



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

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

C. Ray Davenport
COMMISSIONER

July 14, 2021

Michael Rivera
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 FY 2020 Follow-up Federal Annual Monitoring and Evaluation (FAME)
Report**

Dear Mr. Rivera:

Thank you for your letter of June 30, 2021, forwarding Virginia's FY 2020 Follow-up Federal Annual Monitoring and Evaluation Report (FAME). I am pleased to see that there were no findings or observations as a result of the evaluation.

First, during this most trying of times dealing with the all too often tragic consequences of the COVID-19 pandemic, please accept our sincere thanks for the valuable services you and your staff have provided to the Department and the Commonwealth of Virginia's employees and employers. Your unwavering support of our state plan and your dedication to occupational safety and health have undoubtedly resulted in improved workplace protections in Virginia and in Region III as a whole.

IMPACT OF COVID-19

The impact of the SARS-CoV-2 virus that causes COVID-19 has been devastating to the U.S. and Virginia economies and has dramatically impacted Virginia's workers and businesses. The unprecedented speed with which the SARS-CoV-2 virus spread throughout the country as a whole and specifically in Virginia taxed to the limit and beyond the Virginia Occupational Safety and Health (VOSH) program's enforcement, voluntary compliance and cooperative program's staff.

As is noted in greater detail in Virginia's 2020 State Plan OSHA Annual Report (SOAR) and the 2020 FAME Report, during the eleven month period from February 1, 2020 through January 8, 2021, the VOSH program had handled thousands of contacts from employers, employees and the general public; received over 1,500 employee complaints (UPA – Unprogrammed Activity), and received notifications of the hospitalization of 63 employees and the death of 30 employees.

Updated figures through July 9, 2021 below show over 13,000 contacts from the general public, employee complaints totaling 1,948, along with 83 notifications of employee hospitalizations and 44 employee deaths.

SUMMARY VOSH COVID-19 RESPONSE											
Dates	5/7/21	5/14/21	5/21/21	5/28/21	6/4/21	6/11/21	6/18/21	6/25/21	7/2/21	7/9/21	Total
Phone Calls											
Total Phone Calls	64	110	113	92	78	70	51	50	50	29	13128
UPAs Complaints OIS Statewide	12	7	4	1	4	1	3	1	1	0	1948 *
# Inspections	3	3	0	2	0	0	0	0	0	1	209 **
<i>Complaints, Referrals, Hospitalizations & Fatalities</i>											
<i>Inspections w/ Violations</i>	57	58	61	63	66	70	70	71	73	75	75
<i>Inspections Closed</i>	105	109	117	118	119	125	131	132	141	143	143
<i># of Violations Issued - Final Order Cases (Willful, Serious, OTS)</i>	198	202	207	211	221	232	232	234	239	250	250
<i>#EEs Exposed</i>	12316	12364	12519	12584	12690	12806	12806	12814	12887	13018	13018
# Hospitalizations	0	0	0	0	0	0	5	0	0	0	83 ***
Fatalities/Workplace deaths	2	0	0	1	0	0	0	0	0	0	44
# of Emails forwarded to Regional/Field Offices from MF COVID-19 positive Cases Reports (ETS) Complaints (does not include reports submitted by phone in the Regional Offices).	2	2	0	2	0	0	2	2	0	0	673
# REDCAP Notifications (Launched 09/28/20)	201	126	88	93	45	48	32	32	40	39	25975
# REDCAP Notifications (3 or more cases reported)	30	33	14	14	9	5	4	1	5	8	6732
<i>* Time Range: 01/01/2020 to 07/09/2021 UPA numbers may change as Regions update the system.</i>											
<i>**Inspections opened (Total: 209 - Draft + Final)</i>											
<i>% of COVID-19 Inspections closed - 68% (143)</i>											
<i>% of COVID-19 Inspections with violations - 36% (75)</i>											
<i>***There are Employers submitting multiple notifications. Some of the hospitalizations reported to VOSH later resulted in fatalities.</i>											

Fatalities - Calendar Year	2020	2021	% [2021]
Total	57	25	32
COVID-19	31	13	52%
Fall	8	6	24%
Struck-By	12	5	20%
Caught-in	5	1	4%
Electrocution	1		0%

As you know, in response to a petition¹ to the Virginia Safety and Health Codes Board (Board) for consideration of a COVID-19 emergency temporary standard and further direction from Governor Ralph S. Northam,² the Board on July 15, 2020,³ approved the Emergency Temporary Standard for Infectious Disease Prevention of the SARS-CoV-2 virus that Causes COVID-19 (ETS), 16VAC25-220. Virginia was the first state in the country to enact such a standard. The ETS took effect on July 27, 2020 and lapsed on January 26, 2021.

On January 13, 2021, before the ETS expired, the Board adopted a Final Permanent Standard (FPS) which took effect on January 27, 2021.⁴

Throughout the pandemic, VOSH has worked closely with the Virginia Department of Health (VDH) and other state agencies, as well as the Office of the Governor, on the Commonwealth's response to surges as they occurred, work cooperatively with the overwhelming majority of employers who wanted to proactively combat the workplace spread of the virus, and where needed, undertake necessary enforcement action.

