

FY 2016 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

State of Vermont
Vermont Occupational Safety and Health Administration
(VOSHA)



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I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this report is to assess the Vermont Occupational Safety and Health Administration's (VOSHA) activities for fiscal year (FY) 2016 and its progress in resolving outstanding recommendations from the FY 2015 Comprehensive Federal Annual Monitoring and Evaluation Report (FAME).

Over the past few years, VOSHA's FAME reports have discussed challenges that the program was facing due to personnel issues. However, it is safe to say that those matters have been laid to rest, and are no longer factors in VOSHA's day-to-day performance. In FY 2016, VOSHA continued to be run by seasoned managers, and the program's compliance safety and health officers (CSHO)—most of whom were hired just a few years ago—have gained the knowledge and expertise needed to capably perform their duties.

Having had a year in which few unforeseen challenges arose, VOSHA was able to work with other organizations to promote occupational safety and health in Vermont, and also meet the annual goal for inspections. For example, VOSHA devoted a lot of time and resources to a statewide emergency drill, which involved working with multiple state and local government agencies. As discussed in the State OSHA Annual Report (SOAR), the entire program benefited from participation in this event. In past years, cooperative efforts similar to this one had to be placed on hold, due to the instability caused by personnel matters.

VOSHA also moved closer to completing the corrective action for a long-standing finding that related to high lapse time for health cases. The State Plan's average lapse time for health cases in State Activities Mandated Measures Report (SAMM) #11 (average lapse time) has steadily decreased since FY 2014, and came within striking distance of the meeting the further review level in FY 2016. Therefore, this finding has been converted to an observation.

With regard to observations that were made in the FY 2015 FAME report, all three of the observations that related to the enforcement program have been closed; however, one new observation has been made, which relates to the fact that VOSHA's percent penalty retained in SAMM #12 has decreased over the past few years, and in FY 2016, the further review level was not met.

In the previous FAME, there were two observations that pertained to the whistleblower protection program, and these have also been closed. VOSHA's whistleblower protection program has improved dramatically over the past several years; the State Plan has put a great deal of effort and resources into this program and this has paid off.

All of these accomplishments, coupled with the fact that no new findings have been made in this report, strongly indicate that VOSHA's footing has become solid; instead of dealing with internal issues, the program was able to focus fully on protecting workers, and to ensure that staff continue to acquire the knowledge and expertise needed to capably perform their duties.

B. State Plan Introduction

VOSHA has been administered by the Vermont Department of Labor, Division of Workers' Compensation and Safety, since July 1, 2005. The commissioner of labor is the state designee, and VOSHA is headquartered in Montpelier, Vermont.

VOSHA's statutory authority is contained in Title 21 of the Vermont Statutes Annotated (VSA), §§201-232. Under these statutes, VOSHA conducts workplace inspections, issues citations and penalties, and provides administrative and judicial review processes for employers seeking to contest citations and/or penalties. Title 21VSA §231 prohibits employers from retaliating against workers for exercising their rights under VOSHA's occupational safety and health statutes, and authorizes the investigation and prosecution of complaints of workplace retaliation. An express private right of action for workers who believe that workplace retaliation or discrimination has occurred is contained in 21 VSA §232.

In 1978, the U.S. Court of Appeals, in *AFL-CIO v. Marshall*, ordered OSHA to create a formula to set enforcement staffing benchmark levels for each State Plan. Meeting these benchmarks staffing levels is a requirement for a State Plan to attain Final Approval status. VOSHA does not have Final Approval status and due to a limited state budget, cannot allocate the amount of staff that is sufficient to meet its benchmarks levels. In FY 2016, a CSHO vacancy occurred in the spring, but the program was able to fill it by August. Thus, VOSHA completed FY 2016 at the allocated staffing level of eight CSHOs and one full-time workplace retaliation investigator. The State Plan also has one full-time administrative support person and two full-time managers (the director and the compliance supervisor).

As discussed later in this report, most of the duties related to compliance assistance are performed by the VOSHA director. VOSHA's state and local government consultation program consists of two safety and health consultants who commit a portion of their time to providing on-site consultation services to state and local government workplaces.

