

**FEDERAL ANNUAL MONITORING
AND
EVALUATION REPORT
(FAME)**

for the

STATE OF UTAH

**Evaluation Period:
October 1, 2009 - September 30, 2010**
(Includes a Follow-up to the 2009 EFAME)

Prepared by

**U.S. Department of Labor
Occupational Safety and Health Administration
Region VIII**

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1. **Executive Summary.**

a. **Introduction.**

The Utah Occupational Safety and Health Division (UOSH) is housed within Utah's Labor Commission. The State Designee is Labor Commissioner Sherrie Hayashi. Louis Silva serves as the UOSH Program Administrator. The Utah Occupational Safety and Health Division consist of: enforcement, discrimination and private and public sector consultation. The Voluntary Protection Program and partnerships are administered out of the enforcement division. Consultation in the private sector is funded out of the 21(d) cooperative agreement. UOSH operates out of a centrally-located office in Salt Lake City, Utah. While the state is limited to a four day work week for use of state buildings, UOSH has compliance officers in the field five days a week in order to provide full safety and health coverage to the workers of Utah. UOSH closely mirrors the federal program with some differences that allow for accommodation of unique state demands and issues. Utah also has a variety of unique standards described in the Enforcement section of this report.

Utah is currently staffed with eleven safety officers and ten health officers. The benchmark for Utah is ten safety and nine health compliance officers. The Utah 2010 fiscal year (FY) final grant amount was \$2,928,400, which includes federal/state matching funds of \$1,464,200. This amount also includes the unmatched \$164,000 increase in the state base, which occurred midway through the fiscal year.

UOSH jurisdiction covers private employers having one or more employees and all state and local government agencies, including public education. UOSH has jurisdiction over approximately 1,173,200 employees, with 183,900 of them in the public sector. Public sector coverage is the same as that in the private sector, but penalties are statutorily prohibited.

Federal enforcement jurisdiction remains over maritime employment in the private sector; employment on Hill Air Force Base; Tooele Army Depot, which includes the Tooele Chemical Demilitarization Facility; and the Department of Energy's Naval Petroleum and Oil Shale Reserve to the extent it remains a Department of Energy facility. Federal jurisdiction remains in effect with regard to the federal government and the United States Postal Service employers and employees located in the state. These exempt employees account for approximately 35,000 employees.

b. **Summary of the Report.**

The state exceeded two of their Annual Performance Goals and made progress on the third. Utah experienced only ten workplace fatalities in fiscal year 2010, four less than last fiscal year. The BLS total case rate for injuries and

illnesses fell to 3.9, well below the three year average baseline of 5.5, which is the average of case rates from 2004 through 2006. UOSH made progress in their goal of promoting workplace a safety and health culture in Utah workplaces as signified by an increased number of applications for their Voluntary Protection Program (VPP) and through increased outreach and visits by their public and private sector consultants.

While the state fell short of their inspection projection this fiscal year, inspection projections in Utah are typically aggressive goals made to stretch the potential of the staff. Utah has made good progress at addressing many of the actions required by the 2009 Enhanced Federal Monitoring Evaluation (EFAME) corrective action plan, and continues to work toward the completion of outstanding items. While penalty related issues have not been completely resolved, Utah has capped their penalty reduction settlement agreement at 50% in response to the CAP.

Utah remains fully staffed but continues to suffer from turnover due to inspector salaries being well below those in private industry. As inspectors become competent, many leave the service of the state to claim jobs where they can make substantially more money. This keeps UOSH in a state of constant hiring new personnel. The state has difficulty soliciting inspectors with the experience and education to successfully do the job.

The State has recently conducted one high profile inspection at a public sector facility and has issued citations following that inspection. There were no penalties assessed as this was a public sector employer. Four refinery inspections have been completed in Utah. Two of those inspections are closed and two remain in contest.

c. **Methodology.**

This report is a summation of 2010 statistical results as well as a follow-up for the 2009 EFAME Corrective Action Plan (CAP) being worked on by the state. No on-site activity has occurred in this state since prior to the completion of the 2009 EFAME. The region is providing sufficient time for the state to complete their CAP and will conduct an on-site verification visit in FY 2012 along with an onsite review to assess FY 2011 performance.

Data sources for this report include: the State's Corrective Action Plan (CAP), the 2010 State Operations Annual Report (SOAR), the 2010 State Plan Grant Application, the State Activity Mandated Measures Report (SAMM), the State Information Report (SIR), the Mandated Activities Report for Consultation (MARC), the minutes from quarterly conference calls and various enforcement reports and the FY 2010 Enforcement Activity chart all generated from the Integrated Management Information System (IMIS).

d. Findings and Recommendations.

No on-site visit will be conducted this fiscal year. Therefore, there are no additional findings. The state will continue to complete outstanding items on the corrective action plan (CAP) identified in the 2009 Enhanced Federal Monitoring Evaluation outlined below (#3).

2. Major New Issues.

- a. **After Hours & Weekend Emphasis Program:** During the summer months, Utah conducted numerous inspections of construction projects, mostly residential, on Friday evenings and Saturdays. This program resulted in 35 inspections and impacted 653 employees. A significant number of serious violations were issued. By the end of the summer, UOSH had trouble finding residential sites to inspect, so an indirect result of this intervention may have been less residential construction work being done on weekends. This innovative project was made possible by the telecommuting schedule that UOSH uses to make the best use of their resources.
- b. **Compliance Assistance Specialist (CAS) Position:** The CAS position was eliminated in Utah during FY 2010. Speaking engagements and presentations to associations and the general public are being done by UOSH management and supervisors.
- c. **Financial Constraints:** The state continues to be challenged by tough economic constraints. In response, the state hired additional compliance personnel this year by matching federal money made available from funding turned back from other state plans. This overstaffing will provide a temporary buffer for the turn-over of personnel which continues to challenge the program due to limited compensation. Extra staff members may also eliminate the need to return unused grant money due to vacancies that occur during the year.

3. State Actions in Response to Recommendations from the FY 2009 EFAME.

During fiscal years 2010 and 2011, the state focused and continues to focus on the completion of their CAP, which was finalized in March of 2010. Completion dates were assigned to each recommendation made in the 2009 EFAME and progress on these actions will be monitored during the quarterly calls throughout the 2011 fiscal year. Progress on the CAP recommendations to the end of March 2011 is assessed below.

- a. Outstanding Recommendations
10-01 formerly 09-14

Finding: The standard 60% Penalty Reduction Settlement Agreement (PRSA) was given on two fatalities. An average 50% penalty reduction was given for fatality inspections during FY 2009.

Recommendation: Follow the guidelines in the federal FOM, Chapter 11, Part II, Section L(1)(d) that states “insure that settlement terms are appropriate, including violation reclassification, penalty reductions and additional abatement language.

Update: Subject to further discussion and federal monitoring. Settlements in fatality cases should reflect the seriousness of the situation and should not result in maximum penalty reduction.

10- 02 formerly 09-33

Finding: Penalty reductions in Utah are excessive. One factor that contributes to the higher rate is the Penalty Reduction Settlement Agreement (PRSA) which offers an automatic 60% reduction.

Recommendation: Adjust penalty reductions to come into line with OSHA’s new penalty policy.

Update: Utah lowered the automatic reduction to 50%, but did not yet document the criteria of the program in writing.

10-03 formerly 09-34

Finding: Penalty reductions at informal conferences averaged 70%.

Recommendation: Adjust penalty reductions to come into line with OSHA’s new penalty policy.

Update: Subject to further discussion and federal monitoring. Utah is asked to document its policy on penalty reductions at informal conferences and submit it for regional review.

10-04 formerly 09-40

Recommendation: Track and rectify any outstanding items identified in the Whistleblower Special Study conducted during the first quarter of FY 2009.

Update: The Regional Office will conduct a follow-up to this study during this fiscal year.

10-05 formerly 09- 41

Finding: Cooperative relationships in the Utah compliance program do not follow the guidelines of a formal program.

