

**STATE OF VERMONT**  
**STATE OSHA ANNUAL REPORT**  
**(SOAR)**

October 1, 2016 through September 30, 2017



**Prepared By:**

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

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The Vermont Occupational Safety and Health State Administration (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 fiscal year (FY) 2017 (October 1, 2016 through September 30, 2017).

This SOAR contains the following sections:

- State Results Summary Chart
- Report on Strategic Plan Accomplishment
- State Internal Evaluation Program (SIEP), a lookback at case file opening to issue times and ways of improvement

The Vermont Department of Labor, Division of Workers Compensation, administers VOSHA, and Project WorkSAFE, the state's OSHA 21 (d) consultation program.

In FY 2017, signs that VOSHA would be experiencing budgetary problems began to appear, and were ominous. For example, when two compliance safety and health officers (CSHO) left the program, VOSHA had no choice but to alert the Region that at least one of these positions would remain vacant indefinitely. This unfortunate situation has arisen mainly because VOSHA's federal grant funding has remained constant over the past few years and has not kept up with the program's ever increasing operating expenses. In addition, to make the budget balance for FY 2018, VOSHA will not be able to fill the other vacant CSHO position until the end of the first quarter of FY 2018.

Despite these budgetary issues, VOSHA was able to perform at the expected levels due to an outstanding effort by the existing staff. At the Occupational Safety and Health State Plan Association (OSHSPA) meeting in the spring of 2017, OSHA warned the State Plans of the possibility that in FY 2019, the federal match may go below the current level; if this happens, VOSHA could face a critical point at which our service to working Vermonters could become affected.

The following is VOSHA's staffing at the beginning of FY 2018:

- Director of Workers Compensation and Safety; 1
- Program Manager; 1
- Compliance Supervisor; 1
- Administrative Assistant; 1
- Safety Compliance Officers; 3
- Health Compliance Officers; 2
- Health/Safety Compliance Officer; 1
- 11(c) Whistleblower Investigator; 1
- Total: 11 \*NOTE - the Director of Workers Compensation and Safety is not a dedicated VOSHA full-time equivalent (FTE).

The consultation and enforcement programs continue to operate with no structural changes. 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 continue to work closely together to develop strategies for achieving these goals.

In FY 2016 and FY 2017, VOSHA ensured that the CSHOs on board were enrolled in the courses required by OSHA's training directive (TED 01-00-019). As mentioned previously, VOSHA intends to fill the vacant safety CSHO position in the first quarter of FY 2018, and will also ensure that the new hire will complete the basic training track for CSHOs, as prescribed in OSHA's current training directive. VOSHA continues to ensure that training is provided to CSHOs from both the OSHA Training Institute (OTI) as well as other training sources. All of VOSHA CSHOs attended training in FY 2017. The following staff attended OTI and other courses in FY 2016 and in FY 2017:

- VOSHA Compliance Program Manager
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher.
- VOSHA Compliance Supervisor
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
- Senior Industrial Hygienist
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
- 11(c) Whistleblower Investigator
  - Course 1230- Accident Investigation
  - Course 2450- Evaluation of Safety and Health Management Systems
  - L0954 NIMS ICS All Hazards, Safety Officer Course
- Senior Safety Compliance Officer
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
- Industrial Hygiene/Safety Compliance Officer
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
  - Course 1230 . Accident Investigation 05/25/2017
  - Course 2450 . Evaluation of Safety and Health Management Systems 06/08/2017
  - Workplace Safety Solutions private training: Walking/Working Surfaces & Fall Protection
- Senior Industrial Hygienist;
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
- \* Safety compliance Officer;

- Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
- Course 1230- Accident Investigation
- Course 2450- Evaluation of Safety and Health Management Systems
  
- Webinar 0102- Aerial Lifts in Construction Industry
- Webinars 0117 . New Walking Working Surfaces and PPE Fall Protection Rule
- Webcast . Providing Powered Industrial Truck Training
  
