

FY 2020
Follow-up Federal Annual Monitoring Evaluation (FAME) Report

Vermont Occupational Safety and Health Administration
(VOSHA)



Evaluation Period: October 1, 2019 – September 30, 2020

Initial Approval Date: October 17, 1973
State Plan Certification Date: March 4, 1977
Final Approval Date: None

Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region I
Boston, Massachusetts



Table of Contents

I. Executive Summary.....	1
II. State Plan Background	1
III. Assessment of State Plan Progress and Performance.....	3
A. Data and Methodology	3
B. Findings and Observations.....	3
C. State Activity Mandated Measures (SAMM) Highlights	5

Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations and Federal Monitoring Plans.....	B-1
Appendix C – Status of FY 2019 Findings and Recommendations.....	C-1
Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report.....	D-1
Appendix E – FY 2020 State OSHA Annual Report (SOAR).....	E-1

I. Executive Summary

The primary purpose of this report is to assess the Vermont State Plan's (VOSHA's) progress in Fiscal Year (FY) 2020 in resolving outstanding findings from the previous FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

In FY 2020, COVID-19 disrupted ways in which VOSHA would normally do business. For example, the State Plan accomplished only 60 percent of its goal for inspections, Voluntary Protection Program activities were curtailed, and plans to hire a full-time compliance assistance specialist were postponed because of a hiring freeze.

On the other hand, VOSHA's compliance assistance activity flourished. The State Plan established a call officer position to respond to the flood of questions about the pandemic, allocated staff to the emergency operations center to disseminate COVID-19-related information and guidance, and answered the governor's call to develop an online training program to help workers safely return to work. VOSHA estimates that it affected 37,000 workers, employers, and stakeholders.

In addition to reaching thousands of workers through compliance assistance activities, VOSHA performed well on most performance metrics. Other than one compliance officer resigning late in the fiscal year, staffing was also stable. Still, a couple of issues arose that warranted a closer look. First, VOSHA's lapse times increased, but from all indications, the pandemic was the main cause. Secondly, a backlog of workplace retaliation cases began to accumulate. The State Plan is well aware of this issue and has already taken steps to address it.

The previous FAME Report did not have any findings; however, it did contain four observations, most of which pertained to insufficient case file documentation. In FY 2020, the State Plan resolved one of the observations; the other three observations have been continued, pending the results of the on-site case file review for the FY 2021 Comprehensive FAME Report. This report does not contain any new findings or observations.

II. State Plan Background

A. Background

The Vermont Department of Labor, Division of Workers' Compensation and Safety has been administering VOSHA since July 1, 2005. The Commissioner of Labor is the State Plan designee, and VOSHA's headquarters are located in Montpelier, Vermont.

VOSHA's statutory authority is contained in Title 21 of the Vermont Statutes Annotated (V.S.A.) §§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 21 V.S.A. §231 prohibits employers from retaliating

against workers who exercise 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 V.S.A. §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 staffing benchmark 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 benchmark levels.

The program manager and the compliance supervisor are VOSHA's first-line supervisors. At full staffing, VOSHA has seven compliance safety and health officers (CSHOs), one workplace retaliation investigator, and a program technician. For several years, the program manager has shouldered most of the duties related to compliance assistance; VOSHA intended to hire a full-time compliance assistance specialist in FY 2020 but delayed this plan due to the pandemic.

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.

In FY 2020, VOSHA covered approximately 250,609 workers, including 207,687 private sector workers and 42,922 state and local government workers. There were approximately 24,795 private sector establishments and approximately 986 state and local government worksites in the state in FY 2020.¹

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 administers the Green Mountain Voluntary Protection Program, Project WorkSAFE (consultation), and the Safety and Health Achievement Recognition Program.

VOSHA has two unique standards: one addressing permissible exposure limits (PELs) and one for electrical power generation, transmission, and distribution. The PELs enforced by VOSHA are considerably stricter than OSHA's current PELs.

In FY 2020, OSHA increased VOSHA's base level funding award of \$741,200 to \$833,800. However, due to the pandemic, the State Plan did not spend as much on travel and other expenses as it originally anticipated; thus, VOSHA had to return \$22,250 to OSHA, which reduced the federal funding amount to \$811,550. By the end of the fiscal year, VOSHA still had an overage, and the State Plan ended up returning an additional \$24,391 in federal funds. Thus, VOSHA's

¹ Vermont Economic and Labor Market Information Division, Quarterly Census of Employment and Wages

final FY 2020 funding amount was \$1,574,318 (which consisted of \$787,159 in federal funds and an equal amount in state matching funds).

B. New Issues

None.

III. Assessment of State Plan Progress and Performance

A. 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 an on-site 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. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- State Activity Mandated Measures (SAMM) Report (Appendix D)
- OSHA Information System (OIS) Reports
- Mandated Activities Report for Consultation
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- OSHA IT Support System Reports (Case Summary, Activity Measures, Investigation Data and Length of Investigation)
- Quarterly monitoring meetings between OSHA and the State Plan

B. Findings and Observations

Appendix A describes the new and continued findings and recommendations. VOSHA did not have any findings in the FY 2019 Comprehensive FAME, and there are no new findings in this report; thus, Appendix A is blank. Appendix B describes observations subject to continued monitoring and the related federal monitoring plans. This appendix lists the three observations that have been continued. Appendix C describes the status of each FY 2019 recommendation in detail. Since VOSHA did not have any findings or recommendations from the previous FAME Report, this appendix is also blank. Thus, this report contains three continued observations and does not contain any findings.