Recommendation: Document the guidelines being used for existing cooperative relationships and ensure that appropriate compliance protocol is being followed. The regional office should be apprised of any cooperative relationships that impact compliance.

Update: The State has submitted a formal Partnership Program to the regional office for review. Discussion continues on some criteria.

10-06 through 10-13 formerly 09- (42 – 49)

Finding: These eight items describe various discrepancies with the approved guidance document: Voluntary Protection Program Policies and Procedures Manual, CSP 03-01-003.

Recommendation: Follow CSP 03-01-003 as agreed.

Update: Anticipated completion date of 6/30/11.

10-14 through 10-15 formerly 09-(50 & 51)

Finding: Based on the onsite review of case files, extensive problems were noted with the investigative skills of CSHOs.

Recommendation: Include training on investigative skills in the new hire training program. Train the remainder of the staff in these skills.

Update: UOSH is actively looking for affordable training to address this issue. The completion of this item has been impacted by the budget uncertainty.

10-16 formerly 09-52

Finding: The state has created a state internal evaluation program (SIEP) but has not yet implemented it.

Recommendation: The state needs to implement the evaluation part of the SIEP sharing the results with the regional office.

Update: The regional office is waiting for evaluation results.

10-17 formerly 09-53

Finding: The state is the process of adopting the federal field operations manual (FOM) and in updating their policies and procedures manual.

Recommendation: Complete the update of UOSH guidance documents.

Update: The state is activity working on this update due 09/30/11.

- b. Completed Recommendations (Pending On-site Verification) – An Update is provided for those findings that were addressed in a method different from the recommendation or for those using a revised process or form. Those findings addressed by using the recommendation listed are marked “Completed.”

09-01

Finding: The case-file management checklist in the case file is not consistently used by management to ensure post citation actions are complete.

Recommendation: Insure post citations actions are completed. Complete the Case-file management checklist in all case files.

Update: Completed.

09-02

Finding: There are overall organizational problems with safety files and some of these are missing documentation.

Recommendation: Ensure the safety case files are organized and are completely documented.

Update: Completed.

09-03

Finding: A follow-up inspection done at a later date was not attached to the original case file.

Recommendation: Include the follow-up inspection information with the original case file.

Update: Completed.

09-04

Finding: One referral was not responded to in a timely manner as required by the Complaint Directive adopted by Utah, which is now part of the federal FOM, Chapter 9, Section (1)(b).

Recommendation: Ensure all referrals inspections are opened in a timely manner.

Update: Completed.

09-05

Finding: Three unprogrammed inspections were missing notifications to the complainant. This was due to the contact information not being documented in the case file. According to the Utah FOM, Chapter XI, Section 11(d), “the complainant should be informed of the results of the complaint after the completion of the inspection.

Recommendation: Ensure complainants are notified of the results of the inspection for all complaints not filed anonymously. CSHOs should document contact information in the files of all non-anonymous complaints in order to provide the results of the inspection.

Update: Completed.

09-06

Finding: One local government agency inspection addressed hazards that were not cited.

Recommendation: Perform a follow-up inspection where violations were not addressed and may continue to exist. Contact the regional office for the identity of the facility.

Update: Completed.

09-07

Finding: There was not consistent documentation in case files that complainants were advised of the employer’s response to inquiries as stipulated in Utah’s FOM, Chapter XI, Section A(5)(d) and of the federal FOM, Chapter 9, Section I(1)(6).

Recommendation: Place documentation of complainant’s notification of the employer’s response in the case files of inquiries.

Update: Completed.

09-08

Finding: Negotiated abatement times for employers to respond to inquiries were exceeded without documentation that the employer had requested more time and conditions around that request.

Recommendation: Enforce the newly negotiated five day abatement period for phone and fax. Document the reasoning and extension period in the case file, as requested by the federal FOM, Chapter 9, Section I(1)(5) when an inspection is not scheduled because of over due abatement. Enter extension for abatement of inquiries into the computer database as required.

Update: Completed.

09-09

Findings: Inquiries instead of inspections were sometimes scheduled to address serious hazards and prompt abatement was not required.

Recommendations: Ensure serious hazards are abated quickly. Follow the procedures in the federal FOM, Chapter 9, Section I (1)(3)(b) for inquiries

which provide the latitude to decrease abatement time based on the circumstances of the complaint.

Updates: Completed.

09-10

Finding: Proof of abatement in cases with serious hazards was not sufficient.

Recommendation: Follow the guidelines in the federal FOM, Chapter IX, Section I (1)(3)(c) for proof of abatement.

Update: Completed.

09-11

Findings: Some complaint items were vague and non-specific making it difficult for employers to properly abate the hazards.

Recommendation: Follow the procedures in the Utah FOM, Chapter XI, Section A (3)(a)(3) which stipulates “determine the exact nature of the alleged violation.”

Update: Completed.

09-12

Finding: An inquiry instead of an inspection was scheduled to address a past exposure that was alleged to cause a permanent illness.

Recommendation: Schedule inspections in accordance with the Utah FOM, Chapter XI, Section A (2)(f) when “The complaint alleges that physical harm, such as disabling injuries and illnesses has occurred as a result of the complained of hazards and that there is reason to believe that the hazard or related hazard still exists.” This criteria is reiterated in the federal FOM, Chapter 9, Section I (C)(3).

Update: Completed.

09-13

Finding: UOSH is not consistently sending letters and copies of citations to victims’ families as required in the federal FOM, Chapter 11, Part II, Section G, Families of Victims.

Recommendation: Follow the procedure in the federal FOM concerning proper notification to families of victims.

Update: Completed.

09-16

Finding: Fatality cases were not appropriately documented and interviews were not thoroughly conducted. Employer knowledge and employee exposure were not well documented.

Recommendation: Follow the procedures in the federal FOM, Chapter 11, Part II, Section C, Investigative Procedures and E, Interview Procedures.

Update: Completed.

09-17

Finding: Utah has no coding instructions in ENF-006 to ensure coding is consistent when entering the activity into the federal databases.

Recommendation: Add instructions to ENF-006 on how to code the various emphasis areas each year.

Update: Completed.

09-18

Finding: There are extensive problems with the coding of programmed and unprogrammed inspections. There was a significant difference in the number of programmed inspections reported by the state to the number reflected in the database.

Recommendation: Accurately code inspections. At the end of the year, tally inspection numbers and reconcile those numbers with those in the IMIS. This will ensure inspections are being coded correctly.

Update: Completed.

09-19

Finding: Utah has one sawmill and four material handling inspections.

Recommendation: Reassess targeted areas for effectiveness. If the data supports continued targeting, resources should be redirected to these high hazard targeted industries.

Update: Completed.

09-21

Finding: The accident reporting utilizes significant resources and effectively gets UOSH into the right places.

Recommendation: Consider using the accident inspections, generated by legislation, as a formal emphasis program.

Update: Completed.

09-22

Finding: Employee representatives were not consistently involved in both the opening and closing conferences of inspections.

Recommendation: For union involvement, follow the guidance in the Utah FOM, Chapter IV, Section B (2), B (10)(b) and D. If the union waives involvement, document the circumstances in the narrative of the case file.

Update: Completed.

09-23

Finding: A sufficient number of employees are not being interviewed during inspections including fatality inspections.

Recommendation: Follow the guidance in the Utah FOM, Chapter IV, Section C (1)(d) for conducting employee interviews. On fatality inspections follow the federal FOM, Chapter 11, Part II, Section D.

Update: Completed.

09-24

Finding: There were frequent discrepancies between the case file documentation and the outcome of the inspection which made it difficult to determine what happened.

Recommendation: Implement and utilize a management review process that ensures the documentation in the case file is reconciled with the outcome of the inspection.

Update: Completed.

09-25

Finding: A video taken by a CSHO showed trenching violations but no

citations were issued and the case file did not include a justification as to the reason for not issuing citations.

Recommendation: Issue citations for a documented violation. If for some reason a supervisor decided not to issue, that reason should be noted in the case file. Review the instances noted above for appropriate follow-up action if necessary.

Update: Completed. Follow-up could not be conducted as site no longer exists.