- \* Safety Compliance officer;
  - Hazardous Waste Operations and Emergency Response (HAZWOPER) 8-hour refresher
  - Course 1000- Initial Compliance 02/03/2017
  - Course 1050- Introduction to Safety Standards 03/30/2017
  - Course 1230- Accident Investigation 05/25/2017
  - Course 2450- Evaluation of Safety and Health Management Systems 06/08/2017
  
  - Webinar 0037- Fall Protection in Residential Construction 04/03/2017
  - Webinar 015- Powered Industrial Vehicles/Operational Hazards and Applicable Standards
  
  - Emergency Management Institute- FEMA IS-00100.b and IS-00200b
  
  - L0954 NIMS ICS All Hazards, Safety Officer Course

*(\* Denotes staff who were hired in either FY 2014 or FY 2015 and who have not yet completed the basic CSHO training track.)*

Progress on Employers' Compliance with OSHA's Revised Injury and Illness Reporting Rule (1904 Occupational Injury and Illness Recording and Reporting Requirements . NAICS Update and Reporting Revisions)

There are signs that employers in Vermont are becoming more aware of the requirement that employers report injuries requiring admission to a hospital. VOSHA has seen an increase in reports from smaller to mid-size employers, which would indicate that the message is getting out. The mandatory reporting requirement has been a good source of inspections. Primarily VOSHA focuses on-site resources on incidents that relate to serious injuries and/or emphasis programs.

Compliance Assistance Activities

In May 2017, VOSHA hosted OTI Course #1230, Accident Investigation. The course was opened nationally and had attendees from as far away as Texas. By all accounts the course and facilities were well received.

In June 2017, VOSHA hosted the OSHSPA meeting in Burlington, VT. The meeting was a success, with approximately 55 attendees from across the country and Federal OSHA. Though attendance was less than the usual, general feedback from the event was very good and people appreciated being in Vermont for a few days.

VOSHA is committed to its responsibilities at the Vermont Department of Emergency Management and Homeland Security (DEMHS). Though a large-scale emergency drill was not

held for 2017, VOSHA staff worked with the Vermont State Urban Search and Rescue Team (USAR) in September. The activity involved two separate search and rescue scenarios. One involved confined space and the other involved a water rescue. VOSHA staff assisted the site safety officer in hazard recognition as well as monitoring the exertional heat exposure of the players.

VOSHA also conducted three Green Mountain Voluntary Protections Program (GMVPP) visits in FY 2017. Two of these visits were scheduled recertifications and one was a new site visit. VOSHA is scheduled to conduct two more visits in FY 2018. The site that had the initial onsite visit in FY 2017 was not recognized formally as a STAR site until FY 2018.

VOSHA is committed to three key state agency committees in which it serves as a legislatively appointed entity or representative of the Vermont Department of Labor.

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

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

VOSHA still maintains two active partnerships.

The 2017 outreach numbers for VOSHA are slightly less than in FY 2016. This is primarily because the large scale statewide emergency drill Operation Vigilant Guard happened in FY 2016. In FY 2017 VOSHA was responsible for a total of 63 outreaches. While the VOSHA Manager carried out 42 outreaches, the Compliance Supervisor was responsible for 8 outreaches with the remaining 13 outreaches being direct service of the VOSHA staff while involved in GMVPP and USAR activities.

It is difficult to quantify the exact numbers of those affected by these outreaches. However, VOSHA can directly count 1,500 attendees and affected employees in formal outreaches including GMVPP related activities.

For additional CAS activities, VOSHA utilizes the services of the Project WorkSAFE administrative assistant for disseminating information to stakeholders, organizing training and outreach materials, and organizing information on the VOSHA website. VOSHA accounts for this employee's time at a .1 FTE.

