# FY 2024 Follow-up Federal Annual Monitoring Evaluation (FAME) Report

**Vermont State Plan**

**(VOSHA)**



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## Executive Summary

The primary purpose of this report is to assess the Vermont State Plan’s (VOSHA’s) progress in Fiscal Year (FY) 2024 in resolving outstanding findings from the previous FY 2023 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report.

The problems VOSHA faced in FY 2024 were similar to those in FY 2023. For example, VOSHA had difficulty meeting its inspection target in FY 2023 due to a major flood and personnel concerns. In FY 2024, VOSHA experienced the untimely death of a senior compliance officer, two compliance officers took prolonged leaves of absence, and more floods hampered operations. Thus, VOSHA struggled to meet its inspection goal for FY 2024.

Despite these problems, VOSHA did well on most performance measures in FY 2024. The State Plan also corrected the one and only finding from the previous FAME Report which pertained to overdue abatements. Of the five observations in that report, VOSHA resolved four: one related to high lapse time, one related to late adoption of OSHA rules, and two pertaining to the Voluntary Protection Program. The one remaining observation is related to case file documentation and has been continued in this report.

## State Plan 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 in Montpelier.

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 number 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, one compliance assistance specialist (CAS), and a program technician. In addition to the staffing issues mentioned earlier, VOSHA began FY 2024 with two vacancies (one CSHO and one CAS), but both positions were filled during the year. At the end of FY 2024, VOSHA’s program manager retired.

As in past years, VOSHA assigned 0.95 full-time equivalent (FTE) to VOSHA's 23(g) consultation program to handle administrative, outreach, compliance support, and consultation visits. This FTE is managed by the 21(d) consultation program (Project WorkSAFE) but is funded through the VOSHA 23(g) enforcement program.

In FY 2024, VOSHA covered approximately 300,577 workers, including 253,525 private sector workers, 16,087 state government workers, and 30,965 local government workers. There were approximately 31,369 private sector establishments, 253 state government worksites, and 747 local government worksites in the state in FY 2024.**[[1]](#footnote-2)**

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 (GMVPP). The State Plan 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.

Based on financial close-out forms, VOSHA’s total funding in FY 2024 was $1,729,000. OSHA and VOSHA each contributed $864,500 to this total.

**New Issues**

None.

## Assessment of State Plan Progress and Performance

### 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
* Mandated Activities Report for Consultation
* State OSHA Annual Report
* State Plan Annual Performance Plan
* State Plan Grant Application
* Quarterly monitoring meetings between OSHA and the State Plan

### Findings and Observations

In FY 2024, the State Plan resolved the one finding and four of five observations from the FY 2023 Comprehensive FAME Report. This report does not contain any new findings or observations; therefore, Appendix A is blank. Appendix B describes observations subject to continued monitoring and the related federal monitoring plans; this appendix lists four closed observations and one continued observation. Appendix C describes the status of the FY 2023 findings and recommendations in detail and lists one finding that was closed in FY 2024. In summary, this report contains one continued observation.

**Findings (Status of Previous and New Items)**

**Finding FY 2023-01:** The State Plan has 22 cases from FY 2023 and FY 2022 with abatement ranging from 92 days to 680 days overdue.

**Status:** To address the finding, the State Plan examined emails received from employers over the past several months to identify those that contained abatement documentation but had been overlooked. VOSHA also created a new email box for abatement submissions only and contacted employers by phone to remind them that their abatement was overdue. The State Plan has been running OSHA Information System (OIS) reports more frequently to monitor abatement. An OIS Open Inspection Report run in December 2024 contained seven inspections with abatement overdue, ranging from 12 to 42 days. This outcome is an improvement over the 22 cases with abatement overdue that were identified in the previous FAME Report; thus, this item is completed.

#### Observations

**Closed FY 2023 Observations**

**Observation FY 2023-OB-01 (formerly** **FY 2022-OB-01 and FY 2021-OB-02):**  In FY 2023, there were errors in the calculations of the days away, restricted, or transferred (DART) rates and the total case incident rates (TCIRs) in three (75 percent) of four annual participant submissions reviewed.

**Status:** VOSHA documented that it reviewed the DART rate and TCIR calculations in the four GMVPP annual reports submitted for calendar year 2023. The State Plan also documented that it identified minor errors in some of the calculations and returned the annual reports to the participants for corrections. This item is closed.

**Observation FY 2023 -OB-02 (formerly FY 2022-OB-02 and FY 2021-OB-03):** In FY 2023, three of four (75 percent) annual safety and health management system (SHMS) self-evaluations did not sufficiently evaluate the site’s SHMS.

**Status:** VOSHA documented that it had reviewed each participant's 2023 SHMS evaluation and, when necessary, informed the sites of any problems with the evaluation. This item is closed.

**Observation FY 2023-OB-03:** In FY 2023, VOSHA’s average lapse time for health was 102.19 work days, which was outside (above) the further review level (FRL) of 55.78 work days to 83.66 work days. This result is not positive.

