

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

**Virginia Occupational Safety and Health (VOSH) Program**



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## I. Executive Summary

The purpose of this Federal Annual Monitoring Evaluation (FAME) report is to assess the Virginia Occupational Safety and Health (VOSH) program's performance during Fiscal Year (FY) 2020. Although VOSH was impacted by the COVID-19 pandemic, the program preserved and continued to perform very effectively. One of VOSH's particularly noteworthy initiatives is being the first State Plan to develop and implement a COVID-19 Emergency Temporary Standard (ETS). VOSH's ETS provided specific requirements for employers and protections for workers during the pandemic. The ETS entitled, *Infectious Disease Prevention: SARS-CoV-2 Virus that Causes COVID-19*, became effective on July 27, 2020 and expired on January 26, 2021. On January 27, 2021, VOSH's COVID-19 ETS became the first final, permanent standard and is entitled *Infectious Disease Prevention of the SARS-CoV-2 Virus that Causes COVID-19 (16VAC25-220)*.

VOSH continues to accomplish its mission of protecting close to four million Virginians from workplace safety and health hazards. VOSH covers over 276,000 employers. The U.S. Bureau of Labor Statistics' (BLS) 2019 data reflects an overall Total Recordable Case Rate (TRCR) of non-fatal occupational injuries and illnesses of 2.5 for Virginia – 18.2% lower than the national TRCR. Virginia's TRCRs in private industry, construction, and manufacturing are also below the national average. Similarly, Virginia's total Days Away Restricted Transfer (DART) case rate was 20.7% lower than the national rate.

Despite the many challenges faced as a result of COVID-19, VOSH maintained its significant enforcement presence in the Commonwealth of Virginia as evidenced by the 1,843 inspections it conducted in private and state and local government (SLG) workplaces. VOSH issued 2,421 violations in FY 2020. Since its inception in 2015, VOSH's Worker Misclassification policy resulted in over 377 referrals to the Department of Professional and Occupational Regulations for potential misclassification issues.

VOSH continually strives to improve its program and actively engages with OSHA by sharing ideas, considering suggestions, and implementing recommendations when appropriate. VOSH continuously strives to improve its program by conducting internal self-evaluations, and improving and tailoring its program in response to the Commonwealth's unique needs. OSHA did not identify new findings or observations during this year's follow-up FAME.

## II. State Plan Background

Virginia operates a State Plan occupational safety and health program under Section 18 of the Occupational Safety and Health (OSH) Act of 1970. The Virginia Department of Labor and Industry (DOLI) administers the VOSH program. VOSH operates within DOLI and is headquartered in Richmond, Virginia with field offices located in Abingdon,

Lynchburg, Manassas, Norfolk, Richmond, Roanoke, and Verona.

In FY 2020, VOSH operated under C. Ray Davenport, Commissioner of DOLI, and William Burge, Assistant Commissioner. In FY 2020, Ronald Graham served as VOSH's health director and Marta Fernandes as VOSH's safety director. Jay Withrow serves as VOSH's director of the Division of Legal Support (DLS). Jennifer Rose serves as the director of Cooperative Programs. The agency directors for Safety, Health, and Consultation Services, as well as DLS, Office of Research and Analysis (ORA), which handles Bureau of Labor Statistics (BLS) surveys, Voluntary Protection Programs (VPP), Office of Policy, Planning and Public Information (OPPPPI), and Office of Whistleblower Protection (OWP), are under the direction of the assistant commissioner who, in turn, reports to the commissioner.

VOSH consists of two major units: compliance and cooperative programs, including consultation and training services. The compliance unit inspects places of work; issues citations and penalties for violations of established occupational standards; and responds to fatalities, incidents, and worker complaints about workplace safety and health hazards. VOSH also conducts randomly scheduled inspections of high hazard industries. In addition to enforcement efforts, VOSH provides compliance assistance through targeted outreach, education, and training to emphasize increased awareness on the part of both employers and workers of the importance of a safety and health culture.

VOSH operates a private sector on-site consultation project under Section 21(d) and an SLG consultation project under Section 23(g) of the OSH Act of 1970. The consultation services unit assists Virginia's SLG employers and private employers to voluntarily comply with applicable requirements without issuing citations and penalties. The VOSH consultation program provides free on-site surveys and technical assistance to Virginia businesses, especially small businesses in high-hazard industries and to state and local government employers under the State Plan grant. VOSH also provides free educational and training programs for employers and workers to assist them in achieving voluntary compliance.

VOSH's Cooperative Programs Division offers six voluntary programs to promote and recognize exceptional workplace safety and health efforts:

- **Virginia Safety and Health Achievement Recognition Program (SHARP)** – administered by the VOSH Consultation program, this program recognizes small employers who develop and implement exemplary safety and health management systems.
- **Virginia STAR** – administered by VOSH VPP, this program recognizes primarily larger employers who develop and implement exemplary safety and health management systems and meet the rigorous qualification requirements for STAR status.

- **Virginia Building Excellence in Safety, Health, and Training (Virginia BEST)** – a strategic partnership designed to encourage and recognize Associated General Contractors of Virginia (AGCVA) 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.
- **Virginia Challenge Program** – consisting of three stages that provide employers a step-by-step process to dramatically improve safety and health management systems to reduce or eliminate injuries, illnesses, and fatalities and the substantial costs associated with them. When a company completes Virginia Challenge, it will have an exemplary safety and health management system (SHMS) that will also prepare it to apply for Virginia STAR recognition.
- **VADOC (Virginia Department of Corrections) Challenge** – designed to recognize safety and health excellence at correctional facilities around the Commonwealth. The partnership is designed to encourage and recognize VADOC facilities that voluntarily implement highly effective safety and health management systems to benefit VADOC workers and reduce or eliminate injuries, illnesses and fatalities at VADOC sites in Virginia. The VADOC Challenge Program provides a three-stage process to prepare correctional facilities to apply for Virginia STAR recognition.
- **Virginia BUILT** - a strategic partnership with the Associated Builders and Contractors – Virginia Chapter (ABC-VA) that combines 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. 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.

The role of VOSH is to enforce safety and health regulations for general industry, construction, agricultural, and SLG maritime employers. All standards adopted by the Safety and Health Codes Board apply to all employers who have workers working within the jurisdiction of the Commonwealth of Virginia. VOSH covers both SLG employers and workers and private sector employers and workers in Virginia, with the exception of: federal workers, the United States Postal Service, private sector maritime, federal military facilities, and other federal enclaves where the state has ceded coverage to the federal government.

The table below presents VOSH’s funding levels for FY 2020:

<b>VOSH Program FY 2020 Funding Levels</b>					
<b>Fiscal Year</b>	<b>Federal Award (\$)</b>	<b>State Plan Match (\$)</b>	<b>100% State Plan Funds(\$)</b>	<b>Total Funding (\$)</b>	<b>% of State Plan Contribution</b>
2020	\$3,998,600	\$3,998,600	\$350,000	\$8,347,200	52%

The VOSH program mirrors the federal program as closely as possible while recognizing the autonomy and unique characteristics of the state. The majority of VOSH standards are identical to OSHA standards. However, VOSH has enacted unique regulations covering confined space hazards in telecommunication industries; overhead high voltage line safety; fall protection in steel erection; reverse signal operation of vehicles, machinery and equipment in construction and general industry; compliance with manufacturer’s instructions for vehicles, machinery, tools and equipment in general industry, construction, maritime (SLG only), and agriculture; tree trimming; and COVID-19 protections. In these instances, either OSHA does not have a comparable standard addressing the specific hazard or condition, or if it does, the federal standard differs substantially.

VOSH’s Administrative Regulations Manual (ARM), 16 VAC 25-60-270, et seq., sets forth rules defining the applicability of occupational safety and health standards in Virginia. VOSH enforces the Virginia Department of Transportation (VDOT) Work Area Protection Manual in lieu of the federal Manual on Uniform Traffic Control Devices referenced in 1926.200 and 1926.202. Virginia has codified in regulation the Multi-Employer Worksite Policy and Multi-Employer Worksite Defense. The regulation provides that general contractors and prime subcontractors can be cited for certain hazards as “controlling employers.” Virginia has also codified the Employee Misconduct Defense, but provides that the defense does not apply to supervisory personnel having control of the worksite.

