

**FY 2013 Comprehensive
Federal Annual Monitoring and Evaluation (FAME) Report**

Virginia Occupational Safety and Health (VOSH)



Evaluation Period: October 1, 2012 to September 30, 2013

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

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Executive Summary

A. Summary of the Report

The Federal Annual Monitoring and Evaluation (FAME) Report for Fiscal Year (FY) 2013 focused on assessing Virginia Occupational Safety and Health (VOSH)'s enforcement performance, progress in addressing any outstanding findings and recommendations from last year's FAME, and the progress in meeting its annual and strategic performance goals. The evaluation for this reporting period also included case file reviews and a special study reviewing VOSH's inspection targeting systems.

One finding from the FY 2011 FAME and not completed during the FY 2012 evaluation period has been completed and verified as part of the FY 2013 FAME. That finding involved the revision of the VOSH Field Operations Manual (FOM). Two new findings regarding VOSH's Anti-Discrimination Program and one new observation regarding VOSH's discrimination case files were identified during the FY 2013 FAME.

B. State Plan Introduction

Virginia's Department of Labor and Industry is the state agency designated by the governor to administer VOSH. 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 3.4 million workers in approximately 223,000 establishments. The Virginia State Plan applies to all public and private sector places of employment in the state, with the exception of federal workers, 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.

Profile of the Virginia State Plan (FY 2013)		
Designee	Courtney Malveaux, Commissioner (as of October 2013) Virginia Department of Labor and Industry Main Street Center 600 South 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 2013 Funding	Federal	\$3,937,500
	State	\$3,937,500
	TOTAL	\$7,875,000
Source of State Funding	General fund	
Compliance Officers	38 safety/19.88 health (allocated)	
	31 safety/15.88 health (on-board as of 12/4/2013)	
Public Sector Consultants	.30 safety/.50 health (allocated)	
	.30 safety / .50 health (as of September 2013)	
Compliance Assistance	4.0 CAS (allocated)	
	4.0 on board (as of October 2013)	
Covered workers	3.4 million	
Covered Establishments	223,000	
Coverage	Public and private sector places of employment in the state, with the exception of federal workers, 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	

During this evaluation period, VOSH conducted 2,914 inspections in the private and public sectors. Although this number dropped from previous years due to a statewide hiring freeze and other factors, Virginia remains in the national top ten ranking in the rate of state occupational safety and health inspections per number of employers. These inspections resulted in 4,275 violations being issued of which 3,147 were classified as serious, willful, or repeat for a serious/willful/repeat (S/W/R) rate of 73.6%.

The Virginia Department of Labor and Industry, headquartered in Richmond, Virginia, consists of separate program groups with representatives stationed in different regional and field offices

located in Abingdon, Lynchburg, Manassas, Norfolk, Richmond, Roanoke, and Verona. Each of the four regional offices has two regional directors – one safety and one health.

VOSH consists of two major units: cooperative programs and enforcement. The enforcement unit inspects places of work, issues citations and penalties for violations of established occupational standards, and responds to fatalities, accidents, and worker complaints about workplace safety and health hazards. The cooperative programs unit provides assistance to Virginia's 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 and technical assistance to Virginia businesses, especially small businesses in high-hazard industries and to public sector employers under the State Plan grant. VOSH also provides free educational and training programs for employers and workers to assist them in achieving voluntary compliance.

The majority of VOSH standards are identical to OSHA standards. However, VOSH has enacted unique regulations covering confined spaces in the construction and telecommunication industries, overhead high voltage line safety, fall protection in steel erection, reverse signal operation in construction and general industry, compliance with manufacturer's instruction for vehicles, machinery, tools and equipment in general industry, construction, maritime and agriculture, and a regulation covering tree trimming.

All standards adopted by the Safety and Health Codes Board apply to all employers who have workers working at places of employment within the jurisdiction of the State Plan of the Commonwealth. Standards from 29 CFR Part 1910 apply to employers engaged in general industry; in addition, certain standards from 29 CFR Part 1910 determined by OSHA and the Safety and Health Codes Board to be applicable to the construction industry also apply to the construction industry in Virginia. Standards adopted from 29 CFR Part 1926 apply to the construction industry, and standards adopted from 29 CFR Part 1928 apply to agricultural operations within the jurisdiction of the Commonwealth. 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 for State Plan use in the public sector only.

The VOSH Administrative Regulations, 16 VAC 25-60-270, et seq., set forth rules defining the applicability of occupational safety and health standards in Virginia. Virginia has also codified in regulation the Multi-Employer Worksite policy and Multi-Employer Worksite defense. The regulation provides that general contractors and prime subcontractors can be cited for certain hazards as "controlling employers." Virginia has also codified the Employee Misconduct Defense but provides that the defense does not apply to supervisory personnel having control of the worksite. In these instances, OSHA either does not have a comparable standard addressing the specific hazard or condition or, if it does, the federal standard differs substantially.

The VOSH Administrative Regulations Manual (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 investigation. The notice of contest must be mailed or delivered by hand within fifteen 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 Commonwealth Attorney. Virginia does not use administrative law judges or the review commission system to handle litigated cases. Virginia is unique among the State Plans by using local circuit courts and prosecutors (Commonwealth Attorneys) to litigate contested cases. Attorneys assigned to Virginia's Division of Legal Support (DLS) have been approved by the Office of the Attorney General to represent VOSH in litigation when they are appointed by the local Commonwealth's Attorney and the Circuit Court judge on a case-by-case basis. VOSH added one attorney during FY 2013 who will be primarily responsible for case litigation.

