

**FY 2012 Abridged Federal Annual Monitoring and Evaluation
(FAME) Report**

**Virginia Occupational Safety and Health Program
(VOSH)**



Evaluation Period: October 1, 2011 to September 30, 2012

**Initial Approval Date: September 8, 1976
Program Certification Date: August 21, 1984
Final Approval Date: November 30, 1988**

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Contents

I.	Executive Summary	3
II.	Major New Issues	7
III.	State Progress in Addressing FY 2011 FAME Report Recommendations.....	8
IV.	Assessment of FY 2012 State Enforcement Measures	10
	A. Enforcement	
	• Complaints	
	• Fatalities	
	• Targeting and Programmed Inspections	
	• Citations and Penalties	
	• Abatement	
	• Employee and Union Involvement	
	B. Review Procedures	
	• Informal Conferences	
	• Formal Review of Citations	
	C. Standards and Federal Program Changes Adoption	
	• Standards Adoption	
	• Federal Program/State Initiated Changes	
	D. Variances	
	E. Public Employee Program	
	F. Discrimination Program	
	G. Voluntary Compliance Program	
	H. Program Administration	
V.	State Progress in Achieving Annual Performance Goals	21
VI.	Other Areas of Note	22
	Appendix A – New and Continued Findings and Recommendations	
	Appendix B – Observations Subject to Continued Monitoring	
	Appendix C – Status of FY 2011 Findings and Recommendations	
	Appendix D – FY 2012 State Activity Mandated Measures (SAMM) Report	
	Appendix E – FY 2012 State OSHA Annual Report (SOAR) – Available Upon Request	

I. Executive Summary

The abridged Federal Annual Monitoring and Evaluation (FAME) Report for Fiscal Year (FY) 2012 focused on the responses to the FY 2011 Federal Annual Monitoring and Evaluation Report (FAME), and the Corrective Action Plan (CAP) implemented by VOSH. VOSH's progress in achieving the actions as specified in their approved CAP was evaluated by ongoing federal monitoring activities by conducting quarterly reviews of the State Activity Mandated Measures (SAMM) Report, quarterly reviews of the State Indicator Report, and quarterly meetings with VOSH program directors and managers.

This report also addresses VOSH's progress towards achieving their annual performance goals as established in their FY 2012 Annual Performance Plan as well as the effectiveness of their five-year strategic plan, from FY 2007 through FY 2012. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goals achievements, the majority of goals have been met or exceeded. The primary goal of VOSH's strategic plan is to reduce occupational injuries, illnesses and fatalities through direct intervention. This primary goal has been met as indicated by the steady decrease in workplace fatalities for the last six (6) calendar years. In 2007 there were forty-four (44) workplace fatalities. In FY 2012 there were thirty-six (36) reported fatalities that warranted on-site investigations. VOSH excludes in the recording of workplace fatalities those that were the result of heart attacks and similar non-work causing factors, fatalities that occurred in Virginia but not in VOSH's jurisdiction, and those that involved a sole proprietor.

Virginia's Department of Labor and Industry is the State agency designated by the Governor to administer the Virginia Occupational Safety and Health Plan. The VOSH State Plan was approved on September 8, 1976, pursuant to Section 18 of the Occupational Safety and Health Act. The Plan achieved operational status on October 1, 1981. Under Virginia's State Plan, VOSH has jurisdiction over 3.6 million employees in approximately 227,626 establishments. The Virginia State Plan applies to all public and private sector places of employment in the state, with the exception of federal employees, the United States Postal Service, private sector maritime, federal military facilities, and other federal enclaves where the state has ceded jurisdiction to the federal government. On August 21, 1984, a Notice was published in the Federal Register certifying that the State had completed all developmental commitments contained in the Plan. Final approval of the Virginia State Plan was published in the Federal Register on November 30, 1988.

During this evaluation period, the VOSH program conducted 3,427 inspections in the private and public sectors. These inspections resulted in 5,201 violations being issued, of which 3,806 were classified as serious, willful, or repeat for a S/W/R rate of 73%.

The Virginia Department of Labor and Industry, headquartered in Richmond, has four (4) regional offices in Manassas, Norfolk, Richmond, and Roanoke, and three (3) satellite offices in Abingdon, Lynchburg, and Verona. Each Regional Office has been delegated by the Commissioner to carry out the specific statutory mandates of the Virginia Department of Labor and Industry.

PROFILE OF THE VIRGINIA STATE PLAN (FY 2012)				
Designee	Courtney Malveaux, Commissioner Virginia Department of Labor and Industry Main Street Centre 600 East Main Street, Suite 207 Richmond, Virginia 23219-4101			
Plan Approved	September 8, 1976			
Final Approval	November 30, 1988			
Operational Status Agreement	October 1, 1981			
Plan Certified	August 21, 1984			
FY 2012 Funding	<i>Federal</i>	\$3,319,800		
	<i>State</i>	\$3,319,800		
	TOTAL	\$6,639,600		
Source of State Funding	General fund			
Compliance Officers	38 safety/19.88 health (allocated)			
	35 safety/16 health (on-board as of 9/30/2012)			
Public Sector Consultants	.20 safety/1.60 health (allocated)			
	.20 safety/.60 health (on board as of 9/30/2012)			
Compliance Assistance	1.0 CAS (allocated)			
	1.0 (on board as of 9/30/2012)			
FY 2012 Inspections		<i>Goal</i>	<i>Actual</i>	<i>Percent Complete</i>
	<i>Safety</i>	2950	2540	86%
	<i>Health</i>	775	887	87%
	TOTAL	3725	3427	92%
FY 2012 Public Sector Consultation Visits		<i>Goal</i>	<i>Actual</i>	<i>Percent Complete</i>
	<i>Safety</i>	25	14	56%
	<i>Health</i>	6	18	300%
	TOTAL	31	32	103%
Covered workers	3.6 million			
Covered Establishments	227,626			
Coverage	Public and private sector places of employment in the state, with the exception of federal employees, the United States Postal Service, private sector maritime, federal military facilities, and other federal enclaves where the state has ceded jurisdiction to the federal government			

The VOSH program consists of three major units: enforcement, consultation and cooperative programs. The enforcement unit inspects private and public sector workplaces, issues citations and penalties for violations of established occupational standards, and responds to fatalities, accidents, and employee complaints about workplace safety and health hazards. The consultation unit provides assistance to Virginia public and private sector employers to

voluntarily comply with applicable requirements without the issuance of citations and penalties. The VOSH consultation program provides free on-site surveys, training and technical assistance to small high hazard businesses, and to public sector employers under the State Plan grant.

The majority of VOSH standards are identical to federal OSHA standards. Any new or unique standard adopted by Virginia for which no federal OSHA counterpart exists shall apply as specified by the terms of that standard. The VOSH Administrative Regulations (ARM), 16 VAC 25-60, et seq., contains the rules and regulations governing the enforcement of all occupational safety and health standards approved by the Safety and Health Codes Board for enforcement in the Commonwealth by the VOSH Program. The thirteen (13) standards unique to Virginia are tree-trimming operations, reverse signal operations in general industry and construction, confined space in construction, confined space in telecommunications, overhead high voltage line safety, approach distances in power transmission, distribution and telecommunications, Virginia excavation standard in construction, underground construction, agriculture industry field sanitation, construction industry sanitation, steel erection fall protection, general requirements for clearances in power transmission and distribution for the construction industry, and the VOSH ARM.