VOSHA has two unique standards: one addressing permissible exposure limits (PEL) at OSHA's ill-fated revised levels, and one for electrical power generation, transmission and distribution. The PELs enforced by VOSHA are those issued by OSHA in 1988 and subsequently overthrown in court. They are considerably stricter than OSHA's current PELs. Construction, manufacturing, transportation and warehousing, wholesale trade, and healthcare are VOSHA's high-hazard, targeted industries.

VOSHA's coverage of state and local government workers is identical to that of private sector workers, including citation issuance and first instance sanctions. VOSHA also offers a number of voluntary and cooperative programs, including the Green Mountain Voluntary Protection Program (GMVPP) and Project WorkSAFE (consultation), and the Safety and Health Achievement Recognition Program (SHARP). The tables below show VOSHA's funding levels from FY 2014 through FY 2016, the number of establishments and covered workers, and a snapshot of personnel on board as of July 1, 2016.

FY 2014 - FY 2016 Funding History						
Source: DOL-E Grants/ Financial Close-out Forms						
Fiscal Year	Federal Award (\$)	Federal Expenditures	State Match (\$)	100% State Funds (\$)	Total Expenditures	% of State Contribution
2014	723,600	700,655	700,655	0	1,401,310	50
2015	726,900	726,900	726,900	20,600	1,474,400	51
2016	726,900	726,900	726,900	0	1,453,800	50

Workers and Establishments Covered by VOSHA									
Source: Vermont Economic & Labor Market Information Division, Quarterly Census of Employment and Wages (QCEW) 2014 -2016									
	2014			2015			2016*		
	Private Ownership	State and Local Government	Total	Private Ownership	State and Local Government	Total	Private Ownership	State and Local Government	Total
Workers	251,528	46,353	297,881	254,137	46,191	300,328	252,475	47,413	299,888
Establishments	22,897	1,062	23,959	23,128	1,055	24,183	23,433	1,055	24,488

*Data for 2016 is through June 30, 2016.

Personnel on Board as of July 1, 2016		
Source: FY 2017 Grant Application		
VOSHA's Positions	50/50 Funded Full-Time Equivalents (FTE)	100 % State Funded FTE
Manager/Supervisors (Admin.)	0.425	0.000
First Line Supervisors	1.140	0.000
Safety Compliance Officers	3.800	0.000
Health Compliance Officers	3.000	0.000
Whistleblower Investigator	1.000	0.000
State/Local Government Safety Consultants	0.400	0.000
State/Local Government Health Consultants	0.225	0.000
Compliance Assistance	0.860	0.000
Trainers	0.000	0.000
Clerical/Admin/Data System	0.900	0.000
Other (all positions not elsewhere counted)	0.060	0.000
Total State Plan FTE	11.810	0.000

C. Data and Methodology

OSHA has established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform the level of case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME.

Enforcement Program

In order to evaluate VOSHA's progress in resolving the finding in the FY 2015 Comprehensive FAME Report for having high lapse times for health cases, OSHA used the results from State Activity Mandated Measures (SAMM) #11 (average lapse time) in the FY 2016 SAMM Report (Appendix D). Progress in evaluating the observations that were made in the previous FAME was based on information provided in the SOAR and quarterly discussions with the State Plan's managers.

In addition to SAMM #11, VOSHA's performance on all other SAMMs was also evaluated, and OSHA used the SOAR, the FY 2016 Mandated Activities Report for Consultation (MARC), and data from the US Department of Labor, Bureau of Labor Statistics' (BLS) injury and illness reports to assess the State Plan's progress in achieving annual performance goals.

Whistleblower Protection Program

OSHA evaluated statistical reports in OSHA's Integrated Management Information System (IMIS) that documented several aspects of VOSHA's performance. The following Oracle reports were reviewed: Screening Report, the State Activity Mandated Measures (SAMM) Report, Investigation Data Report, Length of Investigation Report, Pending Cases Report and Case Summary Report. In addition, OSHA interviewed VOSHA's director, who is responsible for supervising the retaliation investigator. It should also be noted that throughout the year, OSHA works with VOSHA regularly, providing guidance and advice on cases.