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 Attorney. Appeals from Circuit Court may be heard by the Virginia Court of Appeals. The Department has 30 days to file an appeal with the Virginia Court of Appeals.

C. Data and Methodology

The FY 2013 FAME focused on assessing the State Plan's enforcement performance, progress in addressing any outstanding findings and recommendations included in last year's FAME Report, and the progress in meeting its annual and strategic performance goals. Throughout the evaluation process VOSH was cooperative, shared information, and ensured staff was available to discuss cases, policies and procedures, and answer questions.

On-site case files reviews were conducted from January 24, 2014 to January 28, 2014. One hundred seventy-two safety and health inspection and whistleblower files were selected for review. The case files were randomly selected from closed inspections conducted during the October 1, 2012 through September 30, 2013 evaluation period. The population of selected files included 36 fatality files, 15 nursing home programmed inspection files, 31 files where repeat citations were issued, 60 complaint files, and 30 whistleblower files.

The FY 2013 monitoring team also reviewed various statistical information and program administration activities. Data contained in the Integrated Management Information System (IMIS), OSHA's database system used by the Commonwealth to administer its enforcement

program was also utilized as a means to monitor and evaluate VOSH's 23(g) enforcement program activities. The State Activity Mandated Measures (SAMMs) Report and various micro-to-host reports were also utilized 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 this evaluation period. The monitoring team also conducted interviews with VOSH directors and managers.

D. Findings and Recommendations

There were two new findings and recommendations made during this evaluation, both relating to the VOSH Anti-Discrimination Program. The first finding dealt with the VOSH Discrimination Investigation Manual (VDIM) which does not require closing letters to be sent to a complainant when their case is screened out. The second finding was that closing conferences must be held for all closures and must be documented in the discrimination case file. All findings are referenced in Appendix A of this report. In addition, one new observation was made during this evaluation regarding case file organization as some items were not organized as required by the VDIM. OSHA and VOSH will monitor this observation during FY 2014 which is also referenced in Appendix B of this report.

II. Major New Issues

Federal and state budget cutbacks have continued to impact the state hiring and training for personnel. A hiring freeze enacted in 2010 was still in affect during this evaluation period; however, some vacancies were filled with special approval from the Secretary of Commerce and Trade and the Commissioner of the Department of Labor and Industry. A full-time discrimination investigator was lost during the year and four compliance officers had to be used to fulfill the discrimination investigative duties. An overall hiring freeze imposed by the governor's office has not been rescinded and continues to impact VOSH. Budget constraints have also impacted funding available for training and conferences and the associated travel expenses. These constraints did not adversely affect mandatory training.

VOSH was scheduled to begin using the federal Office Information System (OIS) in FY 2013; however, implementation of OIS was moved to FY 2014.

During the evaluation period, VOSH re-organized their management structure. Each of the four main regional offices (Roanoke, Tidewater, Richmond, and Manassas) now has two directors – one safety and one health. This change in structure allows for more efficient reviews of program activity in the safety and health disciplines.

III. Assessment of State Plan Performance

The following is a discussion of VOSH's performance during FY 2013 based upon monitoring and evaluation of the State Activities Mandated Measures (SAMM) Report. A review of VOSH was also conducted using the IMIS Micro-to-Host Inspection and Enforcement Reports.

A. State Activity Mandated Measures (SAMM) Report Analysis

During this evaluation period (October 1, 2012 through September 30, 2013), VOSH conducted 2,914 inspections of the projected 3,317 (88%). There were several factors which impacted VOSH's inability to meet its inspection goal in FY 2013. These factors included several senior compliance officers who were on extended medical absences, a hiring freeze that was enacted in 2010, reduced federal and state funding, and four CSHOs that were temporarily assigned to conduct discrimination investigations.

1. ENFORCEMENT

a) Complaints

During the period October 1, 2012 through September 30, 2013, VOSH received 451 complaints where investigations were determined to be warranted. VOSH's response rate to these complaints was less than one day (0.79 days) which met the agreed upon measure of one day. VOSH conducted 465 complaint inspections which were initiated within an average of 2.03 days. This was below the negotiated fixed number of days which is five working days. The SAMM measure reported that the State Plan received two complaints or referrals pertaining to imminent danger and responded one within one day. However, upon further review, one inspection was improperly coded as an imminent danger and has since been corrected. VOSH met this mandated measure in FY 2013.

b) Fatalities

VOSH responded to 35 of the 38 fatalities within one day of notification. Upon further review, VOSH conservatively entered three fatalities into the system which was later verified to be outside of VOSH's jurisdiction, either because the worker died from natural causes, or an employer/worker relationship was unable to be determined. Therefore, VOSH responded to 100% of workplace fatalities within one day which met the mandated measure. Employers are required under the Code of Virginia to orally report to the nearest Regional Office within eight hours of any occurrence of an employment accident involving a fatality to one or more workers and/or which results in the hospitalization of three or more workers. If an employer fails to notify VOSH a citation is issued for failure to report such an occurrence.