09-26

Finding: Hazard communication violations were addressed but not cited. The worksheet for citations (form 1B) was in case file but citations were not issued. There was no documentation in the case file to explain this discrepancy.

Recommendation: Review the case for discrepancies that involved an injury where no citations were issued, but documentation of a violation was in the case file.

Update: Completed.

09-28

Recommendation: Utilize the “Most Frequently Cited Violations” report as a tool to track hazard recognition. This report can be used to track individual hazard recognition problems and identify individual training needs.

Update: Completed.

09-29

Finding: The abatement certification form used by Utah is not clear as to the type of abatement certification required.

Recommendation: Revise the abatement certification form, so that the employer is clear as to the type of abatement verification required.

Update: Completed with a copy of revised form as documentation.

09-30

Finding: The requirement for abatement documentation was not noted on repeat and high gravity serious violations.

Recommendation: Note verification in the form of documentation on willful and repeat violations is required in Chapter 7, Section VI, C of the Utah FOM. If documentation is not required for high gravity serious violations, the reason for that decision needs to be noted in the case file.

Update: Completed.

09-31

Finding: Abatement extensions were granted after the expiration of the contest period without being filed in writing. An amended citation was issued in order to extend abatement that was requested after the abatement date was passed.

Recommendation: Follow the procedures in Chapter 7, Part III for Petition for Modification of Abatement in the federal FOM for granting abatement extensions following the contest period. This language should be inserted or referenced in the new state FOM when completed.

Update: Completed.

09-32

Finding: There was no proof of abatement in two cases where the employer was out of business.

Recommendation: Utah must implement an abatement tracking process that ensures that all violations are abated, that all information gets put into the case file and into the database.

Update: Completed.

09-35

Finding: The Utah state plan has a significant number of draft/incomplete reports.

Recommendation: Utah OSHA must conduct a review and clean-up of the OSHA database records to ensure that draft forms are finalized and transmitted to the host computer, except OSHA 1Bs less than six months old.

Update: Completed.

09-36

Finding: A total of one hundred twenty-seven records were on the Unsatisfied Activity Report. Many of these records including all accident reports were well past due.

Recommendation: Utah must insure that all outliers are properly addressed.

Update: Completed.

09-37

Finding: Management was not familiar with the management report available in the system to effectively monitor and control the flow of agency operations.

Recommendation: UOSH should establish a comprehensive system for the proper handling of IMIS management reports. An automated report setup program will assist the agency in automatically securing the most widely used agency reports.

Update: Completed.

09-38

Finding: Problems were noted with individual tracking reports.

Recommendation: Utah must take corrective action to clean up the deficiencies noted in IMIS forms from which the management reports are derived.

Update: Completed.

09-39

Finding: Total Case Rates (TCR) were higher than the national average for construction, lumber and wood products, and metal fabrication. Residential construction was only slightly lower. DART rates were higher for all emphasis areas except highway, street, and bridge construction.

Recommendation: Based on the Bureau of Labor Statistics (BLS) data, Utah should continue focusing resources in all their current emphasis areas with the possible exception of highway, street and bridge construction.

Update: Completed.

c. Recommendations Dropped by the region

09-15

Finding: The employer was not cited for not reporting a fatality within one day.

Recommendation: Issue a citation to an employer for not reporting a fatality to OSHA within one day.

Deleted: Additional information concerning this incident was provided by the state.

09-20

Finding: The number of citations per construction inspection was considerably below the national average.

Recommendation: Place emphasis on hazard recognition skills for the compliance staff, particularly in the area of construction.

Deleted: The number of citations per construction inspection was low due to the second part of the emphasis program being followed by the state at this time. That program consisted of follow-ups inspections to those sites inspected during the first phase of the emphasis program. A high number of the sites should have been and were in-compliance.

09-27

Finding: Utah experienced a high in-compliance rate for fatality and accident inspections. This raises concerns about hazard recognition skills.

Recommendation: Prior to implementation, provide a written copy of any program used for on-site abatement in lieu of “quick fix.” Clearly define the parameters of that program including when that type of program will be used. Share this document with the regional office.

Update: This recommendation was removed after extensive discussion with UOSH managers. Due to the fact that it is the practice of UOSH to inspect all reported accidents and all fatalities including heart attacks, UOSH prefers to conduct an inspection and be sure there are no possible violations than to miss a possible indirect cause. This was most likely the cause for the higher than average in-compliance rate denoted from the onsite statistics. Utah does not use any type of “quick fix” program.

4. **Assessment of State Performance.**

a. **Enforcement**

The Utah Occupation Safety and Health Program closely mirrors the federal program while still addressing the unique characteristics of the state. UOSH has and continues to adopt all new and updated federal Occupational Safety and

Health Administration standards. UOSH also has developed unique state safety and health standards in general industry for: Oil and Gas Well Drilling and Servicing, Materials Handling and Storage, Crushing, Screening and Grinding Equipment, Window Cleaning, House and Building Moving, Industrial Railroads, Livestock Butchering and Bulk Carcass Handling, Hot Metallurgical Operations, Elevators/Escalators/Aerial Trams/Man-lifts/Worker Hoists, Filters and Centrifuges, Food Processing, and Boilers and Pressure Vessels. Unique UOSH standards for construction include: Grizzlies over Chutes/Bins and Tank Openings, Cranes and Derricks and Residential-type Construction/Raising Framed Walls. UOSH enforces the following supplements to federal standards out of their Administrative code: Recordkeeping, Employer/Employee Responsibility, General Safety Requirements, Process Safety Management, Personal Protective Equipment and Hazardous Materials

Utah provides effective first instance sanctions and has right of entry into workplaces. Utah follows the Utah Field Operations Manual for enforcement guidance and is working to update this document to be “at least as effective as” the new federal Field Operations Manual. Utah did not experience any denial of entries for the 2010 fiscal year as depicted by SAMM indicator 5.

Utah projected 750 inspections in their 2010 grant application and actually conducted 622 according to the FY 10 Enforcement Activity Chart. This was a shortfall of 128 inspections, 32 short for safety and 96 for health. Of the inspections conducted, 74 (12%) were health related and 548 (88%) were safety in comparison to the federal percentages of 16% health and 84% safety. Fifty-two percent of Utah’s inspections were construction related as compared to 60% of Federal OSHA inspections. According to SAMM indicator #4, Utah conducted 40 imminent danger related inspection, most of these related to accidents. While Utah fell short of their inspection projections, the goals are typically aggressive and made to stretch the potential of the staff.

The 2010 Enforcement Activity Chart denotes a Utah inspection lapse time of 41.6 days for safety and 35.4 for health as compared to the federal lapse time of 37.9 days for safety and 50.9 days for health. Compliance officers in Utah average 26.7 hours per safety inspection and 35.4 hours per health inspection as compared to Federal OSHA’s 18.3 hours for safety and 33 hours for health.

i. Complaints

Utah addresses unprogrammed activity in the same manner as federal OSHA. Utah negotiated a complaint response time of five working days for inspections and three working days for inquiries (phone and fax process). Fourteen percent of Utah inspections (88 inspections) were complaint generated during FY 2010 as compared with twenty percent of federal OSHA inspections.

According to the SAMM report for FY 2010, Utah’s response time was 3.95 days to initiate complaint inspections and .58 days to initiate inquiries. Both response times fall within the negotiated time frames of five and three days respectively.

Complainants were notified of the inspection results in a timely manner eighty-nine percent of the time per SAMM indicator #3. Of the ten cases that were exceptions, eight of these cases were in-compliance inspections without citations. Eighty-five percent of the UOSH inspections were unprogrammed. Utah inspects all accidents reported to them by their Industrial Accidents Division. This accounted for one-hundred nineteen of the two-hundred fifty referral inspections conducted during the 2010 fiscal year.

ii. Fatalities

Utah experienced ten fatalities during FY 2010, four less than last fiscal year. Three of the fatalities were in the construction industry and seven were in general industry. One of the general industry fatalities involved the Oil and Gas industry. Utah follows the same procedures for the inspection of fatalities as federal OSHA. UOSH also completes the Fatality Catastrophe Report (form 36) and the Investigation Summary Report (form 170) for all fatality inspections. These are submitted to the national and regional offices.