It is a testament to the unceasing efforts of Virginia's medical community, its citizens, employees, employers and state and local government agencies that as of July 13, 2021, Virginia ranked 43rd among states in total COVID-19 cases per 100,000 people in the U.S.⁵

ACCOMPLISHMENTS

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

¹ April 23, 2020 Letter to Commissioner C. Ray Davenport, Virginia Justice Project for Farm and Immigrant Workers Legal Aid Justice Center

² <https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-63-and-Order-Of-Public-Health-Emergency-Five---Requirement-To-Wear-Face-Covering-While-Inside-Buildings.pdf>

³ <https://www.doli.virginia.gov/safety-and-health-codes-board-electronic-emergency-meeting/>

⁴ <https://www.doli.virginia.gov/proposed-permanent-standard-for-infectious-disease-prevention-for-covid-19/>

⁵ <https://www.statista.com/statistics/1109004/coronavirus-covid19-cases-rate-us-americans-by-state/>

dedicated staff, VOSH has accomplished many important achievements that benefit Virginia’s employees and employers:

- Virginia's injury and illness rates are consistently below the national average in both private and public sector employment.

Total Recordable Cases (TRC)	National	Virginia	Difference
2019 Overall	3	2.5	-16.7%
2019 Private Industry	2.8	2.3	-17.9%
2019 Construction	2.8	2.3	-17.9%
2019 Manufacturing	3.3	3.0	-9.1%
2019 State and Local Government	4.6	3.9	-15.2%

- Virginia Unique Standards

Virginia unique standards and regulations⁶ provide safety and health protections to employees and employers:

- COVID-19
- tree trimming operations
- overhead high voltage line safety
- reverse signal operation in construction and general industry
- fall protection in steel erection
- confined space hazards in the telecommunications industry
- telecommunications, general approach distances
- construction sanitation
- field sanitation
- compliance with manufacturer’s instructions for vehicles, machinery, tools and equipment in general industry, construction, agriculture and public sector maritime
- VOSH’s abatement verification regulation 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.

⁶ <https://www.doli.virginia.gov/vosh-programs/virginia-unique/>

- Additional Funding for Twelve Compliance Safety and Health Officers (CSHO)
The 2021 Virginia General Assembly approved 100% state funding for twelve (12) unfunded VOSH benchmark positions to take effect July 1, 2021 – a dramatic recognition of the importance of maintaining a sustainable enforcement program to compliment the major enhancements in staffing that have occurred in VOSH Cooperative Programs over the last several years.
- VOSH Apprenticeship Program for Compliance Officers
VOSH has implemented 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;
- State and Local Government Penalties
Senate Bill 607 was passed by the 2016 Virginia General Assembly and signed into law by Governor Terry McAuliffe to direct the Virginia Safety and Health Codes Board to adopt regulations for the issuance of proposed penalties to the Commonwealth, its agencies, political subdivisions, or any public body.

The Virginia Safety and Health Codes Board adopted a final regulation on November 30, 2017, 16VAC25-60-260.E, and providing for VOSH authority to issue penalties to state and local government employers. The regulation took effect on November 1, 2018.⁷ The regulation allows issuance of penalties to state and local government employers for willful, repeat and failure-to-abate violations, as well as serious violations that cause a fatal accident or are classified as “high gravity.”

- Annual Virginia Safety and Health Conference
The Virginia Annual Safety and Health Conference is now entering its 25th successful year of outreach to employees, employers, unions, associations, and government agencies. The 25th Annual Conference⁸ is scheduled for September 29th to October 1st, 2021 in Roanoke, VA. The conference hosts hundreds of attendees, vendors, and participants from many outside organizations that give their time and resources to attend and contribute.
- Virginia Voluntary Protection Programs

⁷ <http://townhall.virginia.gov/L/ViewChapter.cfm?chapterid=2347>

⁸ https://www.doli.virginia.gov/wp-content/uploads/2021/07/Save-the-Date_CANVA_25-1.pdf

The Virginia Voluntary Protection Program has been codified and requires the Virginia Safety and Health Codes Board to enact regulations for the operation of VPP in Virginia, Va. Code §40.1-49.13.

Governor Terry McAuliffe proposed the legislation that codified the Virginia Voluntary Protection Program (SB 881 and HB 1768). Governor McAuliffe held a bill signing ceremony on June 4, 2015. The Virginia Safety and Health Codes Board adopted a final regulation implementing the statute with an effective date of January 25, 2018.⁹

The 2016 and 2017 Virginia General Assemblies also provided funding for four VPP Regional Coordinator positions as well as a Virginia Challenge Coordinator position.

- Additional Funding for Cooperative Programs

The 2017 Virginia General Assembly and Governor Terry R. McAuliffe approved 100% general fund monies to fund the three Consultation and Training and three Voluntary Protection Program staff positions.

