by 25%.</p> <p><i>Area of Emphasis:</i> 1A- Residential & commercial building 1B- Highway, street & bridge construction 1C- Roofing 1D- Falls from elevation 1E- Trenching 1F- Struck by 1G- Electrical 1H- Noise 1I- Silica 1J- Youth (Outreach) 1K- Workzone Safety</p>	<p>Intermediate outcome Measure: Conduct 200 inspections in the construction industry</p> <p>Primary Outcome Measure: VOSHA will effect a 15 percent reduction in the DART rate (to be evaluated at the conclusion of the five-year strategic plan).</p>	<p>Total inspections: 366 Total inspections in the construction industry: 197 Percent of goal achieved: 99%</p> <p>See the table above for a comparison of DART rates.</p> <p>The table below compares VOSHA's projected number of inspections in the emphasis areas in construction to the actual number conducted.</p> <table border="1" data-bbox="776 657 1448 1339"> <thead> <tr> <th>Area of Emphasis</th> <th>Projected</th> <th>Actual</th> </tr> </thead> <tbody> <tr> <td>1A- Residential & commercial building</td> <td>150</td> <td>51</td> </tr> <tr> <td>1B- Highway, street & bridge construction</td> <td>30</td> <td>38</td> </tr> <tr> <td>1C- Roofing</td> <td>20</td> <td>30</td> </tr> <tr> <td>1D- Falls from elevation</td> <td>--</td> <td>66</td> </tr> <tr> <td>1E- Trenching</td> <td>--</td> <td>3</td> </tr> <tr> <td>1F- Struck by</td> <td>--</td> <td>37</td> </tr> <tr> <td>1G- Electrical</td> <td>--</td> <td>21</td> </tr> <tr> <td>1H- Noise</td> <td>--</td> <td>5</td> </tr> <tr> <td>41I- Silica</td> <td>--</td> <td>5</td> </tr> <tr> <td>1K- Workzone Safety</td> <td>--</td> <td>11</td> </tr> </tbody> </table> <p>VOSHA's compliance assistance interventions in the construction industry covered all emphasis areas. In addition, VOSHA provided OSHA 10-hour training to workers in the field of construction as well as youth and other inexperienced workers.</p>	Area of Emphasis	Projected	Actual	1A- Residential & commercial building	150	51	1B- Highway, street & bridge construction	30	38	1C- Roofing	20	30	1D- Falls from elevation	--	66	1E- Trenching	--	3	1F- Struck by	--	37	1G- Electrical	--	21	1H- Noise	--	5	41I- Silica	--	5	1K- Workzone Safety	--	11
Area of Emphasis	Projected	Actual																																	
1A- Residential & commercial building	150	51																																	
1B- Highway, street & bridge construction	30	38																																	
1C- Roofing	20	30																																	
1D- Falls from elevation	--	66																																	
1E- Trenching	--	3																																	
1F- Struck by	--	37																																	
1G- Electrical	--	21																																	
1H- Noise	--	5																																	
41I- Silica	--	5																																	
1K- Workzone Safety	--	11																																	

FY 2010 VOSHA EFAME FOLLOW-UP REPORT
 OSHA REGION I

Annual Performance Goal	Outcome Measures	Results																														
<p>1.2: Reduce the rate of workplace injuries and illnesses in general industry by 3% and reduce fatalities by 25%.</p> <p><i>Area Of Emphasis:</i> 2A- Food Processing 2B- Lumber & Wood Products 2C- Small Business 2D- Large Farm Initiative 2E- Targeted NAICS 2F- Amputations 2G- Isocyanates, Asthma & Allergies 2H- Electrical 2I- Powered Industrial Trucks (PIT) 2J- Noise 2K- Silica 2L- Transportation 2M- Youth Workers</p>	<p>Intermediate outcome Measure: Conduct 200 inspections in general industry.</p> <p>Primary Outcome Measure: VOSHA will effect a 15 percent reduction in the DART rate (to be evaluated at the conclusion of the five-year strategic plan).</p>	<p>Total inspections: 366 Total inspections in general industry: 175 Percent of goal achieved: 88%</p> <p>See the table above for a comparison of DART rates.</p> <p>The table below compares VOSHA's projected number of inspections in the emphasis areas in general industry to the actual number conducted.</p> <table border="1" data-bbox="646 762 1432 1339"> <thead> <tr> <th>Area of Emphasis</th> <th>Goal</th> <th>Actual</th> </tr> </thead> <tbody> <tr> <td>2A- Food Processing</td> <td>20</td> <td>14</td> </tr> <tr> <td>2B- Lumber & Wood Products</td> <td>12</td> <td>12</td> </tr> <tr> <td>2E- Targeted NAICS</td> <td>60 (all sites on list)</td> <td>55</td> </tr> <tr> <td>2F- Amputations</td> <td>--</td> <td>42</td> </tr> <tr> <td>2G- Isocyanates, Asthma, & Allergies</td> <td>--</td> <td>14</td> </tr> <tr> <td>2H- Electrical</td> <td>Review electrical hazards on all inspections</td> <td>Completed</td> </tr> <tr> <td>2I- PIT</td> <td>Review electrical hazards on all inspections</td> <td>Completed</td> </tr> <tr> <td>2J- Noise</td> <td>--</td> <td>4</td> </tr> <tr> <td>2K- Silica</td> <td>--</td> <td>5</td> </tr> </tbody> </table> <p>VOSHA's compliance assistance interventions in the general industry covered all emphasis areas. In addition, VOSHA provided OSHA 10-hour training to workers in general industry as well as youth and other inexperienced workers.</p>	Area of Emphasis	Goal	Actual	2A- Food Processing	20	14	2B- Lumber & Wood Products	12	12	2E- Targeted NAICS	60 (all sites on list)	55	2F- Amputations	--	42	2G- Isocyanates, Asthma, & Allergies	--	14	2H- Electrical	Review electrical hazards on all inspections	Completed	2I- PIT	Review electrical hazards on all inspections	Completed	2J- Noise	--	4	2K- Silica	--	5
Area of Emphasis	Goal	Actual																														
2A- Food Processing	20	14																														
2B- Lumber & Wood Products	12	12																														
2E- Targeted NAICS	60 (all sites on list)	55																														
2F- Amputations	--	42																														
2G- Isocyanates, Asthma, & Allergies	--	14																														
2H- Electrical	Review electrical hazards on all inspections	Completed																														
2I- PIT	Review electrical hazards on all inspections	Completed																														
2J- Noise	--	4																														
2K- Silica	--	5																														