UOSH inspects all fatalities including heart attacks in order to ascertain the fatality was not work related. This occasionally results in a fatality inspection that is “in compliance.” Utah defines a catastrophe as one or more persons hospitalized and inspects all reports of catastrophe.

iii. Targeting and Inspections

In lieu of targeting, Utah has created the “UOSH Compliance Inspection Emphasis Procedures” which is categorized as ENF-006 in the Utah Policies and Procedures Manual. The program has both a general industry and a construction component. Each year UOSH selects industries to direct resources where fatalities, injuries and illness are occurring in both general industry and construction. Codes are selected for tracking and put into the national database.

Fifteen percent of the Utah inspections conducted during FY 2010 were programmed as compared to sixty percent of federal inspections. Utah conducted 14.8% private sector programmed inspections in safety and 7.9% in health as compared to federal OSHA percentages of 65.1% and 35.0%, respectively, as indicated by the State Indicator Report (SIR), item C1. What appears to be a discrepancy is actually due to an effort to ensure inspections are being properly coded. Many UOSH emphasis programs did not have codes accepted by the federal database and those programmed inspections were not being counted. More realistic numbers should result at the end of the next fiscal year. Utah, however, has a large percentage of unprogrammed activity, much of that stemming from their state referred accidents.

According to SAMM indicator 8, 47.25% percent of the programmed safety inspections and 35.5% percent of the programmed health inspections that were done had serious, repeat or willful violations.

During 2010, Utah placed emphasis in the following areas:

1. Oil and Gas Well Exploration and Drilling
2. Material Handling
3. Public Sector
4. Machine Guarding & Control of Hazardous Energy
5. After Hours & Weekend Residential Construction

iv. Citations and Penalties

During fiscal year 2010, Utah issued: 16 willful, 23 repeat, 614 serious and four failure-to-abate citations. According to SAMM indicator 9, Utah averaged 2.05 serious, willful or repeat violations per inspection as compared to the reference standard of 2.1. The reference standard is an average of all federal and state plan offices. Utah averaged .55 other than serious violations in comparison to the reference standard of 1.2. Seventy-three percent of Utah's citations were serious in FY 2010 and 21% were other than serious citations. This compares to 77% serious citations for federal OSHA with 18% other than serious. Citations were issued in 48% of Utah inspections and serious citations were issued in 89% of inspections. The federal indicators for comparison are 71% and 88%, respectively.

The Utah average initial penalty per serious violation for fiscal year 2010 was \$1,969.60 compared to the reference standard of \$1,360.40 as demonstrated in SAMM indicator 10. The reference standard is an average of all federal and private sector state offices. The average current penalty for a serious violation for 2010 in Utah was \$1,057.10 as compared to the federal average current penalty for a serious violation of \$1,052.80. This statistic is an average of the penalties in opened cases, some initial penalties and some already reduced by settlement. Utah average assessed penalties have exceeded the average assessed federal penalties for several years. Utah does not assess penalties in the public sector.

v. Abatement

The abatement process used by Utah is described in Chapter V of the Utah FOM. Utah also adopted the Abatement Verification Directive which has been incorporated into the FOM, Chapter VII.

Since it is difficult to assess the state's progress in the area of abatement without conducting an onsite visit, abatement will be a topic of interest for the onsite visit to verify 2011 performance. Utah has resolved any abatement related issues identified on the corrective action plan. According to SAMM indicator 6, approximately 78% of private sector violations are verified in a timely manner and 84% of public sector violations. The reference standard is 100%.

vi. Employee and Union Involvement

UOSH follows the guidelines in Chapter IV (Inspection Procedures) in the Utah FOM when dealing with unions (employee representatives) and for conducting employee interviews. This chapter outlines the inclusion of the employee representative into all parts of the inspection process: the opening conference, the walk around and the closing conference. It also is explicit that employees are to be interviewed. Refresher training was conducted on these two issues as part of the CAP.

b. Review Procedures

i. Informal Conference

Employers in Utah have 30 days to submit a written notice of contest to the Adjudication Division. Settlements reached between UOSH and the employer before that 30 days are considered informal settlement agreements with the exception of the Penalty Reduction Settlement Agreement (PRSA). Utah does not consider the PRSA an informal settlement agreement. All informal conferences are conducted by the Compliance Manager.

Penalties were reduced at a percentage of 65.5% in Utah during the 2010 fiscal year, which is much higher than the 40.97% for federal OSHA. According to the SIR, Indicator C7, violations in Utah were vacated 3.2% of the time as compared to federal OSHA's 4.7%. Utah reclassified violations during informal settlements .7% of the time, compared to 4.0% for federal OSHA according to SIR indicator C8. It is the practice of UOSH to settle cases by adjusting the penalty for those employers willing to make investments to improve their safety and health program rather than by reclassifying or deleting citations. Informal settlement agreements are negotiated on a case-by-case basis.

The PRSA is the only formal penalty reduction program used by UOSH. If the employer has less than 250 employees, has not used the PRSA in the past three years and is not being issued any willful violations, an agreement will be sent with the citations. If this agreement is signed by the employer, it is not counted as an informal conference. The maximum penalty reduction for the PRSA has been lowered to fifty percent by UOSH as a result of the CAP. Details on this penalty reduction program are still under discussion.

ii. Formal Review of Citations

Contested cases in Utah are assigned to an Administrative Law Judge (ALJ) for hearing. Appealed decisions of the ALJ automatically move forward to the Labor Commissioner, unless the appeal is required to be heard before the Labor Commission Appeal Board. This board is composed of three members: one employer, one employee and an unidentified member. Each board member is selected by the Governor and serves a six year term. No more than two members can be of the same political affiliation. Decisions by the Board are majority

decisions. Appealed decisions of either the Board or the Commissioner are heard in the Utah Court of Appeals.

Ten cases had a first level decision according to SAMM indicator 12, and the average lapse time from receipt of contest to that decision was approximately 167 days. The SIR, section E1-3, reports that 20.9% of violations were vacated, 4.2% of violations were reclassified and 35.4 % of the penalty was retained during formal settlement processes. This compares to the federal rate of 21.9%, 11.7% and 58.1%, respectively.

c. Standards and Federal Program Changes Adoption

i. Standards Adoption

During the 2010 FY, the state adopted the following standards changes either formally or by non-substantive change which is used for revisions, updates, and changes:

Federal

- Revision of Standards Referenced in the Acetylene Standard: Final rule
- Revision of the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards: Direct Final Rule
- Final Rule: Technical Amendment concerning Safety Standards for Steel Erection
- Final Rule: Cranes and Derricks in Construction

State

- Revision of Roofing, Tar-Asphalt Operations standard (R614-7-1)

ii. Federal Program

The following represent federal program initiated changes during FY 2010 and the state's action.

CPL 03-00-011 Food Flavorings Containing Diacetyl NEP – The state did not adopt.

CPL 02-02-148 Field Operation Manual – The state did not adopt, but is in the process of updating the Utah Field Operations Manual (FOM) which will closely mirror federal procedures. (CAP item)

CPL 02-02-075 Enforcement Procedures for High to Very High Occupational Exposure Risk to H1 N1 Influenza – The state adopted the procedures.

10-02 (CPL 02) Injury and Illness Recordkeeping NEP – The state adopted this NEP.

CPL 02-02-076 Hexavalent Chromium NEP – The state adopted this NEP.

CPL 02-01-048 Clarification of OSHA’s enforcement policies relating to floors/nests and shear connectors. Cancellations of CPL 02-01-046 – The state adopted.

CPL 02-00-149 FY Severe Violator Enforcement Program (SVEP) – The state adopted.

10-03 (CPL 02) PSM covered Chemical Facilities NEP – The state did not adopt this NEP.

CPL 02 Site Specific Targeting – The state did not adopt as they use their own targeting process.

