

STATE OF VERMONT
STATE OSHA ANNUAL REPORT
(SOAR)

October 1, 2013 through September 30, 2014



Prepared By:

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

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	3
SUMMARY OF RESULTS RELATED TO THE ANNUAL PERFORMANCE PLAN	6
PROGRESS TOWARD STRATEGIC PLAN ACCOMPLISHMENT	15
STATE INTERNAL EVALUATION PROGRAM	16

Introduction;

The State of Vermont, Department of Labor, Division of Workers' Compensation and Safety, Occupational Safety and Health State Plan (VOSHA) submits this State OSHA Annual Report (SOAR) to the Federal Occupational Safety and Health Administration (OSHA) for evaluation of the Vermont State program.

The SOAR covers the time period October 1, 2013 through September 30, 2014. This submission is in accordance with the State Plan Manual dated December 1, 2002.

This SOAR contains the following sections:

- State Results Summary Chart
- Report on Progress toward Achieving Strategic Plan Accomplishment
- A draft State Internal Evaluation Program (SIEP) Report

VOSHA, the state's Occupational Safety and Health Administration (OSHA) 23(g) enforcement program, and Project WorkSAFE, the state's OSHA 21 (d) consultation program, are administered by the Vermont Department of Labor, Division of Worker's Compensation. The current Commissioner of Labor is Anne M. Noonan, and J. Stephen Monahan is the director of the Division of Workers' Compensation and Safety.

FY 2014 has been a continuation in the rebuilding of the VOSHA program. As such there have been many changes both in personnel and policy. Staff changes have continued through FY 2014 and will continue into FY 2015. Staff changes for FY 2014 are outlined below:

- The interim Manager of the VOSHA program was made permanent as of January 2014
- VOSHA was able to hire a full time administrative assistant in the month of March 2014
- VOSHA lost three additional safety compliance officers, due to resignation and retirement; the first in May of 2014 and the second in July of 2014 and the third safety CSHO retired in August 2014.
- VOSHA continued to have the 11(c) investigations conducted by a safety CSHO on a full time basis, however VOSHA received notice of that CSHO's retirement, effective December 31st, 2014.
- In addition, VOSHA received notice of impending retirement of a health CSHO, effective December 31st, 2014.
- As of October 31st, 2014, VOSHA has hired two safety CSHO's (to start on November 4th, 2014) and an 11(c) investigator (to start November 10th, 2014).
- VOSHA is presently working to re-write a Safety CSHO position to be a dual discipline (both safety and industrial hygiene) position. This position will be the former Safety CSHO/11(c) position in Montpelier. This position will be filled in FY 2015.
- The Health CSHO position which will be vacated by impending retirement will be recruited and filled in FY 2015.
- VOSHA continues to have vacancies of 1 Health CSHO (March 2013) and a Compliance Assistance Specialist (July 2013)

In light of the above mentioned staff changes, VOSHA operated with the following staff in FY 2014:

- Safety CSHOS; 2 full time throughout the year, 1 at .25 FTE (this is the CSHO who took over investigations of 11(c) whistleblower), 1 Safety CSHO for 7 months, 1 safety CSHO for 8 months, 1 Safety CSHO for 9 months
- Industrial Hygiene CSHOS; 3 full time throughout the year
- 11(c) investigator; 1 at .75 FTE
- Compliance Supervisor, 1 full time
- VOSHA Program Manager, 1 full time
- Administrative Assistant; 1 full time for 6 months

The consultation and enforcement programs continue to operate with no changes. Scott Meyer, industrial hygiene engineer, is the project manager for the consultation program and Daniel A. Whipple is the manager of the VOSHA enforcement program. Although the consultation and enforcement programs do not share personnel and maintain their own offices in different locations, the two programs share common goals to ensure workplace safety and health in the State of Vermont. Therefore, the VOSHA and Project WorkSAFE managers work closely together to develop strategies for achieving these goals.

The updated VOSHA website came on line in March of 2013. Although there are still some minor issues with the site that need to be addressed, it appears to be much more user friendly. VOSHA has found that health and safety complaints, as well as whistleblower complaints, have increased significantly since the new site has been up and running. This is probably because the site is not only more user friendly, but also much easier to access.