OBSERVATIONS

Closed FY 2019 Observation

Observation FY 2019-OB-01 (formerly FY 2018-OB-01 and FY 2017-OB-02): In FY 2019, in 13 (33 percent) of the 39 cases, where the employer employed 10 or more workers, there was no documentation that the CSHO had requested and reviewed the OSHA 300 Logs. In addition, the CSHO did not enter information from the logs into OIS.

Status: VOSHA's managers met with the CSHOs to emphasize the need to document that the OSHA 300 Logs were requested and reviewed. In addition, the managers reviewed 17 case files that were randomly selected by OSHA in order to determine whether the CSHOs are including this documentation and entering the data into OIS. The State Plan reported the following results of the limited case file review to OSHA: of the 17 case files, there were four that did not have the OSHA 300 Logs, but three of the four cases pertained to employers with less than 10 workers (OSHA 300 Logs were not required), and the final case involved an employer who was cited as a controlling employer at a multi-employer worksite. These results indicate that the issues have been resolved. Therefore, this observation is closed.

Continued FY 2019 Observations

Observation FY 2020-OB-01 (formerly FY 2019-OB-02): In 12 (33 percent) of 36 inspections that were not in compliance, the CSHO did not follow the guidance in Chapter 5 of the VOSHA Field Operations Manual (FOM) for documenting violations by taking notes on worker interviews and including them in the case file.

Status: A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME. This observation will be continued.

Observation FY 2020-OB-02 (formerly FY 2019-OB-03): In 12 (33 percent) of 36 cases that were not in compliance, the CSHO did not document the severity assessment or incorrectly applied the severity assessment to the cited hazard.

Status: A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME. This observation will be continued.

Observation FY 2020-OB-03 (formerly FY 2019-OB-04): In FY 2019, VOSHA conducted only two inspections in state government, which is a relatively low number. Furthermore, only one inspection was programmed, which indicates that the State Plan did little in terms of targeting high-hazard employers in state government for inspections.

Status: In FY 2020, the State Plan suspended most programmed inspections and, whenever possible, handled most complaints as inquiries due to COVID-19.² The State Plan conducted two complaint inspections in state government before March 2020. Because of the pandemic, a comparison of FY 2020 inspection activity to that of FY 2019 is not realistic. Therefore, this observation will be continued.

C. State Activity Mandated Measures Highlights

Each SAMM has an agreed upon FRL which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2020 SAMM Report and includes the FRLs for each measure. The State Plan was outside the FRL on the following SAMMs:

SAMM 5 – Average number of violations per inspection with violations by violation type

Discussion of State Plan Data and FRL: The FRL is based on a three-year national average. VOSHA's FY 2020 average of 1.74 met the FRL range of 1.43 to 2.15 for serious, willful, repeat, and unclassified (SWRU) violations. For other-than-serious (OTS) violations, the State Plan's average of 0.59 was outside (below) the FRL range of 0.76 to 1.14.

Explanation: VOSHA's average for OTS violations was acceptable even though it was below the FRL range. OSHA would be concerned if the State Plan had a high average for OTS violations and a correspondingly low average for SWRU violations. This outcome could indicate that the State Plan had a tendency to classify some serious violations as OTS violations; for VOSHA, this was not the case.

SAMM 6 – Percent of total inspections in state and local government workplaces

Discussion of State Plan Data and FRL: The FRL is based on a number negotiated by OSHA and the State Plan through the grant application. In FY 2020, the FRL range for SAMM 6 was from 8.64 percent to 9.55 percent. VOSHA's result of 1.22 percent was outside (below) the FRL.

Explanation: In FY 2020, VOSHA planned to conduct 25 inspections in state and local government, which was 9.0 percent of the annual goal of 275 inspections. In mid-March, most of Vermont's state and local government workforce began working remotely due to COVID-19. Thus, VOSHA conducted only two on-site inspections in state and local government in FY 2020, both of which were opened before the onset of the pandemic. Given these circumstances, OSHA

² According to the Chapter 9 of the VOSHA FOM, an inquiry is a "process conducted in response to a complaint or a referral that...does not involve an on-site inspection of the workplace, but rather the employer is notified of the alleged hazard(s) or violation(s) by telephone, fax, email, or by letter if necessary. The employer is then requested to provide a response, and OSHA will notify the complainant of that response by appropriate means."

is not concerned with VOSHA's performance on this metric.

SAMM 7 - Planned v. actual inspections – safety/health

Discussion of State Plan Data and FRL: The FRL is based on a number negotiated by OSHA and the State Plan through the grant application. In FY 2020, VOSHA planned to conduct 212 safety inspections and 63 health inspections. The FRL range was from 201.40 to 222.60 for safety inspections and from 59.85 to 66.15 for health inspections. The State Plan's results of 133 safety inspections and 31 health inspections were outside (below) the FRL ranges.