A review of case files revealed that investigation findings were appropriate and contact with next-of-kin was made in each fatality case. All next-of-kin were kept informed of the ongoing fatality investigation and were sent correspondence addressing the final outcome, where appropriate. Copies of the resulting citations (if issued) were sent to the next-of-kin upon their request. A review of the fatality case files indicated the OSHA-170 forms were properly documented and contained standard language in the abstract. The case file review revealed that VOSH properly classified jurisdictions, and conducted inspections in a timely manner.

Analysis of the fatality causal factors in FY 2013 reflects an increasing number of fatalities in the landscaping/horticulture industry (tree trimming). This may be attributed to small construction employers redirecting their crews into this hazardous industry with minimal training or experience. VOSH has their own state specific standard and local emphasis program to focus on this industry and attempt to reduce fatalities in this sector.

c) Targeting and Programmed Inspections

Virginia targets various industries each year and develops Local Emphasis Programs (LEPs) to achieve most of its programmed inspection activities. VOSH also targets industries through in National Emphasis Programs (NEPs) developed by OSHA. Most of Virginia's LEPs are directly related to strategic areas of emphasis developed by OSHA. Virginia conducted 2,045 programmed inspections during FY 2013 with an average of 1.8 serious, willful, or repeat violations per inspection, and an average of 0.63 other than serious violations per inspection with violations. On average, VOSH found serious violations in 65.8% of their safety inspections and 54.4% of their health inspections. VOSH did not have any significant cases as a result of programmed inspections.

OSHA reviewed programmed inspection case files during this review. All cases that were identified as being in-compliance were found to be documented correctly with no issues identified. Case files that had violations identified showed proper hazard identification with the correct standard for each violation. No significant enforcement actions were identified by VOSH.

VOSH Program Directive 02-051A, Scheduling System for Programmed General Schedule Inspections, dated February 22, 1990, describes the procedures used to compile the VOSH general schedules for safety and health enforcement programmed inspections. VOSH utilizes information compiled from several sources for their safety and health general industry programmed inspections. OSHA provides a Statewide Industry Rank Report (standard industrial classification (SIC) list) that classifies industries by their four-digit SIC code. The Safety SIC List is a statewide listing of manufacturing industries with lost workday injury (LWDI) rates equal to or higher than the lowest Bureau of Labor Statistics' (BLS) national average rate for all

private sector industry for the last five years. Industries are then ranked in order of their LWDI rate (the High Rate SIC list) with establishments within a ranking listed in descending order of the highest number of workers.

The Health SIC List is a statewide listing of industries within SIC codes with a previous history of serious OSHA health violations. Industry rankings are listed in descending order of the highest number of workers.

OSHA Enforcement Exemptions and Limitations under the Federal Appropriations Act, OSHA Instruction CPL 2-0.51J, issued July 15, 2009 was adopted as VOSH Program Directive, 02-003K, dated April 15, 2011. This directive provides guidance for inspections for those establishments with 10 or fewer workers. Regional directors ensure that enforcement activities are scheduled and conducted as set forth in the OSHA Instruction.

The Federal Appropriations Act contains limits for OSHA activities where 23(g) grant funds are used on a year-by-year basis. Since these 23(g) grant funds are passed through from OSHA to the State Plan, VOSH is held to the same restrictions and limits imposed on OSHA for the use of federal funds. The Appropriations Act limitations do not apply to 100% state funds.

To the extent this VOSH Directive 02-003K, limits or prohibits of the use of federal funds for certain VOSH activities, VOSH reserved the right to conduct activities limited or prohibited under this directive by paying for these activities with 100% state funds. (For example, VOSH will conduct and pay for, with 100% state funds, fatal accident investigations on farms with 10 or fewer workers and no temporary labor camp activity within the previous twelve months.) Approval to conduct and pay for such activities must be received in advance from the VOSH program director, safety compliance and regional office administration. Compliance officers who are approved to perform 100% state funded inspections keep a record of their time spent on such activities.

d) Citations and Penalties

According to the NCR Inspection Report, there were a total of 3,279 violations during FY 2013 consisting of 1,975 serious violations (60%), 27 (>1%) willful violations, and 62 (2%) repeat violations – totaling 2,064 (63%) S/W/R violations in Virginia.

The case file review revealed that citation classification, severity/probability, and penalty amounts were found to be in accordance with the VOSH FOM. Hazards were identified correctly and cited correctly overall. The case file review did not include a review of any cases with willful violations.

Thirty repeat violations were selected for review during this evaluation period. The review determined that VOSH cited repeat violations where there was evidence that the employer had been cited previously for a substantially similar condition within the previous three years. However, five out of 35 repeat violations that were reviewed had proposed penalties that were not calculated in accordance with VOSH's FOM. It was determined that penalties are not being automatically calculated when Compliance Safety and Health Officers (CSHOs) are entering information using the PC CSHO application. The root cause of this problem stems from the OSHA IMIS system which should automatically calculate repeat factors. When VOSH updated their penalties, the information system was unable to be modified so that these are automatically adjusted. This issue is expected to be resolved once VOSH is migrated to the new OIS in FY 2014.

The VOSH Division of Legal Support engages in pre-citation consultation in order to determine if additional investigative work needs to be performed prior to the issuance of citations.

During FY 2013, VOSH provided effective consideration to 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 when initially assessing penalty adjustment factors in accordance with their established penalty guidelines.