Appendix A
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA)
EFAME Follow-up Report
Prepared by Region I
FY 2010 Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
0-1	SAMM measures cited in FY2009 EFAME as “not met” (SAMM#4; SAMM#6-private and public sector inspections; SAMM#7; SAMM#9- S/W/R and other-than-serious violations; SAMM#10; and SAMM#11: Based on both the FY2010 SAMM and the FY2011 (1st Qtr.) SAMM, VOSHA has not shown consistent improvement in the measures cited as “not met” in the FY2009 EFAME.	Work to meet the SAMM measures cited in the FY2009 EFAME—and all SAMM measures—by the end of FY2011.	09-1
10-2	SIR measures—SIR measure E2 (Percent of Violations Reclassified) was the only SIR measure (out of the nine cited in the FY2009 EFAME) that VOSHA consistently met in both FY2010 and in the first quarter of FY2011.	Work to meet the standards for the SIR measures cited in the FY2009 EFAME (with the exception of E2, which the program has met) by the end of FY2011.	09-2
10-3	Average Violations per Initial Inspection/Average Current Penalty per Serious Violation— Although VOSHA has shown improvement over its FY2009 averages, the program’s averages for these two indicators are below Federal OSHA’s averages.	VOSHA must meet the Federal averages for both of these indicators. By 9/30/2011, VOSHA’s averages for violations per initial inspection and current penalty per serious violation will be more closely aligned with the Federal system.	09-3
10-4	Fatality investigations— There was no evidence in the case file that an initial letter and a copy of the citations had been sent to the victim’s family.	VOSHA must ensure that the victim’s family members receive copies of the citations and the initial letter, and that documentation that the letter and citations have been sent is included in the case file.	09-6
10-5	Gravity/probability assessments— In some instances, VOSHA is not properly assessing the probability and severity of a violation. The program still has a tendency to err on the side of assessing lower probability and severity than warranted.	Adhere to the guidelines in Chapter 6 of the FOM for severity and probability assessments. The case file review for the FY2011 FAME will show that VOSHA is properly assessing probability and severity.	09-11
10-6	Letters to unions— VOSHA did not provide adequate documentation that citations were sent to the labor union. Some files did not contain CSHOs’ field notes.	Ensure that case files contain documentation that the program has properly notified labor unions of citations. All files must contain CSHOs’ field notes.	09-13

Appendix A
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA)
EFAME Follow-up Report
Prepared by Region I
FY 2010 Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-7	Evidence of Violations— In some case files, the CSHO did not provide adequate evidence to substantiate the violations that were cited.	Ensure that case files include all evidence necessary to substantiate the violations that were cited. The case file review for the FY2011 FAME will indicate that VOSHA is performing adequately in terms of providing all evidence necessary in case files to substantiate violations.	09-14
10-8	S/W/R Violations— VOSHA’s percentages for S/W/R in FY2009 and FY2010 were not comparable to Federal OSHA’s.	As of the end of FY2011, VOSHA’s percentages for serious, willful, repeat and S/W/R violations should be comparable to Federal OSHA’s percentages.	N/A
10-9	Establishing Serious Violations— During the case file review, Region I found that the CSHO did not provide adequate evidence to substantiate that the employer could have known of the hazardous condition through “reasonable diligence.”	VOSHA managers and staff should review Chapter 4 of the FOM, Section II. B on the four factors used to determine whether a violation is to be classified as serious. Although VOSHA is already completed a review of Chapter 4 of the FOM, This section should be reviewed once again by the end of the third quarter of FY2011.	N/A
10-10	Average Penalty per Initial Inspection— Although VOSHA’s average penalty per initial inspection has shown an upward trend since FY2009, it still falls below Federal OSHA’s average.	VOSHA’s average current penalty per initial inspection should come closer to achieving Federal OSHA’s average by the end of FY2011. The State Plan and Federal Inspection and Enforcement Report for FY2011 will show that VOSHA has more or less achieved Federal OSHA’s average.	N/A
10-11	PSM Inspections— VOSHA has not developed a list of employers that would be subject to inspection under the PSM standard.	VOSHA must begin the process of refining the list of employers who may potentially be covered by OSHA’s PSM standard, in preparation for adoption of OSHA’s PSM NEP.	N/A