### **New Issues**

#### Virginia’s Efforts to Protect Workers During the COVID-19 Pandemic

Although COVID-19 significantly impacted the nation in FY 2020, VOSH adapted to the unique quarantine, isolation and social distancing challenges and continued to address worker safety and health concerns in the Commonwealth. VOSH was the first State Plan to develop and implement an Emergency Temporary Standard (ETS) and final permanent standard to protect workers in response to COVID-19, providing specific requirements for employers and protections for workers during the pandemic. The ETS titled, *Infectious Disease Prevention: SARS-CoV-2 Virus that Causes COVID-19, 16VAC25-220*, was adopted by the Safety and Health Codes Board on July 15, 2020 and became effective on July 27, 2020. The ETS expired on January 26, 2021. The Safety and Health Codes Board adopted a final permanent standard on January 13, 2021 with an effective date of January 27, 2021.

The regulation provides for compliance based on exposure risk. Workplace exposure is categorized as very high, high, medium, or low; and specific requirements are included for the various exposure risk levels. Very high and high risk worksites, as well as medium risk worksites with more than 10 workers must implement a written infectious disease preparedness and response plan. The standard also includes training requirements and whistleblower protections. The Environmental Protection Agency (EPA) *List N for use against SARS-CoV-2* and the Centers for Disease Control (CDC) *Biosafety in Microbiological and Biomedical Laboratories* (December 2009) are incorporated by reference.

VOSH diligently documented its response to the COVID-19 pandemic and regularly shared the data with OSHA. As of February 1, 2021, VOSH handled 10,969 phone calls, addressed 1,688 complaints, and conducted 127 COVID-19 related inspections. The majority of VOSH fatalities (55%) reported to VOSH in FY 2020 were COVID-19-related.

### **III. Assessment of State Plan Progress and Performance**

#### **A. Data and Methodology**

OSHA 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 evaluation and case file review. 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 Report (Appendix D)
- State Information Report
- Mandated Activities Report for Consultation
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the VOSH Program

#### **B. Findings and Observations**

There were no new or continued findings identified during the FY 2020 FAME. There were no new or continued observations identified in FY 2020. VOSH did not have any findings identified during the FY 2019 FAME to discuss in this report.

##### Completed Findings

There were no findings in FY 2019 and therefore no completed findings to report in FY

2020.

Continued Findings

There were no findings in FY 2019 and therefore no completed findings to report in FY 2020.

New FY 2020 Findings

There were no new findings identified in FY 2020.

Closed FY 2019 Observations

There were no observations identified in FY 2019 and therefore no closed observations to report in FY 2020.

Continued FY 2019 Observations

There were no observations identified in FY 2019 and therefore no closed observations to report in FY 2020.

New FY 2020 Observations

There were no new observations identified in FY 2020.

**C. State Activity Mandated Measures (SAMM) Highlights**

Each SAMM report 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 VOSH program's FY 2020 SAMM Report and includes the FRL for each measure.

The VOSH program 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 for the average number of violations per inspection with violations by violation type is +/- 20% of the three-year national average of 1.79 for serious/willful/repeat (S/W/R) violations which provides a range of 1.43 to 2.15. VOSH's S/W/R average is 1.85 violations. The FRL for other-than-serious (OTS) violations is +/- 20% of the three-year national average of 0.95 which provides a range of 0.76 to 1.14. VOSH's OTS average is 0.54.

Explanation: VOSH is below the FRL for the average number of OTS violations issued per inspection and within the FRL and above the national average for the number of S/W/R violations issued per inspection. The data also indicates that VOSH issued more safety violations as S/W/R.



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

Discussion of State Plan data and FRL: The FRL for the percent of total inspections in SLG workplaces is +/- 5% of the negotiated value of 7.33% which provides a range from 6.96% to 7.69%. VOSH conducted 6.68% of its total inspection in SLG workplaces in FY 2020 – falling just below the FRL.

Explanation: VOSH received a significant number of COVID-19 related complaints during FY 2020 and continuously shifted its goals in response to the most pressing concerns each week. Although VOSH did not meet this goal, it was narrowly missed. In consideration of VOSH's response to COVID-19, OSHA will not make this an observation at this time.

## **SAMM #7 – Planned vs. actual inspections (safety/health)**

Discussion of State Plan data and FRL: The FRL for planned v. actual inspections is +/- 5% of the negotiated number of 1,585 safety inspections which provides a range of 1,505.75 to 1,664.25 inspections, and 408 health inspections which provides a range of 387.60 to 428.4 inspections. VOSH conducted 1,380 safety inspections in FY 2020 – falling below the FRL. However, VOSH exceeded its goal and the FRL for health inspections in FY 2020.

Explanation: VOSH continuously reevaluated the most critical enforcement activities in response to COVID-19. Most COVID-19 related inspections were coded as health inspections. In consideration of VOSH's response to COVID-19, OSHA will not make this an observation at this time.

## **SAMM #9 – Percent in-compliance**

Discussion of State Plan data and FRL: The FRL for percent in-compliance is +/-20% of the three-year national average of 31.03% for safety which provides a range of 24.82% to 37.24%. The FRL for percent in-compliance is +/-20% of the three-year national average of 37.15% for health which provides a range of 29.72% to 44.58%. The FY 2020 data shows that VOSH's in-compliance rate for safety was 44.83% and 51.42% for health – both higher than the FRL.

Explanation: Historically, VOSH safety and health percent in-compliance rate has frequently exceeded the FRL. The outliers can be explained by policies and procedures unique to VOSH. For example, it is VOSH's policy on multi-employer jobsites is to open an inspection and assign an inspection number to all employers covered by the scope of the inspection – regardless of whether citations are going to be issued to the employer or not. Adjusting inspection counts to account for this policy would have placed the VOSH safety in-compliance rate within the FRL.

Similarly, unique VOSH health inspection policies require VOSH to inspect all formal

and non-formal asbestos complaints alleging worker exposure. According to a statutory requirement, VOSH also inspects certain asbestos contractors resulting in a large number of planned asbestos inspections. In FY 2020, VOSH conducted 155 asbestos related inspections. VOSH's in-compliance rate for health inspections has been consistent, indicating that the unique policies drive a higher in-compliance rate, but that it is not necessarily cause for concern.

#### **SAMM #10 – Percent of work-related fatalities responded to in one workday**

Discussion of State Plan data and FRL: The FRL for percent of work-related fatalities responded to in one workday is fixed at 100% for all State Plans. The FY 2020 data indicates that VOSH conducted 96.77% of its fatality inspections in one workday. The SAMM report indicates that one of the 31 fatality inspections was not able to be conducted in one workday.

Explanation: The compliance officer was instructed to initiate the one inspection that was not responded to in one workday virtually due to COVID-19 quarantine requirements. Although multiple attempts were made, the inspection could not officially be initiated in one workday. Due to the extenuating circumstances and VOSH's repeated attempt to officially initiate the inspection in one workday, OSHA will not make this an observation at this time.

#### **SAMM #14 – Percent of 11(c) investigations completed within 90 days**

Discussion of State Plan data and FRL: The FRL for percent of 11(c) investigations completed within 90 days is fixed at 100% for all State Plans. VOSH conducted 39% of its 11(c) investigations within 90 days.

Explanation: VOSH received a significant increase in 11(c) complaints due to COVID-19. VOSH found 30% of its 11(c) complaints to be meritorious, significantly more than the three-year national average and FRL. Considering the unanticipated increase in workload as well as the percentage of meritorious cases, OSHA will not make this an observation at this time.

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

Discussion of State Plan data and FRL: The FRL for average number of calendar days to complete an 11(c) investigation is fixed at 90 for all State Plans. VOSH completed its 11(c) investigations in an average of 140 days.

Explanation: Based on the data available for all State Plans and the increased workload due to COVID-19, OSHA will not make this an observation at this time.

**Appendix A – New and Continued Findings and Recommendations**  
FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

There were no new or continued findings in FY 2020.

**Appendix B – Observations and Federal Monitoring Plans**  
FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

There were no new or continued observations in FY 2020.

**Appendix C - Status of FY 2019 Findings and Recommendations**  
FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

There were no new or continued findings in FY 2020.