VOSH had a 75% penalty retention rate in the private sector which was significantly greater than standard reference percentage of (61%) for the private sector. The average current penalty per serious violation is \$1,328 compared to \$2,244 for the national data over the past three years. The difference in the penalty amounts between OSHA and VOSH 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.

e) Abatement

VOSH requires abatement verification and documentation for all items not immediately abated during the inspection activity. This is in addition to the abatement certification form completed by the employer. In the past, VOSH has had abatement verification times that were longer than the federal average. This is because VOSH requires not only abatement certification (e.g., the employer's statement that abatement has occurred), but VOSH also requires the employers to provide photographs, receipts, purchase orders, etc. as verification that the hazard was abated.

VOSH continues to implement the Abatement Verification Regulation, Section 307 of their ARM, as referenced by the OSHA Directive, CPL 02-00-114. The results of the case file review show that VOSH is effectively verifying abatement of hazards.

f) Worker and Union Involvement

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

2. REVIEW PROCEDURES

a) Informal Conferences

VOSH Regional Offices operate in a similar manner to OSHA Area Offices. Guidelines for all aspects of VOSH are found in the FOM. State Plan specific changes were incorporated into this program guideline to reflect the State Plan 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 VOSH. 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.

VOSH had 318 informal conferences during FY 2013. The average pre-contest penalty reduction during this evaluation period was 29%. 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. VOSH vacated 8.9% of violations during the conferences. VOSH had a violation reclassification rate of 4.7%.

VOSH follows their FOM procedures when conducting informal conferences. Case file reviews showed that Regional Directors and Compliance Managers were documenting actions taken during the informal conference on the revised informal conference notes and penalty relief justification worksheets that were included in the case files. All reclassifications of violations, deletions, or penalty reductions were well documented in accordance with the VOSH FOM.

b) Formal Review of Citations

Virginia does not use administrative law judges or the review commission system to handle litigated cases. Virginia is unique among State Plans in using local circuit courts and prosecutors (Commonwealth Attorneys) to litigate contested cases. Attorneys assigned to Virginia's Division of Legal Support (DLS) have been approved by the Office of the Attorney General to represent VOSH in litigation when they are appointed by the local Commonwealth Attorney and

the Circuit Court judge on a case-by-case basis. Virginia added one attorney during FY 2013 who will be primarily responsible for VOSH case litigation.

DLS 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, and 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.

Two cases went to trial during FY 2013. Both cases involved the same employer and were heard by the same judge. The judge ruled in favor of the employer on both occasions.

3. STANDARDS AND FEDERAL PROGRAM CHANGES (FPC) ADOPTION

When OSHA incorporates changes to standards for the federal program, States Plans are required to respond within 60 days of initial notification to declare whether they intend to adopt the change. According to 29 CFR 1953, when a federal change is identified as having the potential to impact the effectiveness of the State Plan, State Plans are required to either adopt the change identically, or submit an alternative approach with a State Plan supplement that is at least as effective as the federal change. During FY 2013, OSHA adopted seven FPCs, including two standards and five directives. Of the State Plan changes issued, only four required the State Plan's intent during the evaluation period. VOSH's formal response to these changes were generally after the response date was due; however, all required changes were adopted within the required six months after federal issuance.

a) Standards Adoption

- Direct Final Rule - Cranes and Derricks in Construction: Underground Construction and Demolition: 29 CFR Part 1926 (Issued: April 25, 2013/State Adoption Required)

State Plan Action: VOSH responded to the notification on December 17, 2013 which was after the required response date. However, the Virginia Safety and Health Codes Board adopted the standard as VOSH Directive 12-243B in a timely manner.

- Updating OSHA Standards Based on National Consensus Standards; Head Protection: 29 CFR-PART 1910,15,17,18&26/1910,15,17,18&26 (Issued: July 16, 2013/State Adoption Not Required)

State Plan Action: VOSH responded to the notification on January 11, 2013 which was in a timely manner. This change was adopted identically to the federal standard as VOSH Directive 12-336 in a timely manner.

b) OSHA/State Plan Initiated Changes

- Inspection and Citation Guidance for Roadway and Highway Construction Work Zones: [CPL-02-01-054 2013 545](#) (Issued: September 6, 2013/State Adoption- Not Required)

State Plan Action: VOSH responded to the notification on January 14, 2014 which was after the required response date. VOSH adopted this change as VOSH Directive 02-105A.

- Site-Specific Targeting 2012 (SST-12): [CPL-02-13-01 2013 564](#) (Issued: January 4, 2013/State Adoption- Not Required)

State Plan Action: VOSH initially responded to the notification on December 17, 2013, which was after the required response date. VOSH intends to adopt this change on a pilot basis in the form of a Local Emphasis Program (LEP) in FY 2014.

- National Emphasis Program: Occupational Exposure to Isocyanates: [CPL-03-00-017 2013 585](#) (Issued – June 20, 2013/State Adoption- Required)

State Plan Action: VOSH responded to the notification on October 10, 2013, which was after the required response date. VOSH adopted this change as Program Directive 14-415 in a timely manner.

- Federal Program Change Memo for OSHA Instruction CPL-02-00-155: [CPL-02-00-155 2013 604](#) (Issued September 6, 2013/State Adoption- Not Required)

State Plan Action: VOSH's response of intent was not due until FY 2014.

- Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification: [CPL-02-01-055 2014 624](#) (Issued- September 30, 2013)

State Plan Action: VOSH's response of intent was not due until FY 2014.