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	<p>Nine State Activities Mandated Measures (SAMM) were not met:</p> <p>SAMM#4—Percent of complaints/referrals responded to within 1 day (imminent danger);</p> <p>SAMM #6—Percent of S/W/R violations verified;</p> <p>•SAMM#7—Avg. number of calendar days from opening conference to citation issuance (health);</p> <p>◆SAMM#9—Avg. violations per inspection with S/W/R and Other-than-Serious violations;</p> <p>SAMM#10—Avg. initial penalty per serious violations (private sector);</p> <p>SAMM#11—Percent of total inspections in the public sector; and</p> <p>SAMM#13—Percentage of 11(c) investigations completed within 90 days</p>	<p>Improve performance on all SAMM measures that were not met. By the end of FY2011, VOSHA will have met <i>all</i> SAMM measures</p>	<p>Run monthly SAMM reports to monitor performance; implement a system for tracking employer progress in abating violations; and conduct staff training on the FOM, Chapter 4 (Violations) and Chapter 6 (Penalties).</p>	<p>All corrective actions have been completed and are ongoing.</p>	<p>This finding is pending correction.</p>

-
- Since SAMM #7 pertains to both safety and health inspections, *it encompasses two measures*
 - ◆ Since SAMM#9 pertains to both S/W/R violations and other-than-serious violations, *it encompasses two measures.*