VOSHA continues to conduct compliance assistance activities primarily with alliance members, but at a reduced frequency. The outreaches are conducted primarily by the VOSHA manager with a small number being conducted by senior compliance officers. Approximately 20 outreaches were conducted in FY 2014. Approximately 400 employees/stakeholders were reached by the aforementioned outreaches. VOSHA continues to maintain alliances with the following current alliances:

- The Vermont Safety and Health Council
- Vermont Local Roads
- Vermont Rural Water Association
- Vermont Department of Buildings and General services

VOSHA continues its work in the Green Mountain Voluntary Protection Program (GMVPP). In FY 2014, there were no withdrawals from the Green Mountain VPP and, in fact VOSHA added a STAR site to the program. VOSHA also conducted a recertification visit at GE Aviation in Rutland, which was completed in the first week of FY 2015. The following sites are now recognized as GMVPP STAR sites:

- Ben and Jerry's, Saint Albans
- GE Aviation, Rutland
- Energizer Battery, Bennington
- IBM, Essex Junction
- Curtis Lumber, Burlington

VOSHA continues to operate the Challenge program (VOSHA Challenge). As of this writing there is one site—Daily Precast— being actively mentored under the VOSHA Challenge program.

The GMVPP is still the only formal partnership program that VOSHA recognizes. As such, VOSHA places a high value on maintaining the integrity of this program. The VOSHA Program Manager, who managed the GMVPP program when he was a CAS, still does so. The State of Vermont has not yet taken any action to fill the vacant CAS position.

In FY 2009, VOSHA began a five-year strategic plan, which was scheduled to extend through the end of FY 2013. Due to changes in management that VOSHA was experiencing in 2012 and 2013, the program felt that it could not develop a new five-year strategic plan before the beginning of FY 2014. Therefore, VOSHA requested, and was granted, a one-year extension, which changed the expiration date from September 30, 2013 to September 30, 2014. In July of 2014, VOSHA prepared a new, five-year strategic plan. The plan was reviewed and accepted by Federal OSHA.

In FY 2014, VOSHA began the rulemaking process for a number of standards that VOSHA did not adopt within the six-month period from the standard notification date. These rules include the following:

- Revising Standards Referenced in the Acetylene Standard, FR 74:57883-57884
- Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards, FR 75:27188-27189
- Cranes and Derricks in Construction: Underground Construction and Demolition, FR 78: 23837-23843
- Updating consensus standards for Head Protection FR 77: 37587-37600

In addition to overdue rules VOSHA also began rulemaking on current rules adopted by Federal OSHA. These rules are as follows:

- Cranes and Derricks in Construction - Operator Certification – Final Rule, FR 79 FR 57785 (actually submitted in FY 15, with rule changes in process started in FY 14)
- Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment FR 79: 20315-20743
- Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Corrections, FR 79: 56955-56962 (actually submitted in FY 15, with rule changes in process started in FY 14).

Of the standards submitted in FY 2014, three, have been formally adopted they are:

- Revising Standards Referenced in the Acetylene Standard, FR 74:57883-57884
- Revising the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards, FR 75:27188-27189
- Updating consensus standards for Head Protection FR 77: 37587-37600

The other standards are in process and adoption during FY 2015 is expected.

As discussed earlier, a string of vacancies in field staff began to occur in FY 2014. VOSHA began FY 2014 with nine CSHOs (6 safety and 3 health). However, by the end of FY 2014, three CSHOs had either resigned from the program or retired. Because these positions were not filled until after the end of FY 2014, VOSHA was not able to meet its annual performance plan goal of 350 inspections, but did manage to conduct 304 inspections (214 safety and 90 health), or nearly 87 percent of its goal. This total is respectable, despite the fact that by the end of FY 2014, VOSHA had 30 percent fewer CSHOs on board than it had at the beginning of the fiscal year.

Of the 304 inspections conducted in FY 2014, 148 inspections in construction were conducted (138 private sector and 10 public sector construction). Of this total, 118 inspections were classified as safety and 30 were classified as health. Of a total of 404 violations issued FY 2014, 305 related to safety and 99 related to health hazards; 314 were classified as serious; 90 were classified as other than serious; and 5 were classified as repeat.

In the tables below, VOSHA compares Calendar Year (CY) 2013 days away from work, restricted work activity, or job transfer (DART) rates to CY 2007 baseline DART rates.