10-07 (CPL 02) Recordkeeping Revision – The state adopted the revision.

d. Variances

Utah currently has one permanent variance with chimney construction company, Alberici Mid-Atlantic LLC, which was granted on August 2, 2008.

e. Public Employer Program

According to the Utah 2010 grant application, approximately sixteen percent of employees in Utah work in the public sector. At the beginning of this fiscal year, Utah initiated the 2010 Government Sector Safety Inspection Emphasis Initiative for public sector entities in the state of Utah. This initiative is designed to identify and eliminate hazards such as: falls, confined space entry, trenching, materials handling, equipment and electricity, and other hazards associated with or causing fatalities, accidents and injuries in this group.

Utah projected forty-six public sector inspections for FY 2010 and completed forty-two, which is an increase of twenty inspections in the public sector from last fiscal year. This addresses the CAP item concerning the presence of UOSH in the public sector. According to SAMM indicator 11, 6.5% of UOSH inspections were in the public sector, up from only 3.7% last fiscal year. The baseline, for the SAMM indicator is the average of public sector inspections in Utah during the last three years which was 4.5. Penalties in the Utah public sector are statutorily prohibited.

f. Discrimination Program

UOSH has revised their Policies and Procedures Manual for discrimination work. Those updates will be reflected in the new UOSH FOM. The current procedures in Chapter XII of the Utah FOM are outdated. Utah uses rules similar to the discrimination procedures outlined in the federal whistleblower directive, but reference specific state titles and procedures. UOSH eliminated

the dedicated whistleblower position this fiscal year and moved whistleblower responsibilities to four of the compliance staff to be handled on a part time basis along with their regular compliance work. This group works as a team along with their supervisor. All cases are discussed from input to determination by the team. The case is investigated by two investigators, one assigned as the lead. The result of the process changes has been a decreased number of whistleblower cases. As mentioned in the CAP item, the regional office is planning an onsite visit to assess the UOSH revised whistleblower procedures, which were the result of a special study conducted early in FY 2009, prior to the EFAME onsite visit.

According to SAMM indicator 13, Utah investigated eleven cases that had determination dates in fiscal year 2010, which is a decrease of four from last fiscal year. Eight of those cases had determinations made within the reference standard of 90 days. Three of the thirteen determinations had merit. There were no settlements made this fiscal year. UOSH received thirty-six discrimination complaints during this fiscal year and administratively screened out twenty-two, six being referred to other agencies.

g. CASPAs

There was one whistleblower Complaint about State Plan Administration (CASPA) filed in FY 2010. The case was dismissed by Utah and the complainant is disputing that decision. It is still pending investigation at the Region.

h. Voluntary Compliance Program

Utah administers a Voluntary Protection Program out of their state following the Guidelines of the federal Voluntary Protection Program Manual (CSP 03-01-003). Utah currently had six approved VPP sites at the end of fiscal year 2010, three of them approved during this fiscal year. Two of the new sites achieved Star status and the third came in with merit status. During the fiscal year, UOSH reviewed five new applications; one of these was since withdrawn. In addition to the new applications, UOSH is currently assisting three former applicants through the approval process and has completed a pre-audit of one site.

UOSH is currently working in partnership with four employers. UOSH did not adopt the federal Partnership Directive, but has a written alternative program. This is a CAP item and a few details of this program are still under discussion.

i. Public Sector 23(g) On-site Consultation Program

UOSH has one public sector consultant. In the 2010 grant application, the state projected a total of 19 visits to be conducted in the public sector. According to the MARC, UOSH conducted a total of 41 visits, which is a decrease of nine visits from last fiscal year. Twenty-six visits were initial visits, two were follow-up visits and 13 were training classes. One hundred one hazards were identified during these visits. Of those hazards, 68 were corrected within the original time frame and 26 were corrected within an extension time frame. At this time, there

are no public sector participants in the Safety and Health Achievement Recognition Program (SHARP).

j. Program Administration

Despite an extremely busy year with the onsite visit and the CAP, four quarterly meetings were held. Two meetings were held face-to-face: one during the onsite visit and the second during the Regional Planning meeting which was attended by the Utah managers. The Utah management staff has worked tirelessly to implement the changes required by the CAP in conjunction with the every day operation of the program.

k. Training

Training in Utah is done in-house due to restricted funds to travel out of state. UOSH has a well documented training program. Initial training takes approximately six months to complete and consists of the following three parts:

- Classroom training - includes review of: 29CFR1910, 29CFR1926, the Utah Administrative Code, the Utah Field Operations Manual, instructions on using the OSHA website and IMIS training. The CDs provided to the State Plans by the OSHA Training Institute (OTI) are also used during this training.
- Hands-on Training - includes manuals and CDs in the form of a “Compliance Kit” from American Safety Training, on-line training from Costal Training Technologies Corporation which provides thirty-five interactive courses, completion of the OSHA e-tools and interactive sessions where scenarios are presented using video and pictures from inspections. This training is conducted by the team leaders.
- Field Training - occurs when a new hire accompanies a senior CSHO on an inspection. A CSHO will observe approximately twenty inspections before being released to the field alone, assuming progressively more responsibility with each inspection.

Each individual’s training activities are tracked using an access data base table. CSHOs use a calendar to mark completed items as they finish them. Review quizzes are used throughout the process. Once a new hire has completed their training, they are required to complete three final tests which assess their knowledge of the material presented. Each CSHO is then interviewed by a board consisting of: the Compliance Manager, the Compliance Team Leader and either a Senior Safety or a Senior Health CSHO, depending on the discipline of the new hire. The Board then recommends release to the field, more in-house training or more field training. A training record is maintained for each CSHO throughout their career. All future training classes attended are inserted into the training record.

UOSH requests training from the OTI each year. They usually get at least one training class, but it is not always the one they requested. UOSH has

repeatedly requested the “Accident Investigation Course,” referenced in the CAP, to no avail. UOSH is currently looking for an alternative course for their staff addressing the topic of investigative skills. No OTI classes were given onsite in Utah this fiscal year.

The UOSH staff participated in five enforcement related webinars last fiscal year, attended electrical training at Rocky Mountain Power and brought in an expert to conduct Arc Flash Training. Three staff members attended an asbestos abatement course and several of the staff attended courses offered at the OSHA extension at the University of the Utah Rocky Mountain Center for Occupational and Environmental Health. This facility is used frequently for training, but these courses are not intended to provide basic training for new CSHOs. The public sector consultant participated in a variety of safety and health courses this fiscal year as well. UOSH places emphasis on the continuing education of their staff each fiscal year.

ii. Funding

Despite the small increase in the grant base this year, which allowed UOSH to staff up, economic challenges continue in Utah. The inability to provide salary increases is detrimental to retaining staff in UOSH. To address these financial challenges, the continued use of the telecommuting pilot program has provided some relief in operational costs. Utah continuously explores training opportunities in their state to eliminate the need for individual high cost training and associated travel costs and continues to explore other cost saving ideas.

iii. Staffing

The State of Utah continues to mandate the UOSH program to operate under “the Working 4 Utah” program.” This is a four day, ten hours per day, work week. All state government buildings and associated equipment cannot be used on Friday. UOSH continues to provide Safety and Health coverage five days a week using their telecommuting program.

Utah continues to meet the required benchmarks of ten safety and nine health compliance officers. During fiscal year 2010, Utah hired six new compliance officers and lost three: one to retirement and two to resignations. As mentioned above, retention of experienced staff continues to be a problem due to the classification of the inspector position at a low level of salary when compared to the private sector. Utah OSHA is frequently forced to hire personnel with very little background and/or training in safety or health in order to maintain their benchmark. UOSH no longer has a compliance assistance specialist position.

iv. Information Management

The state has worked extensively on the clean up of unsatisfied activity and draft forms as identified in the CAP. Utah is considering all options with respect to replacement of the Integrated Management Information System (IMIS).

v. State Internal Evaluation Program

The state has compiled a State Internal Evaluation Program that addresses the “cradle to grave” enforcement process. A process for the review of this information is outlined in the program. The case file review sheet is being currently used as a tool by management to manage case files; however, the quarterly spot check is not being done. Once the quarterly spot check designated in the program is initiated, and the resulting reports are shared with the region, the CAP item related to this issue will be complete.