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-2	State Indicator Report (SIR) standards were not met — private sector serious safety/health violations; private sector average penalty for other-than-serious safety/health violations; private sector safety inspections/100 hrs.; private sector penalty retention; % of violations reclassified; and % of penalty retention.	Improve performance on all SIR measures not met. By the end of FY2011, VOSHA will have met <i>all</i> SIR measures.	Review the SIR quarterly to monitor performance; conduct staff training on the FOM, Chapter 4 (Violations) and Chapter 6 (Penalties).	Completed/ongoing.	This finding is pending correction.
09-#3	Average Violations per Initial Inspection/Average Current Penalty per Serious Violation — VT's average violations per initial inspection and average current penalty per serious violation marked below the data for all State Plans and Federal OSHA.	Improve performance to align more closely with Federal OSHA's averages.	Ensure that all penalties are assessed in accordance with Chapter 6 of the FOM; managers will closely review probability and severity assessments before all citations are issued; and run IMIS to monitor performance (monthly).	Completed/ongoing.	Average Violations per Initial Inspection— This finding is pending correction. Average Current Penalty per Serious Violation— This finding is pending correction.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-#4	Case file deficiencies —Case files were found to have the following deficiencies: absence of CSHOs’ field notes; inadequate documentation of abatement verification; and failure to document labor organization notification of the informal conference. Also, the CSHOs were not meeting the FOM diary sheet requirements and documents were not in the order established by Appendix C of ADM 03-01-005.	VOSHA staff members must review and follow Appendix C of ADM 03-01-005, OSHA’s guidance on case file organization.	Management will use case file review check list and review all case files.	Completed/ongoing.	This finding was corrected.
09-#5	Complaint documents —The OSHA-7 complaint form was not contained in the case files. A few files did not contain copies of the letter sent to the complainant advising of the outcome of the inspection.	VOSHA must include the OSHA-7 form in the case files and send response letters to complainants.	Management will use the case file review check list and review all case files.	Completed/ongoing.	This finding was corrected.
09-#6	Fatality Investigations —Discussions between CSHOs and supervisors were not well documented; the CSHO did not reconstruct the accident scene; and there was no evidence that an initial letter and a copy of the citations had been sent to the victim’s next of kin.	Ensure that: important discussions between CSHOs and supervisors are well documented; all information relevant to the fatality investigation is documented in the case file diary sheet; and families of victims are contacted in accordance with the FOM, Chapter 11.	Managers will conduct an extensive review of the FOM, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response; managers will review CPL-02-00-137 (Fatality/Catastrophe Investigation Procedures).	Completed/ongoing.	This finding was corrected.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-#7	Incorrect standards —VOSHA cited the incorrect standard (cited 1910.26(c) (2) (iv) but should have cited 1910.26(c) (3) (i)), and the [fatality] case file did not contain notes reconstructing the scene of the accident.	Review and follow the FOM, Chapter 11, Section II.E.2., which discusses potential items to be documented in the case file	Managers and staff will review of the FOM, Chapter 11, Imminent Danger, Fatality, Catastrophe and Emergency Response and management will ensure compliance with FOM requirements.	Completed/ongoing.	This finding was corrected.
09-#8	Average Number of Violations Cited per Initial Inspection —VOSHA’s average of 2.4 violations cited per initial inspection is below the Federal OSHA average of 3.1 violations.	VOSHA’s average violations cited per inspection should increase to align with Federal OSHA’s average of 3.1 per initial inspection.	Run monthly SAMM reports to monitor performance; implement a system for tracking employer progress in abating violations; and conduct staff training on the FOM, Chapter 4 (Violations) and Chapter 6 (Penalties).	Completed/ongoing.	This finding is pending correction.
09-#9	Hazard identification issues —The case file review revealed that all apparent violations were not cited or some [standards] were misclassified in the citations sent to the employer.	Management should review the pictures taken by CSHOs more closely; CHSOs should network with appropriate staff throughout region to improve hazard recognition.	VOSHA will devote a portion of monthly staff meetings to training on standards and hazard recognition.	Completed/ongoing.	This finding was corrected.
09-#10	Grouping violations —CSHOs grouped serious violations that should not have been grouped, which also reduces penalties.	CSHOs must adhere to Chapter 4, Section X of the FOM which lists the situations that normally call for grouping violations.	Conduct staff training on Chapter 4 of the FOM.	Completed/ongoing.	This finding was corrected.
09-#11	Gravity/probability assessments —In a number of cases, the CSHOs did not correctly assess the gravity of the violation, and erred on the side of assessing lower probability and severity than warranted, thus reducing the overall penalties.	CSHOs should review and adhere to Chapter 6 of the FOM, which discusses gravity based penalties.	Conduct staff training on Chapter 4 of the FOM (Violations) and Chapter 6 (Penalties) of the FOM.	Completed/ongoing.	This finding is pending correction.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #12	Violation classification —A few violations were incorrectly classified as “other” rather than “serious.”	VOSHA staff should review Chapter 4 of the FOM, which discusses the factors that determine whether a violation is to be classified as serious or other-than-serious.	Conduct training on the FOM, Chapter 4 (Violations).	Completed/ongoing	This finding was corrected.
09- #13	Copies of citations —Some of the case files involving unions did not contain any documentation to indicate that the union had been sent a copy of the citations. In addition, field notes, which likely contained the information obtained from the employees during interviews, were not kept in the files.	VOSHA should adhere to the FOM, Chapter 5, Case File Preparation.	VOSHA will conduct staff training on the FOM, Chapter 5, Case File Preparation.	Completed/ongoing.	This finding is pending correction.
09- #14	Evidence of violations —Some cases lacked sufficient evidence to legally support the standards cited or the actions taken by VOSHA to delete citations. In other cases, the CSHO cited the incorrect standard or assessed the penalties incorrectly.	VOSHA must review and follow the FOM, Chapter 4, which discusses the evidence necessary to support violations.	Train staff on Chapter 4 of the FOM.	Completed/ongoing.	This finding is pending correction.
09- #15	SAMM#6—Percent of S/W/R Violations Verified Timely —VOSHA did not meet the standard of 100 percent.	Meet the standard to help ensure that workers are protected from hazards that have been identified.	Run monthly SAMM reports to monitor performance; implement a system for tracking employer progress in abating violations; and conduct staff training on the FOM, Chapter 4 (Violations) and Chapter 6 (Penalties).	Completed/ongoing.	This finding is pending correction.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #16	Evidence of abatement — Some of the case files we reviewed lacked proper evidence of abatement.	VOSHA must thoroughly review and adhere to Chapter 7 of the FOM on Abatement Verification.	Management will review Chapter 7 of the FOM; implement a system for tracking employer progress in abating violations; and cite employers who do not provide adequate documentation under 1903.19 (c).—	Completed/ongoing; VOSHA has not had to cite any employers under 1903.19(c).	This finding was corrected.