All standards adopted by the Safety and Health Codes Board apply to all employers who have employees working at places of employment within the jurisdiction of the State Plan. VOSH enforces General Industry standards 29 CFR 1910, Construction Industry standards 29 CFR 1926, and Agriculture standards 29 CFR 1928. In addition, standards from 29 CFR Part 1915, Shipyard Employment, 29 CFR Part 1917, Marine Terminals, and 29 CFR Part 1918, Longshoring, have been adopted and are applicable in the public sector only.

The VOSH ARM outlines the contest process for employers. Section 16 VAC 25-270 provides regulatory guidelines to an employer to whom a citation or proposed penalty was issued as the result of a VOSH inspection or fatality investigation. The notice of contest must be mailed or delivered by hand within fifteen (15) days from the receipt of the citation or proposed penalty. Upon receipt of a notice of contest, the Commissioner will attempt to resolve the matter by settlement, either by participation in an informal conference or through a formal settlement process. If the matter is not settled or it is determined a settlement is not probable, the Commissioner will initiate judicial proceedings by referring the contested issues to the appropriate Office of the Commonwealth's Attorney which is located in 105 counties and 34 cities. Many of these offices are located in small towns where it proves difficult to win the cases.

The final determination on whether to appeal an adverse judicial decision will be made by the Commissioner after consultation with the Office of the State Attorney General and/or the applicable Commonwealth's Attorney. Appeals from Circuit Court may be heard by the Virginia Court of Appeals. The Department has thirty (30) days to file an appeal with the Virginia Court of Appeals.

Federal monitoring and evaluation activities for FY 2012 FAME report concentrated on determining the status of the corrective actions implemented by VOSH regarding the four (4)

findings and subsequent recommendations identified during the FY 2011 FAME. Throughout the evaluation process Virginia was cooperative, shared information and ensured staff was available to discuss cases, policies, procedures, and to answer questions.

Data contained in the Integrated Management Information System (IMIS), OSHA's database system used by the Commonwealth to administer its enforcement program, was utilized as a means to monitor and evaluate the State's 23(g) enforcement program activities. During the FY 2012 evaluation period, federal monitors reviewed IMIS Micro-to-Host enforcement and inspection reports as well as VOSH program administration activities. The Interim State Indicator Report (SIR) and the State Activity Mandated Measures (SAMMs) Report were also used as data sources and monitoring tools during this evaluation period. Compliance with legislative requirements, contact with families of fatality victims, training and personnel retention were assessed during quarterly meetings held during this evaluation period with VOSH Program Directors and Managers.

As noted in the FY 2011 FAME, there were three (3) findings for which recommendations were made regarding 23(g) enforcement activities. These findings involved minor deficiencies regarding case file documentation, abatement verification, and adoption of federal program changes. In addition, there was one (1) finding for which a recommendation was made regarding the VOSH discrimination program which involved the use of case file diary logs in the investigative case file. VOSH implemented a Corrective Action Plan (CAP) approved by federal OSHA which addressed these four (4) recommendations. As stipulated in their CAP, VOSH conducted several training sessions for all Regional Directors, compliance managers, compliance staff, and administrative personnel to improve and further enhance the VOSH program.

There were no new findings or recommendations noted during the FY 2012 FAME evaluation period. There remains one (1) finding for completion and verification during the FY 2013 evaluation period which involves the revision of the VOSH Field Operations Manual.

During this evaluation period, there were two (2) Federal Program Changes (FPCs) published as final rules in the Federal Register that VOSH adopted in FY 2012: Hazard Communication-Globally Harmonized System of Classification and Revised Consensus Standards Referenced in the Acetylene Standard. VOSH adopted both changes within the mandated six (6) month period. In addition, there were six (6) federal program changes for which an OSHA Instruction was published. Of these six (6) federal program changes, VOSH responded in a timely manner regarding their intended actions. Only three (3) FPCs required adoption; VOSH adopted CPL 03-00-014, National Emphasis Program (NEP) Process Safety Management Covered Chemical Facilities and CPL 02-01-053 Compliance Policy for Manufacture, Storage, Sale, Handling, Use and Display of Pyrotechnics. VOSH did not adopt CPL-03-00-016, National Emphasis Program Nursing and Residential Care Facilities as the current VOSH inspection activity in these facilities adequately supported the criteria outlined in the OSHA Instruction.

As noted in the FY 2011 FAME, CPL 02-00-150, Field Operations Manual, issued April 22, 2011 remains in the final stages of the review process, and was not adopted within the six (6) month adoption period. It is anticipated the CPL 02-00-150 will be issued as a VOSH Directive

during the 2nd Quarter FY 2013. Final verification of this FY 2012 finding will occur upon issuance of the VOSH Directive. VOSH will continue to submit timely responses of their intended action(s) regarding all FPCs through the Automated Tracking System (ATS), and will strive to meet all required mandated measures for timely adoption.

The State's Internal Evaluation Program (SIEP) provided ongoing monitoring of the 23(g) enforcement activities by conducting ongoing internal case file reviews in each of the Regional Offices. Over 3300 case files throughout the Regional Offices were reviewed by either the Regional Directors or Compliance Managers to ensure case file documentation was obtained in accordance with the VOSH Field Operations Manual (FOM). There were no trends or systemic problems associated with their internal case file reviews.

II. Major New Issues

During the FY 2012 evaluation period, there were two new challenges identified in the VOSH 23(g) program: staff retention and IT problems related to data utilization and availability, system upgrades, and software migration. During FY 2012, budget constraints continued to affect state agencies throughout the Commonwealth. Despite these constraints, VOSH provided safety and health coverage for the Commonwealth.

Additionally, there have been no salary increases for state employees since November 2007 even though some bonuses were received. Although retention rates have improved in recent years, the Northern Virginia office continues to be understaffed. The high turnover rate in Northern Virginia office is primarily due to the low salaries and the availability of higher paying positions in the Washington, DC area. Vacancies due to retirement have also impacted the enforcement program. Furthermore, the difficulty to retain trained staff is further exacerbated by an extended period of time trying to hire new employees through the state budgeting process. During this evaluation period, VOSH made a special request to the Secretary of Commerce and Trade to hire four (4) industrial hygienists and a discrimination investigator. Permission was granted to hire two industrial hygienists. This has been accomplished as of April 10, 2013. An overall hiring freeze imposed by the Governor's Office has not been rescinded and continues to impact the VOSH program. Budget constraints have also impacted funding available for training and conferences and the associated travel expenses. These constraints did not adversely affect mandatory training.