	Projected FY2014			Actual FY2014		
	Safety	Health	Total	Safety	Health	Total
TOTAL INSPECTIONS	250	100	350	214	90	304
Private Sector	235	90	325	203	83	286
Public Sector	15	10	25	10	8	18
TOTAL CONSTRUCTION INSPECTIONS	129	20	149	123	30	153
Residential and Commercial Construction	125		125	107	23	130
Highway, Street and Bridge	20		20	9	2	11
Roofing	15		15	48	0	48
LEPs & Other Areas of Emphasis						
Falls from Elevation				62	2	64
Trenches and Excavations				24	2	26
Struck-by						
Electrical						
Noise Samples						
Silica Inspections					4	4
TOTAL NON-CONSTRUCTION INSPECTIONS	110	55	165	90	61	151
Work Zones			5	5		5
Food Processing			10	8	1	9
Lumber and Wood Products			15	10	1	11
Targeted NAICS/SICs						
Amputations			20	40	15	55
Isocyanates, Asthma, Allergies						
Electrical						Evaluated on all inspections
PIT						Evaluated on all inspections
Falls				4	2	6
Noise/silica			5		4	4

STRATEGIC GOAL #1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards.		
GOAL	FY2014 OUTCOME	COMMENT
Compliance Inspection Activities (Construction)		
Performance Goal 1.1—By 2013 (extended to 2014), reduce the rate of workplace injuries and illnesses in construction by 15% and reduce fatalities by 25% (over 2007 BLS baseline)	Goal was met	Reduction of DART rate was reduced 31.25% from 2012 to 2014. Overall reduction from 2007 to 2014 was reduced 46.5%.
Performance Goal 1.1a—Reduce workplace injuries and illnesses in construction by 3% and reduce fatalities in construction by 25% (over 2007 BLS baseline)	Goal was met	2013 BLS Data shows a construction DART rate of 2.2 which reflects a 31.25% decrease from 2012 and represents a 46.5% reduction in the 2007 baseline number of 4.1. In FY 2014, VOSHA investigated 1 Fatality attributed to construction (below). In 2007 there were 0 fatalities in construction In 2014, there were 8 fatalities and 1 catastrophe. Of those fatalities, Of the 9 fatalities 3 were deemed VOSHA jurisdiction. 1 fatality was a logging incident, 1 was a work zone/struck by incident and 1 was an truck driver struck by vehicle incident. The catastrophe was a collapse of a building under construction that sent 4 people to the hospital.
Conduct 125 residential and commercial	Goal was exceeded	In 2014, VOSHA conducted 130 residential and commercial construction inspections

building inspections		
Conduct 20 highway, street and bridge construction inspections	Goal was not met	In 2014 VOSHA conducted 11 total highway, street and bridges construction inspections
Conduct 15 roofing inspections	Goal was exceeded	In 2014 VOSHA conducted 48 roofing inspections as in the past most of these inspections are generated on fall LEP self-referrals.

STRATEGIC GOAL #1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards. CONTINUED		
GOAL	FY2014 OUTCOME	COMMENT
Compliance Inspection Activities (Construction)		
Conduct inspections at worksites at risk for hazards related to falls, trenching, struck-by, electrical, noise, silica, youth and work zone safety.	Goal was met VOSHA conducted inspections in all categories.	In 2014, VOSHA focused much of the construction activities in the area mentioned in this goal. VOSHA conducted 26 trenching and excavation LEP inspections 64 fall LEP inspections and 4 silica related inspections. In addition, VOSHA cited violations in electrical hazards as well as PIT. VOSHA continues to address the ongoing issue of IH sampling as well as addressing health hazards in construction.
Compliance Inspection Activities (General Industry)		
Performance Goal 1.1—By 2013, reduce the rate of workplace injuries and illnesses in general industry by 15% and reduce fatalities by 25% (over 2007 BLS baseline)	Goal was not met	2013 BLS Data shows a general industry DART rate of 3.0 which reflects a 9.1% decrease from 2011 and represents a 11.7% reduction in the 2007 baseline number of 3.4. In 2014, there were 8 fatalities and 1 catastrophe. Of those fatalities, Of the 9 fatalities 3 were deemed VOSHA jurisdiction. 1 fatality was a logging incident, 1 was a work zone/struck by incident and 1 was an truck driver struck by vehicle incident. The catastrophe was a collapse of a building under construction that sent 4 people to the hospital.