VOSHA continues its work in the GMVPP. As described above, FY 2017 has been an active year with three onsite visits having been conducted. Part of the reason for the unusually high number of recertifications was VOSHA's role in Operation Vigilant Guard. VOSHA plans to conduct two more visits in 2018, one of which will be a recertification of an existing STAR site. By the end of FY 2018, VOSHA anticipates having seven GMVPP STAR sites.

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. Throughout much of 2017 the program was managed by the VOSHA Manager, however in late 2017 the managing responsibility was transferred to the Safety/Health CSHO.

In FY 2014 VOSHA submitted a new, five-year strategic plan. FY 2017 reflects the third year of performance in that plan.

### New Equipment

VOSHA is committed to maintaining technology in the equipment (both personal protective equipment (PPE) as well as inspection equipment) used by CSHOs in the performance of their job. In light of this commitment, VOSHA purchased dash cameras for use by CSHOs. These cameras allow for real time photo/video of jobsites and reduce the need for CSHOs to engage in photographing while trying to maintain focus on other duties such as driving. The reviews have been mixed; but while CSHOs get used to using them, there is little doubt that this tool can be of great use in establishing hazards (as has already been seen in a couple of key cases) while maintaining a level of safety for CSHOs.

### Rulemaking

In 2017, VOSHA submitted and adopted three rules as a result of rulemaking. VOSHA spent considerable time in the Vermont Legislature, marshalling the Penalty Increase and Inflation Adjustment Act through. In addition, VOSHA submitted three other rules: Silica Exposure, General Industry, Construction and Maritime; Improved Tracking of Injuries and Illnesses; and Walking Working Surfaces, General Industry.

The chart below denotes the progress VOSHA has made and expects to make in FY 2018.

Among the standards that were completed in FY 2017:

- Improved Tracking of Injuries and Illnesses
- Silica Exposure, General Industry, Maritime and Construction
- State Increase in Penalties Act, as well as Annual Adjustment for Inflation

Rules not currently adopted but expected in FY 2018, are as follows;

- Walking Working Surfaces; 1/30/2018
- Beryllium; 6/30/2018

In terms of rulemaking, VOSHA devoted a lot of time to the Penalties Rule, and is one of only a handful of State Plans that finalized adoption of this rule in FY 2017. VOSHA does not have the staff to be able to send through the volume of rules that were issued during the end of the last administration. Walking working surfaces is already in progress. After careful consideration, VOSHA will only submit the General Industry Beryllium Standard and hold off on the Construction and Maritime effort until the final adoption of the rule update for Beryllium in construction and Maritime.

## Staffing

After achieving a relatively stable staffing level at the beginning of FY 2017, two CSHOs resigned during the course of the fiscal year. One of the CSHOs resigned in February and was an industrial hygienist; the other was a safety officer who resigned in August. In addition, VOSHA is very concerned that because of a number of years of level funding in the federal grant, it may not be able to sustain the same level of staffing. After much discussion and alerting the Region, VOSHA decided to leave one of the positions unfilled (this was the Industrial Hygienist). VOSHA has posted and is going through the recruitment for the safety position, and anticipates that the position will be filled in the first quarter of FY 2018. The inspection goal for FY 2017 was 300 total inspections. In spite of the resignations received in FY 2017, VOSHA did not feel it necessary to seek an adjustment in the number. In fact, because of the efforts of the remaining staff, VOSHA was able to conduct a total of 376 inspections for FY 2017. This unexpected number was the result of a high level of experience and skill of the new staff, which enables some to be assigned inspections at a higher rate than expected.

Of the 376 inspections conducted in FY 2017, 284 were classified as safety and 92 were classified as health. VOSHA conducted 34 inspections in state and local government and 184 inspections in construction. Of a total of 570 violations issued in FY 2017, 441 were classified as serious and 129 were classified as other than serious.