Explanation: VOSHA did not meet the FRL ranges for safety and health inspections because of COVID-19, which caused the State Plan to suspend most on-site inspections. Thus, OSHA is not concerned, especially since the State Plan has a strong track record of meeting the FRLs for SAMM 7.

SAMM 9 – Percent in compliance

Discussion of State Plan Data and FRL: The FRL is based on a three-year national average. In FY 2020, the FRL range was from 24.82 percent to 37.24 percent for safety and from 29.72 percent to 44.58 percent for health. VOSHA's in-compliance rate of 14.88 percent for safety inspections was outside (below) the FRL range, and the State Plan's in-compliance rate of 20.00 percent for health inspections was also outside (below) the FRL range. Both results were positive.

Explanation: Low in-compliance rates indicate the State Plan is targeting the most hazardous workplaces, and compliance officers are adept at identifying and citing violations.

SAMM 11 - Average lapse time

Discussion of State Plan Data and FRL: Lapse time is the number of work days from the opening conference date to the earliest issuance date. The FRL is based on a three-year national average. In FY 2020, the FRL range was from 40.46 to 60.70 work days for safety inspections and from 48.31 to 72.47 work days for health inspections. VOSHA's averages were 66.76 work days for safety inspections and 85.94 work days for health inspections; both results were outside (above) the FRL ranges.

Explanation: The State Plan's high lapse times for both safety and health were attributed to a couple of factors. First, CSOs shifted time from inspection activities to fielding COVID-related inquiries and rotating as daily call officers. Secondly, the program manager was solely responsible for reviewing case files in addition to performing his regular duties. Normally, the compliance supervisor would review case files before citation issuance, but in FY 2020, she focused on mentoring the workplace retaliation investigator, who faced a steep learning curve. In light of these circumstances, and because the State Plan has consistently met the FRLs for SAMM 11 in prior years, OSHA is not overly concerned with VOSHA's lapse times in FY 2020.

SAMM 15 - Percent of 11(c) complaints that are meritorious

Discussion of State Plan Data and FRL: The FRL range for SAMM 15 was from 14.40 percent to 21.60 percent and was based on a three-year national average. In FY 2020, VOSHA's percent of 11(c) complaints that were meritorious was 100, which was outside (above) the FRL range. This result was positive.

Explanation: In FY 2020, VOSHA closed one case which was settled. Thus, VOSHA's result for SAMM 15 was 100 percent because settled cases are considered meritorious.

SAMM 16 – Average number of calendar days to complete an 11(c) investigation

Discussion of State Plan Data and FRL: The FRL of 90 calendar days is fixed for all State Plans. In FY 2020, VOSHA's average of 34 calendar days was outside (below) the FRL.

Explanation: In FY 2020, State Plan completed one of 40 complaints that were docketed within 34 calendar days. Although this result was positive, the fact that VOSHA completed only one investigation during FY 2020 warranted a closer look. The main reason this occurred is that the workplace retaliation investigator, who was hired in July 2019, faced a significant learning curve. In response, the compliance supervisor (who is the former workplace retaliation investigator) has been training and mentoring the investigator. Because VOSHA has addressed this situation, OSHA is not overly concerned and anticipates that the backlog will diminish once the investigator gets up to speed.

Appendix A – New and Continued Findings and Recommendations

FY 2020 VOSHA Follow-up FAME Report

FY 2020-#	Finding	Recommendation	FY 2019-# or FY 2019-OB-#
	None.		

Appendix B – Observations and Federal Monitoring Plans

FY 2020 VOSHA Follow-up FAME Report

Observation # FY 2020-OB-#	Observation# FY 2019-OB-# or FY 2019-#	Observation	Federal Monitoring Plan	Current Status
FY 2020-OB-01	FY 2019-OB-02	In 12 (33 percent) of 36 inspections that were not in compliance, the CSHO did not follow the guidance in Chapter 5 of the VOSHA FOM for documenting violations by taking notes on worker interviews and including them in the case file.	On a quarterly basis, OSHA will monitor the State Plan’s progress in documenting violations by taking notes on worker interviews, as discussed in Chapter 5 of the VOSHA FOM.	Continued
FY 2020-OB-02	FY 2019-OB-03	In 12 (33 percent) of 36 cases that were not in compliance, the CSHO did not document the severity assessment or incorrectly applied the severity assessment to the cited hazard.	On a quarterly basis, OSHA will monitor the State Plan’s progress in following the guidance in Chapter 5 of the VOSHA FOM for documenting severity and in Chapter 6 of the VOSHA FOM for correctly applying the severity assessment to the cited violation.	Continued
FY 2020-OB-03	FY 2019-OB-04	In FY 2019, VOSHA conducted only two inspections in state government, which is a relatively low number. Furthermore, only one inspection was programmed, which indicates that the State Plan did little in terms of targeting high-hazard employers in state government for inspections.	On a quarterly basis, OSHA will discuss enforcement activity with VOSHA to ensure that the State Plan conducts a sufficient number of inspections, including programmed inspections, at workplaces in state government.	Continued
	FY 2019-OB-01 FY 2018-OB-01 FY 2017-OB-02	In FY 2019, in 13 (33 percent) of the 39 cases where the employer employed 10 or more workers, there was no documentation that the CSHO had requested and reviewed the OSHA 300 Logs. In addition, the CSHO did not enter information from the logs into OIS.		Closed

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2020 VOSHA Follow-up FAME Report

FY 2019-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
	None.				