- Virginia BUILT: A VOSH Strategic Partnership with the Associated Builders and Contractors of Virginia (ABCVA)¹⁰

In 2020 VOSH established a Strategic Partnership with ABCVA to combine Challenge concepts with the ABCVA's STEP (Safety Evaluation and Training Process) program to recognize commercial construction contractors that develop and implement exemplary safety and health management systems. The new partnership, known as Virginia BUILT, Virginia BUILT is designed to encourage and recognize ABC-VA members who voluntarily implement highly effective safety and health management systems to benefit construction workers and reduce or eliminate injuries, illnesses and fatalities on construction sites in Virginia.

⁹ <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=4406>

¹⁰ <https://www.doli.virginia.gov/virginia-built-program/>



Virginia BUILT’s unique approach to workplace safety and health incorporates a “mentorship” program as a key component. The Mentorship Tier is the introductory tier of participation in the partnership for those employers actively working with the ABC-VA Virginia BUILT Council (VBC) to improve their safety and health management systems to meet VOSH requirements, with the goal of becoming a Tier One participant. Safety and health experts from Tier Two and Tier Three participants serve as the mentors.



Another essential component of Virginia BUILT is the incorporation of the ABC STEP program (Safety Training Evaluation Process) as the gateway to participation in Virginia BUILT. Founded in 1989 as a safety benchmarking and improvement tool, STEP has evolved into a world-class safety management system that dramatically improves safety performance among participants regardless of company size or type of work.

Participating ABC member firms measure their safety processes and policies on 24 key

components resulting in recognition through progressive levels of achievement (Bronze, Silver, Gold, Platinum, and Diamond).

- Virginia BEST

The VOSH program has signed a strategic partnership with the Associated General Contractors of Virginia (AGCVA) to establish a recognition program entitled “Virginia BEST” (Building Excellence in Safety, Health and Training) based on OSHA Challenge concepts¹¹.

Virginia BEST is designed to improve best practices, compliance efforts and accident prevention on construction worksites through recognizing the outstanding efforts of exemplary employers. The program works with highly successful employers who have demonstrated continual improvement in the arena of occupational safety and health and who are willing to share resources, best practices and advise the construction industry at large. A formal signing ceremony of the strategic partnership occurred on October 13, 2016.

Virginia BEST currently has seven Level One participants.



- Virginia VPP Strategic Partnership with Virginia Department of Corrections¹²

The Department of Labor and Industry and the Virginia Department of Corrections (VADOC) signed a strategic partnership on August 16, 2018, incorporating Challenge concepts to work with the VADOC to bring additional correctional facilities/operations into VPP (two facilities have already achieved STAR status, Augusta and Lunenburg Correctional Facilities – the only two correctional facilities in VPP nationwide).

¹¹ <https://www.doli.virginia.gov/voluntary-protection-program/virginia-best-outreach-docs/virginia-best-program/>

¹² <https://www.doli.virginia.gov/voluntary-protection-program/vadoc-challenge/>



Commissioner of Labor and Industry C. Ray Davenport and Harold W. Clarke, Director of Corrections

VADOC Challenge is designed to encourage and recognize correctional facilities that voluntarily implement highly effective safety and health management systems to benefit Corrections’ workers and reduce or eliminate injuries, illnesses and fatalities at VADOC sites in Virginia.



Three stages of participation in VADOC Challenge are provided:

- | | |
|-----------|--------------------------------|
| Stage I | Assess, Learn and Develop |
| Stage II | Implement, Track, and Control |
| Stage III | Reassess, Monitor, and Improve |
- At Stage III, the VADOC site’s safety and health management system has been fully implemented and the site is ready to submit an application for Virginia STAR certification.

Eight correctional facilities have begun the evaluation and application process.

- Virginia Challenge Established as a Path to Virginia STAR¹³
The Virginia Challenge was established on June 15, 2018 to create a structured path to Virginia STAR.

¹³ <https://www.doli.virginia.gov/voluntary-protection-program/challenge/>



The Virginia Challenge Program provides a “roadmap to Virginia STAR,” and a three stage process, based on OSHA Challenge concepts, which plots a path for employers to follow to Virginia STAR certification. Virginia Challenge uses the assistance of a voluntary network of safety and health professionals (OSHA Special Government Employees (SGE) and Virginia Private Industry Volunteers (PIV)) committed to providing guidance and advice to participants in developing and implementing a safety and health management system based on VOSH’s VPP model.

Since its inception in June, 2018, 17 sites have applied, with five sites having completed Stage 1 and one site having completed Stage 2.

- New Virginia STAR Sites.¹⁴
Virginia VPP welcomed two new Virginia STAR sites during FY 2021 at Sartomer Chatham Plant Arkema Group in Chatham, Virginia and the Luminant Hopewell Power Plant in Hopewell Virginia.
- Public service announcement (PSA) videos.¹⁵ have been developed on a number of safety and health topics, including the areas of tree trimming operations, overhead high voltage line safety, trenching safety, the dangers of heat stress and fall protection.

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 2020 FFY Comprehensive 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,

¹⁴ <https://www.doli.virginia.gov/voluntary-protection-program/star/>

¹⁵ <https://www.youtube.com/user/DOLIVirginia/videos>

C. Ray Davenport
Commissioner

c: Assistant Commissioner Bill Burge
VOSH Directors