09- #17	Petitions for Modification of Abatement (PMAs) documentation — Case files with PMAs were missing the abatement completion date or interim protections to be followed during the PMA.	Ensure that all documentation related to PMAs are contained in the relevant case files.	Develop a system for tracking PMA deadlines, and review all case files to ensure that they contain all documentation related to PMAs (where appropriate).	Completed/ongoing	This finding was corrected.
09- #18	Informal conference documentation —There were a few cases in which the proper informal conference procedures were not followed (e.g., missing original citation following violation reclassification; inadequate documentation on the reason for citation deletion, on the informal settlement agreement or abatement; or held after the 15-day period).	(A) Managers should review and follow the FOM, Chapter 7, which discusses informal conference procedures. (B) The VOSHA supervisor must be sure to document reasons for granting penalty reductions (and extended abatement dates) on the case file diary sheet.	Managers will: review Chapter 7 of the FOM; ensure that all procedures informal conference procedures are properly followed.	Completed/ongoing	This finding was corrected.
09- #19	Debt Collection Procedures — VOSHA had not established formal debt collection procedures.	VOSHA must follow through on establishing formal debt collection procedures based on those set forth in Chapter 6 of the FOM.	Develop and establish formal debt collection procedures.	Completed.	This finding was corrected.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #20	Adoption of Standards — VOSHA has fallen behind in promulgation and adoption of new and revised Federal OSHA standards, due to the State’s time-consuming rulemaking procedures.	VOSHA must respond in a timely manner to FPCs and Federal Standard Actions	The VOSHA Director will begin the rulemaking process upon notification that a final rule has been promulgated by OSHA. VOSHA will notify the Regional Office within three days of when the rule has been submitted to the Secretary of State.— <i>Completed/ongoing</i>	Completed/ongoing.	This finding was corrected.
09- #21	Green Mountain VPP (GMVPP) (Obtaining permission to use Special Government Employees (SGEs)) — Two SGEs participated on the IBM onsite on April 2-10, 2008 without having received approval from the SGE Coordinator.	VOSHA must request prior approval from the SGE Coordinator at the National Office to use SGEs on GM VPP onsite reviews.	Implement recommendation.	Completed.	This finding was corrected.
09- #22	Process Safety Management (PSM) Training —The GMVPP onsite evaluation that involved the PSM standard was conducted, although none of the seven team members had received PSM Level 1 auditor training.	VOSHA must have at least one CSHO trained in PSM to ensure compliance with the PSM Standard.	VOSHA has enrolled one CSHO in all three of the PSM courses prescribed by the OSHA Training Institute. This CSHO will complete all of these courses in FY2011.	Completed.	This finding was corrected.
09- #23	PSM Questionnaires —The PSM questionnaire was not sent to the VOSHA GMVPP site covered under the PSM standard.	VOSHA must send the PSM questionnaires for completion by the VPP site covered under PSM for completion. These questionnaires must be included in the site’s 2009 annual self-evaluation.	Implement recommendation.	Completed.	This finding was corrected.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #24	Medical Access Orders (MAOs) — Effective April 18, 2008, CSP 03-01-003 modifies procedures for VPP onsite evaluations. A review of the GMVPP files we found discrepancies related to Medical Access Orders (MAOs), final reports containing 90-day items, abatement verification or documentation.	VOSHA should use the revised report format for initial and recertification VPP onsite evaluations.	VOSHA will use CSP 03-01-003 when performing all activities associated with GMVPP. Each file will have a copy of the MAO and the State will require that all 90 day items are corrected before approval is granted.	Completed/ongoing.	This finding was corrected.
09- #25	OSHA 55 Intervention Form — VOSHA CSHOs are required to enter an OSHA 55 intervention form for each GMVPP onsite evaluation that is conducted. Staff must also enter the OSHA form 31 timesheet into IMIS.	Ensure that all CSHOs enter their weekly activity on the OSHA form 31 timesheets. The OSHA 55 intervention form should be incorporated into the OSHA form 31 when appropriate.	Implement recommendation.	Completed.	This finding was corrected.
09- #26	GMVPP Files —The GMVPP manager verbally accepts the application and schedules the onsite within two months at the convenience of the applicant. Files did not contain the dates the applications were received and accepted.	Ensure that GMVPP files contain the date the application was received and the date the application was accepted. In addition, VOSHA should send a letter to the applicant acknowledging receipt of the VPP application.	Implement recommendation.	Completed.	This finding was corrected.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #27	GMVPP Records —The GMVPP records are located on the GMVPP program manager’s personal drive.	All of the GMVPP electronic documents must be placed on the “S” (public) drive to allow access to management in the Montpelier office in the event of a public request.	Implement recommendation.	Completed.	This finding was corrected.
09- #28	Discrimination Files — Some files did not contain any phone log. The OSHA Form 87 (or the IMIS Case Activity Worksheet) was not found in some of the files. In addition, copies of notification letters and closing letters to the complainant and respondent <i>were</i> not included in some of the case files.	VOSHA must assemble discrimination case files in accordance with OSHA’s Discrimination Manual, Chapter 5.III.B.1.	Management and Whistleblower staff will complete a review of OSHA’s Discrimination Manual and files will be maintained accordingly.	Completed.	This finding was corrected.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09- #29	CSHO training — Some CSHOs have exceeded the time frame of three years from date of hire to complete all courses required under TED 01-00-018.	CSHOs must complete the required training as soon as possible.	VOSHA staff members will be scheduled to attend the #1310 Investigative Interviewing Techniques by January 14, 2011. On December 1, 2010, VOSHA submitted a request to the Regional Administrator to hold course #2450 in Vermont. <i>(CSHOs have been enrolled in Course #1310, but no response has been received from OTI regarding Course #1250.)</i>	Partially completed. CSHOs have been enrolled in Course #1310, but no response has been received from OTI regarding Course #1250.	This finding is pending correction.
	•Longshoring and Marine Terminal Standard — VOSHA did not adopt the longshoring and marine terminal standard because there is no maritime industry in the state. However, upon further research, it was found that Vermont has sites subject to Section 29 CFR 1915 and 1917.	VOSHA must reevaluate the need to adopt the longshoring and marine terminal standard and advise the region of its findings.	VOSHA plans to adopt this standard by May 1, 2011.	Partially completed. VOSHA has begun the standard adoption process.	This finding is pending completion.