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 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 2020	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.83	5	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	1.86	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)	0.82	1	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.30	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 or referrals in FY 2020. The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.74	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.76 to 1.14 for OTS.
		Other: 0.59	+/- 20% of Other: 0.95	

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 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 2020	
6	Percent of total inspections in state and local government workplaces	1.22%	+/- 5% of 9.09%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 8.64% to 9.55%.
7	Planned v. actual inspections – safety/health	S: 133	+/- 5% of S: 212	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 201.40 to 222.60 for safety and from 59.85 to 66.15 for health.
		H: 31	+/- 5% of H: 63	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$3,190.04	+/- 25% of \$2,964.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,223.65 to \$3,706.08.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,157.00	+/- 25% of \$1,967.64	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,475.73 to \$2,459.55.
	b. Average current serious penalty in private sector (26-100 workers)	\$5,013.84	+/- 25% of \$3,513.45	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,635.09 to \$4,391.81.
	c. Average current serious penalty in private sector	\$5,200.58	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 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 2020	
	(101-250 workers)			requiring further review is from \$3,770.27 to \$6,283.78.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$6,579.84	+/- 25% of \$6,190.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,643.18 to \$7,738.64.
9	Percent in compliance	S: 14.88%	+/- 20% of S: 31.03%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.82% to 37.24% for safety and from 29.72% to 44.58% for health.
		H: 20%	+/- 20% of H: 37.15%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 66.76	+/- 20% of S: 50.58	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 40.46 to 60.70 for safety and from 48.31 to 72.47 for health.
		H: 85.94	+/- 20% of H: 60.39	
12	Percent penalty retained	64.20%	+/- 15% of 67.51%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 57.38% to 77.64%.
13	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	100%	100%	The further review level is fixed for all State Plans.

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 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 2020	
15	Percent of 11(c) complaints that are meritorious	100%	+/- 20% of 18%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 14.40% to 21.60%.
16	Average number of calendar days to complete an 11(c) investigation	34	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	0.96%	+/- 25% of 1.09%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.82% to 1.36%.

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 9, 2020, as part of OSHA’s official end-of-year data run.

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

FY 2020 State OSHA Annual Report (SOAR)

STATE OF VERMONT

STATE OSHA ANNUAL REPORT

(SOAR)

October 1, 2019 through September 30, 2020



Prepared By:

**State of Vermont
Department of Labor
Division of Workers' Compensation and Safety
VOSHA**

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

TABLE OF CONTENTS

	<u>Page</u>
I. Executive Summary	E-3
II. Summary of Annual Performance Plan Results	E-9
III. Progress toward Strategic Plan Accomplishments	E-13
IV. Mandated Activities	E-13
V. Special Measures of Effectiveness/Special Accomplishments	E-13
VI. Adjustments or Other Issues	E-13
VII. State Internal Evaluation Program (SIEP) Report	N/A

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

Executive Summary

The Vermont Occupational Safety and Health Administration (VOSHA) submits this State OSHA Annual Report (SOAR) to the Federal Occupational Safety and Health Administration (OSHA) for evaluation of the Vermont State Plan. The SOAR covers the time period of October 1, 2019 through September 30, 2020. VOSHA and Project WorkSAFE, the state's OSHA consultation program, are administered by the Vermont Department of Labor, Division of Worker's Compensation and Safety.

In FY 2020 a global pandemic known as COVID-19 significantly affected VOSHA as well as all facets of American life. While, for the most part, VOSHA did not have budgetary issues in FY 2020, we did experience an unprecedented interruption in our usual pattern of operations. On March 13, 2020, Governor Philip Scott declared a state of emergency and VOSHA was informed that it would be "activated" at the Vermont State Emergency Operations Center (SEOC). VOSHA has since dedicated a full-time compliance safety and health officer (CSHO) to this duty station. At first, VOSHA's commitment to the SEOC was seven days a week, but by spring, we transitioned to staffing the SEOC on an "on-call" basis.

In the third quarter of FY 2020, VOSHA, received additional funding from OSHA through a final base award increase. VOSHA intended to use this funding to hire a compliance assistance specialist (CAS) but has not yet done so because the state went into a hiring freeze do to the current pandemic. In another staffing development, a health CSHO resigned in FY 2020; VOSHA is currently engaged in efforts to fill this position.

By the end of FY 2020, VOSHA had seven field staff on board. At full staffing, VOSHA has eight CSHOs, but in August 2020, one of the health CSHOs resigned. In addition, the VOSHA Program Manager continued to perform compliance assistance duties and has done so since the time he was promoted from the CAS position to the manager's position, which was about eight years ago. One of the compliance safety and health officers (CSHO) handles a number of compliance assistance duties and helps with the Green Mountain Voluntary Protection Program (GMVPP). The unusual nature of VOSHA's operations under the pandemic resulted in a surge in compliance assistance activities. These activities have been fulfilled by a number of staff, both as safety officer in the SEOC as well as duty officer on a daily basis. As VOSHA moves forward, we plan to fill the full-time CAS position that we committed to in the FY 2020 budget adjustment.