	Projected FY2017				Actual FY2017		
	Safety	Health	Total		Safety	Health	Total
<b>TOTAL INSPECTIONS</b>	228	72	300		284	92	376
Private Sector	214	60	274		257	85	342
Public Sector	14	12	26		27	7	34
<b>TOTAL CONSTRUCTION INSPECTIONS</b>	160	20	180		173	11	184
Residential and Commercial Construction	85	5	90		164	7	171
Highway, Street, Bridge and Work Zones	20		20		13	0	13
Roofing	25		25		36	0	36
Residential Construction	30		30		39	0	39
Noise/Silica/Chrome VI/lead		15	15		0	7	7
<b>TOTAL NON-CONSTRUCTION INSPECTIONS</b>	80	40	120		111	81	192
Food Processing	2	3	5		12	2	14
Lumber and Wood Products	10	5	15		2	0	2
Targeted NAICS/SICs	15	10	25		16	9	25
Amputations	25		25		20	0	20
Combustible Dust		2	2		0	1	1
PSM		1	1		0	0	0
PIT	10		10		31	0	31
Public Sector	14	12	26		23	7	30
Granite/Concrete	4	6	10		0	3	3
Nursing Homes		1	1		0	0	0

In the tables below, VOSHA compares Calendar Year (CY) 2016 total recordable case (TRC) rates to CY 2012 baseline. It should be noted that FY 2017 is the third year of VOSHA's five-year strategic plan. As such, goals and objectives listed below will reflect those stated in this plan.

<b>STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy</b>		
<b>GOAL</b>	<b>FY 2017 OUTCOME</b>	<b>COMMENT</b>
<b>Compliance Inspection Activities (Construction)</b>		
Performance Goal 1.1· By 2019 reduce the rate of workplace injuries and illnesses in construction by 15%, from 7.9 as recorded in baseline year 2012, to 6.7 by year 2019	<b>Goal still to be decided</b>	
Performance Goal 1.1a· Reduce workplace injuries and illnesses in construction by 9 % from the baseline of 7.9 to 7.19	<b>Goal was exceeded</b>	The CY 2016 TRC for all of construction in Vermont 4.2, which is a decrease of 47 percent over the baseline rate of 7.9.
Conduct 90 residential and commercial building inspections	<b>Goal was exceeded</b>	VOSHA conducted 164 safety and 7 health inspections in this area for a total 171.
Conduct 20 highway, street and bridge construction inspections	<b>Goal was not met</b>	VOSHA conducted 13 safety and 0 health inspections in this are for a total of 13.
Conduct 25 roofing inspections	<b>Goal was exceeded</b>	VOSHA conducted a total of 36 inspections in roofing. All were safety related inspections
Conduct 30 inspections at worksites in Residential Construction	<b>Goal was exceeded</b>	VOSHA conducted 39 safety related inspections in Residential Construction
Conduct 15 inspections for health related exposures in construction including Noise/Silica/Chromium VI/Lead	<b>Goal was not met</b>	VOSHA conducted inspections related to noise, silica, chromium VI, or lead

<b>STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy CONTINUED</b>		
<b>GOAL</b>	<b>FY2016 OUTCOME</b>	<b>COMMENT</b>
<b>Compliance Inspection Activities (General Industry)</b>		
Performance Goal 1.2· By 2019, reduce the rate of workplace injuries and illnesses in general industry by 15%, from 6.4 as recorded in baseline year 2012, to 5.4 by year 2019	<b>Goal still to be decided</b>	
Performance Goal 1.2a· Reduce workplace injuries and illnesses in general industry by 9 % over 2012 BLS baseline of 6.4 to 5.82	<b>Goal was exceeded</b>	The CY 2016 TRC for all industries including private, state and local government was 4.7, which is a decrease of 27 % over the baseline of rate of 6.4.
Conduct 5 food processing inspections	<b>Goal was exceeded</b>	VOSHA conducted 12 safety and 2 health inspections, for a total of 14 inspections related to food processing.
Conduct 15 lumber and wood products manufacturing inspections	<b>Goal was not met</b>	VOSHA conducted 2 safety and 0 health inspections for a total of 2 inspections, related to the lumber and wood products manufacturing.
Conduct 25 inspections where there are amputation hazards	<b>Goal was not met</b>	VOSHA conducted 20 safety inspections, related to amputation hazards.
Conduct 10 inspections in the granite and concrete industry	<b>Goal was not met</b>	VOSHA conducted 0 safety and 3 health inspections related to concrete and granite for a total of 3
Conduct 25 inspections establishments in targeted NAICS/	<b>Goal was met</b>	VOSHA conducted 16 safety and 9 health inspections in Targeted NAICS and SIC codes, for a total of 25 inspections