5. Assessment of State Progress in Achieving Annual Performance Goals.

Fiscal year 2010 marked the second year of Utah’s five year Strategic Management Plan (2009-2013).

Strategic Goal #1 – Achieve an effective impact in the reduction of Utah fatality rate for industries that are under UOSH jurisdiction by 2013, measured by the most current BLS fatality data available for the state.

By 2013, reduce the rate of workplace fatalities.

Annual Performance Goal #1 – Achieve a rate of fatalities lower than the baseline rate of 1.5. (This baseline is the BLS three-year average fatality rate from FY 2004-2006.)

Utah experienced ten fatalities this fiscal year, a decrease of four from last fiscal year. This calculates to a fatality rate of 0.9, which is a 0.6 decrease from the baseline, or a forty percent decrease in fatalities when compared to the baseline. This also calculates to a twenty-five percent decrease in fatalities from last fiscal year. Utah has accomplished their objective for this goal. The state is commended for their work in this achievement.

Strategic Goal #2 – Achieve an effective impact in the reduction of injuries and illnesses in industries that are under UOSH jurisdiction, measured by the most current average of BLS total recordable case rate (TRC) from 2009-2013. Effect an annual reduction of 0.1 of the BLS total recordable cases rate.

Annual Performance Goal #2 – An annual reduction in total workplaces injuries and illnesses rate for all industries from the three year BLS baseline (2004-2006) rate of 5.5 to 5.3.

For this goal, UOSH assesses results in the broad categories of general industry and construction. UOSH combines a variety of activities including: inspections, consultation visits and outreach from both inspectors and consultants to impact the results of this goal. In FY 2010, UOSH activities directed toward this goal include 622 inspections, 407 consultation visits and 362 outreach initiatives. This includes 100 outreach initiatives from enforcement, which includes assistance phone calls lasting more than 15 minutes.

Since the results of this goal are based on BLS data, the results are delayed one year. The TRC for FY 09 was 3.9, which is a reduction of 1.6 from the baseline of 5.5. This is a 29% reduction in the total recordable case rate from the baseline and a 20% reduction from FY 08. The state has effectively achieved this goal. The state is commended for their work in this achievement.

Strategic Goal #3 – Promote a safety and health culture through increased participation of Consultation Services, VPP, SHARP and Compliance Assistance.

Annual Performance Goal #3 – Increase by 1% per each year, the number of consultation services, workshops, presentations, VPP applications, SHARP applications and participation in Compliance Assistance activities.

Interventions	Baseline	2010 Goals	2010 Results	% Change
21(d) Consultation Visits	292	298	407	+39.4%
Form 66	217	221	286	+31.8%
Form 55	426	435	100	-76.5%
VPP Presentation	5	5	3	-40%
VPP Application	1	1	4	+75%
SHARP Presentation	10	10	4	-60%
SHARP Application	2	2	1	-50%
Public Sector Consultation	15	42	50	+233%

Based on the result of the above chart, the state made progress toward accomplishing this goal.

6. Other

UOSH Team Member of the Month

UOSH has created a team incentive award that awards staff members who “goes the extra mile.” The Team Member of the Month is nominated by the entire staff and the recipient is awarded five hours of administrative leave and a reserved parking spot for a month. The program is popular with the staff and has served to build morale and has enhanced the work environment.

Appendix A
FY 2010 Utah (UOSH) Enhanced FAME Follow-up Report
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	The standard 60% Penalty Reduction Settlement Agreement (PRSA) was given on two of the fatalities. An average 50% penalty reduction was given for fatality inspections during the FY2009.	Follow the guidance in the federal FOM, Chapter 11, Part II, and Section L (1) (d) that states: “insure that settlement terms are appropriate, including violation reclassification, penalty reductions, and additional abatement language.	09-14
10-2	Penalty reductions in Utah are excessive. One factor that contributes to this higher rate is the Penalty Reduction Settlement Agreement (PRSA) which offers an automatic 60% penalty reduction.	Adjust penalty reductions to come into compliance with OSHA’s new penalty policy.	09-33
10-3	Penalty reductions at informal conferences averaged 70%.	[See recommendation #10-2.]	09-34
10-4	<p>Two cases were untimely filed, but were docketed and investigated.</p> <p>Several files did not contain documented interviews and/or recordings were corrupted.</p> <p>Files did not adequately document inspection activity.</p> <p>One case file contained information that the complainant decided to withdraw his complaint, but did not document the reasons for the withdrawal. This raises a concern because complainant had presented a strong prima facie showing.</p> <p>Several case files did not contain a Final Investigation Report.</p>	Track and rectify any outstanding items, identified in the concerns above, in the discrimination program for all Recommendation #40 items.	09-40

**Appendix A – Utah State Plan
Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
	<p>Several Final Investigation Reports contained inadequate information and/or the analysis was incorrect.</p> <p>Full Field investigations were rare.</p>		
10-5	Cooperative relationships in the Utah compliance program did not follow the guidelines of a formal program.	For existing cooperative relationships, document the guidelines being used and ensure that appropriate compliance protocol is being followed. Submit a copy to the Regional Office. The Regional Office should be apprised of any cooperative relationship that impacts compliance.	09-41
10-6	Full field investigations were rare.	The OSHA Voluntary Protection Program (VPP) website clearly instructs prospective sites to exclude trade secret and personal information; therefore, this requirement should be followed in the application process.	09-42
10-7	The VPP Manager does not formally acknowledge receipt of the application within 15 days of receipt for applications that are dropped at the office.	Initiate a process to formally acknowledge receipt of an application no matter how it is delivered. This acknowledgment can be sent either by letter or electronic mail.	09-43
10-8	UOSH Managers conduct a review of the applicant’s enforcement history for the time period of three years prior to the application.	Use the standardized VPP report and worksheet template to ensure all application criteria is documented. If this recommendation is not taken, the State needs to include documentation of enforcement history in their current process. The standardized worksheet includes all the required criteria which includes a brief section on enforcement history.	09-44
10-9	VPP evaluations are scheduled within 6 months, but report preparation and approval are not done in a timely manner.	At a minimum, compile a draft report while doing the on-site audit so it can be left with the employer. This change in process will also serve to improve the timeliness of the report.	09-45

**Appendix A – Utah State Plan
Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-10	The template being used by UOSH for evaluation for VPP status is not current and therefore is missing newer criteria.	Adopt the federal template or update the current UOSH template to cover current criteria.	09-46
10-11	The State is experiencing increased applications and interest in VPP. Due to resource issues, the State is not marketing the program at this time.	Address the resource issue by making use of the Special Government Employee program in order to effectively serve Utah companies interested in VPP status.	09-47
10-12	The State is not ensuring the annual report is submitted by February 15th of each year. The State is not reviewing the VPP reports or providing feedback to the sites for improvement.	Follow the required February 15th due date for submission of the annual reports from VPP companies. In addition, UOSH needs to devote resource to analysis of the reports and provide feedback to the sites. Sites that do not submit an annual report must be removed from the program.	09-48
10-13	PSM sites are not submitting the PSM Supplement B questionnaire with their annual report.	The State needs to require the use of the PSM Supplement B from PSM facilities annually.	09-49
10-14	Based on the on-site review of files, extensive problems were noted with the investigative skills of CSHOs. Open-ended interview questions pertinent to the existing violations were not asked which prevented investigators from identifying the root cause of the violations so the appropriate regulation could be cited.	Include training on investigation skills in the UOSH new hire training program. Since resources are limited at this time, one staff member could attend the OSHA Training Institute (OTI) course on investigations in a train the trainer mode and subsequently train the rest of the enforcement staff. Assess interview skills of the compliance staff and conduct training on how to effectively interview employers and employees to get to the root cause of the violation.	09-50
10-15	See Finding #10-14.	Assess interview skills of the compliance staff and conduct training on how to effectively interview employers and employees to get to the cause of the violation.	09-51
10-16	The State has created a State Internal Evaluation Program (SIEP), but has not yet implemented it.	The State needs to implement the evaluation part of the SIEP, sharing the results with the federal regional office.	09-52