The COVID-19 pandemic all but shut down training opportunities for VOSHA. However, VOSHA provided a 40-hour Hazardous Waste Materials Operations (HAZMAT) course for all safety and health staff. VOSHA's performance during the COVID-19 pandemic changed considerably in both quantity and function. In the very beginning of the outbreak, many "non-essential" businesses were closed in the interest of keeping the virus from spreading. As mentioned above, when the governor's declaration of a state of emergency required the opening of the SEOC, VOSHA was one of the agencies that was compelled to dedicate a full-time position to that unit. This removed the position from compliance duties, but was also beneficial as VOSHA was able to provide advice and guidance to other agencies engaged in the SEOC. In addition, the call volume from employees and employers for advice or complaints increased substantially.

To say that there was much confusion over the pandemic in the working world would be an understatement. Because of the increase in the number of pandemic-related phone inquiries that VOSHA received, the program technician could not keep up, so VOSHA instituted the duty

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

officer position whereby the CSHO on duty fielded calls from concerned constituents and routed them to the appropriate responder. This practice as well as VOSHA's commitment to the SEOC continues.

In the spring, as some businesses contemplated re-opening, the governor requested that VOSHA develop a PowerPoint training on returning safely to work during the pandemic. This presentation contained information from several sources including the Center for Disease Control (CDC), OSHA, The Vermont Department of Health (VDH) and the Vermont Agency of Commerce and Community Development (ACCD). The training was accessible via the VOSHA website and was translated into nine different languages. The governor mandated that all "non-essential" employees who were returning to work take and complete this training (or an equivalent) prior to reporting to work. Employers were required to document that their employees successfully completed this training. This training is accessible through the VOSHA website at <https://labor.vermont.gov/vosha>.

As shown in the following tables, VOSHA did not come close to meeting some of its annual performance plan goals in FY 2020 due to the disruption caused by the pandemic. The following table shows VOSHA's staffing pattern at the end of FY 2020. It should also be noted that the table below does not reflect that the VOSHA Program Manager continued to carry out CAS duties in FY 2020.

- The following is VOSHA's staffing as of September 30, 2020:
 - Director of Workers Compensation and Safety: 1
 - VOSHA Program Manager: 1
 - VOSHA Compliance Supervisor: 1
 - VOSHA Program Technician II: 1
 - VOSHA Safety Compliance Officers: 4
 - VOSHA Health Compliance Officers: 2 (one position is currently under recruitment)
 - VOSHA Health/Safety Compliance Officer: 1
 - VOSHA 11(c) Whistleblower Investigator: 1
 - Total; 11 *NOTE: The Director of Workers Compensation and Safety is not a dedicated VOSHA full-time equivalent (FTE)

Although the 21(d) consultation and 23(g) enforcement programs do not share personnel and maintain separate officers in different locations, the two programs share common goals to ensure workplace safety and health in the State of Vermont. Therefore, the VOSHA and Project WorkSAFE managers continue to work closely together to develop strategies for achieving these goals.

Although the pandemic halted formal training conducted by OSHA Training Institute (OTI), VOSHA staff participated in a number of OTI online training opportunities. VOSHA considers training to be a foundation of professionalism and remains committed to training opportunities once they become available. Below is a list of the training that VOSHA staff completed in FY 2020.

Senior Safety Compliance Officer

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

Senior Safety Compliance Officer

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

Senior Safety Compliance Officer

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

Senior Safety Compliance Officer

Protecting the Safety and Health of coworkers, COVID

Hazmat Technician refresher 05-2020

Senior Industrial Hygiene Compliance Officer

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

OSHA-ASSP Silica Compliance Directive and Emphasis (Webinar)

Senior Safety and Industrial Hygiene Compliance Officer

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

Whistleblower Investigator

1420 Whistleblower Investigations Fundamentals Course at OTI in Chicago, IL.

VOSHA Online Training In Methods of Protection from COVID-19 Virus in the Workplace

TR_WB Compliant Intake Screening Best Practices

CSHO Safety Inspections During the Pandemic #0161 via CourseMill

Compliance Supervisor:

40 Hour Hazmat Training 09-10-2020

Protecting the Safety and Health of coworkers, COVID

Compliance Assistance Activities

In early FY 2020, VOSHA participated in a joint emergency response drill known as CAT4 (short for “storm, category 4 magnitude”). This exercise enabled VOSHA to continue to test and modify its responsibilities in an actual statewide emergency. A significant development in which VOSHA was included was the creation and trial of the “Multi Agency Resource Center” (MARC). This initiative, which was headed by the Vermont Agency of Human Services, consisted of a physical location, staffed with various agencies and non-profit organizations. The “staffing up” of a MARC is intended to be as close to an actual event as possible and will be used by citizens affected by a catastrophic event to get to and receive critical services.

Through the CAT4 emergency drill and pandemic-related outreach, VOSHA has provided information and guidance to thousands of workers in Vermont. The VOSHA manager has also participated in many virtual discussions, trainings and virtual town halls with stakeholder groups and provided the latest COVID-19 information and guidance to thousands of employers and employees.

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

In addition to the above discussed CAT4 statewide emergency drill, and pandemic-related outreach, VOSHA remained committed to three key state agency committees in which it serves as a representative of the Vermont Department of Labor.