**Status:** In FY 2024, the VOSHA managers monitored health lapse time more closely and met with health compliance officers to ensure timely citation issuance. As a result, VOSHA’s average lapse time for health was 43.47 work days, which was outside (below) the FRL range of 53.77 to 80.65 work days. This outcome is acceptable; therefore, this item is closed.

**Observation FY 2023-OB-05:** VOSHA is overdue for adopting two rules: the Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions Rule and the Final Rule to Improve Tracking of Workplace Injuries and Illnesses) in a timely manner and has gone well past the deadlines for adopting these rules.

**Status:** This observation is now closed.

**Continued FY 2023 Observations**

**Observation FY 2024-OB-01 (formerly FY 2023-OB-04):** In FY 2023, nine of 25 (36 percent) case files reviewed for abatement did not contain adequate documentation of abatement completion.

**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 2025 comprehensive FAME and will be continued.

### State Activity Mandated Measures (SAMM) 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 2024 SAMM Report and includes the FRL for each measure.

The State Plan was outside the FRL on the following SAMMs:

**SAMM 2a – Average number of work days to initiate complaint investigations (state formula)**

Discussion of State Plan Data and FRL: The FRL of one work day is negotiated by OSHA and the State Plan. In FY 2024, VOSHA’s average was 2.46 work days.

Explanation: In FY 2024, the CAS was promoted to compliance supervisor and faced a learning curve. As a result, VOSHA’s average for this SAMM was a bit higher than normal. It should also be noted that VOSHA typically meets the FRL for this SAMM. For example, in FY 2022 the State Plan’s average was one work day, and in FY 2023 its average was 0.69 work days. Therefore, VOSHA’s outcome for FY 2024 is not overly concerning.

**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 2024 average of 1.69 was within the FRL range of 1.39 to 2.08 for serious, willful, repeat, or unclassified (SWRU) violations. The range of acceptable data not requiring further review was from 0.75 to 1.12 for other-than-serious (OTS) violations. In FY 2024, VOSHA’s average was 0.36 for OTS violations which was outside (below) the FRL.

Explanation: OSHA would be concerned if the State Plan had a high average for OTS violations and a correspondingly low average for SWRU violations; this could indicate that the State Plan was not targeting high-hazard employers and/or tended to classify some serious violations as OTS violations. For VOSHA, this was not the case. Therefore, OSHA is not overly concerned with VOSHA’s result for OTS violations.

**SAMM 7 – Planned v. actual inspections**

Discussion of State Plan Data and FRL: The FRLs for safety and health are 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 197 to 217 for safety inspections. In FY 2024, VOSHA conducted 139 safety inspections, which was outside (below) the FRL. VOSHA’s result of 68 was outside (above) the FRL range of 36 to 40 health inspections.

Explanation: As noted earlier, circumstances beyond the State Plan’s control—such as the loss of a senior safety compliance officer in the second quarter, lengthy staff absences, and three disruptive weather events—made it difficult for the State Plan to achieve its goal for inspections. Additionally, a few CSHOs were relatively new and had to devote time to taking basic training courses. OSHA also recognizes the potential impact caused by reducing the FY 2024 State Plan 23(g) grant during the last quarter of the fiscal year. Therefore, VOSHA’s outcome for safety inspections is not overly concerning under the circumstances.

### Appendix A – New and Continued Findings and Recommendations

FY 2024 VOSHA Follow-up FAME Report

|  |  |  |  |
| --- | --- | --- | --- |
| **FY 2024-#** | **Finding** | **Recommendation** | **FY 2023-# or**  **FY 2023-OB-#** |
|  | None. |  |  |

### Appendix B – Observations Subject to Continued Monitoring

FY 2024 VOSHA Follow-up FAME Report

| **Observation #**  **FY 2024-OB-#** | **Observation#**  **FY 2023-OB-# *or* FY 2023-#** | **Observation** | **Federal Monitoring Plan** | **Current Status** |
| --- | --- | --- | --- | --- |
| FY 2024-OB-01 | FY 2023-OB-04 | In FY 2023, nine of 25 (36 percent) case files reviewed for abatement did not contain adequate documentation of abatement completion. | During quarterly meetings, OSHA will discuss the need for VOSHA to follow the procedures pertaining to abatement verification and documentation in the VOSHA FOM, Chapter 7. | Continued |
|  | FY 2023-OB-01  FY 2022-OB-01  FY 2021-OB-02 | In FY 2023, there were errors in the calculations of the DART rates and TCIRs in three of four (75 percent) annual participant submissions reviewed. |  | Closed |
|  | FY 2023-OB-02  FY 2022-OB-02  FY 2021-OB-03 | In FY 2023, three of four (75 percent) annual SHMS self-evaluations did not sufficiently evaluate the site’s SHMS. |  | Closed |
|  | FY 2023-OB-03 | In FY 2023, VOSHA’s average lapse time for health was 102.19 work days, which was outside (above) the FRL of 55.78 work days to 83.66 work days. This result is not positive. |  | Closed |
|  | FY 2023-OB-05 | VOSHA is overdue for adopting two rules: the Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard: COVID-19 Log and Reporting Provisions Rule and the Final Rule to Improve Tracking of Workplace Injuries and Illnesses) in a timely manner and has gone well past the deadlines for adopting these rules. |  | Closed |