D. Findings and Observations

This report contains one finding and two observations. The finding in the FY 2015 FAME that pertained to abatement documentation is awaiting verification; the other finding, which related to high lapse times, has been converted to an observation.

This report also contains one new observation, which was based on the fact that VOSHA's percent penalty retained has been decreasing over the past few years, and did not meet the further review level in FY 2016. All five of the observations that were made in the FY 2015 FAME have been closed in this report.

II. Assessment of State Plan Performance

A. Major New Issues

Maximum Penalty Increase

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum

penalties effective August of 2016 and again increased penalties according to the Consumer Price Index (CPI) in January of 2017. As required by law, OSHA will continue to raise maximum penalties each year according to the CPI. State Plans are required to adopt both the catch-up increase and annual increase.

B. Assessment of State Plan Progress in Achieving Annual Performance Goals

The following is an assessment of VOSHA’s progress in meeting each of the FY 2016 annual performance goals, and also the goals in the strategic plan that extends from FY 2015 to FY 2019. This assessment is based primarily on the SAMM, the State OSHA Annual Report (SOAR) and BLS data. In FY 2015, VOSHA not only met the goal for inspections, but met most other annual performance plan goals, and is on track for meeting the long-term strategic goals by the end of FY 2019.

Inspections

Based on the FY 2016 SAMM Report, VOSHA conducted 392 inspections (281 safety and 111 health), and exceeded the annual performance goal of 300 inspections. VOSHA was able to exceed its own expectations, despite having a vacant CSHO position for about four months and devoting more time and resources to working cooperatively with other state organizations than in recent years.

Inspection Total Comparison FY 2014 - FY 2016			
Fiscal Year	Projected	Actual	Percent Achieved
2014	350	296	85
2015	250	316	126
2016	300	392	131

VOSHA not only exceeded the annual goal for total inspections, but also surpassed the goal for inspections in state and local government agencies, by conducting 30 inspections of 26 projected.

However, because VOSHA completed such a high number of total inspections, its percent of total inspections in state and local government workplaces (7.65%) did not meet the further review level for SAMM #6 (+/- 5% of 8.67% inspections). Going forward, VOSHA should ensure that when it has the capacity to complete additional inspections, it focuses on state and local government workplaces to maintain the ratio it agreed to as part of its inspection goals.

In SAMM #7 (inspections), VOSHA met the further review levels for safety and health inspections in FY 2016. In FY 2015, the program also met the further review levels for both safety and health inspections, but in FY 2014, the further review levels were not met, due to the departure of three senior CSHOs during that year.

SAMM #7 Inspections FY 2014 - FY 2016						
	FY 2014		FY 2015		FY 2016	
	Actual	Further Review Level (+/- 5%)	Actual	Further Review Level (+/- 5%)	Actual	Further Review Level (+/- 5%)
Safety	208	263	238	173	281	228
Health	88	87	78	77	111	72

Annual Performance Plan and Strategic Plan Goals

FY 2016 was the second year of VOSHA’s current five-year strategic plan, which ends in FY 2019. Under this plan, VOSHA has two broad-based (strategic) goals: 1) Ensure that workplaces are safe and healthy; and 2) Improve workplace safety and health through compliance assistance.

In support of the broad-based strategic plan goals, VOSHA plans to achieve a 15 percent reduction in the baseline BLS total recordable case (TRC) rates for construction and general industry by the end of the five-year plan. In FY 2016, VOSHA planned to achieve a six percent reduction in the baseline rates.

In FY 2016, VOSHA was successful in reducing the baseline TRC rates for both construction and general industry by more than six percent, based on 2015 BLS data (the latest available): the baseline TRC rate for construction decreased from 7.9 to 5.9, and the baseline TRC rate for general industry decreased from 6.4 to 5.4

VOSHA also met most of the sub-goals that were aligned with meeting the annual performance goal for TRC rates in construction and general industry, as well as the broader strategic goals. As discussed below, goals were met for inspections in targeted industries, outreach, and Alliances. However, VOSHA did not meet the annual performance goal for the GMVPP.