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

FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Virginia - VOSH			FY 2020	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	3.15	5	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	1.58	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	0.86	3	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	0.38	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	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.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.85	+/- 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: 0.54	+/- 20% of Other: 0.95	

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

### FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
6	Percent of total inspections instate and local government workplaces	6.68%	+/- 5% of 7.33%	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 6.96% to 7.69%.
7	Planned v. actual inspections – safety/health	S: 1,380	+/- 5% of S: 1,585	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 1,505.75 to 1,664.25 for safety and from 387.60 to 428.40 for health.
		H: 463	+/- 5% of H: 408	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$2,599.69	+/- 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)	\$1,550.00	+/- 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)	\$3,585.70	+/- 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 (101-250 workers)	\$4,962.29	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,770.27 to \$6,283.78.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$7,362.75	+/- 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: 44.83%	+/- 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: 51.42%	+/- 20% of H: 37.15%	

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

### FY 2020 Virginia Occupational Safety and Health Program Follow-Up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
10	Percent of work-related fatalities responded to in one workday	96.77%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 41.90	+/- 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: 41.67	+/- 20% of H: 60.39	
12	Percent penalty retained	73.93%	+/- 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	39%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	30%	+/- 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	140	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.22%	+/- 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 E – FY 2020 State OSHA Annual Report (SOAR)  
FY 2020 Virginia Occupational Safety and Health Program Follow-up FAME Report



Virginia Department of Labor and Industry

# Virginia State Plan OSHA Annual Report

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## I. Executive Summary

The Virginia Occupational Safety and Health (VOSH) program is administered by the Virginia Department of Labor and Industry (DOLI). Virginia operates a “state plan” occupational safety and health program under Section 18 of the federal Occupational Safety and Health Act of 1970.

The mission of the VOSH program is to “Improve and protect Virginia's workplaces through education and enforcement, reducing fatalities and injuries at work.”

This mission is embodied in the statutory mandate for the Virginia Safety and Health Codes Board, Va. Code §40.1-1, which states in part:

“...The Department shall be responsible for administering and enforcing occupational safety and occupational health activities as required by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596), in accordance with the state plan for enforcement of that act; ...”

The role of the VOSH program is to enforce safety and health regulations for general industry, construction, agricultural, and state and local government employers. The VOSH Program covers both public and private sector employers and employees in Virginia. VOSH conducts safety and health inspections in response to accidents, complaints, referrals, and randomly scheduled inspections of high hazard industries.

In addition to enforcement efforts, VOSH provides compliance assistance through targeted outreach, education, and training to emphasize increased awareness of the importance of a safety and health culture for both employers and employees.

The VOSH program mirrors the federal program as closely as possible while recognizing the autonomy and unique characteristics of the state.

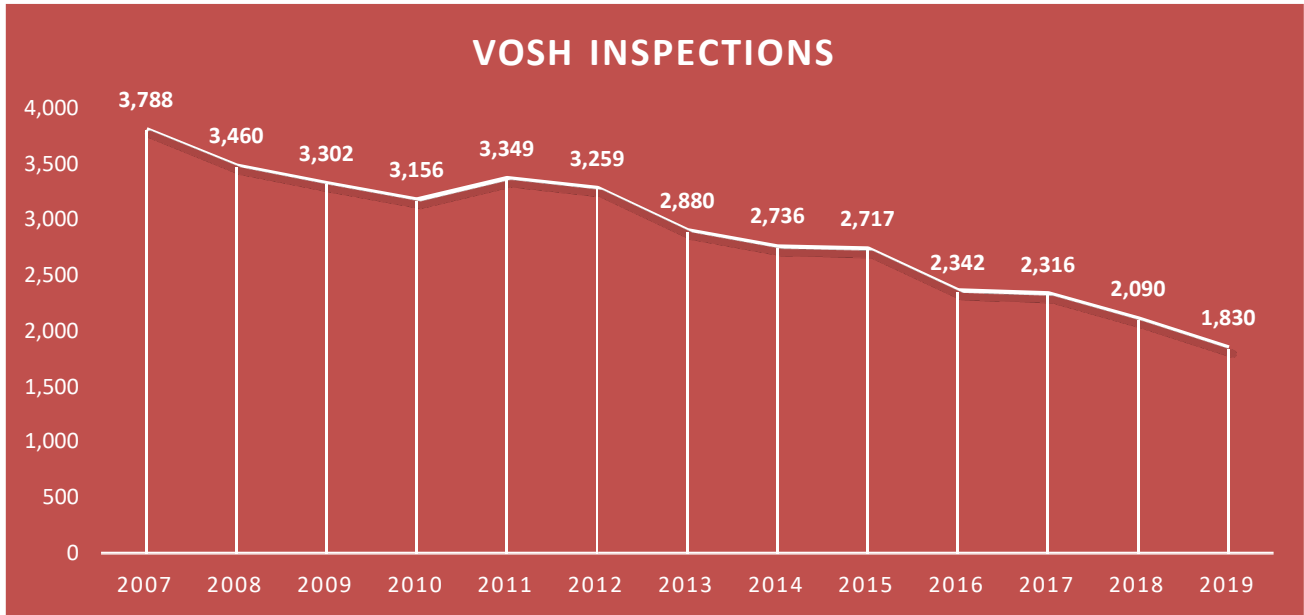
The long-term approach for achieving both workplace safety and health is to identify significant high hazard problems and related trends; determine the most effective way to address them, using the best mix of available tools and other resources; and then measuring and monitoring the results.

Fifty-nine (59) Compliance Safety and Health Officer positions, twelve (12) of which are included in the Governor’s Budget Bill for funding consideration during the current General Assembly Session. (20% of available staff), are responsible for addressing safety and health issues for over 279,625 Virginia businesses and 4.27 million employees<sup>1</sup>.

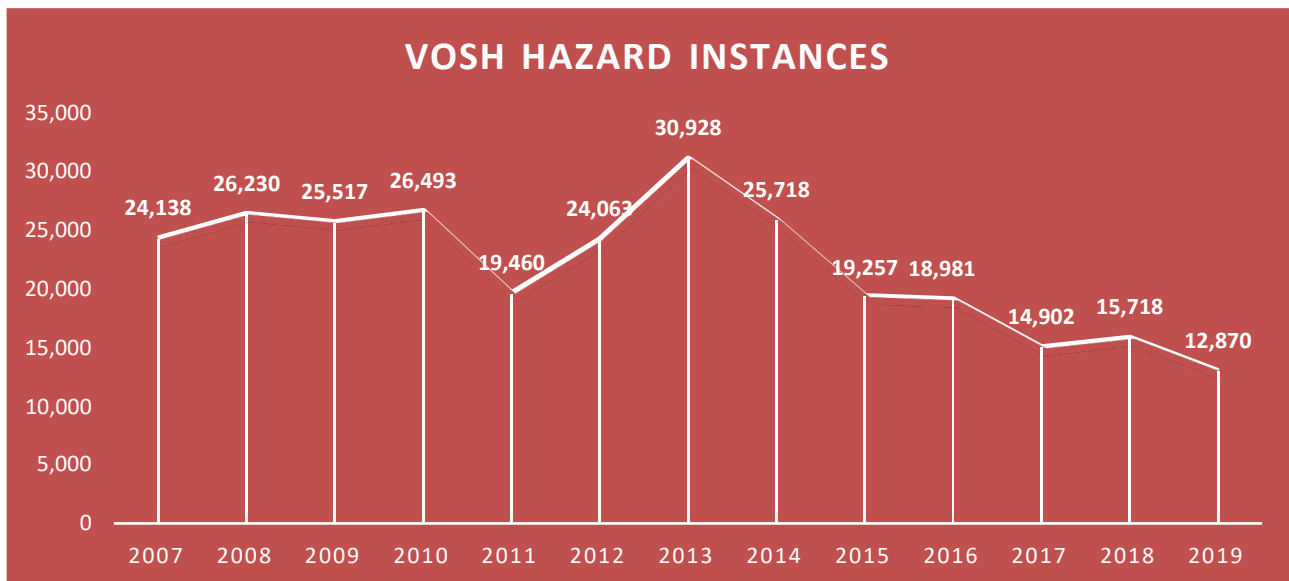
A continuous lack of funding for CSHO positions has resulted in thousands of inspections not occurring and tens of thousands of serious workplace hazards not being identified and corrected. During the three (3) year period of 2010-2012 (calendar year), the average number of VOSH inspections was 3255. During the most recent three (3) year period of 2016 to 2018, the average number of inspections was 2,079, a difference of 1176 inspections per year or a decline of 36%.

<sup>1</sup> <https://www.vec.virginia.gov/sites/default/files/snapshot-12368-VASnapshotweb-September2020.pdf>

Appendix E – FY 2020 State OSHA Annual Report (SOAR)  
 FY 2020 Virginia Occupational Safety and Health Program Follow-up FAME Report



In viewing the impact of the unfunded CSHO positions through the lens of VOSH hazard instances (i.e., each hazard instance corrected represents an occupational hazard that was corrected and from which employees were protected), there has also been a steady decline over the last several calendar years, which represents increased risk for Virginia employees and employers. The average number of instances (14,496) for the most recent three (3) years of 2017 to 2019 is 37.8% below that for the period 2010 to 2012 (23,339).