• Issues identified with informal suggestions.

Appendix B
FY 2010 Vermont Occupational Safety and Health Administration (VOSHA) EFAME Follow-up Report
Prepared by Region I
Status of FY2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	<p>•Use of Appropriate Forms— VOSHA was using OSHA-1 inspection numbers to assign a case number to 11(c) cases and also was filing the 11(c) complaint on an OSHA-7 complaint form.</p>	<p>Use forms that are appropriate for 11(c) cases.</p>	<p>VOSHA has discontinued using safety and health inspection forms for Discrimination cases and will follow the directions in the Discrimination Manual.</p>	<p>Completed.</p>	<p>This finding was corrected.</p>

Appendix C
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 Enforcement Data

	VT	State Plan Total	Federal OSHA
Total Inspections	366	57,124	40,993
Safety	267	45,023	34,337
% Safety	73%	79%	84%
Health	99	12,101	6,656
% Health	27%	21%	16%
Construction	182	22,993	24,430
% Construction	50%	40%	60%
Public Sector	34	8,031	N/A
% Public Sector	9%	14%	N/A
Programmed	222	35,085	24,759
% Programmed	61%	61%	60%
Complaint	88	8,986	8,027
% Complaint	24%	16%	20%
Accident	2	2,967	830
Insp w/ Viols Cited	264	34,109	29,136
% Insp w/ Viols Cited (NIC)	72%	60%	71%
% NIC w/ Serious Violations	72.0%	62.3%	88.2%
Total Violations	648	120,417	96,742
Serious	391	52,593	74,885
% Serious	60%	44%	77%
Willful	-	278	1,519
Repeat	15	2,054	2,758
Serious/Willful/Repeat	406	54,925	79,162
% S/W/R	65%	46%	82%
Failure to Abate	-	460	334
Other than Serious	242	65,031	17,244
% Other	37%	54%	18%
Avg # Violations/ Initial Inspection	2.6	3.4	3.2
Total Penalties	\$326,514	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 735.90	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 749.00	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	44.8%	47.7%	40.9%
% Insp w/ Contested Viols	3.8%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	18.2	16.2	18.6
Avg Case Hrs/Insp- Health	34.6	26.1	33
Lapse Days Insp to Citation Issued- Safety	23.9	33.6	37.9
Lapse Days Insp to Citation Issued- Health	34.8	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	3	1,715	2,510

Appendix C
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter Enforcement Data

	VT	State Plan Total	Federal OSHA
Total Inspections	66	10,437	8,642
Safety	51	8,310	7,170
% Safety	77%	80%	83%
Health	15	2,127	1,472
% Health	23%	20%	17%
Construction	41	3,991	5,010
% Construction	62%	38%	58%
Public Sector	2	1,474	N/A
% Public Sector	3%	14%	N/A
Programmed	48	6,169	4,970
% Programmed	73%	59%	58%
Complaint	9	1,749	1,819
% Complaint	14%	17%	21%
Accident	--	624	198
Insp w/ Viols Cited	32	4,219	3,592
% Insp w/ Viols Cited (NIC)	48%	40%	42%
% NIC w/ Serious Violations	81.3%	62.8%	88.1%
Total Violations	162	29,218	21,855
Serious	123	12,882	16,822
% Serious	76%	44%	77%
Willful	2	119	179
Repeat	3	542	866
Serious/Willful/Repeat	128	13,543	17,867
% S/W/R	81%	46%	82%
Failure to Abate	-	72	42
Other than Serious	34	15,602	3,946
% Other	21%	53%	18%
Avg # Violations/ Initial Inspection	2.2	3.2	2.6
Total Penalties	\$265,550	\$ 24,905,784	\$ 47,759,899
Avg Current Penalty / Serious Violation	\$ 1,288.90	\$ 1,155.60	\$ 1,900.70
% Penalty Reduced	49.9%	45.1%	40.4%
% Insp w/ Contested Viols	0.0%	11.4%	8.9%
Avg Case Hrs/Insp- Safety	14.9	12.8	13.9
Avg Case Hrs/Insp- Health	21.0	19.9	22.5
Lapse Days Insp to Citation Issued- Safety	42.9	36.3	43.9
Lapse Days Insp to Citation Issued- Health	56.3	46.2	53.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	7	1,548	2,622

Appendix D
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 SAMM Data

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
PAGE 1 OF 2

State: VERMONT

RID: 0155000

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	423 5.35 79	4 .80 5	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	13 .86 15	4 2.00 2	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	80 100.00 80	6 100.00 6	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	2 66.67 3	0 0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	328 89.86 365	13 54.17 24	100%
Public	39 84.78 46	0 .00 2	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	6213 32.52 191	590 45.38 13	2624646 47.3 55472
Health	3723 49.64	328 82.00	750805 61.9
			National Data (1 year)
			National Data (1 year)

Appendix D
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 SAMM Data

75	4	12129
----	---	-------

8. Percent of Programmed Inspections with S/W/R Violations					
	108	10	93201		
Safety	60.34	100.00	58.4	National Data (3 years)	
	179	10	159705		
	21	1	10916		
Health	58.33	33.33	50.9	National Data (3 years)	
	36	3	21459		
9. Average Violations per Inspection with Vioations					
	461	38	428293		
S/W/R	1.73	2.23	2.1	National Data (3 years)	
	266	17	201768		
	227	5	240266		
Other	.85	.29	1.2	National Data (3 years)	
	266	17	201768		
10. Average Initial Penalty per Serious Violation (Private Sector Only)	420516	56045	509912690		
	1064.59	1514.72	1360.4	National Data (3 years)	
	395	37	374823		
11. Percent of Total Inspections in Public Sector	34	0	101		
	9.29	.00	9.2	Data for this State (3 years)	
	366	17	1092		
12. Average lapse time from receipt of Contest to first level decision	0	0	3826802		
	0	0	217.8	National Data (3 years)	
	0	0	17571		
13. Percent of 11c Investigations Completed within 90 days	4	0	100%		
	50.00				
	8	0			
14. Percent of 11c Complaints that are Meritorious	3	0	1461		
	37.50		21.2	National Data (3 years)	
	8	0	6902		
15. Percent of Meritorious 11c Complaints that are Settled	3	0	1256		
	100.00		86.0	National Data (3 years)	
	3	0	1461		