**Appendix A – Utah State Plan
Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-17	The State is in the process of adopting the federal FOM with minor non-substantive changes, and in updating their Policies and Procedures Manual.	Complete the updating of UOSH guidance documents this fiscal year.	09-53

Appendix B
FY 2010 Utah (UOSH) Enhanced FAME Follow-up Report
Status of FY 2009 EFAME Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	The Case File Management checklist in the case file is not consistently used by management to ensure post citation actions are completed.	Ensure post citation actions are completed. Complete the Case File Management checklist in all case files.	UOSH Checklist was not mandatory. This UOSH idea was implemented in 2009 to proactively improve case file documentation. Finding is isolated case.	UOSH has made the use of their case file checklist mandatory for all case files.	Completed
09-2	There are overall organization problems with safety case files and some of these are missing documentation.	Ensure that safety case files are organized and are completely documented.	This relates to the order of documents in a case file. See UOSH response #1 above.	A management meeting was held to remind and agree to continue on mandatory use of case file checklist. Staff meeting included a review of case file organization with CSHOs. 11/18/10 UOSH added a case file organization section to new hire training.	Completed
09-3	A follow-up inspection done at a later date was not attached to the original case file.	Include the follow-up inspection information with the original case.	This was not a federal requirement prior to the review. Follow up case files have been kept in a separate folder identified by a case number.	Follow-up inspection documentation is now part of the original case file. This was addressed during the November 2010 staff meeting.	Completed
09-4	One referral was not responded to in a timely manner as required by the Complaint Directive adopted by Utah, which is now part of the federal FOM, Chapter 9, Section 1, B.	Ensure all referral inspections are opened in a timely manner.	This was a one time instance. UOSH overall SAMM response indicator is compliant.	UOSH conducted refresher training to staff. UOSH will continue to monitor the IMIS referral report to track timeliness.	Completed
09-5	Three unprogrammed inspections were missing notifications to the complainant. This was due to the contact information not being documented in the case file. According to the Utah FOM, Chapter XI Section 11(d), "the complainant should be informed of the results" of the complaint after the completion of an inspection.	Ensure complainants are notified of the results of the inspection for all complaints not filed anonymously. Document contact information in the file for all non-anonymous complainants in order to provide the results of the inspection.	This finding is not supported by the case file review. UOSH review of case files indicated that in the cases identified one case was not a complaint, and the other two had a copy of the letter to the complaint in the file.	UOSH conducted refresher training to staff concerning this issue as a reminder of process already in place. UOSH will continue to monitor SAMM #3.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-6	One local government agency inspection addressed hazards that were not cited.	Perform a follow-up inspection where violations were not addressed and may continue to exist. Contact the Regional Office for the identity of this facility.	Unknown or unidentified case file.	File was identified and discussed at a manager meeting to determine the best course of action.	Completed
09-7	There was not consistent documentation in case files that the complainant was advised of the employer's response to the inquiry as stipulated in the Utah FOM, Chapter XI, Section A(5)(d) and or in the federal FOM, Chapter 9, Section I(I)(6).	Place documentation of complainant's notification of the employer's response in the case files of inquiries.	All complainants are notified by letter of UOSH findings, or a copy of the employer's response is included in phone/fax cases. This item was covered as a reminder to staff at the November 18, 2010 staff meeting and will again be addressed at the March 10, 2011 Staff Meeting.	Refresher training on this issue was held for the staff as a reminder of process already in place.	Completed
09-8	Negotiated abatement times for employers to respond to inquiries were exceeded without documentation that the employer had requested more time and the conditions around that request.	Enforce the newly negotiated five day abatement period for phone and fax. Document the reasoning and extension period in the case file, as required by the federal FOM, Chapter 9, Section I(I)(5), when an inspection is not scheduled because of overdue abatement. Enter extensions for abatement of inquiries in the computer database as required.	Unknown or unidentified case file. Unknown reference to newly negotiated five day abatement period by phone/fax referenced in the recommendation.	UOSH adopted and is following the five day abatement period for phone/fax inquiries stipulated in the Complaint Directive now part of the federal FOM and to be incorporated in the Utah FOM.	Completed
09-9	Inquiries, instead of inspections, were sometimes scheduled to address serious hazards and prompt abatement was not required.	Ensure that serious hazards are abated quickly. Follow the guidelines in the federal FOM, Chapter 9, Section I(I)(3)(b) for inquiries, which provide the latitude to decrease response times based on circumstances of the complaint.	This is only applicable to phone/fax. In all cases, abatement certification was obtained. Unknown or unidentified case file. Unknown reference to newly negotiated five day abatement period by phone/fax referenced in the recommendation.	File was identified and discussed at a manager meeting to determine the best course of action.	Completed
09-10	Proof of abatement in cases with serious hazards was not sufficient.	Follow the guidelines in Chapter 9, Section I (I)(3)(c) for proof of abatement.	In all cases, certification is obtained. UOSH has implemented a new practice to obtain photographic evidence of the abatement from the employer whenever available.	UOSH now requires additional photographic documentation of abatement for all serious, willful and repeat violations which is more effective than federal OSHA. CSHOs were instructed on the changes.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-11	Some complaint items were vague and non-specific, making it difficult for employers to properly abate the hazards.	Follow the procedures in the Utah FOM, Chapter XI, Section A(3)(a)(3) which stipulates “determine the exact nature of the alleged violation.”	This is related to the description provided by the complainant which is included. Employers understand what is required at closing.	A method to improve the clarity and specificity of complaints was resolved by the management team.	Completed
09-12	An inquiry, instead of an inspection, was scheduled to address a past exposure that was alleged to cause a permanent illness.	Schedule inspections in accordance with Chapter XI, Section A(2)(f), when “The complaint alleges that physical harm, such as disabling injuries and illnesses has occurred as a result of the complained of hazards and that there is reason to believe that the hazard or related hazard still exists.” This criteria is reiterated in the federal FOM, Chapter 9, Section I(C) (3).	This finding is not supported by the case file review. After employer abatement, there was no hazard to address. This is one case and an isolated incident. This will be stressed in the March 10, 2011 Training as a reminder to staff.	Training will be held for the staff to address the need to thoroughly investigate any past exposure incident in a complaint and to require abatement related to those exposures.	Completed
09-13	UOSH is not consistently sending letters and copies of the citations to the victims’ families as required in the federal FOM, Chapter 11, Part II, Section G, Families of Victims.	Follow the procedures in the Federal FOM concerning proper notification to families of victims.”	This finding is not supported by case file review. UOSH established policy provides for a condolence letter to the next of kin, indicating the citation is available free of charge upon request at a later date, due to the time lapse to citation issuance.	UOSH now sends a copy of the citations to the next of kin for all fatalities without the need for a request after the citation is issued.	Completed
09-14	The standard 60% Penalty Reduction Settlement Agreement (PRSA) was given on two of the fatalities. An average 50% penalty reduction was given for fatality inspections during the FY2009.	Follow the guidance in the federal FOM, Chapter 11, Part II, and Section L (1) (d) that states: “insure that settlement terms are appropriate, including violation reclassification, penalty reductions, and additional abatement language	This finding is not supported by the review, UOSH FOM or Utah statute. PRSAs do not provide for reclassification, only penalty adjustment. The abatement language is stipulated by the citation. The settlement terms and language is already pre-determined by the PRSA.	This item is subject to further federal discussion and monitoring. Settlement of fatality cases should reflect the seriousness of the situation.	Continued
09-15	A fatality that was not reported in one day was not cited during the inspection.	Cite any fatality that is not reported by the employer to OSHA in one day	This was an exceptional instance. UOSH learned of this incident through the media and responded on site before the eight hours passed.	This recommendation is being removed based on the explanation by the state.	Deleted