Information technology (IT) issues relating to data utilization, data availability, system upgrades and software migration continue to exist. This is coupled with the difficulty to fully integrate information technology that has been plagued with a lack of timely installation, improper coding, limited maintenance, debugging solutions, and limited training resources to allow staff to fully use the available Integrated Management Information System (IMIS) and other data for 23(g) and (21)(d) programs. These obsolete systems utilize unique hardware with extremely limited spare components available. VOSH utilizes the PC-based CSHO Application for 23(g) enforcement data collection. This system is currently threatened by economic budgetary constraints at the federal support level. VOSH responds to many compliance assistance requests and inquiries per year. Inquiries and requests made via the Internet are increasing dramatically,

and are expected to increase as the Virginia economy continues to prosper. Obsolete software and hardware will make it difficult to meet these demands.

The Department of Labor and Industry (DOLI) is actively pursuing a state exemption with the Virginia Information Technology Agency (VITA) that will allow VOSH to join OSHANET/DOLNET during the first quarter of FY 2013. It should also be noted that the VOSH program has been actively involved in the development of the federal OSHA Information System (OIS), not only making available field staff to serve as user interface testers, but also to serve as the Occupational Safety and Health State Plan Association (OSHAPA) representative for OIS development.

VOSH has been scheduled to participate in the OSHA Information System (OIS). However, their schedule for deployment has been delayed several times. The transition to the OIS is anticipated during FY 2014 or FY 2015.

III. State Progress in Addressing FY 2011 FAME Report Recommendations

As noted in the FY 2011 FAME, there were four (4) findings for which recommendations were made regarding 23(g) enforcement activities. These findings involved minor deficiencies regarding case file documentation, abatement verification, and adoption of federal program changes. In addition, there was one (1) finding for which a recommendation was made regarding the VOSH Whistleblower (11c discrimination) program which involved the use of case file diary logs in the investigative case file.

VOSH implemented a Corrective Action Plan (CAP) approved by federal OSHA which addressed these four (4) recommendations. As stipulated in their CAP, during FY 2012 VOSH conducted several training sessions for all Regional Directors, compliance managers, compliance staff, and administrative personnel to improve and further enhance the VOSH program. VOSH's progress in achieving the actions specified in their approved CAP was evaluated by ongoing federal monitoring activities through quarterly reviews of the State Activity Mandated Measures (SAMM) Report, quarterly reviews of the State Indicator Report (SIR) and quarterly meetings held with VOSH program directors and managers. During FY 2012, federal monitoring and evaluation activities were conducted to verify the corrective actions taken to assess the effectiveness these measures had on the VOSH program. There was significant improvement as noted in the SAMM and SIR reports and the majority of the FY 2011 findings were completed.

The State's Internal Evaluation Program (SIEP) provided monitoring of the 23(g) enforcement activities by internal reviews conducted in each of the Regional Offices. Over 3300 case files throughout the Regional Offices were reviewed by either the Regional Directors or Compliance Managers to ensure case file documentation was obtained in accordance with the VOSH Field Operations Manual (FOM). There were no trends or systemic problems associated with the internal case file reviews.

Subsequent to the FY 2011 FAME Report, VOSH submitted a Corrective Action Plan (CAP) for review in August 2012 addressing the FY 2011 findings and recommendations. The CAP received Federal OSHA approval. As stipulated in the CAP, general training sessions were held on August 23-24, October 16 and November 27, 2012, with the Regional Directors and Compliance Managers and Compliance Officers. Throughout this evaluation period, Regional Directors and compliance managers continued to monitor case file documentation and enforcement activities through their state internal evaluation program (SIEP) and through the utilization of weekly management IMIS reports.

Finding # 11-01: Case file documentation is not in conformance with the requirements of the VOSH FOM. Inconsistencies include limited documentation for hazard description, employee exposure, and employer knowledge on the 1B worksheet.

Recommendation # 11-01: Ensure Regional Offices are complying with established VOSH FOM guidelines for case file documentation to ensure consistency throughout the VOSH Program and continue State Internal Evaluation Program (SIEP) which includes random case file audits.

Action to date: In October and November 2012 VOSH held refresher training for all Compliance Safety and Health Officers (CSHOs) to improve documentation of employer knowledge on the 1B worksheets. However, with regard to the findings VOSH maintains that the OSHA 2s are hazard descriptive and the 1B worksheet contains documented descriptive fields which support employee exposure during court cases. Nevertheless, VOSH will continue to monitor all documentation including 1B worksheets to ensure sufficiency via their State Internal Evaluation Program (SIEP).

Status: Completed

Finding # 11-02: VOSH was not achieving abatement verification of 100% as required by the State Activity Mandated Measures (SAMM) reports.

Recommendation # 11-02: Ensure Regional Offices are utilizing weekly Integrated Management Information System (IMIS) reports, such as the Abatement Tracking Report, and review quarterly SAMM reports to ensure timely abatement verification is achieved.

Action to date: VOSH's abatement verification process requires employers to submit certification and documentation for all serious violations, which is more stringent than federal OSHA's process. When verification is not received a follow-up inspection is conducted to assure abatement. Since this process is more comprehensive, employers typically take more time to submit the required documentation; however 100 percent of abatement is always achieved. Nevertheless, VOSH continues to monitor closely the abatement on all its cases and track the performance on the weekly IMIS report and quarterly SAMM reports. In FY 2012, VOSH saw an increase in their percentage of violations which were verified within 30 days of their due date.

Status: Closed

Finding #11-03: Not all Federal Program Changes (FPCs) are adopted within the six month period.

Recommendation #11-03: Continue to strive to meet this mandated measure of six months adoption.

Action to date: This measure will continue to be monitored. This finding was the result of VOSH not meeting the adoption date for the revised directive CPL-02-00-150, Field Operation Manual (FOM). As determined during the FY 2012 evaluation period, the revised VOSH FOM is in the final stages of the review process. It is anticipated the VOSH FOM will be issued during the 2nd Quarter FY 2013.

State Plan changes are required to be presented before the Virginia Safety Codes Board and due to the frequency of their meetings this measure is difficult to meet. However, VOSH will strive to adopt Federal Program Changes that are required by law and regulations within 6 months of federal adoption.

Status: Awaiting Verification, Continue to monitor as Finding 12-01

Finding # 11-04: Diary logs are to be present and complete in the investigation files as required by VOSH's Discrimination Manual.

Recommendation #11-04: Ensure that diary logs are present and maintained in all investigative files.

Action to date: In July 2012, VOSH held training for discrimination investigators to add clarity that maintaining a diary log in investigative files is an essential component in addition to the requirement being directed by the VOSH Discrimination Manual. Since July of 2012, VOSH has reviewed each case file to ensure it included this component.

Status: Completed

As noted by federal monitors during this evaluation period, additional training provided in FY 2012 had a positive effect on the findings addressed in the FY 2011 FAME. There were no new findings or recommendations to address in FY 2012. VOSH continues to strive to adopt all federal program changes within the required six months (Finding #11-03). This will continue to be evaluated and verified during the FY 2013 evaluation period. (See Appendices A, B, and C)

IV. Assessment of FY 2012 State Performance of Mandated Activities

The following is a discussion of Virginia's program performance during FY 2012 based upon monitoring and evaluation of the State Activities Mandated Measures (SAMM) Report and the

State Interim (SIR) Report. A review of the VOSH Program was also conducted using the IMIS Micro-to-Host Inspection and Enforcement Reports.