Appendix D
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter SAMM Data

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

JAN 28, 2011
 PAGE 1 OF 2

State: VERMONT

RID: 0155000

MEASURE	From: 10/01/2010 To: 12/31/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	21 1.61 13	29 1.81 16	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	9 1.80 5	9 1.80 5	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	14 100.00 14	17 100.00 17	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 0	0 1 .00	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	50 100.00 50	57 100.00 57	100%
Public	2 100.00 2	2 100.00 2	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	2946 56.65	3122 55.75	2625962 47.3 National Data (1 year)

Appendix D
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter SAMM Data

	52	56	55504	
Health	1211	1244	750457	
	80.73	77.75	61.9	National Data (1 year)
	15	16	12126	
8. Percent of Programmed Inspections with S/W/R Violations				
	40	43	93174	
Safety	81.63	82.69	58.3	National Data (3 years)
	49	52	159845	
	5	6	10933	
Health	50.00	54.55	50.9	National Data (3 years)
	10	11	21488	
9. Average Violations per Inspection with Vioations				
	153	164	428333	
S/W/R	2.28	2.27	2.1	National Data (3 years)
	67	72	201739	
	35	41	240454	
Other	.52	.56	1.2	National Data (3 years)
	67	72	201739	
10. Average Initial Penalty per Serious Violation (Private Sector Only)	177945	185420	510318849	
	1358.35	1305.77	1361.5	National Data (3 years)
	131	142	374828	
11. Percent of Total Inspections in Public Sector	3	3	104	
	3.80	3.45	9.5	Data for this State (3 years)
	79	87	1098	
12. Average lapse time from receipt of Contest to first level decision	0	0	3778069	
	0	0	213.2	National Data (3 years)
	0	0	17717	
13. Percent of 11c Investigations Completed within 90 days	0	1	100%	
	0	100.00		
	0	1		
14. Percent of 11c Complaints that are Meritorious	0	0	1464	
	0	.00	21.2	National Data (3 years)
	0	1	6912	

Appendix D
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter SAMM Data

15. Percent of Meritorious 11c
 Complaints that are Settled

0			0		1257	
					85.9	National Data (3 years)
0			0		1464	

Appendix E
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 State Information Report (SIR)

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = VERMONT

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	37	11403	85	21912	157	43788	342
	62.4	75.5	63.8	70.2	65.1	66.5	65.9	70.5
	8493	49	17860	121	33647	236	66434	485
B. HEALTH	488	10	1094	24	2232	39	4202	77
	30.6	47.6	33.7	55.8	35.0	45.9	35.1	45.8
	1597	21	3249	43	6378	85	11960	168
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	32	9421	66	17649	123	34350	283
	72.7	43.2	71.2	55.9	69.1	63.4	67.1	74.1
	6413	74	13232	118	25525	194	51214	382
B. HEALTH	451	14	880	21	1756	31	3238	65
	57.8	93.3	53.9	91.3	55.4	83.8	53.4	80.2
	780	15	1632	23	3168	37	6066	81
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	64	33678	137	62211	279	117447	623
	81.6	73.6	81.5	68.8	81.0	68.4	80.1	70.7
	21261	87	41304	199	76839	408	146593	881
B. HEALTH	3233	31	6183	51	11743	77	21554	159
	69.6	49.2	70.5	43.6	70.2	43.3	69.6	44.4
	4645	63	8776	117	16725	178	30947	358
4. ABATEMENT PERIOD FOR VIOLS								
	3054	14	6515	58	12732	115	25040	169

Appendix E
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 State Information Report (SIR)

A. SAFETY PERCENT >30 DAYS	15.0	21.2	16.3	36.7	17.2	35.0	17.7	22.5
	20398	66	39855	158	74010	329	141219	750
B. HEALTH PERCENT >60 DAYS	255	0	633	0	1406	1	2977	6
	5.6	.0	7.3	.0	8.5	1.1	9.6	3.0
	4548	42	8681	65	16580	93	30862	199
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
OTHER-THAN-SERIOUS	587112	0	1106734	0	2038916	100	3500911	2025
	837.5	.0	803.1	.0	894.3	100.0	967.6	506.3
	701	0	1378	0	2280	1	3618	4
B. HEALTH								
OTHER-THAN-SERIOUS	249175	0	434447	300	732953	600	1039303	1400
	817.0	.0	801.6	300.0	835.8	300.0	842.2	350.0
	305	0	542	1	877	2	1234	4
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	68	20529	147	38849	274	76136	561
	5.8	2.8	5.7	3.1	5.5	2.9	5.5	2.9
	1679	24	3593	48	7112	96	13925	192
B. HEALTH								
	1864	24	3844	48	7547	97	14276	195
	2.1	2.2	2.0	1.7	1.9	1.6	1.8	1.5
	908	11	1940	28	3898	60	8070	129
7. VIOLATIONS VACATED %								
	1123	14	2474	14	5103	38	10425	80
	3.7	7.8	4.3	3.8	4.7	5.5	5.0	5.4
	29962	179	57441	371	108213	693	207527	1478
8. VIOLATIONS RECLASSIFIED %								
	844	4	1978	7	4276	27	9196	54
	2.8	2.2	3.4	1.9	4.0	3.9	4.4	3.7
	29962	179	57441	371	108213	693	207527	1478
9. PENALTY RETENTION %								
	15767907	80518	30073309	135414	57457651	258589	111052615	459678
	64.5	35.7	63.9	42.7	63.0	48.9	62.8	52.0
	24439885	225492	47032897	316866	91194322	529172	176868726	883880