Staffing is currently at a critical level based on the benchmarks that were established for the VOSH Program. In 1984, three years after the VOSH Program achieved operational status, there were 109,238 employers and 2,098,046 employees in the Commonwealth. More recently, the Virginia Employment Commission, Quarterly Employment and Wages Report for 2019 indicates that VOSH has jurisdiction over approximately 4,267,895 workers in 279,625 establishments – a 155.97% increase in establishments and a 103.4 % increase in employees.

Strategic Plan

The Virginia Occupational Safety and Health 5 Year Strategic Plan for FFY 2019-2023 established two strategic goals:

<b>VOSH Compliance Strategic Goals</b>
Goal 1: Reduce Occupational Hazards Through Direct Intervention
Goal 2: Promote a Safe and Healthful Workplace Culture

This SOAR presents a review of the strategies used and results achieved in FFY 2020.

Three metrics require continued monitoring. First, VOSH’s Goal 1.1B for initiating complaint investigations is one (1) working day (SAMM 2 contains an OSHA/VOSH negotiated three (3) day period to initiate investigations). For FFY 2020, VOSH took an average of 0.86 days to initiate complaint investigations.

VOSH Goal 1.2B (SAMM 10), requires that inspections of 100% of fatalities and catastrophes be initiated within one working day of notification. The goal is 100% and VOSH performance was 100%.

Finally, VOSH Goal 2.1A (SAMM 13), the percent of inspections with employee involvement through walk-around representation or employee interview, also requires further monitoring. The goal is 100% and VOSH performance was 100%.

Special accomplishments as well as mandated activity metrics are also discussed.

## II. Summary of Annual Performance Plan Results

### Goal 1.1A

<b>Strategic Goal</b>	1	<b>Reduce Occupational Injuries, Illnesses, and Fatalities through Direct Intervention</b>		
Performance Goal	1.1	Reduce the rate of workplace injuries and illnesses.		
	1.1A	By 2020, decrease injuries and illnesses per 100 workers in the workplace by 3.75%.		
Strategy	<ul style="list-style-type: none"> <li>• Analyze data to better identify establishments for inspections.</li> <li>• Research new sources for information to identify best targets.</li> <li>• Inspect worksites in non-programmed areas through rapid response to complaints, referrals, and utilizing multi-employer policy.</li> <li>• Inspect 7% of total inspections as public-sector worksites.</li> <li>• Analyze results and effectiveness of compliance inspections to determine their impact on fatalities, injury, and illness rates.</li> <li>• Identify and implement adjustments that will increase the impact of compliance inspections.</li> <li>• Analyze the effectiveness of guidance and standards, and identify needed changes.</li> </ul>			
Performance Indicator	2006 Total Recordable Injury and Illness Baseline.			
FFY 2019 Results	2020 Data Not Available  The Total Recordable Injury and illness rate for CY19 is 2.5 per 100 workers. Source: <a href="https://www.bls.gov/iif/oshwc/osh/os/19summ1_50.xlsx">https://www.bls.gov/iif/oshwc/osh/os/19summ1_50.xlsx</a>			
Conclusion		Baseline	2019 Target	2019 Result
		2006 TRII	3.8	2.5
	<b>VOSH met this goal.</b>			

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**Goal 1.1B**

<b>Strategic Goal</b>	1	<b>Reduce Occupational Injuries, Illnesses, and Fatalities through Direct Intervention</b>		
Performance Goal	1.1	Reduce the rate of workplace injuries and illnesses.		
	1.1B	Annually initiate investigations of 100% of worker complaints within one working day or conduct an on-site inspection within five working days.		
Strategy		<ul style="list-style-type: none"> <li>Promptly and accurately, investigate a workplace complaint within one workday or conduct an inspection within five workdays in an effort to reduce injuries and illnesses.</li> </ul>		
Performance Indicator		The average response for complaint investigations was 0.86 days. The average response for initiating complaint inspections was 3.15 days.		
FFY 2020 Results		100% of worker complaints had an investigation initiated within one working day or an on-site inspection initiated within five working days.		
Conclusion		Baseline	2020 Target	2020 Result
		100%	100%	Goal partially met.  The average response for complaint investigations was 0.86 days – GOAL MET, and SAMM 2 negotiated goal is three days and National Average was 3.81 days.  The average response for initiating complaint inspections was 3.15 days – GOAL MET.
	<b>VOSH met this goal.</b>			
Comments		VOSH offers workers two approaches to handle their complaints: either VOSH will conduct an investigation by contacting the employer via phone/fax to inform them of the complaint, with a response required back from the employer within five (5) workdays; or, VOSH will conduct an on-site inspection.		



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**Goal 1.2A**

<b>Strategic Goal</b>	1	<b>Reduce Occupational Injuries, Illnesses, and Fatalities through Direct Intervention</b>		
Performance Goal	1.2	Reduce the rate of workplace fatalities.		
	1.2A	By 2019 decrease fatalities in the workplace per 100,000 workers by 3.85%.		
Strategy	<ul style="list-style-type: none"> <li>• Analyze data to better identify establishments for inspections.</li> <li>• Research new sources for information to identify best targets.</li> <li>• Inspect worksites in non-programmed areas.</li> <li>• Inspect identified public-sector worksites.</li> <li>• Analyze results and effectiveness of compliance inspections to determine their impact on fatalities, injury, and illness rates.</li> <li>• Identify and implement adjustments that will increase the impact of compliance inspections.</li> <li>• Analyze the effectiveness of guidance and standards and identify needed changes.</li> </ul>			
Performance Indicator	2020 Data Not Available  Workplace fatality rate in Virginia per 100,000 workers. The performance data for CY2019 indicates a rate of 4.3 fatalities per 100,000 workers. Baseline rate of 4.0 fatalities per 100,000 workers in 2016. CY2018 rate of 3.5 represents a 7.5% reduction from the 4.0 baseline rate from CY 2016.			
FFY 2019 Results	The number of total fatal injuries in Virginia for CY2019 was 180. 2019 CFOI: <a href="https://www.bls.gov/iif/oshwc/cfoi/tgs/2019/iiffw51.htm">https://www.bls.gov/iif/oshwc/cfoi/tgs/2019/iiffw51.htm</a>			
Conclusion		Baseline	2019 Target	2019 Result
		4.0	3.80	4.3
	<b>VOSH did not met this goal.</b>			
Comments				

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**Goal 1.2B**

<b>Strategic Goal</b>	1	<b>Reduce Occupational Injuries, Illnesses, and Fatalities through Direct Intervention</b>		
Performance Goal	1.2	Reduce the rate of workplace fatalities.		
	1.2B	Annually initiate inspections of 100% of fatalities and catastrophes within one working day of notification.		
Strategy		<ul style="list-style-type: none"> <li>Promptly initiate fatality and catastrophe investigations within one workday.</li> </ul>		
Performance Indicator		Percent of inspections of fatalities and catastrophes initiated within one working day of notification. SAMM 10.		
FFY 2020 Results		96.77% of inspections of fatalities and catastrophes were initiated within one working day of notification, representing 35 out of 36 fatalities.		
Conclusion		Baseline	2020 Target	2020 Result
		100%	100%	96.77%
		<b>VOSH did not meet this goal.</b>		
Comments		<p>VOSH regional office received SER487782 on September 24, 2020 with very little information on SER Report and it was not reported as a COVID-19 workplace fatality or workplace death. VOSH called the employer the same day and left voicemail to call back immediately to provide clarifying information.</p> <p>VOSH called the employer again on September 25, 2020, although the employer representative knew little about the events, they provided the deceased’s information and supervisor’s contact information. VOSH contacted the supervisor and determined work relatedness, and sent DOLI notification of fatality. The case was assigned to a CSHO on September 25, 2020. The CSHO attempted to open with the employer virtually from September 28 and 29, 2020; however, she was only able to leave voicemails. On September 30, 2020 the employer returned the calls at which time the CSHO was able to open with the employer.</p> <p>During this time frame, Hampton Roads Regional Jail was experiencing an outbreak, so the CSHO was directed conduct this fatality virtually. Numerous attempts were made to open with the employer virtually as documented in the casefile.</p>		

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**Goal 1.3A**

<b>Strategic Goal</b>	1	<b>Reduce Occupational Injuries, Illnesses, and Fatalities through Direct Intervention</b>		
Performance Goal	1.3	Reduce the rate of workplace injuries and illness in worksites.		
	1.3A	Reduce the rate of workplace injuries and illnesses in work sites through participation in the VPP Programs.		
Strategy	<ul style="list-style-type: none"> <li>• Increase the number of employers participating in the VPP.</li> </ul>			
Performance Indicator	Reduce the rate of workplace injuries and illnesses in work sites through participation in the VPP Programs. National averages show that VPP sites are routinely 50% below normal workplace injuries and illnesses for their respective industry sectors.			
FFY 2019 Results	2020 Data Not Available  The average Virginia VPP STAR worksite had a Total Case Incident Rate (TCIR) for 2019 of 52% below the BLS national average for its industry (3-year rolling national average, 2017-2019).			
Conclusion		Baseline	2020 Target	2020 Result
		34 VPP sites in 2019	50% below	2020 Data Not Available
	<b>VOSH did meet this goal.</b>			
Comments	There are 34 active Virginia STAR sites in Virginia.			