4. VARIANCES

In accordance with the VOSH 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 the FY 2013 evaluation period.

5. PUBLIC EMPLOYEE PROGRAM

VOSH conducted 195 safety and health inspection in the public sector or 6.69% of its total inspection activity for FY 2013. There were serious violations observed and citations issued.

In FY 2013 VOSH issued 416 serious, willful, or repeat violations to public sector employers. 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.

6. ANTI-DISCRIMINATION PROGRAM

Virginia Code §40.1-51.2:1 provides discrimination protection for workers raising safety and health concerns at their work place. This program continues to investigate workers' allegations that their employer has taken adverse action against them because they have reported safety and health complaints at their work place or to VOSH. VOSH Program Directive 04-001C, the VDIM, sets forth policy, procedures and other information relative to the handling of discrimination complaints within the Commonwealth of Virginia.

The SAMM report shows that VOSH received 46 discrimination complaints in FY 2013. Thirty of these files were randomly selected to assess VOSH's performance under this program. Of those files, 14 were screened out cases and 16 cases were docketed.

A review of the cases showed that screened out cases were appropriately assessed; however, it was noted that closing letters were not in any of the fourteen case files. According to chapter 2 (III)(B) of the VDIM, "when a complaint is thus 'screened out,' the investigator must document the screening interview, obtain concurrence from the VOSH Director, and either send a letter to the complainant, or prepare a memorandum concerning the interview and documenting the reason for the 'screen out.'" The letters are important to notify complainants of any referrals to other agencies and/or reasons for the decision.

Finding #1: The VOSH Discrimination Investigation Manual (VDIM) does not require closing letters to be sent to a complainant when their case is screened out. None of the cases reviewed had closing letters sent in FY 2013.

Recommendation #1: It is recommended that VOSH revise the VDIM to require closing letters when a complainant's case has been screened out.

A review of the selected docketed cases showed that VOSH's investigator has good knowledge of investigative techniques and the requirements for recommending merit/non-merit cases and documented the evidence well. Merit settlement and litigation rates were appropriate and investigations were timely.

It was noted that no closing conferences were held in any of the cases nor were they documented. According to Chapter 3 (V)(J)(4) and Chapter 5 (V) of the VDIM, closing conferences are to be held with the complainant, either in-person or by telephone upon completion of the field investigation.

Finding #2: VOSH does not consistently hold closing conferences at the conclusion of each discrimination investigation and appropriately document these in the case files in accordance with the VOSH Discrimination Investigation Manual (VDIM).

Recommendation #2: VOSH should ensure that closing conferences are consistently held and appropriately documented in accordance with the VOSH Discrimination Investigation Manual (VDIM).

When reviewing docket case files, it was observed that the case file organization did not follow the VDIM. All case files should include a table of contents and all tabs should be marked accordingly.

Observation #1: Case files were not organized in accordance with Chapter 5 of the VOSH Discrimination Investigation Manual (VDIM).

Monitoring Plan: OSHA and VOSH will monitor VOSH's organization of case files during quarterly discussions in FY 2014.

7. SPECIAL STUDY – STATE PLAN TARGETING PROGRAMS

The purpose of the Special Evaluation Study is to evaluate the State Plans' targeting programs. The special study contains two components: an analysis of how the State Plan develops a targeting program and an analysis of how the State Plan evaluates the effectiveness of its

program. The findings of the study can be found in the separate template provided by the National Office.

8. Complaints About State Program Administration (CASPs)

There were no CASPs received in FY 2013.

9. VOLUNTARY COMPLIANCE PROGRAM

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 establishments that achieve an exceptional program through a cooperative relationship with management and labor in general industry or public sector workplace. VOSH's SHARP was developed to provide incentives and support to smaller (less than 250 workers), high-hazard employers to work with workers to develop, implement, and continuously improve safety and health programs. SHARP is implemented through VOSH's private sector consultation 21(d) grant; therefore, a review of SHARP activity is included in VOSH's Regional Annual Consultation Evaluation Report (RACER). These programs are an integral component of VOSH's Cooperative Program.

VOSH has a total of over forty STAR VPP sites. SHARP is administered under VOSH's 21(d) OSHA Consultation Program; therefore, SHARP performance is reviewed under VOSH's RACER.

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 VOSH, such as the unique standards, mission of their safety and health program, and consultation program.

During the FY 2013 evaluation period, VOSH 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, the dangers of heat stress, and their latest PSA offers information on fall protection. 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.).

In accordance with VOSH 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 2013 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, 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. VOSH is exploring a strategic partnership opportunity with the construction industry in the Commonwealth.

10. PUBLIC SECTOR ON-SITE CONSULTATION PROGRAM

According to the FY 2013 Mandated Activities Report for Consultation (MARC), VOSH 23(g) consultants conducted 21 public sector consultation visits in FY 2013 of which 13 were initial visits. VOSH’s public sector consultation identified 53 total serious hazards during these visits, averaging 2.5 serious hazards per visit.

VOSH met all of the required mandated activities, except one. The percent of serious hazards verified were corrected in a timely manner (≤ 14 Days of Latest Correction Due Date) for FY 2013 was 96.22%. This percentage was below the measure of 100%. No serious hazards were referred to enforcement.