Appendix E
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter State Information Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = DECEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = VERMONT

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	4382	41	9698	84	21748	166	43769	348
	62.0	82.0	61.8	77.8	64.4	69.5	65.7	70.7
	7067	50	15693	108	33781	239	66650	492
B. HEALTH	464	6	956	16	2186	38	4262	78
	33.0	42.9	31.5	43.2	33.9	45.2	34.7	46.7
	1407	14	3038	37	6440	84	12282	167
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	3795	34	8486	66	17412	124	34339	285
	73.1	77.3	71.7	56.4	69.3	64.2	67.2	73.6
	5190	44	11832	117	25130	193	51132	387
B. HEALTH	382	7	843	21	1733	35	3300	66
	56.6	77.8	56.4	87.5	54.5	85.4	53.3	80.5
	675	9	1496	24	3179	41	6189	82
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	13696	83	30592	142	61300	297	116935	650
	79.7	83.0	80.0	76.8	80.2	72.1	79.8	71.7
	17184	100	38249	185	76436	412	146471	907
B. HEALTH	2705	23	5864	52	11804	90	21979	148
	69.1	52.3	68.8	49.1	69.8	44.8	69.3	41.8
	3914	44	8528	106	16913	201	31734	354
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2548	12	5732	27	12415	104	24808	180
	15.5	13.8	15.7	17.9	17.0	30.9	17.7	23.2
	16422	87	36451	151	73074	337	140421	777

Appendix E
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter State Information Report (SIR)

	258	0	637	0	1437	2	2996	4
B. HEALTH PERCENT >60 DAYS	6.7	.0	7.7	.0	8.6	1.8	9.5	2.2
	3826	28	8302	68	16630	110	31373	18
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	651856	0	1316718	0	2402562	100	3974324	2025
OTHER-THAN-SERIOUS	936.6	.0	929.2	.0	917.4	100.0	980.1	506.3
	696	0	1417	0	2619	1	4055	4
B. HEALTH								
	195420	0	445997	0	838325	300	1165450	1050
OTHER-THAN-SERIOUS	846.0	.0	838.3	.0	843.4	300.0	845.1	350.0
	231	0	532	0	994	1	1379	3
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	8168	59	18217	140	39155	287	76678	579
	5.7	2.4	5.6	2.8	5.6	2.9	5.5	2.9
	1445	25	3262	50	7018	100	13995	199
B. HEALTH								
	1681	16	3621	43	7682	96	14712	195
	2.1	1.0	2.0	1.3	2.0	1.5	1.8	1.5
	808	16	1804	33	3842	65	7991	134
7. VIOLATIONS VACATED %								
	1220	4	2913	20	5692	32	11060	67
	4.9	2.5	5.4	6.0	5.3	4.5	5.3	4.5
	24795	158	53646	335	107289	704	207494	1478
8. VIOLATIONS RECLASSIFIED %								
	822	4	2052	10	4397	27	9348	57
	3.3	2.5	3.8	3.0	4.1	3.8	4.5	3.9
	24795	158	53646	335	107289	704	207494	1478
9. PENALTY RETENTION %								
	16723815	50375	32923845	131693	61558194	253739	114662098	462278
	64.5	56.8	64.4	43.1	63.8	48.2	63.0	41.4
	25945190	88744	51086564	305311	96489906	526311	182007788	1117349

Appendix E
FY 2010 VOSHA EFAME Follow-up Report
FY 2011 1st Quarter State Information Report (SIR)

D. ENFORCEMENT (PUBLIC SECTOR)

1. PROGRAMMED INSPECTIONS %

	41	1	84	16	166	21	348	44
A. SAFETY	82.0	100.0	77.8	100.0	69.5	84.0	70.7	83.0
	50	1	108	16	239	25	492	53
	6	0	16	1	38	1	78	5
B. HEALTH	42.9	.0	43.2	20.0	45.2	10.0	46.7	26.3
	14	1	37	5	84	10	167	19

2. SERIOUS VIOLATIONS (%)

	83	11	142	18	297	34	650	66
A. SAFETY	83.0	91.7	76.8	75.0	72.1	65.4	71.7	68.0
	100	12	185	24	412	52	907	97
	23	6	52	8	90	22	148	23
B. HEALTH	52.3	100.0	49.1	88.9	44.8	81.5	41.8	74.2
	44	6	106	9	201	27	354	31

E. REVIEW PROCEDURES

	486	0	1104	1	2184	1	4034	7
1. VIOLATIONS VACATED %	23.0	.0	22.9	16.7	22.6	14.3	23.4	21.2
	2115	4	4815	6	9670	7	17270	33
	284	0	584	0	1168	0	2294	4
2. VIOLATIONS RECLASSIFIED %	13.4	.0	12.1	.0	12.1	.0	13.3	12.1
	2115	4	4815	6	9670	7	17270	33
	2513720	1800	7368207	1800	13032212	2350	21652725	18325
3. PENALTY RETENTION %	52.4	50.0	60.0	35.3	57.7	38.2	55.2	45.7
	4798026	3600	12275624	5100	22576723	6150	39256643	40125

Appendix F
FY 2010 VOSHA EFAME Follow-up Report
FY 2010 VOSHA SOAR

Separate Document