Conduct 26 Inspections of public sector worksites	<b>Goal was exceeded</b>	VOSHA conducted 27 safety and 7 health inspections in public sector, for a total of 34 inspections
Conduct 10 inspections in workplaces where Powered Industrial Trucks (PITs) are in use	<b>Goal was exceeded</b>	VOSHA conducted 31 inspections in work places where PITs were in use.
Conduct 1 inspections of Nursing Homes	<b>Goal was not met</b>	VOSHA conducted 0 inspections of nursing homes.
Conduct 1 inspection of a site covered by the PSM standard.	<b>Goal was not met</b>	VOSHA did not conduct inspections in work areas covered under PSM
Conduct 2 inspections in workplaces with combustible dust hazards.	<b>Goal was not met</b>	VOSHA conducted 1 health-related inspections in work areas covered under the combustible dust standard
<b>Strategic Goal #2: Improve workplace Safety and Health through compliance Assistance, Alliances and Partnerships</b>		
<b>Goal</b>	<b>FY 2016 Outcome</b>	<b>Comment</b>
Performance Goal 2.1- Maintain recognition of excellence in safety and health management through the Green Mountain VPP	<b>Goal was met</b>	VOSHA continued to support the current GMVPP sites, including conducting quarterly meetings with the sites and reviewing annual reports. In FY 2017, VOSHA conducted two recertification on site visits as well as one initial certification site visit. VOSHA expects to conduct 1 recertification and 1 initial certification visit in FY 2018
Performance Goal 2.2- Maintain relationships with organizations that cover targeted, high hazard areas, through the VOSHA Alliance Program	<b>Goal was met</b>	VOSHA continued to service two active alliances. VOSHA continues to have good relationships with these entities and conducted a number of outreaches in FY 2017.

Performance Goal 2.3- Maintain a reduced schedule of service to Participants in VOSHA outreach and training programs	<b>Goal was met</b>	VOSHA conducted 63 outreaches affecting more than 1,500 employees/stakeholders. This number represents approximately 100% of the outreach achieved when VOSHA employed a full time compliance assistance specialist (CAS).

### Green Mountain Voluntary Protection Program and Alliance Activity

#### FY 2017 GMVPP Activity

Status	Last Approval Date	New Renewal Date	Original Approval Date
STAR site	04/28/2017	*10/31/2022	10/22/2007
STAR site	4/18/2017	*10/10/2022	8/22/2007
STAR/Renewal	1/22/2015	01/22/2020	5/16/2006
STAR site	2/28/2012	2/28/2017	7/14/2008
STAR site	12/27/2013	12/27/2016	12/27/2013
Challenge site			
STAR site	12/14/2017		*9/11/2017

*\*denotes onsite conducted*

#### FY 2017 Alliance Activity

	Status	Date signed
Alliance site	Active	11/15/2013
Alliance site	Active	06/29/2015

## PROGRESS TOWARD STRATEGIC PLAN ACCOMPLISHMENT

Vermont BLS TRC rates for the period FY 2015 . FY 2019 have been reduced for all NAICS divisions as follows:

<b>Year</b>	<b>All</b>	<b>Private sector</b>	<b>Manufacturing</b>	<b>Construction</b>	<b>Public sector</b>
2012 (baseline)	5.1	5.0	6.4	7.9	5.6
FY 2015 (based on CY 2014 BLS data)	5.1	5.0	6.0	5.9	5.3
FY 2016 (based on CY 2015 BLS data)	4.6	4.6	5.4	5.9	5.0
FY 2017 (based on CY 2016 BLS data)	4.7	4.6	5.1	4.2	4.8
FY 2018					
FY 2019					
<b>Percent reduction from baseline year 2012</b>					
	-8%	-8%	-21.4%	-47%	-14.3%

In FY 2016 VOSHA had a fully staffed and functional VOSHA program, but in FY 2017, the program experienced a break in this stability. Although VOSHA ended the year with a high level of success in many areas, there were ominous signs warning that budgetary issues were at hand, due to State Plans receiving level funding from OSHA over the past few years. VOSHA was clear about these impending conditions in a letter to the Region prior to submitting the FY 2018 grant. VOSHA was able to keep current with the requirements in OSHA's training directive to the extent that the OTI did not cancel courses. VOSHA plans to keep up with training as required by the current training directive.

Though there was no statewide emergency exercise in FY 2017, VOSHA is committed to increasing its ability to interact with the state emergency management system. This continued activity led to our staff being invited to take part in a smaller scale emergency drill, conducted by the USAR group. Again, while smaller in scale, the event provided further visibility to emergency officials of the ability of VOSHA to provide critical safety and health services in the case of an emergency event.

Because of the professionalism of VOSHA's staff and CSHOs, the Plan was able to conduct 376 inspections; this total is 76 more inspections than the projected number for FY 2017. This FY 2017 goal for inspections was exceeded, even though two CSHOs left the program during the fiscal year. However, losing these two talented individuals and making the decision not to fill one position for budgetary reasons, has been difficult. As a result, VOSHA proposed a reduced inspection amount in the FY 2018 grant application.

In FY 2017, the VOSHA 11(c) whistleblower program screened 71 complaints, docketed 17 new cases, and closed 14 cases (of the closed, 11 cases were dismissed and 3 cases were settled). VOSHA currently has five open whistleblower cases. In addition, the investigator has provided assistance on a number of VOSHA investigations as well as investigated at least one complaint of workplace violence. These additional duties have enabled VOSHA to take advantage of this investigator's strengths in interviewing witnesses as well as providing advice on the investigation itself.

In FY 2017, VOSHA continued to perform the CAS/GMVPP functions, primarily from the manager and supervisor positions and consultation administrative and CSHO positions (GMVPP site visits) positions. As discussed above, In FY 2017 VOSHA conducted and/or participated in a total of 63 outreach activities. Though outreach activity is slightly less than in FY 2016, (primarily due to the lack of a statewide emergency drill and associated activities) VOSHA feels that the amount of outreaches accounts for the performance of a full-time CAS.

In FY 2017, VOSHA made progress in reducing its backlog of GMVPP recertification, and anticipates eliminating the backlog completely by the end of FY 2018. In addition, VOSHA was able to conduct an initial onsite certification visit, which ultimately led to a recommendation that the worksite be accepted as a STAR site. Also in FY 2018, VOSHA plans to conduct another initial onsite for certification into the GMVPP program.

State Internal Evaluation Plan (SIEP)

**State of Vermont VOSHA  
State Internal Evaluation Plan  
SIEP**



The State of Vermont, Vermont Occupational Safety and Health Administration (VOSHA) continues its efforts to improve measurable performance of the VOSHA compliance program. The State Internal Evaluation Plan (SIEP) is a self-evaluation tool, initiated to determine if program operations conform to state policies and procedures established by the state plan. Through the SIEP, VOSHA identifies and evaluates program functions that may need to be improved in response to the demands of the program.