Strategic Goal #1: Ensure that workplaces are safe and healthy.

Annual Performance Goal 1.1: By the end of FY 2016, reduce the baseline TRC rate for construction by 6 percent (from 7.9 to 7.4).

Result: The goal was met.

Discussion: The baseline TRC rate for construction decreased from 7.9 to 5.9.

Annual Performance Goal 1.1a: Conduct inspections at the most hazardous worksites in construction.

Result: The goal was met.

Discussion: VOSHA planned to conduct a total of 170 inspections in residential construction, roofing, commercial construction, highway work zones, and at worksites at risk for hazards related to lead, noise, and silica. A total of 187 inspections were conducted at the most hazardous worksites in construction.

Annual Performance Goal 1.2: By the end of FY 2016, reduce the baseline TRC rate for general industry by 6 percent (from 6.4 to 6.02).

Result: The goal was met.

Discussion: The baseline TRC rate for general industry decreased from 6.4 to 5.4.

Annual Performance Goal 1.2a: Conduct inspections at the most hazardous worksites in general industry.

Result: The goal was met.

Discussion: VOSHA planned to conduct a total of 120 inspections at worksites in various industries, such as food processing, granite and concrete, and at sites where employers are exposed to amputation hazards, etc. Goals were met in most categories, and a total of 151 inspections were conducted at the most hazardous worksites in general industry.

Strategic Goal #2: Improve safety and health through compliance assistance.

Annual Performance Goal 2.1: In FY 2016, reduce the baseline TRC rates in construction and general industry by three percent.

Result: This goal was met.

Discussion: As discussed above, the baseline TRC rate for general industry decreased from 6.4 to 5.4 and from 7.9 to 5.9 for construction.

Annual Performance Goal 2.1a: Recognize excellence in safety and health management through the GMVPP; maintain five sites in the program.

Result: The goal was not met.

Discussion: Two of the five sites were up for renewal during the fiscal year. Due to the program's extensive involvement in the statewide emergency drill, the renewals were postponed until the first quarter of FY 2017.

Annual Performance Goal 2.1b: Maintain relationships with organizations that cover worksites where workers are exposed to serious hazards. Maintain two Alliances.

Results: The goal was met.

Discussion: VOSHA ended FY 2016 with two active Alliances. According to the SOAR, VOSHA conducted several outreach activities with both of these Alliances in FY 2016.

Annual Performance Goal 2.1c: Maintain a high level of employer and worker participation in VOSHA’s outreach and training programs; involve approximately 500 participants in outreach.

Result: The goal was met.

Discussion: The VOSHA director continues to conduct most of the duties of the compliance assistance specialist (CAS), with some assistance from the compliance supervisor. In FY 2016, VOSHA conducted 85 outreach activities that involved more than 1,600 workers. This number is on par with the outreach conducted when VOSHA employed a full-time CAS. Given the upswing in outreach conducted by VOSHA in FY 2016, Observation FY 2015-OB-05 has been closed (see Appendix B).

VOSHA’s Outreach Data		
Source: VOSHA’s SOARs		
Fiscal Year	No. of Outreach Activities	No. of Workers Involved
2014	20	1,100
2015	42	1,200
2016	85	1,600

C. Highlights from the State Activity Mandated Measures (SAMM)

Average Current Penalty Per Serious Violation

Vermont OSHA’s average current penalty per serious violation in private sector (SAMM 8: 1-250+ workers) was \$1,200.30 in FY 2016. The Further Review Level (FRL) is -25% of the National Average (\$2,279.03) which equals \$1,709.27. Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies and procedures that are “at least as effective” (ALAE) as those contained in OSHA’s FOM, which was revised on August 2, 2016, to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection. OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

Data from the FY 2016 SAMM Report was reviewed for deficiencies and notable changes. In FY 2016, OSHA identified a change with regard to SAMM #12 (percent penalty retained) that warrants an observation. The table below shows that VOSHA’s percent for SAMM #12 has decreased since FY 2014, and in FY 2016, the program’s percent was outside the further review level. The VOSHA manager is aware of this trend, but points out that most of the CSHOs are

relatively new; although they continue to gain more knowledge and expertise, they still facing a learning curve with regard to drafting citations.