Virginia State Plan FY 2013 23(g) Consultation Activity	VA Public Sector
Initial Requests	21
Safety	13
Health	8
Both	0
Backlog	0
Safety	-
Health	-
Both	-
Visits	21
Initial	13
Training and Assistance	0
Follow-up	0
Percent of Program Assistance	-

Percent of Initial Visits with Worker Participation	100%
Workers Trained	32
Initial	32
Training and Assistance	-
Hazards	71
Imminent Danger	-
Serious	53
Other than Serious	12
Regulatory	6
Referrals to Enforcement	0
Workers Removed from Risk	-
Imminent Danger	-
Serious	-
Other than Serious	-
Regulatory	-

11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAMS (KENTUCKY, PUERTO RICO, AND WASHINGTON)

VOSH's private sector consultation program is covered under its 21(d) grant; therefore, this section is not applicable.

12. STATE PLAN ADMINISTRATION

VOSH is allocated 59 benchmark positions in accordance with their approved State Plan. They are allocated 38 safety specialist positions and 19.88 industrial hygienist positions. Currently, they are staffed with 31 safety specialists and 15.88 industrial hygienists. Therefore, 12.12 benchmark positions are not filled. At the present time, VOSH is experiencing a hiring freeze imposed by the Secretary of Commerce and Trade.

VOSH established an apprentice program to train safety and health compliance officers in 2005. Since the inception of the program 48 compliance officers have completed the program. In FY 2013, the program graduated four safety compliance officers and one health compliance officer. At this time there are seven compliance officers in the apprenticeship program – four safety and three health.

VOSH gained approval through the United States Department of Veterans' Affairs and the Virginia Department of Veterans' Services for its Apprentice Program as an authorizing agency for benefits under the Montgomery and Webb GI bills. This approval was granted in April

2006. In addition, VOSH currently has a program directive which outlines its professional development training for compliance personnel.

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 if necessary. 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.

In the past, debt collection was not a high priority for the Attorney General's Office due to lack of staff resources. However, staff has been increased and this office is being much more aggressive in its collection efforts. Consistent with OSHA policy, debts that are determined to be uncollectible, either through a company's bankruptcy or the amount is not large enough to refer for legal action, the debt is administratively waived and the case is closed in IMIS.

IMIS/Program Management

All transmissions to the host computer (e.g., Start-of-Day (SOD) and End-of Day (EOD)) are conducted on a daily basis by administrative staff. Daily back-ups of local databases are also performed on a daily basis by administrative staff. A detailed review was made of various management reports to determine if VOSH was timely processing data and updating the system appropriately. Forms rejected by the host computer in Washington, D.C. are handled as expeditiously as possible by administrative staff.

Discussions with Regional Directors and the VOSH Program Director revealed the following local reports were run and reviewed on a regular basis:

- Complaint Tracking Report: used to determine if complaints need to be closed that are still open. This report is generated and distributed to supervisors monthly.
- Referral Tracking Report: used to determine if referrals need to be closed that are still open. This report is generated and distributed to supervisors monthly.

- Complaint – Employer Response Due Report: lists all complaint inquiries where the employer’s response to OSHA’s request to investigate the complaint allegations has not been received. This report is available for use by management to contact the employer and remind them that their abatement response is past due or to schedule the complaint for an inspection due to the lack of response when received.
- Complaint – VOSH-7 for Signature: lists all complaint inquiries where the worker’s requested signature has not been received. This report is available for use by management to contact the worker and remind them that their signed complaint form is past due, or maintain the “non-formal” classification due to the lack of the worker’s signature and process the complaint as an inquiry.
- Unsatisfied Activity Report: lists all complaint, referral, and accident/event records that have been selected for an inspection yet no inspection has been initiated. These reports are run on a weekly basis and distributed to supervisors for review and action. All coding issues are immediately identified and eliminated by the system administrator.
- Citations Pending Report: lists all open inspections where the citations have not been issued. This report is available for use by management to track the six-month statute of limitation for issuing citations. There were no instances found where citations were not issued within the six month time frame.
- Violation Abatement Report: lists all cases with abatement past due for all violations and is available for use by management to contact the employer and remind them of their past due abatement, or schedule a follow-up inspection because of the lack of the employer’s abatement response. Although this report is generated and distributed to the management team on a weekly basis, abatement verification (SAMM Measure #8) has been an outlier for years, due to VOSH’s requirement for the employer to provide not only abatement certification but also abatement documentation.
- Open Inspection Report: lists all open inspections for each office. For internal audit purposes, this report can be reviewed to determine if case file management is being handled properly. The review will identify all cases that have all abatements completed and all penalties paid, so the cases can be effectively closed on the IMIS system.
- Fatality/Catastrophe Report: lists all inspections in which an OSHA-170 has not yet been entered into the system. This report is reviewed on a weekly basis by management.

State Internal Evaluation Report (SIEP)

Fatality and/or catastrophe cases are typically reviewed by a very experienced lead CSHO and one or both Regional Directors before being submitted to the appropriate Program Director and Division of Legal Support for a final review prior to issuance. After review in the Richmond headquarters, any comments or suggestions are again reviewed by the lead CSHO or Regional Director with the CSHO before final citations are issued. Cases involving proposed willful citations or the use of the General Duty Clause undergo a similar review process.

On a daily basis, the Regional Directors discuss the results of these case file reviews with the leads and as needed, follow-up with the CSHOs. The lead CSHOs and Regional Directors have daily interaction with CSHOs to discuss case status, problems, applicable standards, and strategy.