- 1) **State Emergency Response Committee (SERC):** This is a statewide committee that meets bi-monthly at the State Emergency Operations Center (SEOC) in Waterbury, Vermont. In addition to VOSHA, this bi-monthly meeting includes the Vermont Department of Public Safety and Homeland Security, Agency of Natural Resources, Vermont Department of Agriculture and Health and various local emergency planning commissions (LEPCs) from around the state. This meeting is usually attended by the VOSHA Manager
- 2) **State Elevator Board:** This committee consists of the Vermont Department of Public Safety, Fire Prevention Division, various elevator inspection and regulatory entities as well as VOSHA. These monthly meetings are usually attended by the VOSHA Compliance Supervisor
- 3) **Vermont Fire Service Training Counsel:** This committee, which meets quarterly, focuses on fire service training for volunteers as well as professional fire fighters. The meetings usually include the Director of Fire Service Training, The Vermont Agency of Natural Resources, and representatives of local volunteer and professional fire services.

Participation in the above committees is important as it fulfills VOSHA’s role in statewide safety and health as compelled by the state legislature.

In FY 2020, VOSHA had two Alliances (see below). In FY 2020, the Alliance with the Vermont Safety and Health Council lapsed; however, VOSHA continues to abide by the agreement and is working to renew it.

- Vermont Safety and Health Council
- Vermont Rural Water Association

The GMVPP is the only formal partnership program that VOSHA recognizes. Because of the COVID-19 pandemic, all formal activities within the GMVPP were suspended (including job site visits), with the exception of annual evaluations, which VOSHA received. VOSHA will notify the GMVPP sites that on-site evaluations will resume once it is safe for them to be conducted.

Status of GMVPP Sites in FY 2020

GMVPP Company	Status	Last Approval Date	New Renewal Date	Original Approval Date
1	STAR	4-27-2017	10-31-2022	10-22-2007
2	STAR	4-18-2017	10-10-2022	8-22-2007
3	STAR	1-22-2015	1-22-2020	5-16-2007
4	STAR	4-30-2018	4-30-2023	7-14-2008
5	STAR	5-3-2017	5-3-2022	12-27-2013
6	STAR	12-14-2017	9-11-2020	9-11-2017
7	STAR	10-8-2018	10-8-2021	10-8-2018

Status of Alliances in FY 2020

Company/Organization	Status	Date Signed
1	Active	12-18-2018
2	Lapsed but expect to re-sign	6-9-2015

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

In FY 2020, the pandemic affected the ways in which VOSHA conducted outreach. For example, VOSHA established a daily “call officer” to field calls from concerned employees and employers and provide advice and guidance on the latest COVID-19 information. The number of phone calls varied widely, with an estimate of 40 to 50 calls per day in the beginning of the pandemic to approximately 10 to 20 calls per day in the summer months. VOSHA also began using online platforms to conduct virtual town hall meetings and outreaches on topics related to safety, health and COVID-19 workplace safety. VOSHA estimates that it conducted 3,200 outreaches and affected more than 35,000 employers, employees and other stakeholders through duty officer calls, online training, and staffing the SEOC.

VOSHA conducted 72 outreaches on more traditional safety and health topics and methods. Some of these outreaches were conducted before the onset of the pandemic, and some were scheduled throughout the pandemic. The VOSHA Manager carried out 60 outreaches, the Compliance Supervisor conducted two outreaches and a CSHO conducted nine outreaches. At the start of FY 2020, many of the outreaches were of the on-site variety, but they quickly turned to virtual as the COVID–19 epidemic took hold. In this model, VOSHA estimates that a total of 1,869 employees/employers were affected. In totality, VOSHA conducted 3,272 outreaches affecting 36,869 employees, employers and other partners and stakeholders in FY 2020.

VOSHA continues to use Project WorkSAFE’s administrative assistant to disseminate information to stakeholders, organize training and outreach materials, and organize information on the VOSHA website. VOSHA accounts for this staff member’s time as a .1 full-time equivalent (FTE).

New Equipment

In FY 2020 VOSHA continued to invest in technology, PPE and upgrading industrial hygiene sampling equipment. VOSHA purchased computers, fall arrest systems and powered air purifying respirators. In addition, health sampling equipment, most notably noise dosimetry equipment, was upgraded.

Rulemaking

In FY 2020, VOSHA initiated rulemaking for two rules. However, because of the pandemic, legislative rulemaking committee meetings were suspended for several months. As a result, one of the rules (29 CFR 1904.41 Electronic Submission of Injury and Illness Records to OSHA) temporarily stalled. VOSHA expects to complete action on that rule in early 2021. VOSHA plans to complete adoption of the following three rules in FY 2021.

- 1. Revising the Beryllium Standard for General Industry, Construction and Shipyard Employment**
- 2. Cranes and Derricks in Construction: Railroad Roadway Work**
- 3. Standards Improvement Project – Phase IV (SIP-IV):** The deadline for completing adoption of this rule was November 14, 2019. For VOSHA, adopting rules of this nature has typically been labor-intensive and time-consuming due to the numerous changes that need to be made to various standards. Over the past year, VOSHA has worked on streamlining its rulemaking procedures to make them less cumbersome. Now that these new procedures have been approved by the Vermont Secretary of State, VOSHA anticipates completing adoption of SIP – IV in early 2021.