During the evaluation period of this study (October 1, 2011 through September 30, 2012), VOSH conducted 3,427 inspections of its projected inspection goal of 3,725. There were several factors which impacted VOSH's inability to meet its inspection goal in FY 2012. These factors included several senior compliance officers who were on extended medical absences, retirement of senior level compliances officers, several new compliance officers who were still in training, and several compliance officers who were re-assigned in management positions in an acting capacity.

The VOSH Program continues to experience vacancies in both safety and health compliance staff positions. The Commonwealth has filled 82% of the safety benchmarks and 81% of the health benchmarks. Eleven (11) benchmark positions are not filled. At the present time, VOSH is experiencing a hiring freeze imposed by the Secretary of Commerce and Trade. The Commissioner of Labor and Industry has requested the Governor to consider critical hiring so that staffing levels don't drop below 75% to 80% of their benchmarks. At the present time, VOSH will recruit for the vacant positions as soon as permission is granted and funding is available.

The Commonwealth continues to strive for improvements in their program. While the State did not meet all their mandated measures for Fiscal Year 2012, they made significant progress. They met or exceeded eleven (11) of the fifteen (15) mandated measures. VOSH continues to support their five year strategic plan through positive performance and achievement of their performance goals. Their two (2) strategic goals, to reduce occupational injuries, illnesses, and fatalities through direct intervention and to promote a safety and health workplace culture, showed significant achievement over past years performance.

Of the 3,427 inspections conducted by Virginia during FY 2012, 2,626 were safety-related (75%) while 801 (25%) were health-related. There were 2,498 total programmed inspections (69%) and 929 that were un-programmed inspections (31%). Un-programmed inspections included fatality investigations, complaints, referrals, follow-up inspections, and monitoring inspections. A total of 3,204 inspections were conducted at private establishments while 223 were conducted at public sector agencies.

The VOSH Enforcement program derives its targeted inspection lists from a High Hazard Industry listing provided by the OSHA Office of Statistical Activity. It also participates in the Federal OSHA exempted SIC/NAICS industry list as provided in the current Appropriations Act. The VOSH Enforcement program also participates in the University of Tennessee Dodge Report for randomly selected construction sites to be inspected.

The VOSH Program has developed and implemented eleven (11) local emphasis programs (LEPs). These programs include various emphasis industries and activities such as: fall hazards, waste water and water treatment facilities (public & private), first report of injury and illnesses, public sector workshops, heavy equipment – reverse signal, scaffolding, overhead high voltage for both general industry and construction, logging and sawmill

industries, tree trimming operations, and spray-on bed liners. There were approximately 996 LEP inspections conducted (836 safety and 160 health) during this evaluation period.

The VOSH Program also participated in the following ten (10) National Emphasis Programs (NEPs): amputations, combustible dust, crystalline silica, diacetyl, hexavalent chromium, injury and illness recordkeeping, primary metal industry, lead, process safety management (PSM) covered chemical facilities and trenching and excavation which were established by Federal OSHA. There were 283 NEP inspections conducted (115 safety and 168 health) during this evaluation period.

During this evaluation period, programmed inspections conducted under the criteria established by the Federal OSHA NEPs and VOSH LEPs continued to be an integral part of the VOSH enforcement program as evidenced by the numerous violations observed resulting in citations issued and penalties assessed.

A. Enforcement

The following is a discussion of Virginia's Enforcement Program performance during FY 2012.

- Complaints and Referrals

During the period October 1, 2011 through September 30, 2012, Virginia received 512 complaints requiring an inspection. On average, the state took 2.02 days to initiate the inspection, which was less than the negotiated measure of 5 days. Virginia received 404 complaints that were investigated by phone and fax. On average, it took .81 days to initiate these investigations, which met their negotiated measure of one day. After complaints are addressed, complainants are required to be notified of the results of an inspection within 20 days of citation issuance or 30 days of the closing conference when no citations are issued. During FY 2012, 464 out of 506 complainants (91.70 %) were notified in a timely manner. Various administrative challenges kept this mandate from being at 100%. Virginia received two reports of imminent danger in FY 2012. Both of these were responded to within 1 day, as required.

- Fatalities

During this evaluation period, Virginia received sixty (60) reports of fatalities. Of those sixty (60) reported, thirty-six (36) resulted in a VOSH fatality investigation. VOSH excluded those work place fatalities that were the result of heart attacks and similar non-work causing factors, and fatalities outside of VOSH's jurisdiction.

All work-related fatalities were investigated within one day (or less) by VOSH, which met the mandated measure. This includes times normally considered non-working hours for department staff. Employers are required under the Code of Virginia to orally report to the nearest Regional Office within eight (8) hours of any occurrence of an employment accident involving a fatality of one (1) or more employees and/or which results in the

hospitalization of three (3) or more employees. If an employer fails to notify VOSH a citation is issued for failure to report such an occurrence.

- Targeted and Programmed Inspections

Virginia targets various industries each year and develops local emphasis programs to achieve most of its programmed inspection activities. VOSH also targets industries through National Emphasis Programs developed by Federal OSHA. Most of Virginia's local emphasis programs are directly related to strategic areas of emphasis developed by Federal OSHA.

As indicated above, Virginia conducted 2,408 programmed inspections during FY 2012, with an average of 2.7 violations per inspection. VOSH identified serious/willful/repeat violations in 49.67 percent of programmed safety inspections and 47.97 of programmed health inspections. This was less than the 3-year national average of s/w/r violation rate 58.5 for programmed safety inspections, and 53.0 for programmed health inspections.

The reduced rate of s/w/r violations incidence in programmed inspections is directly linked to several factors. VOSH must conduct health inspections for each worksite that involves asbestos related activities under the National Emissions Standards for Air Pollutants. Many of these inspections are found to be in compliance with the asbestos standard. VOSH also conducts an inspection for any alleged complaint item which are addressed by any of the ten (10) National Emphasis Programs (NEPs) they have adopted, or any of their eleven (11) Local Emphasis Programs (LEPs). Therefore, many of these complaint inspections may result in an incompliance inspection that would contribute to the incompliance rate above the federal average.

There was one instance where the state was denied entry to perform a programmed inspection. The employer, an amusement ride company, left the state before a warrant could be obtained and served.

- Citations and Penalties

There were a total of 5,201 cited violations during FY 2012. When VOSH cited employers during inspections, an average of 2.0 s/w/r and 0.73 other-than-serious violations issued per inspection. This was slightly less than the 3-year national average of 2.1 s/w/r and 1.2 other-than-serious violations. VOSH continued to excel in the timely issuance of citations. On average, the state issued citations within 45.51 days from the opening conference for safety inspections and 42.10 days for health inspections. Federal OSHA, on average, issued safety citations within 55.9 days of the opening conference, and health citations within 67.9 days of the opening conference.