Where informal conferences are conducted the Regional Directors attempt to discuss the final outcome with the CSHO(s) involved to make them aware of any weak points or to convey positive comments. Problems that are perceived to be either office wide or region wide are discussed in group meetings or through emails.

Additionally, Regional Directors perform mandatory random case file audits annually. Below are reports from each region:

Central Region

The Safety Regional Director reviewed approximately 750 case files and the Health Director reviewed approximately 160 case files. No major systematic problems were noted. The problems noted were attributable to an individual compliance officer or inspection circumstance and were addressed on a case-by-case basis.

Southwest Region

The Safety Regional Director reviewed approximately 400 case files and the Health Director reviewed approximately 270 case files. No systemic problems were noted; however, at times the files required some minor grammatical editing.

Tidewater Region

The Safety Regional Director reviewed approximately 234 case files and the Health Director reviewed approximately 397 case files. Overall no systemic problems were noted. Some of the more inexperienced compliance officers struggled with acquiring adequate interview statements, both from employers and workers, in order to document and support certain violations.

Northern Region

The Safety Regional Director reviewed approximately 355 case files and the Health Director reviewed approximately 151 case files. No systemic problems were noted.

IV. ASSESSMENT OF STATE PLAN PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

Through the State OSHA Annual Report (SOAR), VOSH shows positive signs of achieving its 2013-2017 Five-Year Strategic Plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded. The primary goal of VOSH's strategic plan was to reduce occupational injuries, illnesses, and fatalities through direct intervention. In 2012, the rate of non-fatal occupational injury and illness cases requiring days away from work to recuperate dropped from 3.1 to 2.9 cases per 100 full-time workers. In 2011 the total number of private industry, state government, and local government cases decreased from 2.9 to 2.7. BLS rates were not yet available to evaluate the progress for FY 2013.

VOSH has worked to achieve a reduction in workplace fatalities investigated over the last five calendar years; however, they have seen a recent increase of workplace fatalities within their jurisdiction: 2013 (35); 2012 (36); 2011 (30); 2010 (24); 2009 (33). VOSH was able to successfully initiate inspections in 100% of fatalities and catastrophes within one working day of notification. Analysis of the fatality causal factors in FY 2013 reflects an increasing number of fatalities in the landscaping/horticulture industry (tree trimming). This may be attributed to small construction employers redirecting their crews into this hazardous industry with minimal training or experience.

VOSH's FY 2013 Annual Performance Plan 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 Five-Year Strategic Plan. The Annual Performance Plan recognized the interconnection and importance of the various program tools (enforcement, consultation, training, partnerships) available to the state.

VOSH's approach for achieving its long-term strategic goals is to identify significant problems, determine the most effective ways to address them, use the best mix of available tools and then measure the results. VOSH has adopted two inter-dependent strategic goals in their annual performance plan. These goals are to reduce occupational injuries, illnesses, and fatalities through direct intervention in Virginia workplaces, as evidenced by fewer hazards, reduced

exposures, and fewer injuries, illnesses, and fatalities. The second goal is to promote a safe and healthy workplace culture. In addition to these goals, VOSH utilized Worker's Compensation First Reports of Accidents to promptly investigate amputations and other serious workplace accidents.

Through its annual performance report, VOSH has provided information that supports positive performance in the accomplishment of meeting its five-year strategic plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded.

The following summarizes the activities and/or accomplishments for each of the FY 2013 VOSH annual performance goals. VOSH met all of its annual performance goals for FY 2013.

Strategic Goal 1: Reduce occupational injuries, illnesses, and fatalities through direct intervention.

Outcome Goal 1: Reduce the rate of workplace injuries and illnesses.

Performance Goal 1.1A: By 2013, decrease injuries and illnesses per 100 workers in the workplace by 5.5%.

Result: VOSH met this goal. FY 2013: 4.10%

Discussion: The performance data for this measure for 2013 has not been released by BLS yet; therefore, the most recent data was utilized for 2012. The data for 2012 reflects an overall Total Recordable Rate of 2.9%. The private industry rate is 2.7%.

Performance Goal 1.1B: Annually initiate investigations of 100% of worker complaints within one working day or conduct an on-site inspection within five working days.

Result: VOSH met this goal.

Discussion: VOSH received 471 complaints in FY 2013 and 423 were investigated within one day for a response rate of 96.21%. State and federal holidays affect the 100% performance goal from being met; yet, it is not indicative of the overall performance goal. VOSH conducted on-site inspections within five working days for all 423 worker complaints for a response rate of 100%.

Outcome Goal 1.2: Reduce the rate of workplace fatalities.

Performance Goal 1.2A: By 2013, decrease fatalities in the workplace per 100,000 workers 5.5% from the 2006 baseline of 4.2 fatalities per 100,000 workers.

Result: VOSH met the goal. FY 2013: 3.90%.

Discussion: Consultation results may be found in 2013 CAPR. The performance data for this measure for 2013 has not been released by BLS yet; therefore, the most recent data was utilized for 2012. The number of total workplace fatalities (including those that were not under VOSH's jurisdiction) in Virginia increased 15 percent last year (2012), to 146 from 127 in 2011. This computes, based on 3.5 million workers, to 3.5 fatalities per 100,000 workers. However, workplace fatalities investigated by VOSH have increased slightly in Virginia in the last calendar year. (Not including medical events, traffic accidents, etc.) The baseline rate in 2006 was 4.2 fatalities per 100,000 workers. The following are the number of fatalities since 2006: 2007 (44), 2008 (39), 2009 (33), 2010 (24), 2011 (30), 2012 (36).