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

Staffing

VOSHA is currently actively recruiting for the vacant health CSHO position. VOSHA will continue recruitment efforts until the position is filled.

Inspections

The COVID-19 Pandemic and resulting change of activities drastically changed the outcomes for VOSHA inspections. VOSHA conducted 164 inspections in FY 2020. Of this total, 133 were classified as safety and 31 were classified as health. VOSHA conducted two inspections in state and local government, and 76 inspections in construction. Of a total of 426 violations issued in FY 2019, 283 were classified as serious and 143 were classified as other than serious.

VOSHA continues to find value in the requirement that employers mandatorily report injuries that require hospitalization of one or more employees, amputations, loss of an eye. We find that these incidents help to more directly focus our resources in problematic areas.

	Projected FY 2020			Actual FY 2020		
	Safety	Health	Total	Safety	Health	Total
TOTAL INSPECTIONS	212	63	275	133	31	164
Private Sector	199	51	250	133	29	162
Public Sector	13	12	25	0	2	2
TOTAL CONSTRUCTION INSPECTIONS	136	25	160	71	5	76
Commercial Construction	25	5	30	5	0	5
Highway, Street, Bridge and Work Zones	15		15	2	0	2
Roofing	30		30	38	0	38
Residential Construction	25		25	5	0	5
Noise/Silica/Chrome VI/lead		20	20	0	5	5
Trenching/Excavation	30		30	6	0	6
Cranes/Powered Industrial Trucks	10		10	7	0	7
Other, Struck by, Amputation/Construction Injury/Electrical				8	0	8
TOTAL NON-CONSTRUCTION INSPECTIONS	85	30	115	62	26	88
Food Processing	1	3	4	2	1	3
Lumber and Wood Products	7	3	10	3	0	3
Amputations	22		22	16	0	16

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

Inspections at worksites mandatorily reporting injury/illness incidents	24	6	30			5	0	5
Combustible Dust		1	1			0	1	1
Process Safety Management		1	1			0	1	1
Powered Industrial Trucks	16		16			10	0	10
State and Local Government	14	11	25			0	2	2
Granite/Concrete	1	3	4			3	7	10
Nursing Homes		2	2			0	0	0
Other						23	14	36

I. Summary of Annual Performance Plan Results

FY 2020 was the first year of VOSHA's current five-year Strategic Plan.

STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy		
Strategic Objective: Promote safe and healthy in workplaces, particularly in high-risk industries.		
GOAL	FY 2024 Strategic Plan OUTCOME/Number of Inspections Conducted	COMMENT
Compliance Inspection Activities (Construction)		
Performance Goal: Construction: By 2024, VOSHA will reduce the Bureau of Labor Statistics' incidence rate of total recordable cases (TRC) of 4.9 by 10%, to 4.1.	VOSHA has established a baseline TRC rate of 4.9 for the construction industry, which is based on the average of Vermont's TRC rates in construction over the past three years (2015, 2016 and 2017). By the end of FY 2024, VOSHA plans to reduce the baseline TRC rate of 4.9 by 10 %, to 4.41.	The outcome for this goal is still to be determined
Conduct 25 inspections in residential construction	VOSHA conducted 5 inspections in residential construction	Goal not met
Conduct 30 inspections in	VOSHA conducted 5 inspections in	VOSHA did not reach its annual goal in this area Goal not met

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

commercial construction	commercial construction	
Conduct 30 inspections in trenching and excavation	VOSHA conducted 6 inspections in trenching and excavation	Goal not met
Conduct 15 highway, street and bridge construction and work zone inspections	VOSHA conducted 2 inspections in Highway, bridge and street construction	Goal not met
Conduct 30 roofing inspections	VOSHA conducted 38 roofing inspections	Goal not met
Conduct 20 inspections in cranes and powered industrial trucks	VOSHA conducted 7 inspections in cranes and powered industrial trucks in construction	Goal not met
Conduct 20 inspections for health related exposures in construction including Noise/Silica/Chromium VI/Lead	VOSHA conducted 5 inspections related to health exposures in construction	Goal not met
Other inspections	VOSHA conducted 8 inspections in areas such as truck-by, amputation/construction injury/electrical	This was not a stated goal but important in the overall effort to reduce hazards

STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy CONTINUED		
Strategic Objective: Strategic Objective: Promote safe and healthy in workplaces, particularly in high-risk industries.		
GOAL	FY2020 OUTCOME	COMMENT
Compliance Inspection Activities (General Industry)		
Performance Goal: General Industry: By 2024 reduce the (TRC) in general industry by 10%	VOSHA has established a baseline TRC rate of 5.1 for general industry, which is based on an average of Vermont's TRC rates in general industry over the past three years	The outcome of this goal is to be determined