VOSH increased their gravity based penalty for serious violations in October 2009 to \$7000. However, VOSH did not adopt the October 2010 Federal OSHA revised penalty adjustments factors for size, good faith or history. During FY 2012, when initially assessing penalty adjustment factors, VOSH did so in accordance with their established

guidelines. They considered the gravity of violations, the size of the business being inspected, good faith of the employer, the employer's previous inspection history, the type, gravity and severity of the violation(s).

The average initial penalty per serious violation is \$1193 compared to \$1991 for national average. The difference in the penalty amounts is due in part to the large number of small employers inspected by the VOSH Enforcement program and their established penalty adjustment factor guidelines for size, good faith and history.

The Interim State Indicator Report (SIR) for FY 2012 indicates that Virginia continues to have a serious violation rate of approximately 66% (safety) and 55% (health) compared to federal OSHA's rate of 75% (safety) and 65% (health) over a 12 month period. VOSH's reduced rate can be attributed to the additional asbestos inspections required by the state, and their policy to inspect all complaints received in their emphasis programs as noted in the targeted and programmed inspections section above.

- Abatement

The FY 2012 SAMM report indicated VOSH achieved abatement verification within 30 days of the abatement due date 95.5% of the time. VOSH saw improvement since from last year, where 90.3% of abatement items were verified within 30 days of the abatement due date.

It should be noted VOSH does not accept just abatement certification from employers in any case where the violation is classified as serious, willful or repeat. VOSH also requires the employers to provide photographs, receipts, purchase orders, etc. as 'verification' that the hazard as abated. VOSH continues to implement the Abatement Verification Regulation, section 307 of their Administrative Regulations Manual, as referenced by the OSHA Directive, CPL 02-00-114. The Regional Directors follow this directive to obtain abatement verification.

If this additional documentation is not received, the Regional Office contacts the employer regarding their 'failure to provide' the additional information. In many instances, a follow-up inspection is conducted. Data entry cannot be made until both the certification and the documentation evidence has been received by Virginia. This often occurs after the final abatement date and after the thirty (30) day mandated measure. If the abatement is verified one (1) day after the thirty (30) day mandated measure, the outlier exists. Therefore, even though the item was abated, the abatement was not verified within the 30 day mandated measure, which ultimately results in this outlier.

VOSH continues to focus on improving their performance in abatement verification and to properly update the database to reflect that abatement evidence has been received from employers. If abatement extensions have been granted, it is documented in the case file and updates made to the IMIS. The Enforcement Program Director indicated VOSH will continue to strive to meet this mandated measure through the utilization of weekly IMIS abatement tracking reports and review of the quarterly SAMM report.

- Employee and Union Involvement

As required by the VOSH FOM, union contacts are initiated during the opening conference and documented in the case file. Employees in Virginia are afforded the right of review of alleged violations, abatement periods, and proposed penalties through VOSH's procedures as established in the FOM. The procedures also provide employees or their representatives an opportunity to participate in review proceedings and to contest abatement dates.

B. Review Procedures

- Informal Conferences

According to the SIR, VOSH retained 60.1% of initial penalties during informal conferences. To receive this reduction, employers are required to provide abatement certification and documentation of corrective action. Approval to reduce a penalty greater than 40% during the informal conference process must be approved by the Central Office. All Regional Directors attempt to settle cases on a local level rather than have employers contest. The SIR also indicated over a 12 month period Virginia vacated 7% of its cited violations compared to the federal rate of 7.1%, reclassified 4.6% of its violations compared to the Federal rate of 4.9%, and had a higher penalty retention rate of 67.5% compared to the federal rate of 59.1%.

- Formal Review of Citations

The Division of Legal Support conducts formal reviews of all contested cases and provides guidance to all Regional Offices for significant cases that involve any of the following conditions: willful/criminal, willful violations, willful cases suitable for an egregious penalty consideration, fatality/catastrophe, interest at the national level identified by OSHA, interest by media, public officials, or other interest groups identified as significant by the Commissioner, repeat violations (third instance or higher), and ergonomic violations.

A review of contested cases before the Virginia Courts arising under the Virginia Occupational Safety and Health Act was conducted. The average lapse time from receipt of contest to first level decision was significantly lower in Virginia than the nationwide average (115.8 days versus 187 days [national data]) during FY 2012.

During FY 2012, the following formal litigation activities occurred:

Virginia Circuit Court trials: Two (2) cases were heard, decisions issued, violations and penalties were vacated and there has been no decisions as to whether or not an appeal will be filed.

Default Judgments: One (1) case heard, wherein the employer did not file an answer to the complaint, violations and penalties were upheld.

Administrative Process Act (APA) Informal Fact Finding: None during this evaluation period

Court of Appeals Hearings: None during this evaluation period

Cases Withdrawn: None during this evaluation period

Regional Directors and Compliance Managers document actions taken during informal conferences on worksheets that are included in the case files. All reclassifications of violations, deletions, or penalty reductions are made in accordance with the VOSH FOM.

VOSH Regional Offices operate in a similar manner to Federal OSHA Area Offices. Guidelines for all aspects of the VOSH Program are found in their June 2011 revised FOM. State specific changes were incorporated into this program guideline to reflect the state program elements. The Regional Director and/or the compliance manager conduct informal conferences and assign inspections. Weekly IMIS reports are utilized by the Regional Directors to manage all aspects of the VOSH Program. Inspection case files are reviewed by the compliance managers prior to citation issuance. All significant cases are also reviewed by the Office of Legal Support prior to citation issuance.

C. Standards and Federal Program Changes Adoption

VOSH participates in the Automated Tracking System (ATS) regarding federal program and state initiated program changes. The Program Manager of the Planning and Evaluation Division has maintained a chronological Federal Program Change Log and Federal Standards Log since 1994 which reflects all federal program changes that VOSH has either adopted as required, or has developed as a more stringent State regulation.

- Federal Standards resulting in Federal Program Changes

Final Rule, Hazard Communication-Globally Harmonized System of Classification, FR Notice, March 26, 2012.

The Virginia Safety and Health Codes Board adopted the Hazard Communication-Globally Harmonized System of Classification Final Rule at its September 2012 meeting. It was incorporated as VOSH Program Directive 12-123B within the six month adoption period with an effective date of January 1, 2013.

Final Rule, Revising Standard Referenced in the Acetylene Standard #97 FR March 28, 2012.

The Virginia Safety and Health Codes Board adopted the Direct Final Rule (DFR) revising consensus standards referenced in the Acetylene Standards at its May 24, 2012 meeting. The

VOSH Program has subsequently issued VOSH Program Directive 12-335A covering this Standard Log Change with an issue/effective date of August 1, 2012.

- Federal Program Changes (FPC)

During this evaluation period, the following federal program changes were issued by Federal OSHA that required either State adoption or required responses to their intent:

CPL-02-03-004, Section 11c, AHERA, and ICSA Appeals Program issued September 12, 2012. VOSH responded January 25, 2013 of their intent. VOSH will not adopt this change. There was no requirement for the State adoption of this FPC.