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**Goal 2.1A**

<b>Strategic Goal</b>	2	<b>Promote a safe and healthful workplace culture through worker involvement in all aspects of safety and health</b>		
Performance Goal	2.1	Enhance worker involvement in all aspects of safety and health.		
	2.1 A	One hundred percent (100%) of VOSH on-site activities (e.g., inspections) will include a worker involvement component annually, such as interviews, informal conferences, and walk-around inspections.		
Strategy	<ul style="list-style-type: none"> <li>Ongoing monitoring of inspection data.</li> </ul>			
Performance Indicator	Observed data in OIS/IMIS review. SAMM 13.			
FFY 2020 Results	Worker involvement through interviews, informal conferences and walk-around inspections as reviewed by region Safety and Health Directors at 100%.			
Conclusion		Baseline	2020 Target	2020 Result
		100%	100%	100%
	<b>VOSH met this goal.</b>			
Comments				

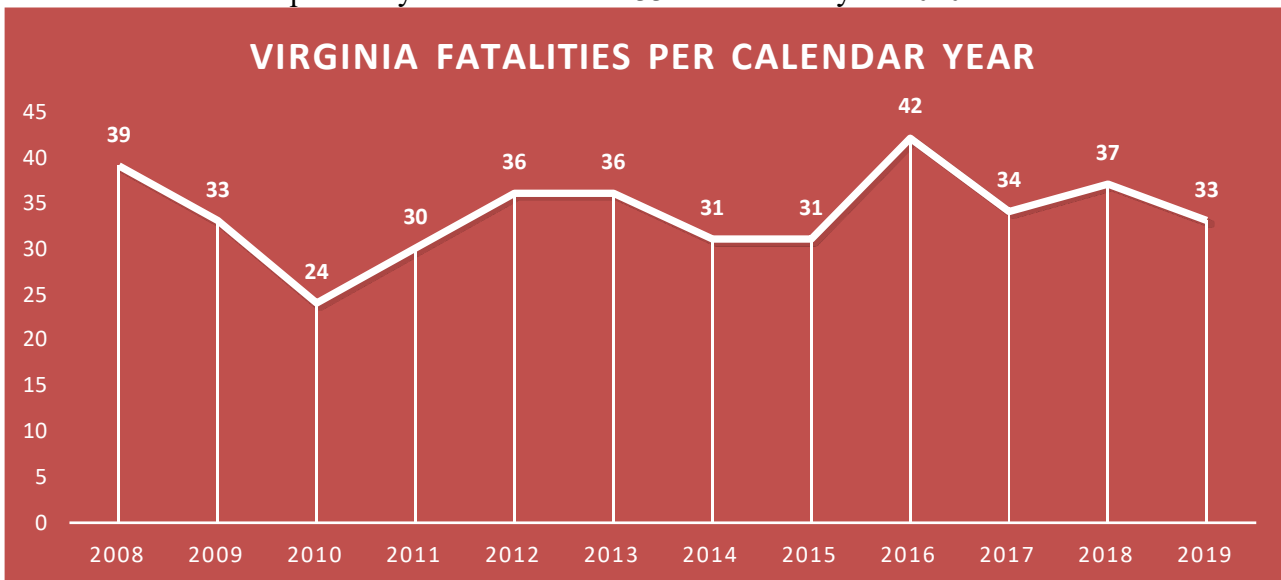
### III. FFY 2020 Accomplishments

#### Metrics

The VOSH program achievements, which positively affect both employees and employers in the Commonwealth, include:

The Virginia rate of nonfatal occupational injury and illness cases requiring days away from work to recuperate is .8 cases per 100 full-time workers in CY19. This rate is equal to the National rate of 0.9 cases per 100 full-time workers in CY19.<sup>2</sup>

Fatal accidents inspected by VOSH stands at 33 for calendar year 2020.



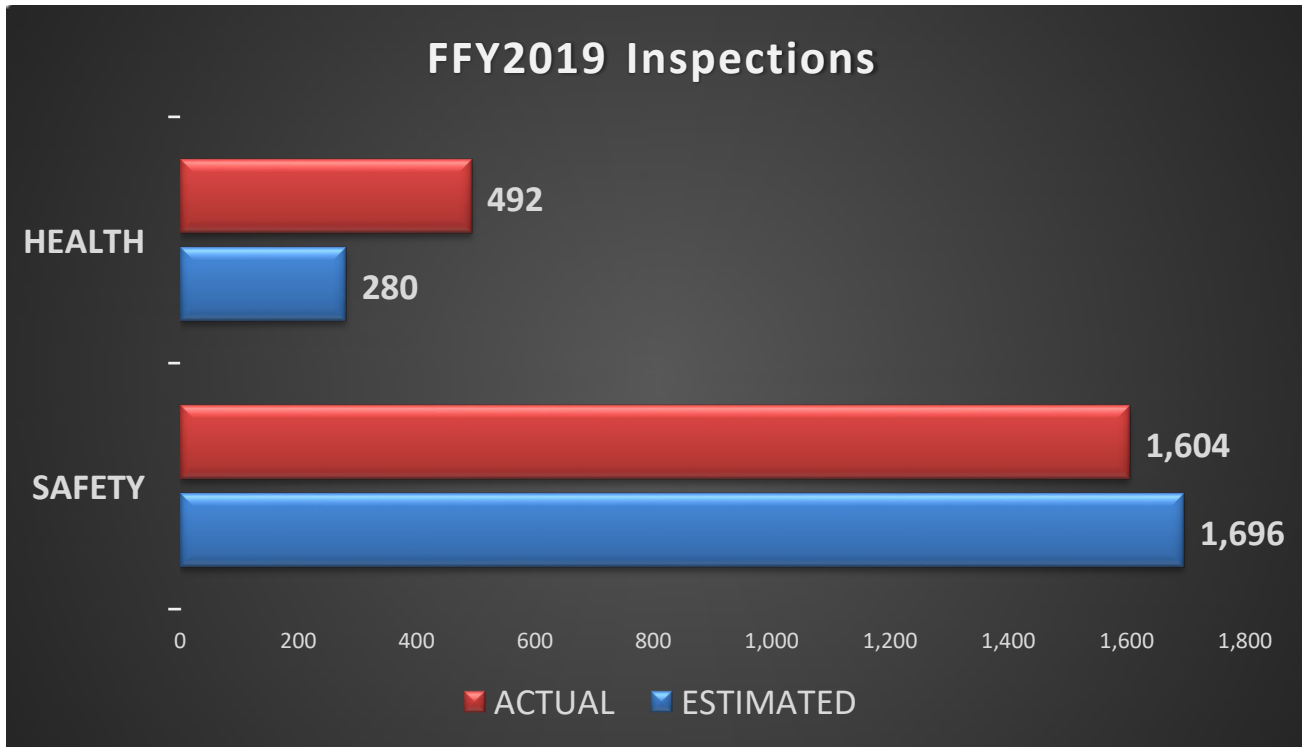
In FFY2020, VOSH Safety and Health Compliance Officers performed 1380 safety inspections and 462 health inspections (total of 2,200)<sup>3</sup>; and were directly responsible for the identification and correction of 12,870 instances of workplace hazards.<sup>4</sup> The total number of safety inspections performed fell short of the projected total for FFY 2020 (1585 Safety) by 12.9%. The shortfall was primarily due to turnover and COVID-19.

