



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219
PHONE (804) 371-2327
FAX (804) 371-6524

July 24, 2015

Robert Kulick
Acting Regional Administrator, Region III
U. S. Department of Labor – OSHA
The Curtis Center, Suite 740
170 South Independence Mall West
Philadelphia, PA 19106-3309

SUBJECT: Virginia FFY 2014 Federal Annual Monitoring and Evaluation (FAME) Report

Dear Mr. Kulick:

Thank you for your letter of July 10, 2015, forwarding Virginia's FFY 2013 Federal Annual Monitoring and Evaluation Report (FAME). I was pleased to see that Virginia has no open findings as a result of the 2014 review.

The Virginia Occupational Safety and Health (VOSH) program prides itself on maintaining equally strong enforcement and cooperative program elements, and with the help of your dedicated staff, the VOSH program has been able to achieve many important things that benefit Virginia's employees and employers:

- Virginia's injury and illness rates are consistently well below the national average in both private and public sector employment. The data for 2013 reflects an overall Total Recordable Case Rate for Virginia of 2.9. When compared to the national rate of 3.5, the result is a difference of 17.14%. This rate is for all industries, including state and local government.
- The private industry rate for Virginia is 2.6. When compared to the national rate of 3.3, the result is a difference of 21.21%.
- The manufacturing industry rate for Virginia is 3.7. When compared to the national rate of 4.0, the result is a difference of 7.5%.
- The construction industry rate for Virginia is 3.0. When compared to the national rate of 3.8, the result is a difference of 21.05%.
- The state and local government rate for Virginia is 4.2. When compared to the national rate of 5.2, the result is a difference of 19.23%.

- A 52% reduction in fatal accidents covered by VOSH jurisdiction from calendar years 2005 to 2014:
 - 2014: 31
 - 2013: 36
 - 2012: 36
 - 2011: 30
 - 2010: 24
 - 2009: 33
 - 2008: 39
 - 2007: 44
 - 2006: 55
 - 2005: 64
- Virginia unique regulations in tree trimming, confined space hazards in the construction and telecommunications industries; overhead high voltage line safety; fall protection in steel erection; reverse signal operation in construction and general industry; and compliance with manufacturer's instructions for vehicles, machinery, tools and equipment in general industry, construction, agriculture and public sector maritime;
- An abatement verification regulation that requires not only abatement certification (i.e., the employer's signed statement that abatement has occurred), but also requires employers to provide photographs, receipts, purchase orders, etc., as verification that a hazard was abated;
- A national top ten ranking in the rate of state occupational safety and health inspections per number of employers¹;
- Development of public service announcement (PSA) videos in the areas of tree trimming operations, overhead high voltage line safety, trenching safety, the dangers of heat stress and fall protection;
- An exemplary and one of a kind Apprenticeship Program for VOSH Compliance Safety and Health Officers (CSHO), Industrial Hygienists and Safety and Health Consultants. The Apprenticeship Program has approval through the U. S. Department of Veteran's Affairs and the Virginia Department of Veteran's Services as an authorizing agency for benefits under the Montgomery and Webb GI Bills;
- A thriving Virginia Voluntary Protection Program (VPP) which now has 44 active members (a 7% increase over 2013);
- An improving Safety and Health Achievement and Recognition Program (SHARP) with 15 active members and 15 sites that are pursuing SHARP status; and
- An annual safety and health conference which is now entering its 20th successful year of outreach to employees, employers, unions, associations and government agencies.

I would also like to take this opportunity to express our serious concerns about the level of funding that the federal government is providing to State Plans. Funding for State Plans continues to lag well behind that provided by Congress for OSHA. Virginia faces significant budget difficulties due to a combination of long term underfunding of State Plans and the recent Congressional Sequestration Act:

- The Virginia 23g Enforcement grant for FFY 2016 reflects a continued 3.2% federal sequestration reduction (\$258,400 – 50%/50%).

¹ "Death on the Job: The Toll of Neglect", 24th edition, April 2015, AFL-CIO.

- The grant reflects 12 unfunded benchmark positions (7 safety and 5 health). This represents approximately 590 safety and 238 health inspections that are not conducted each year in Virginia.
- During the current FY 2015 grant cycle, Virginia is holding an additional 2 VPP positions vacant due to lack of federal funding.
- Vacancy rates are likely to increase during the FY 2016 Grant Application process due to scheduled State salary and fringe rate increases to take effect on August 10, 2015.
- The Virginia Consultation grant reflects one unfunded consultant position and one position that is being held vacant during the current FY 2015 grant cycle due to lack of federal funding.

At the national level, State Plans “overmatch” federal grant funds by as much as 80% (in FY 2013, federal funding of 23g grants totaled \$98.7 million and state plans matched with 183.2 million – an overmatch of \$84.7 million. Reference: “OSHSPA Summary of State Plan Budget Information 5 17 15” which is taken from the [2014 OSHSPA Grassroots publication](#).

Virginia is not generally permitted to overmatch – federal funds are needed to use additional available state funds. A [report issued by OSHSPA in 2012](#) demonstrates the disparity with which OSHA and State Plans are treated from a funding standpoint by Congress:

- From 2001 to 2011, funding for OSHA increased 31% while funding for State Plans increased 18%.
- The “real dollars” available to States have significantly decreased when considering inflation. In 2001, State Plans were funded at \$88 million. To fund States at the same level in 2011, a budget of \$112 million would be needed (the 2015 State Plan appropriation is \$100.85 million).
- When federal OSHA receives COLA adjustments, State Plans do not.
- As a percentage of the total OSHA budget, the State Plan appropriation decreased from 20.8% in 2001 to 18.6% in 2011, near an all-time low.

In closing, although we have many challenges in Virginia, it is our sincere belief that we do an effective and highly efficient job in trying to assure that all Virginia workers have the chance to return home at the end of their shift in the same condition that they started their work day.

Thank you again for this opportunity to provide our response to the Virginia’s 2014 FFY FAME report. We look forward to an ongoing cooperative and mutually supportive relationship with Region III.

Please accept our sincere thanks for the valuable services you have provided to the Commonwealth of Virginia’s employees and employers.

Sincerely,

C. Ray Davenport
Commissioner

cc: Assistant Commissioner Bill Burge
VOSH Directors