CPL-02-00-154, Longshoring and Marine Terminals “Tool Shed” Directive issued July 31, 2012. VOSH responded January 11, 2013 of their intent. The FPC was adopted as VOSH Program Directive 02-800B. There was no requirement for State adoption of this FPC.

CPL 02-00-153, Communicating OSHA Fatality Inspection Procedures to a Victim’s Family issued April 17, 2012. VOSH responded October 11, 2012 of their intent. VOSH will adopt some parts of FPC. The basic structure of VOSH procedures are in the current VOSH Directive 02-001F, VOSH Field Operations Manual, dated June 1, 2011, and will remain the same. There was no requirement for State adoption of this FPC.

CPL 03-00-016, National Emphasis Program - Nursing and Residential Care Facilities issued April 05, 2012. VOSH initially responded July 27, 2012 of their intent not to adopt this FPC. An internal work group was implemented to develop a written report which addressed the following issues: injury and illness statistics, efforts of other Virginia regulatory agencies, best practices and lessons learned, meet with industry and employee stakeholders, review recordkeeping issues, review of consultation and enforcement data, and review of core competencies. Based upon review of inspection statistics, Virginia exceeded the requirement in the Nursing Home NEP of three (3) inspections per year. VOSH has completed over forty (40) inspections in the NAICS codes covered under the NEP since August 1, 2007. Ten (10) of those inspections were completed during this evaluation period. Violations cited in those inspections were related to blood borne pathogens, respiratory protection, fall protection, and personnel protective equipment. A second response was sent October 05, 2012 that provided substantive information supporting VOSH’s inspection activities in the nursing home and residential care facilities are at least as effective as those addressed in the NEP. During FY 2013, VOSH intends to issue a directive on Nursing Home Inspection Procedures and Interpretations which will be based substantially on the inspection procedures contained in OSHA Instruction CPL 03-00-016.

CPL-03-00-014, PSM Covered Chemical Facilities National Emphasis Program issued November 29, 2011. VOSH responded August 07, 2012 of their intent. VOSH has adopted this National Emphasis Program as VOSH Program Directive 14-411 with an effective date of August 1, 2012. VOSH did not meet the six month adoption mandate for this FPC.

CPL-02-01-053, Compliance Policy for Manufacture, Storage, Sale Handling, Use and Display of Pyrotechnics issued October 27, 2011. VOSH responded November 22, 2011 of their intent. VOSH adopted this federal identical program change on February 1, 2012, as VOSH Directive 02-245 with an effective date of January 1, 2012. VOSH met the six month adoption mandate for this FPC.

CPL-02-11-03, Site-Specific Targeting 2011 (SST-11). VOSH responded February 3, 2012 of their intent to adopt their alternative approach to inspection targeting. VOSH utilizes OSHA's Office of Statistical Analysis (OSA) to meet this requirement, which is at least as effective as federal OSHA. This became effective when OSA submitted the schedule to VOSH.

During FY 2012 VOSH issued a total of thirteen (13) guidance documents to field personnel, and posted them on the VOSH website. These documents included FPCs as well as state initiated changes.

The Safety and Health Codes Board is authorized to adopt, alter, amend or repeal rules and regulations to further protect and promote the safety and health of employees in places of employment over which the Commonwealth has jurisdiction and to effect compliance with the federal OSHA statute. The Board is also authorized to formulate regulations which are designed for the protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, maintenance and repair of boilers and pressure vessels. The Board is also responsible for the promulgation of regulations to ensure the proper conduct of demolition and renovation of asbestos facilities projects and the proper conduct of lead related projects. The Safety and Health Codes Board is required to meet twice annually with additional meeting as necessary to fulfill statutory or federal regulatory requirements.

D. Variances

In accordance with the VOSH Administrative Regulations Manual (ARM), any employer or group of employers may file an application with the Commissioner for a temporary or a permanent variance from a standard or regulation pertaining to occupational safety and health. There were no variances requested during this FY 2012 evaluation period.

E. Public Employee Program

VOSH conducted 223 safety and health inspection in the public sector or 6.5% of its total inspection activity for FY 2012. There were serious violations observed and citations issued in 67% of the safety and 78% of the health inspections conducted. This is an increase in the serious rate over the FY 2011 public sector inspection activity which was 66% safety and 61% health. Although no penalties are assessed against public sector employers, VOSH has worked successfully with these agencies to bring them into compliance with current safety and health standards.

F. Discrimination Program

VOSH has been successful in reducing its whistleblower case backlog for the past several evaluation periods. During this evaluation period there were three (3) 11c investigations that were not completed within the mandated ninety (90) days. This may be attributed to the resignation of the full time 11c investigator in June 2012. VOSH designated two (2) safety specialists to spend a portion of their time as discrimination investigators. The agency recognizes the importance of this position and continues to request funding approval from the Governor's Office to hire an investigator full time. During this evaluation period, the Discrimination Investigation Manual, VOSH Directive 04-001C was issued. The manual references OSHA Instruction CPL 02-03-003, dated September 20, 2011. VOSH had two out of 30 cases (6.67%) that were meritorious during the year. This was less than the national average of 23.4%. VOSH settled one out of the two meritorious cases.

G. Voluntary Compliance Program

The VOSH Program hosted the 17th Annual Safety and Health Conference from October 2-5, 2012 in Roanoke, Virginia. The conference was attended by two hundred thirty-six (236) employees, employers and safety and health professionals from around the Commonwealth. There were forty-eight (48) concurrent training sessions held during the conference. In addition, there were twenty (20) vendors sharing safety and health product information to the attendees. VOSH's safety and health program is strengthened through the participation of these industry representatives from manufacturing, construction, health care industry and public sector employers at this annual conference.

The Virginia Voluntary Protection Program (VPP) and Safety and Health Achievement Recognition Program (SHARP) are designed to recognize and promote exceptional safety and health management programs. VOSH's VPP is designed to recognize and promote exceptional safety and health management programs wherein management and labor establish a cooperative relationship at a general industry or public sector workplace. VOSH's SHARP was developed to provide incentives and support to smaller (less than 250 employees), high-hazard employers to work with employees to develop, implement, and continuously improve safety and health programs. These programs are an integral component of VOSH's Cooperative Program.

VOSH has a total of forty (40) STAR VPP sites. Two (2) STAR sites were added during this evaluation period. The Safety and Health Achievement Recognition Program is administered under VOSH's 21(d) OSHA Consultation Program, therefore the SHARP performance is reviewed under the state's Regional Annual Consultation Evaluation Report.

Another integral component of VOSH's Cooperative Program is their participation in Outreach and Compliance Assistance Activities. During this evaluation period, the Commissioner, Assistant Commissioner, VOSH Program Directors, Regional Directors and Compliance Staff provided outreach and compliance assistance regarding workplace safety and health issues to numerous organizations. These activities provided information on the many elements of the VOSH Program, such as the unique standards, mission of their safety and health program, and consultation program.