<sup>2</sup> [https://www.bls.gov/iif/oshwc/osh/os/19summl\\_51.xlsx](https://www.bls.gov/iif/oshwc/osh/os/19summl_51.xlsx)

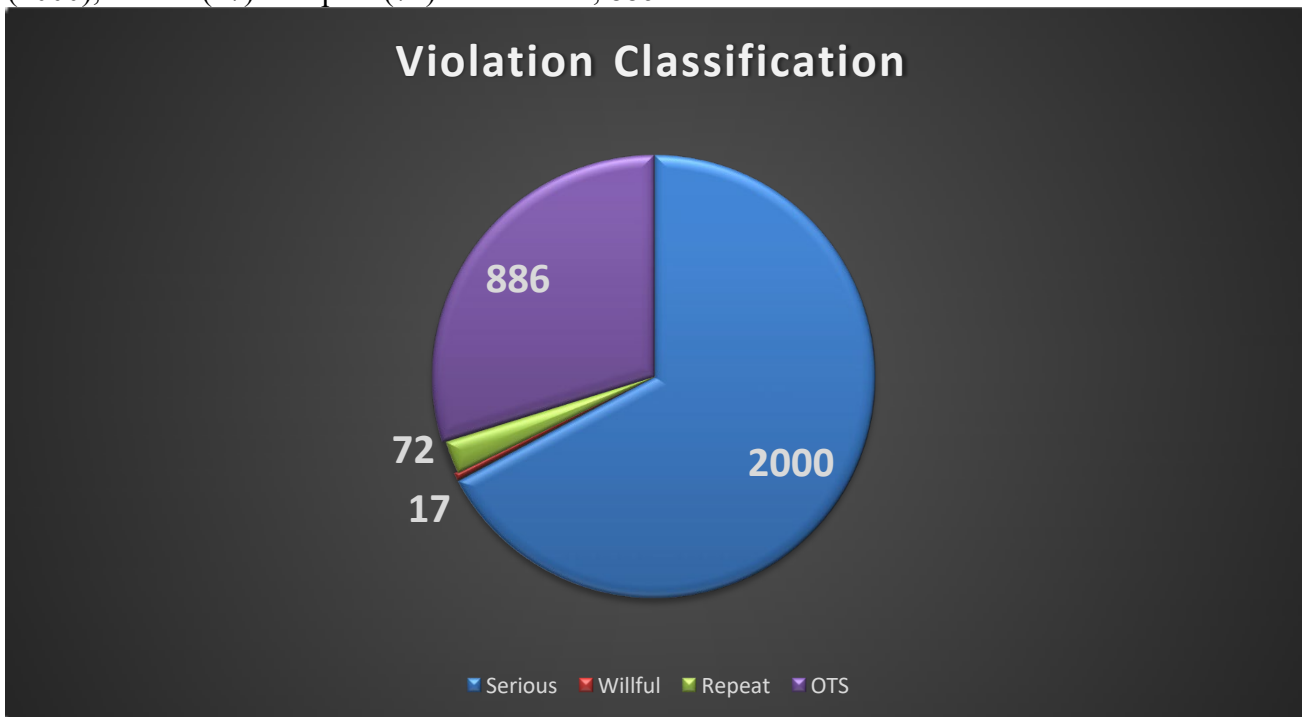
<sup>3</sup> Scan Summary Report Virginia FFY 2020 1 15 21.xls

<sup>4</sup> Violation Detail Data Report Virginia FFY 2020 1 15 21.xls

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In FFY20, VOSH issued 2975 violations. The majority of these (67%) were classified as Serious (2000), willful (17) or repeat (72). In addition, 886 violations were classified as other-than-serious.<sup>5</sup>



<sup>5</sup>Scan Summary Report Virginia FFY 2019 12 13 18.xls  
 Violation Detail Data Report Virginia FFY 2019 12 13 18.xls

## **State and Local Government Penalty Legislation and Regulation**

Senate Bill 607 was passed by the Virginia General Assembly and signed into law by Governor Terry McAuliffe directing 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 law became effective July 1, 2016. Information can be found at:

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=161&typ=bil&val=sb607>

The Virginia Safety and Health Codes Board adopted a final regulation November 30, 2017, on public sector penalties, amending the VOSH Administrative Regulations Manual (ARM), 16VAC25-60. The final regulation allows issuance of penalties to public sector 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”. The final regulation took effect on November 1, 2018, and applies to inspections opened on or after December 1, 2018. Information on the final regulation can be found at:

<https://townhall.virginia.gov/L/ViewStage.cfm?stageid=8153>

## **Emphasis Programs**

VOSH has implemented emphasis programs to target exceptionally problematic areas, such as one special emphasis program that uses Worker’s Compensation First Reports of Injury to investigate falls, struck-by, amputations, and other serious accidents. Other special emphasis programs include scaffolding, heavy equipment, and trenching, all of which have resulted in increased awareness of safety in the ever-dangerous construction industry. Emphasis programs covering asbestos, lead, silica, and hazardous chemical processes focus on health hazards encountered in the work environment.

## **Non-English Speaking Outreach**

VOSH recognizes that English is not the primary language of some of our customers. In the construction trades, landscaping, and service industries, Non-English speaking employees make up a significant portion of the workforce. Language barriers affect not only job quality and understanding of employee rights, but perhaps most importantly, can result in misunderstanding safety communications and requirements that can lead to serious and sometimes fatal work accidents. In an effort to better communicate with this segment of the workforce, VOSH has participated in a number of outreach events sponsored by the Embassy of Mexico and other Latino and Hispanic groups. Additionally, several multilingual VOSH staff have been utilized to translate documents and participate in translation services when dealing with Non-English speaking employees.

## **Compliance Safety and Health Officers (CSHO) Apprenticeship**

To date 77 CSHO and Consultant apprentices have graduated from the unique VOSH Apprenticeship Program.

## **Annual Safety and Health Conference**

VOSH usually hold a safety and health conference annually. Sadly, due to the pandemic and requirements to limit travel, VOSH was did not hold its annual safety and health conferences during FFY2020.

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## Significant Cases

### Impact of the COVID-19 Pandemic

As with many agencies in state government, but even more so because of its roll in working with employers and employees to provide safe and health workplaces in the Commonwealth, the Department’s VOSH program and its enforcement inspection, voluntary compliance, and cooperative program resources have been taxed to the limit and beyond.

The VOSH program has handled thousands of contacts from employer, 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 during the eleven month period from February 1, 2020 through January 8, 2021.

SUMMARY   VOSH COVID-19 RESPONSE						
Dates	12/11/20	12/18/20	12/25/20	1/1/21	1/8/21	Total
<b>Phone Calls</b>						
<b>Total Phone Calls</b>	171	217	100	195	215	10434
<b>UPAs Complaints   OIS Statewide</b>	41	40	19	26	41	1578 *
<b># Inspections</b> <i>Complaints, Referrals, Hospitalizations &amp; Fatalities</i>	4	3	2	2	3	108 **
<b># Hospitalizations</b>	0	0	0	1	2	63 ***
<i>Inspection</i>	0	0	0	1	0	21
<i>RRI</i>	0	0	0	0	2	32
<b>Fatalities/Workplace deaths</b>	1	0	0	0	0	30
<b># of Emails forwarded to Regional/Field Offices from MF</b> <i>COVID-19 positive Cases Reports (ETS)   Complaints</i> <i>(does not include reports submitted by phone in the Regional Offices).</i>	11	10	5	5	10	574
<b># REDCAP Notifications (Launched 09/28/20)</b>	1718	1470	1201	1519	1875	15317
<b># REDCAP Notifications (3 or more cases reported)</b>	428	354	331	435	597	3855 ****
<i>* Time Range: 01/01/2020 to 01/08/2021   UPA numbers may change as Regions update the system.</i>						
<i>** Inspections opened (Total: 108- Draft + Final)</i>						
<i>% of COVID-19 Inspections closed - 35%</i>						
<i>% of COVID-19 Inspections with violations - 25%</i>						
<i>*** There are Employers submitting multiple notifications. Some of the hospitalizations reported to VOSH later resulted in fatalities.</i>						
<b>****</b>						
<i>597 of the 1875 notifications were reports of more than 3 cases.</i>						
<b>Top 3 Health Districts Reporting Cases</b>						
Fairfax County   Central Virginia   Alleghany/Roanoke						

## Regulations

VOSH continues its efforts related to the hazards associated with Reverse Signal Operations, the Tree Trimming industry, Confined Space Standard and General Approach Distances in the Telecommunications industry, Overhead High Voltage Line Safety, Fall Protection in Steel Erection, and Sanitation in the Agricultural and Construction industries. Virginia has state specific standards related to these issues, and continues to enforce these unique standards. Information on Virginia unique standards can be found at: <https://www.doli.virginia.gov/vosh-programs/regulations-standards/>



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During FFY 2020, Virginia drafted or revised seven (7) program directives, and is in the process of revising/drafting seven (7) more. The Virginia Safety and Health Codes Board (Board) adopted one (1) federal-identical standard:

<b>Standard</b>	<b>Reference</b>	<b>Actions Taken</b>
Respiratory Protection Standard	§1910.134	Revisions to Appendix A—Additional Ambient CNC Quantitative Fit Testing Protocols

On July 15, 2020, the Board approved the Emergency Temporary Standard for Infectious Disease Prevention of the SARS-CoV-2 virus that Causes COVID-19 (ETS). Virginia was the first state in the country to enact such a standard. The ETS was designed to provide basic protections for all employees and employers within the jurisdiction of the Virginia Occupational Safety and Health program. The ETS took effect on July 27, 2021 and lapses on January 26, 2021.