<p>Performance Goal 1.1a— Reduce workplace injuries and illnesses in general industry by 3% and reduce fatalities by 25% (over 2007 BLS baseline)</p>	<p>Goal was met</p>	<p>In FY 2014 VOSHA investigated two fatalities related to general industry. In 2007 there were seven non construction fatalities. This represents a 71% reduction.</p>
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STRATEGIC GOAL #1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards. CONTINUED		
GOAL	FY2014 OUTCOME	COMMENT
Compliance Inspection Activities (General Industry)		
Conduct 10 food processing inspections	Goal not met	In 2014, VOSHA conducted 9 inspections related to food processing.
Conduct 15 lumber and wood products manufacturing inspections	Goal was not met	In 2014, VOSHA conducted 11 inspections related to the lumber and wood products manufacturing.
Conduct 20 inspections where there are amputation hazards	Goal was exceeded	In FY 2014, VOSHA conducted 55 inspections related to amputation hazards.
Conduct 20 inspections in the granite and concrete industry	Goal was not met	In FY 2014, VOSHA conducted 4 concrete and granite related inspections.
Inspect 100% of employers on the ODI list that have DART rates above the threshold	Goal was met	In 2014, we achieved this goal. In 2014 VOSHA continued to use CPL 02-13-01 Sight Specific Targeting for General Industry as well as 02-00-155 for construction.

Conduct inspections at worksites at risk for hazards related to small business, isocyanates, falls, electrical, powered industrial trucks, noise, silica, youth and transportation.	Goal was met	VOSHA continues to focus inspection activities in the areas mentioned. VOSHA has adopted the construction targeting (C-Targeting) as well as the general industry Site Specific Targeting (SST).
Compliance Assistance Activities		
Conduct 10-hour course for vocational education students and instructors to three new schools	Goal was not met	Because of the limited schedule of CAS activities from the manager, VOSHA did not conduct any 10 hour courses in educational institutions in FY 2014.
Provide training in workplace safety and health to 200 vocational-technical students	Goal was not met	VOSHA did not conduct outreach in educational institutions in 2014.
Provide training for first year electrical and plumbing apprentices through the Vermont Apprenticeship Program's related instruction classes	Goal was not met	Due to the lack of a request from the apprenticeship program manager, VOSHA did not conduct training through the VT Apprenticeship program in 2014.

Conduct outreach to employers through trade shows, labor organizations, trade associations, Alliances, Vermont state agencies, and other groups	Goal was met	VOSHA conducted approximately 20 outreaches in 2014 for approximately 400 participants, which, given the limited schedule of the manager, is deemed appropriate.
Provide ongoing safety and health training to participants in state youth programs	Goal was not met	As in last year, no training was conducted for youth in statewide programs.
Cooperative Program Activities		
Maintain Alliances with the Vermont Safety and Health Council; Vermont Rural Water and Vermont Local Roads	Goal was met	VOSHA maintained Alliances with all of these partners, The Alliance with the Vermont Safety and Health Council includes the four regional safety and health roundtables. Both the VSHC and the roundtables host training events that include participation by the VOSHA CAS and Project WorkSAFE. The Vermont Rural Water Alliance continues. VOSHA/Project WorkSAFE conducted a total of 10 outreaches with alliance partners in 2014.
Recruit one new VPP applicant	Goal was not met	VOSHA did not recruit a VPP site in FY 2014, however, VOSHA did not lose any sites either.

Promote Project WorkSAFE	Goal was met.	VOSHA promoted Project WorkSAFE through contact with employers and various groups and associations. Project WorkSAFE was promoted in 100% of inspections. The VOSHA closing conference guide has one full page dedicated to Project WorkSAFE. The back cover of the printed construction and general industry standards is dedicated to advertising the Project WorkSAFE consultation program. Project WorkSAFE is also promoted at informal conferences.
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Green Mountain Voluntary Protection Program

Company	Status	Last Approval Date	New Renewal Date	Original Approval Date
Ben & Jerry's	STAR	04/28/2011	04/28/2016	10/22/2007
Energizer Battery/Bennington	STAR	4/18/2012	4/1/2017	8/22/2007
GE Rutland	STAR/Renewal	4/8/2009	10/02/2014	5/16/2006
IBM	STAR	2/28/2012	2/28/2017	7/14/2008
Curtis Lumber/Burlington	Site Visit			
Peckham Industries	Challenge			
Curtis Lumber/Burlington	Star	12/27/2013	12/27/2016	12/27/2013