During the FY 2012 evaluation period, the VOSH program provided several public service announcements (PSAs) via YouTube© on the Virginia Department of Labor and Industry (DOLI) website to inform the 'hard to reach workers'. These PSAs covered a variety of topics: tree trimming operations, overhead high-voltage power line safety, trenching safety, working in hot environments and their latest PSA offers information on the new crane and derrick regulations in the construction industry. Additional PSAs are aired on the website as needed to emphasize seasonal and occupational areas of concern (such as storm preparation, how to avoid the flu, etc.)

VOSH continued participation in an outreach program sponsored by the Mexican Consulate to address concerns of Spanish speaking workers in a non-threatening environment. Question and answer sessions in Spanish were conducted at various locations in each VOSH region to help non-English speaking employees understand their right to work safely and how to report hazardous conditions at their workplace. This program reached over 1,000 Spanish-speaking workers.

In accordance with VOSH Program Directive Partnership Programs 09-010, dated July 15, 1997, VOSH continued its alliance with the Virginia State Association of Occupational Health Nurses (VSAOHN) during the FY 2012 evaluation period. The mission of this association is the promotion of healthy and safe workplaces in large and small businesses in areas such as emergency management, ergonomics, health and wellness, healthcare worker safety and respiratory protection. As previously mentioned, the VSAOHN has been actively involved in DOLI VOSH activities, notably the annual Occupational Safety and Health Conference.

In addition to the formal alliance with VSAOHN, VOSH continues to work closely with stakeholders and other organizations that support VOSH's strategic goals. Notable organizations include the Voluntary Protection Participants Association (VPPPA), Drive Smart Virginia, the Virginia Manufacturers Association, the Virginia Chapters of the American Society of Safety Engineers (ASSE), and Miss Utility.

H. Program Administration

The VOSH program is allocated fifty-nine (59) benchmark positions in accordance with their approved State Plan, 29 CFR 1952.370-377, Subpart EE - Virginia. Benchmarks include thirty-eight (38) safety specialist positions and twenty-one (21) industrial hygienist positions. In August 2009 VOSH submitted its FY 2010 grant application which included funding allocations for 38 safety and 19.88 health compliance officer positions. This supplement was approved in October 2009. The allocations have remained unchanged since that grant submittal. On September 30, 2012 they had a total of forty-seven (47) benchmark positions occupied, or 80% of their allocated benchmark. There were thirty-five (35) safety specialists, and sixteen (16) industrial hygienists.

During the FY 2012 evaluation period budget constraints continued to affect state agencies throughout the Commonwealth. Despite these constraints, VOSH provided safety and health coverage for the Commonwealth.

- Debt Collection

Cases with outstanding penalties of \$3,000 or less are sent to the Accounting Department for debt collection. When penalty payments have not been received, debt collection letters are sent by the Accounting Department and referred to a local debt collection service for further action. Cases with penalties in excess of \$3,000 are sent to the Attorney General's Office for collection. Before issuing any refunds to taxpayers, Virginia law requires a check of any person or entity to determine if they owe the state any money. If any such debt is found, regardless of the type of tax return filed, all or part of the refund may be withheld to satisfy that debt to the Commonwealth. Legal action may also be filed against persons or entities who owe debts to the Commonwealth. Interest is assessed by VOSH on all unpaid penalties.

- State Internal Evaluation Program (SIEP)

VOSH Regional Directors performed mandatory random case file audits to ensure established policies and guidelines, as defined in the VOSH FOM were consistent throughout the VOSH program. Overall, there were over 2,500 case files reviewed as part of this program. Problems that are perceived to be either office wide or region wide are discussed in group face-to-face accountability meetings or through e-mails delivered to all CSHOs. Appropriate references to letters of Interpretation, VOSH Directives or the FOM are provided for the CSHOs to review.

V. State Progress in Achieving Annual Performance Goals

Through the State OSHA Annual Report (SOAR), the Commonwealth of Virginia has provided information that supports positive performance in the accomplishment of meeting their five-year strategic plan for 2007-2012. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of these goals have been met or exceeded. The primary goal of VOSH's strategic plan is to reduce occupational injuries, illnesses, and fatalities through direct intervention. Bureau of Labor Statistics (BLS) data for 2011 was utilized for this performance measure. The rate of nonfatal occupational injury and illness cases requiring days away from work for recuperation was 3.1 cases per 100 full-time workers in 2011, statistically unchanged from the 2010 rate of 3.3 cases. VOSH activities continue to have a positive effect in reducing recordable injury and illness rates established by 2006 baseline rate of 4.4. The total number of private industry, state government, and local government cases decreased. The median days away from work, a key measure of severity of injuries and illnesses, was eight (8) days, the same as in 2010.

Fatal accidents resulting in a VOSH investigation increased in FY 2012 to thirty-six (36). This may be due to increased activities in both the manufacturing and construction sectors in Virginia over the last two years. Although fatalities increased in FY 2012, there has been almost a 50% decrease in fatalities since 2005. The rates for the past five (5) years are as follows: FY 2011-30, FY 2010-24, FY 2009-33, FY 2008-39, FY 2007-44, FY 2006-55, and FY 2005-64.

The FY 2012 Annual Performance Plan for the VOSH Program fully supports Virginia's long-term strategic goals while at the same time addressing state-specific issues and concerns.

Promoting a safe and healthful workplace culture in order to improve workplace safety is the central theme of the VOSH strategic plan. The FY 2012 Annual Performance Plan recognized the interconnection and importance of the various program tools (enforcement, consultation, training, partnerships) available to the State. The Annual Performance Plan was designed to make full use of these tools.

As noted in the FY 2012 SOAR, VOSH provided information that supports positive performance in the accomplishment of meeting their goals as described in the five-year strategic plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of their goals have been met or exceeded.

VI. Other Areas of Note

Public Sector Consultation

According to the FY 2012 Mandated Activities Report for Consultation (MARC), VOSH 23(g) Consultants conducted thirty (30) public sector consultation visits in FY 2012; twenty-eight (28) were initial visits. VOSH's public sector consultation identified 312 total hazards during these visits, averaging over 10 hazards per initial visit.

VOSH met all of the required mandated activities, including conferring with employees during all initial visits, verifying correction of all serious hazards within 14 days of the correction date. No serious hazards were past 90 days of the correction due date.

**Virginia State Plan
FY 2012 23(g) Consultation Activity**

		VA Public Sector
Initial Requests		29
<i>Safety</i>		9
<i>Health</i>		17
<i>Both</i>		3
Backlog		0
<i>Safety</i>		-
<i>Health</i>		-
<i>Both</i>		-
Visits		30
<i>Initial</i>		28
<i>Training and Assistance</i>		1
<i>Follow-up</i>		1
<i>Percent of Program Assistance</i>		100%
<i>Percent of Initial Visits with Employee Participation</i>		100%
Employees Trained		102
<i>Initial</i>		90
<i>Training and Assistance</i>		12
Hazards		312
<i>Imminent Danger</i>		-
<i>Serious</i>		263
<i>Other than Serious</i>		47
<i>Regulatory</i>		2
<i>Referrals to Enforcement</i>		0
Workers Removed from Risk		4,804
<i>Imminent Danger</i>		-
<i>Serious</i>		4,025
<i>Other than Serious</i>		579
<i>Regulatory</i>		200

During this evaluation period, there was a 63% increase in the consultation visits within the public sector. This is a marked improvement from FY 2011.