On July 27, 2021 the Board published a proposed permanent replacement standard for the ETS. A 60 day written comment period on the Proposed Standard ran from August 27, 2020 to September 25, 2020 and a public hearing was held on September 30, 2020. Draft changes recommended by VOSH were published for a thirty day comment period on December 10, 2020, with the comment period running from December 10, 2020 to January 9, 2021.

A public hearing was held on January 5, 2021. The Board met on January 12-13, 2021 and adopted a final standard. As of January 15, 2021, the text of the standard has been finalized and forwarded to the Governor for review.

The Board also requested VOSH to Initiate Notice of Intended Regulatory Action (NOIRA) to adopt a regulation on Heat Illness Prevention.

### **Worker Misclassification**

On June 2, 2015, the Commissioner of Labor and Industry announced a new policy to address Worker Misclassification in Virginia Occupational Safety and Health (VOSH) Cases. Misclassification occurs when an employer improperly classifies a worker as an independent contractor who should in fact be an employee.

This policy is intended to improve protections for workers because misclassification can result in payroll fraud, reduced workers’ compensation and unemployment insurance protections, and violations of the tax code and other laws designed to protect workers.

Employers who are willing to commit payroll fraud and cut corners when it comes to providing employee protections such as workers’ compensation and unemployment insurance may be willing to cut corners when it comes to providing a safe and healthy workplace.

This policy is intended to level the playing field for employers who currently provide all legal protections for their workers against those who misclassify workers. Employers who properly classify workers incur higher payroll costs because they pay costs avoided by employers who misclassify.

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Employers who misclassify can undercut the bids of those honest contractors who follow the law. Assuring that all employers are playing by the same rules when it comes to classifying employees will help to assure that the construction bid process is fair for all and improve safety and health and other legal protections for workers.

VOSH continues to enforce the Worker Misclassification policy. Over 377 referrals have been made to the Department of Professional and Occupational Regulations for potential misclassification issues since June 2, 2015.



Commissioner of Labor and Industry, C. Ray Davenport:  
“Misclassification stifles competition and directly harms honest Virginia companies by allowing unscrupulous employers to undercut their bids on construction projects and in other procurement scenarios.”

### **Voluntary Protection Programs**

Voluntary Protection Programs (Virginia VPP) was instituted in 1996 and has a long record of exemplary success and unquestioned integrity. It enjoys strident support in Virginia’s business community and from labor organizations.

Virginia VPP continues to thrive. There are currently 35 Virginia STAR participants and 8 Virginia BEST level one participants. Growth for FFY2021 is projected to be 11.4%.

Virginia’s Voluntary Protection Program (VPP) is the quintessential example of a government program that has established a highly effective and productive cooperative relationship with the business community, workers, and state and local government agencies.

Virginia VPP acknowledges and fosters a state of the art approach to implementing safety and health management systems that prevent serious injuries, illnesses, and fatal accidents to employees; while also providing a demonstrative return on investment to businesses that allows them to be more productive, more competitive, and more economically viable in a very challenging economy.

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Virginia STAR Sites



The U.S. Department of Labor (DOL) estimates that tens of millions of taxpayer dollars are saved annually through the national and state VPP initiatives. The Voluntary Protection Program Participant’s Association estimates that 100’s of millions of dollars have been saved at private sector VPP STAR worksites.<sup>6</sup>

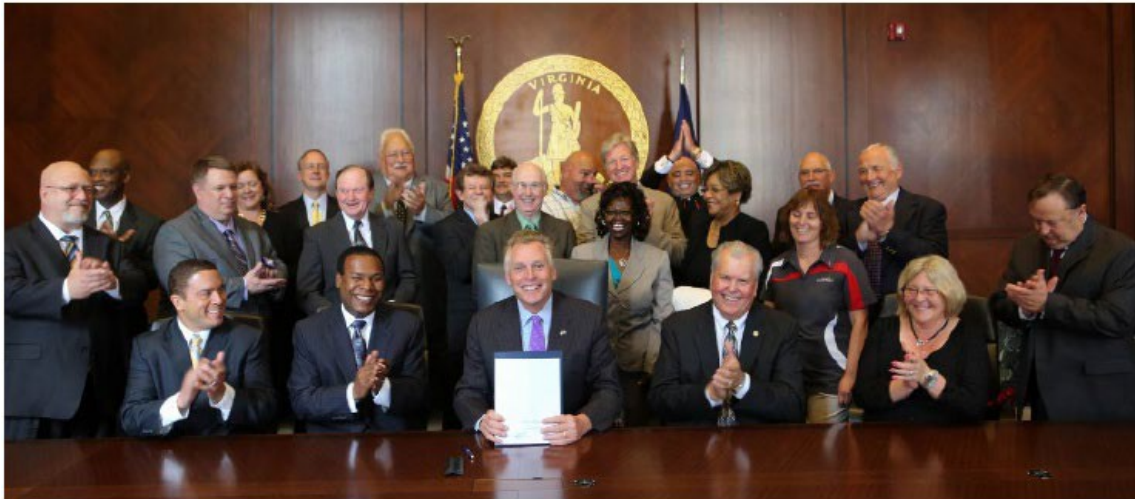
VPP assists businesses and state and local government agencies in substantially improving occupational safety and health protections for thousands of employees through voluntary and cooperative efforts that can result in reduced insurance premiums, Workers’ Compensation costs and absenteeism, while increasing productivity and competitiveness.

Virginia VPP Legislation

On June 3, 2015, Governor Terry McAuliffe signed a bill for the historic Voluntary Protection Programs Act in Virginia. The bill codifies the VPP system, which encourages companies to take safety and health management systems above and beyond the OSHA and VOSH requirements.

<sup>6</sup> [https://www.vpppa.org/images/ResourcesFiles/VPP\\_Works\\_and\\_Saves.pdf](https://www.vpppa.org/images/ResourcesFiles/VPP_Works_and_Saves.pdf)

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The Virginia Safety and Health Codes Board adopted a final regulation in accordance with Va. Code 40.1-49.13. at 16VAC25-60-200,

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+16VAC25-200-10>

### Virginia BEST

Virginia VPP has implemented a strategic partnership with the Associated General Contractors of Virginia (AGCVA) for the construction industry. Known as Virginia BEST (Building Excellence in Safety, Health and Training), this new recognition program is based on OSHA Challenge concepts and allows for recognition of construction contractors as they progress through three levels of safety and health management system development.



Virginia BEST has recognized its first three

level one participants:

W. M. Jordan Company  
R.E. Lee & Son, Inc.  
Piedmont Concrete Contractors  
Southern Air Inc.  
Perry Engineering

### VOSH – VADOC Challenge

VVPP has also signed a strategic partnership with the Virginia Department of Corrections (VADOC) based on OSHA Challenge concepts. Virginia is the only VPP program in the country that has two public sector correctional facility STAR sites (Augusta and Lunenburg Correctional Facilities).



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

The goal of the new strategic partnership is to work with and encourage more VADOC worksites to become members of VVPP. Eight correctional facilities have been identified and are currently in the application phase for step one participation in VADOC Challenge.

Applications to the VADOC Challenge Program have been received from the following correctional facilities/operations:

- Baskerville Correctional Center
- Caroline Correctional Unit 2
- Dillwyn Correctional Center
- Green Rock Correctional Center
- Greensville Work Center
- Harrisonburg Men’s Community Corrections Alternative Program
- Red Onion State Prison
- Virginia Correctional Enterprises HQ



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

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

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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.



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).