Following a review of program procedures and a review of OSHA Information System (OIS) Reports, VOSHA decided to evaluate the following area of possible vulnerability:

- Abatement tracking and documentation

**Questionnaires for Selected areas**

1. Is abatement at the time of the inspection documented in the case file?.

*Answer: From the limited sample reviewed, it appears that there is proper justification and documentations placed in the case files.*

2. Are mandatory follow-up inspections tracked?

*Answer: Two Follow-up inspections were reviewed. In those cases the VOSHA Administrative Assistant indicated in the OIS "Not Abated" then in the citation notes, the assistant placed a note for each citation that a follow-up inspection was done and the date/CSHO doing the follow-up.*

5. Are follow-up inspections conducted when there is no abatement documentation?

*Answer: Follow-up inspections are not done in a consistent manner. This is an area that VOSHA needs to focus on in FY 2018.*

6. Is adequate evidence of abatement received in accordance with the Field Operations Manual (FOM)?

*Answer: The review of randomly selected casefiles reveals satisfactory documentation of abatement evidence, both in letters and photos. However, VOSHA can still improve on the process.*

7. How are open abatement dates tracked?

*Answer: Open abatement dates are tracked via both the Open Inspection Report and the Abatement tracking report. Both reports are available in the OIS. However VOSHA sees that an increase in frequency of at least once per week could be helpful in staying current. This is a responsibility that the VOSHA manager should undertake.*

8. Are late notices sent to employers that do not submit timely documentation?

*Answer: In cases reviewed, late notices were sent out but not consistently. When examined it was found that the primary reason that a late notice was not sent was that the case was sent over for collection and the file was not available to VOSHA for some months. However on those that were not sent to collections it seemed that late notices of abatement were adequately sent out.*

9. Is there an explanation in the file for abatement dates longer than 30 days?

*Answer: The VOSHA manager and Compliance Chief place explanations in the files if an employer asks for and receives an "extended" abatement date.*

10. Is the OIS properly updated?

*Answer: Reviews of the tracking reports revealed that the OIS was updated. However, in cases where a collections process was ongoing, there was no updating of information concerning abatement. A solution to this finding is discussed in the action items section.*

## **Methods of Evaluation**

In conducting the evaluation of the effectiveness of VOSHA's Abatement Documentation program, we first looked at raw data from the OIS in the following reports:

- Abatement tracking report
- Open Inspection Report

Following the running of these reports, VOSHA selected five cases, randomly, from FY 2017 to see if/how abatements were documented and tracked.

## VOSHA's Findings

### OIS tracking reports

In running the tracking report, VOSHA found that there was a large number of cases listed as overdue for abatement (32) including, and, more concerning, a large number of cases over 100 days (24). However, when investigated further, it was found that virtually all of the cases over 100 days were non-responders who had been placed into debt collection process. In many of these cases, the employers did not respond to the citations, and VOSHA did not follow-up with these employers on abatement. Most of the cases reviewed did not have late abatement letters in the file because VOSHA was not tracking the overdue abatement. A review of these cases revealed that VOSHA still needs to track abatement for cases that it has referred to debt collection. More specifically, VOSHA needs to follow the procedures in the VOSHA Field Operations Manual (FOM) for debt collection (Chapter 6) and employer failure to submit required abatement (Chapter 7).

### Randomly Selected Cases

- Case #1:  
This case was settled in an informal conference by the VOSHA Manager. In this case the Employer brought sufficient documentation of abatement of the violations. The VOSHA Manager noted both in the informal settlement agreement and in the case diary, that the employer provided abatement at the informal conference. An appropriate closeout letter was sent to the employer relating to both payment in full and abatement.
- CASE #2:  
This case was settled at an informal conference by the VOSHA Compliance Chief. In this case the Compliance Chief Documented in the case diary abated per CSHO.+ When reviewing the documentation it was found that in the Citation, the CSHO applied the Quick Fix+. The CSHO indicated that the employer agreed to stop the activity until the appropriate equipment could be brought to the site and make it compliant. An appropriate closeout letter was sent to the employer subsequent to payment of penalties, identifying both payment in full and abatement.
- Case #3:  
This case was settled via informal conference by the VOSHA Compliance Chief. The Compliance Chief noted in the case diary abated in a timely manner per letter.+ A review of the casefile reveals an abatement letter from the employer, with associated photos/documents was placed in the file. An appropriate closeout letter was sent

subsequent to payment of penalties identifying both payment in full and completed abatement.