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

	(2015, 2016 and 2017). By the end of 2024, VOSHA plans to reduce the baseline TRC rate of 5.1 by 10%, to 4.59. In support of this goal, VOSHA will focus on reducing TRC rates in the targeted industries listed below over the five-year term of the strategic plan.	
Conduct 4 food processing inspections	VOSHA conducted 3 inspections at food processing facilities	Goal not met
Conduct 10 lumber and wood products manufacturing inspections	VOSHA conducted 3 inspections at lumber and wood products manufacturing facilities	Goal not met
Conduct 22 inspections where there are amputation hazards	VOSHA conducted 16 inspections in amputation related hazards	Goal not met
Conduct 4 inspections in the granite and concrete industry	VOSHA conducted 10 inspections in the granite and concrete industry	Goal not met
Conduct 30 Inspections at worksites mandatorily reporting injury/illness incidents	VOSHA conducted 5 inspections at worksites mandatorily reporting injury/illness incidents	Goal not met
Conduct 25 Inspections of public sector worksites	VOSHA conducted 2 inspections at public sector worksites.	Goal not met
Conduct 16 inspections in workplaces where Powered Industrial	VOSHA conducted 10 inspections in workplaces where	Goal not met

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

Trucks (PIT's) are in use	powered industrial trucks were in use	
Conduct 2 inspections of Nursing Homes	VOSHA did not conduct any inspections in nursing homes	Goal not met
Conduct 1 inspections in workplaces with combustible dust hazards.	VOSHA conducted one inspection with combustible dust hazards	Goal not met
Other inspections	VOSHA conducted 36 inspections in areas such as electrical hazards, warehousing, noise exposures, etc.	This was not a stated goal but important in the overall effort to reduce hazards
Strategic Goal #2: Foster a culture of continuous safety and health improvement in Vermont's workplaces through compliance assistance, Alliances and the Green Mountain Voluntary Protections Program.		
Strategic Objective: Maintain VOSHA's current GMVPP and Alliance programs and provide outreach and training and assistance to employers and employee groups.		
Goal	FY 2020 Outcome	Comment
Performance Goal 2.1- Maintain recognition of excellence in safety and health management through the GMVPP	VOSHA continued to support the current GMVPP sites, though GMVPP activities, especially site visits, were eliminated because of the pandemic. VOSHA continues to review annual reports from the existing sites. VOSHA expected to review an application and conduct an on-site for a new GMVPP site. That review and visit did not happen because of the pandemic	
Performance Goal 2.2- Maintain	VOSHA continued to service two active	

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

relationships with organizations that cover targeted, high hazard areas, through the VOSHA Alliance Program	Alliances. These Alliances were with 1) Vermont Rural Water Association and 2) Vermont Safety and Health Council. VOSHA continues an active and rewarding relationship with these two organizations, including a number of outreaches. The Alliance with the Vermont Safety and Health Council is overdue for renewal. VOSHA intends to renew this Alliance.	
Performance Goal 2.3- Maintain a reduced schedule of service to participants in VOSHA's outreach and training programs	The governor's declaration of emergency and the opening of the SEOC resulted in an estimated 3,272 outreaches affecting 33,869 employees, employers and other partners and stakeholders.	The goal was met

II. Progress toward Strategic Plan Accomplishments

Year	All	Private sector	Manufacturing	Construction	State and Local Government
2015, 2016, 2017 average (baseline)	4.8	4.7	5.1	4.9	5.0
2020	4.6	4.6	5.1	4.8	4.7
2021					
2022					
2023					

Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

FY 2020 VOSHA Follow-up FAME Report

2024					
------	--	--	--	--	--

III. Mandated Activities

During the first two quarters of FY 2020, VOSHA met most of its goals. The only compliance activities for the first four months of the pandemic involved a fatality, medically reportable incidents and complaints/referrals. As construction started to resume, VOSHA was able to conduct inspections based on emphasis programs. At this time, planned inspections of general industry and public sector worksites remain on hold.

While the number of inspections decreased, pandemic-related complaint investigations (handled primarily through letters of inquiry) dramatically rose with more than 250 complaints processed by the end of FY 2020.

IV. Special Measures of Effectiveness/Special Accomplishments

The one bright spot in FY 2020 was VOSHA's outreach. With uncertainty surrounding the pandemic, VOSHA worked with federal and state partners to steadily provide the latest information and advice in this ever-evolving emergency event. The actions of VOSHA and other agencies have guided workplaces to function with the least disruption possible.

V. Adjustments or Other Issues

In FY 2020, VOSHA continued to work and improve in two areas that were outlined in the 2019 SOAR. These areas pertain to penalty retention and abatement verification.

- 1) Penalty Retention: VOSHA has shown marked improvement in penalty retention since taking on this issue of improvement. VOSHA has been meeting the further review level in the State Activity Mandated Measures (SAMM) Report for penalty retention (SAMM 12).
- 2) Abatement Verification: VOSHA has improved in this area but the State Plan is still seeking improvement. For example:
 - a. VOSHA is trying to reconcile abatement timeframes that seem to have already lapsed when the CSHOs send their cases to the central office for the manager to review.
 - b. In many cases, it has been difficult to get employers whose businesses have been interrupted by the COVID-19 pandemic to respond to abatement inquiries.

VI. State Internal Evaluation Program (SIEP) Report:

VOSHA is still evaluating issues identified in the FY 2019 FAME Report and plans to develop a new SIEP in FY 2021. Also, due to the pandemic, many performance metrics were skewed, making it difficult to develop a SIEP based on realistic data.