Alliances

Company or organization	Status	Date signed
Vermont Rural Water	Active	11/15/2013
VT Buildings and General Services	Active	02/13/2013
Vermont Local Roads	Active	02/22/2013
Vermont Safety and Health Council	Active	02/15/2010

PROGRESS TOWARD STRATEGIC PLAN ACCOMPLISHMENT

Vermont BLS DART rates for the period 2007 – 2013 have been reduced for all NAICS divisions as follows:

Year	All	Private sector	Manufacturing	Construction	Public sector
2007	2.7	2.8	3.4	4.1	2.0
2008	2.4	2.5	3.4	4.0	1.4
2009	2.1	2.2	2.6	3.8	1.3
2010	2.5	2.6	2.6	3.9	1.9
2011	1.9	2.2	2.5	2.9	0.9
2012	2.2	2.3	3.3	3.2	1.5
2013	2.2	2.2	3.0	2.2	1.7
Percent reduction from baseline year 2007					
	-18.5%	-21.4%	-11.7%	-46.3%	-15%

During FY 2014, VOSHA endured an unprecedented level of staff changes. A total of 3 CSHOs left the program, with two more giving notice of retirement, effective December 31, 2014. None of these actions were anticipated at the start of FY 2014. As a result, VOSHA's ability to conduct inspections was greatly affected. In light of the impending retirement of the CSHO who has been primarily responsible for conducting whistleblower investigations, VOSHA moved to fill this vacancy before this person's retirement became effective on December 31, 2014. As a result, a new full-time whistleblower investigator was hired in November 2014.

In the past, VOSHA's whistleblower program has been staffed by one or two CSHOs who divided their time between enforcement and handling whistleblower cases. Because VOSHA has experienced an upward trend in whistleblower cases over the past few years, the program believes that a full-time investigator is a necessity. In FY 2014, 16 new 11(c) investigations were opened. VOSHA fully expects this trend to continue.

VOSHA continues to perform the CAS/Green Mountain VPP functions, primarily from the manager and supervisor positions. However, the frequency of these outreaches has been significantly reduced. VOSHA was not successful in obtaining additional funding from the state to fund the CAS position. As a result, this position has been vacant since July 2013, when the CAS was promoted and became the VOSHA director. At VOSHA's current funding level, the program does not have enough money hire a full-time CAS.

VOSHA conducted a Green Mountain VPP, recertification visit at GE Aviation in September of 2014.

Despite all of the changes that have occurred over the past year, VOSHA is optimistic about the future. VOSHA has been able to achieve some significant accomplishments in FY 2014, such as:

- Stabilizing the administrative part of the program with the hiring of a competent administrative assistant;
- Aggressively undertaking rules adoption, and beginning the adoption of a number of rules that are overdue for adoption. In FY 2015, VOSHA will continue to catch up on overdue adoptions and will keep pace with new rules as they are issued. VOSHA expects to submit at least four rules for adoption in FY 2015.

- Actively recruiting replacements for retiring/resigning CSHO's. However, more importantly, VOSHA is-re-evaluating how best to allocate personnel resources. This process has led to the creation of a full time 11(c) whistleblower investigator as well as the creation of a dual discipline position in which a properly trained and qualified employee can conduct both health and safety enforcement.
- Continuing to evaluate regional staffing and making adjustments to this model to more effectively place positions in areas of the state that are currently underserved. For example, VOSHA will transfer an industrial hygienist from Burlington to Montpelier to provide better coverage on the eastern side of the state.
- Changing the format of informal conference agreements, which has resulted in a dramatic reduction in employer non-responses to informal settlement agreements. In the past, VOSHA had mailed informal settlement agreements to employers for signature post conference. Instead, the program is having the employer sign the informal settlement agreement at the conclusion of the informal conference.
- Successfully converting from the IMIS system to the new OIS system; and
- Developing a new five-year strategic plan, which began in FY 2015.

State Internal Evaluation Plan (SIEP)

In FY 2013, VOSHA drafted a new SIEP, but planned to continue to make changes to it so that it would be finalized and ready to use in FY 2014. However, due to challenges that the managers were grappling with in FY 2014 (e.g., staff turnovers, development of a new five-year strategic plan, and a significant investment of the Managers time in adopting rules), the SIEP was put on hold. VOSHA will face another challenging year in FY 2015 by having to train newly hired CSHOs and engaging in another ambitious effort to become current on rule adoptions. Therefore, VOSHA plans to finalize the SIEP and begin implementing it in FY 2017 (10/01/2016).