- **CASE #4:**

This case was not heard either in an informal conference or formal contest proceeding. The employer paid in full the citation amount and did not provide abatement verification. The case was later closed without abatement due to change in worksite location (construction). However a letter was sent from the VOSHA office informing the employer that we had received both payment in full and all abatements. This letter was a form letter and the language covering abatements was not taken out of the letter. This was an error of the VOSHA Central Office.

- **CASE #5:**

This case was settled via an informal conference by the Compliance Chief. In this case the Compliance Chief noted on the case diary ~~abated~~ per email. A review of the case revealed that the employer, previous to the informal conference had emailed the Compliance Chief an abatement letter with attached photos of the abatement. The appropriate closeout letter was sent subsequent to payment of penalties identifying both payment in full and abatement.

### **Findings from the review of casefiles**

The FY 2017 casefile review revealed that there seemed to be a relatively trackable way to both acknowledge abatements when they have been completed prior to or evidence of abatement submitted at the informal conference. However an error was uncovered when a letter acknowledging abatement was sent to the employer in a case where the employer did not engage and simply paid their penalty. This seems to be an issue with the form letter that is sent to employers. The letter lists both payment in full and recognition that abatements were completed in the same letter.

Also there were inconsistencies in how abatements were documented at the informal conference level.

## **VOSHA Action Items**

### **Action Items related to the casefile reviews**

VOSHA will take the following measures to improve a process that is strong but could be better.

- a. VOSHA will start using a version of the ~~OSHA~~ Certification of Corrective Action Worksheet+ used by Region One OSHA. This sheet will be modified to include VOSHA policy and will be printed from the OIS

- b. The VOSHA manager and Compliance Chief will insure that in addition to a notation in the casefiles regarding status of abatement at the informal conference, any future abatement agreements and actions, including dates of expected completion will be added to the informal settlement agreement, compelling the employer as well as VOSHA to sign off on them.
- c. The VOSHA manager will start a weekly routine of running the Open Inspection and Abatement tracking reports. This responsibility was previously done by the compliance supervisor
- d. VOSHA will follow the procedures in Chapter 7 of the FOM, for Employer Failure to Submit Required Abatement Certification, which entails contacting the employer by telephone and mailing a letter the same day.

**Action Items related to review of Open Inspection Report and Abatement Tracking report**

- a. VOSHA will immediately start working on the legacy cases in the report, specifically assigning follow-up inspections where needed and closing those inspections (construction) where verification cannot be ascertained as the job site no longer exists.
- b. Prior to any case going to debt collection, VOSHA will review to insure abatement has been completed or make sure VOSHA is current with the notification of abatement.
- c. Prior to referring any case to debt collection, VOSHA will ensure that abatement has been completed. If abatement has not been completed, VOSHA will follow the procedures in the VOSHA FOM, Chapter 7 for Employer Failure to Submit Required Abatement Certification.
- d. VOSHA believes that the action items above will help reduce future backlog of abatement overdue cases. However, VOSHA will actively monitor this item as the year goes on to insure abatement is properly addressed as well as tracked.
- e. Once the case is remanded to debt collection, VOSHA will maintain tracking in the OIS. If VOSHA receives proper notice of abatement, the documents will be manually placed in the file and the file will be updated. The OIS will then be updated as to the status of abatements. If the employer fails to submit appropriate documented abatement, VOSHA will conduct follow-up as per Chapter 7 of the FOM.