### Appendix C - Status of FY 2023 Findings and Recommendations

FY 2024 VOSHA Follow-up FAME Report

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **FY 2023-#** | **Finding** | **Recommendation** | **State Plan Corrective Action** | **Completion Date** | **Current Status**  **and Date** |
| FY 2023-01 | The State Plan has 22 cases from FY 2023 and FY 2022 with abatement ranging from 92 days to 680 days overdue. | Follow the procedures outlined in the VOSHA FOM, Chapter 7, for Employer Failure to Submit Required Abatement Certification (Section VIII) and for The Closing of a Case File Without Abatement Certification (Section XV), where appropriate. | 1. VOSHA created a specific email box to receive employer abatements. This email box is monitored daily. When an abatement is submitted, the abatement and case file are reviewed by the VOSHA managers.  2. VOSHA runs the OIS Open Inspection Report weekly to track case files with open abatements.  3. The State Plan follows the procedures in the VOSHA FOM, Chapter 7, for following up with employers who fail to submit required abatement certification. Where appropriate, VOSHA follows the FOM procedures in Chapter 7 for closing case files without abatement certification. | August 1, 2024 | Completed  January 23, 2025 |

### Appendix D – FY 2024 State Activity Mandated Measures (SAMM) Report

FY 2024 VOSHA Follow-up FAME Report

| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| --- | --- | --- | --- | --- |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 3.23 | 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) | 2.82 | 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) | 2.46 | 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) | 1.37 | 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% | The further review level is fixed for all State Plans.  N/A - The State Plan did not have any imminent danger complaints in FY 2024. |
| 4 | Number of denials where entry not obtained | 0 | 0 | The further review level is fixed for all State Plans. |
| 5a | Average number of violations per inspection with violations by violation type (SWRU) | 1.69 | +/- 20% of 1.74 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.39 to 2.08 for SWRU. |
| 5b | Average number of violations per inspection with violations by violation type (other) | 0.36 | +/- 20% of 0.94 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75 to 1.12 for OTS. |
| 6 | Percent of total inspections in state and local government workplaces | 10.14% | +/- 5% of  Grant 8.16% | 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 7.76% to 8.57%. |
| 7a | Planned v. actual inspections (safety) | 139 | +/- 5% of  Grant 207 | 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 197 to 217 for safety. |
| 7b | Planned v. actual inspections (health) | 68 | +/- 5% of  Grant 38 | 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 36 to 40 for health. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | $3,474.51 | +/- 25% of  $3,793.81 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $2,845.36 to $4,742.27. |
|  | **a**. Average current serious penalty in private sector  (1-25 workers) | $2,599.00 | +/- 25% of  $2,498.51 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $1,873.88 to $3,123.14. |
|  | **b**. Average current serious penalty in private sector  (26-100 workers**)** | $3,645.83 | +/- 25% of  $4,322.61 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $3,241.96 to $5,403.26. |
|  | **c**. Average current serious penalty in private sector  (101-250 workers) | $7,442.43 | +/- 25% of  $6,114.84 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $4,586.13 to $7,643.55. |
|  | **d**. Average current serious penalty in private sector  (greater than 250 workers) | $6,006.52 | +/- 25% of  $7,533.58 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from $5,650.19 to $9,416.98. |
| 9a | Percent in compliance (safety) | 31.58% | +/- 20% of  32.83% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 26.27% to 39.40% for safety. |
| 9b | Percent in compliance (health) | 43.86% | +/- 20% of  44.18% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 35.34% to 53.01% for health. |
| 10 | Percent of work-related fatalities responded to in one workday | 100% | 100% | The further review level is fixed for all State Plans. |
| 11a | Average lapse time (safety) | 62.97 | +/- 20% of 56.02 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 44.82 to 67.23for safety. |
| 11b | Average lapse time (health) | 43.47 | +/- 20% of 67.21 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 53.77 to 80.65 for health. |
| 12 | Percent penalty retained | 61.18% | +/- 15% of  70.81% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 60.19% to 81.44%. |
| 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 | N/A | N/A | This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 15 | Percent of 11(c) complaints that are meritorious | N/A | N/A | This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 16 | Average number of calendar days to complete an 11(c) investigation | N/A | N/A | This measure is not being reported for FY 2024 due to the transition to the new SAMM measures starting in FY 2025. |
| 17 | Percent of enforcement presence | 1.10% | +/- 25% of  1.00% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.75% to 1.25%. |

1. Source: [Vermont Economic and Labor Market Information Division, Quarterly Census of Employment and Wages](http://www.vtlmi.info/indareanaics.cfm?areatype=01)  [↑](#footnote-ref-2)