SAMM #12: Percent Penalty Retained Three-year Comparison			
Fiscal Year	VOSHA	Further review level	Further review level range (+/- 15 %)
2014	62.16	68.00	57.8 – 78.20
2015	56.63	67.96	57.76 – 78.15
2016	53.03	69.86	59.38 – 80.34

Observation FY 2016-OB-01: SAMM #12 (percent penalty retained) - VOSHA’s percent penalty retained has steadily decreased since FY 2014, and in FY 2016, the percent of 53.03 was outside the further review level of 69.86 percent (+/- 15 percent).

Federal Monitoring Plan: OSHA will monitor SAMM #12 on a quarterly basis to help ensure that the further review level is met.

OSHA also identified two SAMMs that at first glance, appear to raise a red flag, but upon closer examination, require no further action on the part of the State Plan. For example, VOSHA responded to 4 out of 5 (80 percent) of work-related fatalities within one work-day (SAMM #10), which did not meet the further review level of 100 percent. In one of the five work-related fatalities, a few days lapsed before VOSHA opened an inspection with one of the employers at the multi-employer worksite where the fatality occurred, because a question arose over the State Plan’s jurisdiction. OSHA conferred with VOSHA on this case, and believes that the State Plan acted properly.

VOSHA’s result for SAMM #13 showed that 96.68 percent of its initial inspections had worker walk around representation or worker interviews, and this did not meet the further review level of 100 percent. The SAMM shows that there were 13 initial inspections in which there was no worker walk-around representation. VOSHA maintains, however, that these cases were improperly coded by the CSHO, and that this issue has been resolved.

III. Assessment of State Plan Corrective Actions

One of the two findings in the FY 2015 Comprehensive FAME Report was converted to an observation; the other finding is continued, and will be re-evaluated during the next onsite case file review for the FY 2017 FAME. All five of the observations from the FY 2015 FAME have been closed.

Finding FY 2015-01 (Observation FY 2016-OB-02): SAMM #11 (average lapse time) – VOSHA’s FY 2015 average of 77.33 days for health inspections is outside the further review level average of 53.48 days.

Status: Converted to Observation. The finding that VOSHA has had high lapse time for health cases has been on the books since at least FY 2013, but it appears that VOSHA’s corrective action of counseling CSHOs on lapse time and case file management has been effective. For example, VOSHA’s FY 2016 average of 70.77 days decreased by 17 percent from the FY 2014 average of 84.91 days. In FY 2016, VOSHA’s average was barely more than two percentage points outside the further review level of 57.28 percent. Therefore, OSHA will monitor SAMM#11 on a quarterly basis to ensure that the further review level is met.

SAMM #11 (Average Lapse time) (FY 2014- FY 2016)						
	FY 2014		FY 2015		FY 2016	
	Lapse time (days)	Further review level (+/- 20 %)	Lapse time (days)	Further review level (+/- 20 %)	Lapse time (days)	Further review level (+/- 20 %)
Safety	66.34	43.40	48.16	42.78	39.93	45.16
Health	84.91	57.50	77.33	53.48	70.77	57.28

Finding FY 2015-02 (FY 2016-01): In 32 cases that were reviewed for abatement, 12 (37.5 percent) were closed without having adequate documentation of abatement completion.

Status: Awaiting verification. VOSHA has implemented a policy whereby the manager ensures that adequate documentation of abatement is present in the case file before the case can be closed. During the next on-site review, OSHA will verify the extent to which this finding has been completed.

Observation FY 2015-OB-01: Of 11 complaint files reviewed, 5 were missing printed copies of the complaint which is a document that must be contained in the case file, in accordance with VOSHA’s FOM, Chapter 5.

Status: Closed. Through quarterly discussions, OSHA verified that the printed copy of the complaint was being included in the case file on a routine basis. For each complaint, an electronic version of the complaint is maintained in the OSHA Information System (OIS).