## IV. FFY 2020 SAMM 9, Percent in Compliance for Safety and Health State Initiated Special Study

### **Safety in Compliance Rate: FY 2020 Virginia FAME**

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

Issue: In Compliance Rate for Safety

SAMM Measure 9: Percent in Compliance  
 (Further Review Level +/- 20% of National Rate)

<b>In Compliance Rate (Virginia Safety)<sup>7</sup></b>	<b>OSHA Rate<sup>8</sup></b>	<b>Nat. Rate<sup>9</sup></b>	<b>Difference From Nat. Rate</b>
44.83%	27.54%	31.03%	+44.47%

Safety Analysis:

It is federal OSHA policy (and a number of state plans) on multi-employer construction job sites to open an inspection and assign an inspection number to only those employers that are going to be issued citations. Virginia's policy in such situations is to open an inspection and assign an inspection number to all employers covered by the scope of the inspection, regardless of whether citations are going to be issued to the employer or not.

Based on the above policy differences, VOSH is supplying a recalculated Safety in Compliance Rate.

OIS Report:

Scan Summary Report

Report Criteria:

Construction safety multi-employer inspections for the evaluation period

Report Results:

The original Scan Summary Report resulted in 827 construction inspections<sup>10</sup>. Those inspections that were "Multi-Employer" totaled 559 inspections remained. Of those 559 Multi-Employer inspections, 273 were In Compliance.

<sup>7</sup> FFY 2020 number

<sup>8</sup> FFY 2020 number

<sup>9</sup> Three year rolling average.

<sup>10</sup> Source: " FFY 2020 run 1 15 21". "No Inspections" were not included in any counts.

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If VOSH followed OSHA's multi-employer construction policy, it would have conducted 273 fewer construction Multi-Employer inspections and had 273 fewer In Compliance inspections. Recalculating the Virginia Safety In Compliance rate by adjusting for those 273 In Compliance construction inspections results in a rate of 31.16%, within +/-20% of OSHA's rate of 27.54%, a difference of +13.14% (see below for recalculation details).

**The recalculated Virginia In-Compliance rate of 31.16% is within the +/-20% Further Review Level of the National rate of 31.03% (the SAMM Reference Level), a difference of +0.40% (see below for recalculation details).**

Relevant statistics for recalculating the Virginia Safety In Compliance Rate:

Total Safety Inspections for the period: 1,380<sup>11</sup>

Total Safety In Compliance inspections for the period: 618 (44.83% of 1,380)

Total Safety In Compliance Multi-Employer Construction inspections: 273

Adjusted Numerator and Denominator for Safety In Compliance rate:

In Compliance Inspections: 345 (618-273)

Total Inspections: 1,107 (1,380 – 273)

Recalculated In Compliance Rate: 31.16% (345/1,107)

Summary of Recalculated Measure:

SAMM Measure 9: Percent in Compliance (Further Review Level +/- 20%)

Comparison of Recalculated In Compliance Rate (Virginia Safety)	OSHA Rate	Nat. Rate	Difference from Nat. Rate
31.16%	27.54%	31.03%	+0.40%

**Health in Compliance Rate: FY 2020 Virginia FAME**

<sup>11</sup> Source: VA FY Appendix D SAMM Report 2020



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**Evaluation Period:** October 1, 2019 to September 30, 2020

**Issue:** In Compliance Rate for Health

SAMM Measure 9: Percent In compliance  
 (Further Review Level +/- 20% of National Rate)

<b>In Compliance Rate (Virginia Health)</b>	<b>Nat. Rate</b>	<b>Difference From Nat. Rate</b>
51.42%	37.15%	+38.41%

**Health Analysis:**

Virginia conducts a much higher percentage of asbestos inspections than OSHA (155<sup>12</sup> of 455<sup>13</sup> inspections or 34.06%) because of a longstanding policy that requires all formal and non-formal asbestos complaints alleging employee exposure be inspected, and a statutory requirement to inspect annually certain asbestos contractors that results in a large number of planned asbestos inspections.

These planned and complaint-based inspections often result in no citations being issued because Virginia has an Asbestos and Lead Contractors and Workers statute (Va. Code §54.1-500.1, et. seq.) that requires all asbestos contractors, supervisors, and workers to be fully trained and licensed by the Virginia Board for Asbestos, Lead, and Home Inspectors.

Based on the above policy differences, VOSH is supplying a recalculated Health In-Compliance Rate.

**OIS Report:**

Inspection One Liner Report

**Report Criteria:**

Asbestos LEP Health inspections for the evaluation period

**Report Results:**

The Scan Summary Report resulted in 161 Health Asbestos LEP inspections<sup>14</sup>. Of those 161 inspections, 131<sup>15</sup> were In-Compliance<sup>16</sup>, which is an In-Compliance rate of 81.36% (131/161).

<sup>12</sup> Source: Inspection One-Liner Asbestos Inspections FFY 2019 run 12 10 19. “No Inspections” were not included.

<sup>13</sup> Source: VA EOY SAMM Report 2019.xls run on 11 13 19

<sup>14</sup> Source: Inspection One-Line Asbestos Inspections FFY 2019 run 12 10 19

<sup>15</sup> Source: Inspection One-Liner Asbestos Inspections FFY 2019 run 12 10 19

<sup>16</sup> Column O in the Inspection One-Liner Asbestos Inspections FFY 2019 run 12 10 19

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Although VOSH does not have access to the number of asbestos inspections OSHA conducts, nor its' In-Compliance rate for its asbestos inspections, if we assume that OSHA's asbestos In-Compliance rate is at least comparable to its overall In-Compliance rate, it is reasonable to conclude that VOSH's Health rate should be adjusted to achieve a more realistic comparison rate.

**Recalculating the Virginia Health In-Compliance rate by adjusting for the 161 total and 131 In-Compliance Asbestos LEP inspections results in a rate of 35.43%, within the +/-20% Further Review Level of the National rate of 37.15% (see below for recalculation details).**

Relevant statistics for recalculating the Virginia Health In-Compliance Rate:

Total Health Inspections for the period: 463

Total Health In-Compliance inspections for the period: 238 (51.42% of 463)

Total Health Asbestos inspections for the period: 161

Total Health In-Compliance Asbestos inspections: 131

Adjusted Numerator and Denominator for Health In-Compliance rate:

In-Compliance Inspections: 107 (238 - 131)

Total Inspections: 302 (463 – 161)

Recalculated In-Compliance Rate: 35.43% (107/302)

SAMM Measure 9: Percent In-Compliance (Further Review Level +/- 20%)

<b>Comparison of Recalculated In-Compliance Rate (Virginia Health)</b>	<b>Nat. Rate</b>	<b>Difference</b>
35.43%	37.15%	-4.62%

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**V. Mandated Activities**

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	3.15	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)	1.58	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)	0.86	3	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.38	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: 1.85	+/- 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: 0.54	+/- 20% of Other: 0.95	
6	Percent of total inspections in state and local government workplaces	6.68%	+/- 5% of 7.33%	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 6.96% to 7.69%.

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7	Planned v. actual inspections – safety/health	S: 1,380	+/- 5% of S: 1,585	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 1,505.75 to 1,664.25 for safety and from 387.60 to 428.40 for health.
		H: 463	+/- 5% of H: 408	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$2,599.69	+/- 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)	\$1,550.00	+/- 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)	\$3,585.70	+/- 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 (101-250 workers)	\$4,962.29	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,770.27 to \$6,283.78.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$7,362.75	+/- 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: 44.83%	+/- 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: 51.42%	+/- 20% of H: 37.15%	
10	Percent of work-related fatalities responded to in one workday	96.77%	100%	The further review level is fixed for all State Plans. CSHO was directed to conduct this fatality virtually because of COVID-19 and numerous attempts were made to contact the employer.

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**V. Mandated Activities**

<b>11</b>	Average lapse time	S: 41.90	+/- 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: 41.67	+/- 20% of H: 60.39	
<b>12</b>	Percent penalty retained	73.93%	+/- 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%.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	39%	100%	The further review level is fixed for all State Plans.  Note: The average days to complete an investigation was 140 days (State Plan average is 296 days), with 39% being completed within 90 days (State Plan average is 40%).
<b>15</b>	Percent of 11(c) complaints that are meritorious	30%	+/- 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%.  Note: Seven (30%) docketed cases were determined to be meritorious (State Plan average 20%) with 100% successfully settled in the amount of \$103,282.14. Four of the settled cases involved COVID-19.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	140	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	1.22%	+/- 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%.