Performance Goal 1.2B: FY 2013: Initiate inspections of 100% of fatalities and catastrophes within one working day of notification annually.

Result: VOSH met this goal.

Discussion: One hundred percent (100%) of inspections of fatalities and catastrophes initiated within one working day of notification in an effort to reduce injuries and illnesses.

Outcome Goal 1.3: Reduce the rate of workplace injuries and illness in worksites.

Performance Goal 1.3.A: Reduce the rate of workplace injuries and illnesses in worksites through participation in VPP.

Result: VOSH met this goal.

Discussion: There are 41 active VPP sites in Virginia. The average Virginia VPP worksite had a Total Case Incident Rate (TCIR) 62% below the BLS national average for its industry (3-year rolling national average, 2009-2011).

Strategic Goal 2: Promote a Safety and Health Workplace Culture.

Outcome Goal 2.1: Enhance worker involvement in all aspects of safety and health.

Performance Goal 2.1: One hundred percent (100%) of VOSH on-site activities (e.g., inspections) will include a worker involvement component annually, such as interviews, informal conferences, and walk-around inspections.

Result: VOSH met this goal.

Discussion: Consultation results may be found in 2013 CAPR. Worker involvement through interviews, informal conferences, and walk-around inspections as reviewed by region safety and health directors at 100%.

V. Other Special Measures of Effectiveness and Areas of Note

No other special measures of effectiveness or other areas of note that warrant further discussion.

Appendix A – New and Continued Findings and Recommendations

FY 2013 Virginia State Plan Comprehensive FAME Report

FYXX-Rec#	Finding	Recommendation	FY 12
FY13-01	The VOSH Discrimination Investigation Manual (VDIM) does not require closing letters to be sent to a complainant when their case is screened out. None of the cases reviewed had closing letters sent in FY 2013.	VOSH should revise the VDIM to require closing letters are sent to complainant when a complainant’s case has been screened out.	
FY13-02	VOSH does not consistently hold closing conferences at the conclusion of each discrimination investigation and appropriately document these in the case files in accordance with the VOSH Discrimination Investigation Manual (VDIM).	VOSH should ensure that closing conferences are consistently held and appropriately documented in accordance with the VOSH Discrimination Investigation Manual (VDIM).	

Appendix B – Observations Subject to Continued Monitoring
FY 2013 Virginia State Plan Comprehensive FAME Report

FY XX-OB-#	Observation	Federal Monitoring Plan	FY 12
FY13-OB-1	Case files were not organized in accordance with Chapter 5 of the VOSH Discrimination Investigation Manual (VDIM).	OSHA and VOSH will monitor VOSH’s organization of case files during quarterly discussions in FY 2014.	

Appendix C - Status of FY 2012 Findings and Recommendations
FY 2013 Virginia State Plan Comprehensive FAME Report

FY 2013 Virginia State Plan Comprehensive FAME Report					
FY 12-Rec #	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status
FY 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.	VOSH plans to publish and distribute the 2013 revision to the VOSH Field Operation Manual (FOM) by October 1, 2013.	October 1, 2013	The Field Operations Manual was signed and effective October 1, 2013

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 Virginia State Plan Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Virginia			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	2.03	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	0.79	(Negotiated fixed number for each state) - 3	State data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	50% (100% actual)	100%	State data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State data taken directly from SAMM report generated through IMIS.
9a	Average number of violations per inspection with violations by violation type	1.96	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
9b	Average number of violations per inspection with violations by violation type	0.7	Other: .88	
11	Percent of total inspections in the public sector	6.69	(Negotiated fixed number for each state) - 6%	State data taken directly from SAMM report generated through IMIS.
13	Percent of 11c Investigations completed within 90 calendar days	65.22	100%	State data taken directly from SAMM report generated through IMIS.

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Virginia State Plan Comprehensive FAME Report

14	Percent of 11c complaints that are meritorious	10.87	24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
16	Average number of calendar days to complete an 11c investigation	78.63	90 Days	State data taken directly from SAMM report generated through IMIS.
17	Planned vs. actual inspections - safety/health	2215/699	(Negotiated fixed number for each state) - 3317/1896	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
18a	Average current serious penalty - 1 -25 Employees	a. 596.18		State data taken directly from SAMM report generated through IMIS; national data is not available.
18b	Average current serious penalty - 26-100 Employees	b. 1037.81		
18c	Average current serious penalty - 101-250 Employees	c. 1776.72		
18d	Average current serious penalty - 251+ Employees	d. 2198.01		
18e	Average current serious penalty - Total 1 - 250+ Employees	e. 933.36		
19	Percent of enforcement presence	2.23%	National Average 1.5%	Data is pulled and manually calculated based on FY 2013 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	Safety - 47.14	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	Health - 45.02	Health - 34.1	

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 Virginia State Plan Comprehensive FAME Report

21	Percent of fatalities responded to in 1 work day	90%	100%	State data is manually pulled directly from IMIS for FY 2013
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
23a	Average Lapse Time - Safety	40.34	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	38.37	57.05	
24	Percent penalty retained	75.2	66	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.