Observation FY 2015-OB-02: In FY 2014 and FY 2015, VOSHA did not complete the adoption of OSHA’s standards within the six month timeframe, and the adoption of three standards (one that was due in 2010 and two that were due in 2011) is in process, but not yet complete.

Status: Closed. In FY 2016, VOSHA completed the adoption of two of the three standards that were long overdue for adoption (Working Conditions in Shipyards—Final Rule and Safety Standards for Steel Erection II—Technical Amendment). VOSHA continues to work on updating the standards in the Standards Improvement Project, Phase III, and is on the verge of completing this project.

On February 20, 2016, VOSHA completed the adoption of the Final Rule for Confined Spaces in Construction, which was just about two weeks beyond the adoption due date of February 4, 2016. However, VOSHA did not adopt the Final Rule for Occupational Exposure to Respirable Crystalline Silica by the August 26, 2016 deadline, due to circumstances beyond its control (issues were encountered with the firm that publishes Vermont's rules). The silica rule is nearing the end of the Vermont's lengthy rulemaking process, and VOSHA anticipates final adoption of this rule before this report is issued.

The VOSHA manager is aware of the timeframe that must be met for standard adoption, and takes all of the steps necessary to complete the process as quickly as possible. This was not the case in past years, when VOSHA was being run by different managers who simply did not pursue standard adoptions in a timely manner. Therefore, this observation is closed.

Observation FY 2015-OB-03: None of the six workplace retaliation case files reviewed contained activity/telephone logs, failing to capture valuable information as required by the Whistleblower Investigations Manual, Chapter 5, IV, A.

Status: Closed. All files now contain the appropriate case log, as confirmed through discussions throughout the year with the VOSHA director.

Observation FY 2015-OB-04: Three of six workplace retaliation case files reviewed showed that at key points the screening and investigation process was delayed because the investigator was unable to get supervisory approvals in a timely manner.

Status: Closed. VOSHA's timeframes for screening have improved substantially. In FY 2015, VOSHA's average for screening cases was 34.2 days, and in FY 2016 the average decreased to 19.6 days. OSHA ran several years' worth of Oracle Screening Reports to determine that the screening timeframes have significantly improved.

Observation FY 2015-OB-05: Since VOSHA's outreach activities are performed mostly by the director in addition to his regular duties, compliance assistance has been curtailed.

Status: Closed. Now that VOSHA has seasoned managers and a staff that has been trained sufficiently to perform their duties, the State Plan has been able to devote more time and resources to compliance assistance activities. As discussed earlier, VOSHA joined forces with other agencies and organizations to conduct outreach, and was able to achieve the same level of outreach in FY 2016 as in past years when a full-time CAS was on board.

Appendix A – New and Continued Findings and Recommendations

FY 2016 VOSHA Follow-up FAME Report

FY 20XX-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2016-01	In 32 cases that were reviewed for abatement, 12 (37.5 percent) were closed without having adequate documentation of abatement completion.	Follow the procedures in Chapter 7 of the VOSHA FOM that pertain to abatement verification and documentation. <i>(Corrective action complete, awaiting verification)</i>	FY 2015-02

Appendix B – Observations Subject to New and Continued Monitoring

FY 2016 VOSHA Follow-up FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2016-OB-01		SAMM #12 (percent penalty retained) - VOSHA's percent of penalty retained has steadily decreased since FY 2014, and in FY 2016, the program's percent of 53.03 was outside the further review level of 69.86 percent (+/- 15 percent).	OSHA will monitor SAMM #12 on a quarterly basis to help ensure that the further review level is met.	New
FY 2016-OB-02	FY 2015-01	SAMM #11 (average lapse time) – VOSHA's FY 2016 average of 70.77 days for health inspections is outside the further review level average of 57.28 days.	OSHA will monitor SAMM #11 on a quarterly basis to help ensure that the further review level for health cases is met.	New
	FY 2015-OB-01	Of 11 complaint files reviewed, 5 were missing printed copies of the complaint which is a document that must be contained in the case file, in accordance with VOSHA's FOM, Chapter 5.		Closed
	FY 2015-OB-02	In FY 2014 and FY 2015, VOSHA did not complete the adoption of OSHA's standards within the six month timeframe, and the adoption of three standards (one that was due in 2010 and two that were due in 2011) is in process, but not yet complete.		Closed
	FY 2015-OB-03	None of the six workplace retaliation case files reviewed contained activity/telephone logs, failing to capture valuable information as required by the Whistleblower Investigations Manual, Chapter 5, IV, A.		Closed
	FY 2015-OB-04	Three of six workplace retaliation case files reviewed showed that at key points the screening		Closed