Hard to Reach Workers

As noted by federal monitors during recent years, VOSH continues to develop strategies to provide services to “hard-to-reach” workers in changing workforce demographics. VOSH has provided assistance to these hard-to-reach workers by using the services of foreign language interpreters, offering foreign language training (especially Spanish) to existing staff and requiring multi-lingual skills of new hires. There has been a marked increase in the number of non-English speaking clients, both employers and employees, throughout the Commonwealth. While many employers and employees may speak some English, they are not proficient in reading English. In an effort to meet the needs of their non-English speaking customers, VOSH seeks candidates who are multi-lingual to fill vacated compliance officer positions, and

encourages current employees to learn a second language. This achievement would not have been possible if not for the success of the Registered Apprentice Program in Compliance Safety and Health.

VOSH Apprenticeship Program

The VOSH Apprenticeship Program was developed in early 2005. The first graduations took place in the fall of 2006. The program continues to be very successful and a parallel curriculum has been established for 21(d) consultants. By the end of this FY 2012 evaluation period, thirty-five (35) journeymen level CSHOs have graduated through the program; there were four (4) new graduates this year.

Appendix A – New and Continued Findings and Recommendations

FY 2012 Virginia State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11
12-01	Not all Federal Program Changes (FPCs) are adopted within the six month period.	OSHA Instruction CPL 02-00-150, Field Operations Manual, was issued April 22, 2011. VOSH's revision of their FOM is currently in the final stages of the review process. Corrective action is complete, awaiting verification upon issuance of VOSH Directive 02-001G in the 2 nd quarter FY 2013.	11-03

Appendix B – Observations Subject to Continued Monitoring
FY 2012 Virginia State Plan Abridged FAME Report

There were no Observations from fiscal year 2012.

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Virginia State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-01	Case file documentation is not in conformance with the requirement of the VOSH FOM. Inconsistencies included limited documentation for hazard description, employee exposure and employer knowledge on the 1B worksheet	Ensure Regional Officers are complying with established VOSH FOM guidelines for case file documentation to ensure consistency throughout the VOSH Program; continue State Internal Evaluation Program (SIEP) which includes random case file audits.	VOSH disagrees with the inconsistencies identified pertaining to insufficient documentation for hazard description and employee exposure. VOSH has committed to conducting training in the fall to improve documentation of employer knowledge and will continue to monitor all documentation to ensure it is sufficient via their SIEP.	VOSH conducted training on documentation of employer knowledge on Oct. 16 & Nov 27, 2012. Monitoring of documentation continue to be reviewed in the VOSH SIEP.	Completed
11-02	VOSH was not achieving abatement verification of 100% as required by the State Activity Mandated Measures (SAMM) reports.	Ensure Regional Offices are utilizing weekly Integrated Management Information System (IMIS) reports, such as the Abatement Tracking Report, and review quarterly SAMM reports to ensure timely abatement verification is achieved.	VOSH maintains that they have verified abatement of 100% of the violations cited; however, due to their more stringent policy of requiring employer submission of documentation for all serious hazards, it takes more time to verify. As the SAMM performance measure requires 100% of abatement to verify by the due date plus 30 calendar days. VOSH will continue to closely monitor abatement for all cases on weekly IMIS reports and quarterly SAMM reports.	Aug. 23-24, 2012 VOSH is monitoring IMIS reports weekly to track abatement and verify correction in a timely manner.	Closed
11-03	Not all Federal Program Changes (FPCs) are adopted within the six month period.	Continue to strive to meet this mandated measure.	VOSH will strive to adopt Federal Program Changes that are required by law and regulation within 6 months of federal adoption. Changes to the State Plan are required to be made by the Virginia Codes Board. The frequency that the meetings are held makes this challenging.	VOSH Directive 02-001G, Field Operations Manual is in the final stages of the review process and upon issuance in the 2 nd quarter FY 2013 will close this finding.	Awaiting Verification
11-04	Diary logs are to be complete and present in the investigation files as required by the VOSH Discrimination Manual.	Ensure that diary logs are present and maintained in all investigative files.	VOSH has provided training to discrimination investigator(s) to provide clarity that this is a required practice.	VOSH conducted training for discrimination investigators on this issue on July 17, 2012.	Completed

Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report

FY 2012 Virginia State Plan Abridged FAME Report

NOV 09, 2012
RID: 0355100

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	1036 2.02 512	82 2.15 38	Negotiated fixed number for each state
2. Average number of days to initiate Complaint Investigations	331 .81 404	3 .08 36	Negotiated fixed number for each state
3. Percent of Complaints where Complainants were notified on time	464 91.70 506	38 100.00 38	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	2 100.00 2	0 0 0	100%
5. Number of Denials where entry not obtained	1	0	0
6. Percent of S/W/R Violations verified			
Private	2541 95.53 2660	148 83.15 178	100%
Public	220 95.65 230	38 90.48 42	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	71021 48.51 1464	3836 38.74 99	2032800 55.9 36336
Health	18103 42.10 430	1191 41.06 29	647235 67.9 9527

Appendix D – FY 2012 State Activity Mandated Measures (SAMM) Report

FY 2012 Virginia State Plan Abridged FAME Report

8. Percent of Programmed Inspections with S/W/R Violations					
	988		62	76860	
Safety	49.67		45.59	58.5	National Data (3 years)
	1989		136	131301	
	201		7	9901	
Health	47.97		31.82	53.0	National Data (3 years)
	419		22	18679	
9. Average Violations per Inspection with Violations					
	3806		255	367338	
S/W/R	2.00		1.94	2.1	National Data (3 years)
	1901		131	175950	
	1395		84	216389	
Other	.73		.64	1.2	National Data (3 years)
	1901		131	175950	
10. Average Initial Penalty per Serious Violation (Private Sector Only)	4029202		286565	624678547	
	1192.77		1508.23	1990.5	National Data (3 years)
	3378		190	313826	
11. Percent of Total Inspections in Public Sector	223		10	637	
	6.51		4.42	6.5	Data for this State (3 years)
	3427		226	9868	
12. Average lapse time from receipt of Contest to first level decision	13554		285	3197720	
	115.84		35.62	187.0	National Data (3 years)
	117		8	17104	
13. Percent of 11c Investigations Completed within 90 days*	27		6		
	90.00		60.00	100%	
	30		10		
14. Percent of 11c Complaints that are Meritorious*	2		1	1619	
	6.67		10.00	23.4	National Data (3 years)
	30		10	6921	
15. Percent of Meritorious 11c Complaints that are Settled*	1		0	1444	
	50.00		.00	89.2	National Data (3 years)
	2		1	1619	

Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/20130*VA FY12

*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E – State OSHA Annual Report (SOAR)

FY 2012 Virginia State Plan Abridged FAME Report

(Available Upon Request)