Appendix B – Observations Subject to Continued Monitoring

FY 2016 VOSHA Follow-up FAME Report

		and investigation process was delayed because the investigator was unable to get supervisory approvals in a timely manner.		
	FY 2015-OB-05	Since VOSHA’s outreach activities have been performed mostly by the director in addition to his regular duties, compliance assistance has been curtailed.		Closed

Appendix C - Status of FY 2015 Findings and Recommendations

FY 2016 VOSHA Follow-up FAME Report

FY 20XX-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2015-01	SAMM #11 (average lapse time) – VOSHA’s FY 2015 average of 77.33 days for health inspections is outside the further review level average of 53.48 days.	Review the processes and policies in place to identify bottlenecks and inefficiencies so that the further review level for health in SAMM #11 is met.	CSHOs are being counseled on lapse time and case file management. In addition, health CHSOs’ job performance is evaluated based on case organization and time management.	September 30, 2016	Converted to observation
FY 2015-02	In 32 cases that were reviewed for abatement, 12 (37.5 percent) were closed without having adequate documentation of abatement completion.	Follow the procedures in Chapter 7 of the VOSHA FOM that pertain to abatement verification and documentation	No cases will be closed without a manager indicating on the diary sheet that adequate documentation of abatement is present in the case file.	January 1, 2016	Awaiting verification

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report

FY 2016 VOSHA Follow-up FAME Report

Fiscal Year 2016 is the first year since the transition from the NCR (OSHA's legacy data system) began that all State Plan enforcement data has been captured in OSHA's Information System (OIS). All State Plan and federal whistleblower data continues to be captured in OSHA's WebIMIS System. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report and State Plan WebIMIS report run on November 14, 2016, as part of OSHA's official end-of-year data runs. The further review levels for SAMMs 5, 8, 9, 11, 12, 15, and 17 have been negotiated to rely on a three-year national average. However, due to the recent transition to OIS, the further review levels for these SAMMs will rely on a one-year national average for one more year.

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report

FY 2016 VOSHA Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Vermont – VOSHA			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.14	5	Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	1.59	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.12	1	Further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.00	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2016. Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	Further review level is fixed for all State Plans.
5	Average number of violations per inspection	SWRU: 1.62	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report

FY 2016 VOSHA Follow-up FAME Report

	with violations by violation type	Other: 0.51	+/- 20% of Other: .99	
6	Percent of total inspections in state and local government workplaces	7.65%	+/- 5% of 8.67%	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 281	+/- 5% of S: 228	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 111	+/- 5% of H: 72	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,200.30	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	a. Average current serious penalty in private sector (1-25 workers)	\$1,018.20	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,283.39	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,513.08	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$2,678.68	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
9	Percent in compliance	S: 26.87%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 37.86%	+/- 20% of H: 35.68%	

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10	Percent of work-related fatalities responded to in one workday	80.00%	100%	Further review level is fixed for all State Plans.
11	Average lapse time	S: 39.93	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 70.77	+/- 20% of H: 57.28	
12	Percent penalty retained	53.03%	+/- 15% of 69.86%	Further review level is based on a one-year national rate.
13	Percent of initial inspections with worker walk around representation or worker interview	96.68%	100%	Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	14%	100%	Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	14%	+/- 20% of 24%	Further review level is based on a three-year national average.
16	Average number of calendar days to complete an 11(c) investigation	285	90	Further review level is fixed for all State Plans.
17	Percent of enforcement presence	2.30%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.