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-16	<p>Fatality cases were not appropriately documented and interviews were not thoroughly conducted.</p> <p>The cause of employer knowledge and employee exposure were not well documented.</p>	Follow the procedures in the federal FOM, Chapter 11, Part II, Section C, Investigative Procedures and D, Interview Procedures.	<p>This finding is not supported by the case file review. Review indicates interview list found in the protected section of the case file as well as in the supporting video of interviews.</p> <p>This finding is not supported by case file review. Employer knowledge is documented in the narrative of the report.</p>	<p>Employer knowledge is satisfied in UOSH if the hazard is a recognized industry hazard. UOSH does not require detailed employer knowledge documentation for recognized hazards.</p> <p>UOSH has had no problems upholding these hazards during litigation. This part of the item is considered completed.</p>	Completed
09-17	Utah has no coding instructions in ENF-006 to ensure coding is consistent when entering the activity into the federal database.	Add instructions to ENF-006 on how to code the various emphasis areas each year.	This has been a long standing work in progress due to NCR limitations for state plan to generate coding. UOSH codes reviewed by Region VIII on 08/24/10. Federal coding added and ENF-006 e-mailed to Region VIII on Thursday, March 3, 2011.	<p>UOSH submitted existing codes to RO for approval with National codes in August.</p> <p>UOSH sent copy of revised policy to the Regional Office for review on 12/01/10.</p>	Completed
09-18	There are extensive problems with coding of programmed and un-programmed inspections. Utah has 166 programmed inspections out of 597 inspections. This calculates to about a 28% programmed rate which differs greatly from the 55% rate or 328 inspections designated as programmed in the enforcement report. While these numbers do not include inspections from the amputation and trenching NEP, it is doubtful those two hazards would account for over 250 inspections.	Accurately code inspections. At the end of the fiscal year, tally inspection numbers and reconcile those numbers with those from the Integrated Management System (IMIS). This will ensure inspections are being correctly coded.	This is a consequence of the obsolete OSHA data entry system currently in place. UOSH staff continues to encounter numerous data entry problems.	UOSH conducted refresher training on data entry to the staff.	Completed
09-19	Utah had one sawmill inspection and four material handling inspections.	Reassess targeted areas for effectiveness. If the data supports continued targeting, resources should be redirected to these high hazard industries.	<p>The one sawmill inspected was the only one operating. Other smaller mills were handled by consultation emphasis.</p> <p>The material handling emphasis started on 09/01/09.</p>	Both programs were completed and are no longer in effect.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-20	The number of citations per construction inspection was considerably below the national average.	Place emphasis on hazard recognition skills, particularly in the area of construction, for the compliance staff.	Comparison with the national average is used for reference only. There have always been variations in each state, region, season and emphasis program. The assumption/conclusion/recommendation that this is a consequence of hazard recognition skills is unfounded.	This recommendation is being removed due to the explanation given by the state. The low number of construction inspections was due to Phase 2 of the Big 4 Construction Program which was a re-check of those sites inspected during phase 1. Most of the inspections conducted during phase 2 were in compliance.	Deleted
9-21	The accident reporting utilizes significant resources and effectively gets UOSH into the right places.	Consider using the accident inspections, generated by legislation, as a formal emphasis program. Refine this program and track the number and types of violations cited during these inspections.	This is not generated by legislation, it is generated by a reporting requirement. UOSH already captures this activity data in the system. Emphasis initiatives are used to address other changing conditions in a proactive/preventative manner and not in an after-the-fact manner. Fatality and accident data is always looked at to identify some potential areas of emphasis.	UOSH has opted not to use this data to create a Local Emphasis Program and will continue to investigate reported accidents in the same manner.	Completed
9-22	Employee representatives were not consistently involved in both the opening and closing conferences of inspections.	For union involvement follow the guidance in the Utah FOM, Chapter IV, Sections B (2), B (10) (b) and D. If the union waives involvement, document the circumstances in the narrative of the case file.	This finding is not supported by case file review. This is part of the inspection opening and closing conference checklist a Compliance Officer uses to conduct inspections	Refresher training on this issue was held for the staff. Union involvement is documented on the Inspection Checklist.	Completed
9-23	A sufficient number of employees are not being interviewed during inspections including fatality inspections.	Follow the guidance in the Utah FOM, Chapter IV, Section C (1) (d) for conducting employee interviews. On fatality inspections follow federal FOM, Chapter 11, Part II Section D.	This finding is not supported by the file review. Compliance Officers interview all witnesses and management. This has been brought to the Region VIII's monitor both verbally and in writing.	Refresher training on this issue was held for the staff.	Completed
9-24	There were frequent discrepancies between the case file documentation and the outcome of the inspections which made it difficult to determine what	Implement and utilize a management review process that ensures the documentation of the case file is reconciled with the outcome of the inspection.	During a previous region VIII visit, the case file check lists and management review forms were provided to them, upon their request. At that time, there was nothing	UOSH provided various refresher training sessions to reiterate the use of available tools to be used for documentation purposes.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	happened. This practice undermines the work of UOSH.		mentioned of any discrepancies. There is disagreement on this issue as the response to the e-fame showed.		
9-25	A video taken by a CSHO showed trenching violations, but no citations were issued and the case file did not include a justification as to the reason.	Issue citations for a documented violation. If for some reason a supervisor decided not to issue, that reason should be noted in the case file. Review the instances noted above for appropriate follow up action if necessary.	Without specific inspection information, this isolated incident cannot be further addressed.	Case files will continue to be reviewed by management.	Completed
9-26	Hazard communication violations were addressed but not cited. The worksheets for citations (Forms 1B) were in case files but, citations were not issued. There was no documentation in this case file to explain this discrepancy. No justification was given for an in-compliance case related to an injury.	Review the case that involved an injury where no citation was issued for discrepancies.	Without specific inspection information, this isolated incident cannot be further addressed. The staff has been trained (11/2011) as reminder to continue citing everything mentioned in the narrative.	File was identified and discussed at manager meeting. Case files will continue to be reviewed by management.	Completed
9-27	Utah experienced a high rate of in-compliance (IC) for fatality and accident inspections. This raises concerns about hazard recognition skills.	Prior to implementation, provide a written copy of any program used for on-site abatement, in lieu of “quick fix.” Clearly define the parameters of that program and inform the Region when that type of program will be used.	UOSH does not use “Quick Fix” or on-site abatement. (There is on-site verification only.)	It is the practice of UOSH to inspect all reported accidents and all fatalities, including heart attacks, to be sure there are no possible violations or to be sure not to miss a possible indirect cause. This was most likely the cause for the higher than average in-compliance rate denoted from the onsite statistics. Utah does not use any type of “quick fix” program.	Deleted
9-28		Utilize the “Most Frequency Cited Violation Report” as a tool to track hazard recognition. This report can be used to track individual hazard recognition problems and identity individual training needs.	UOSH will closely monitor the “Most Frequently Cited Violation Report” and use if as a management tool to identify individual discrepancies.	UOSH uses the “Most Frequently Cited Violation Report” to track hazard recognition.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-29	The abatement certification form used by Utah is not clear as to the type of abatement certification required.	Revise the abatement certification form so the employer is clear as to the type of abatement verification required for each violation.	We are currently reviewing our abatement certification form and will make modification as we find appropriate. E-mailed second time to Region VIII March 9, 2011.	UOSH is using an additional employer reminder for items that need documentation on their abatement certification form.	Completed
9-30	The requirement for abatement documentation was not noted on repeat and high gravity serious violations.	Note verification in the form of documentation on all willful and repeat violations as required in Chapter 7, Section VI, C of the FOM. If documentation is not requested for high gravity serious violations, the reason for that decision needs to be noted in the case file.	UOSH requires "proof of abatement" (documentation) on all serious cited items. Refresher training was Same as #29. Refresher training was conducted for the CSHOs on 11/18/10. conducted to remind CSHOs November 18, 2010 and repeated on March 10, 2011.	Refresher training was conducted for the CSHOs on 11/18/10.	Completed
9-31	Abatement extensions were granted, after the expiration of the contest period, without being filed in writing. An amended citation was issued in order to extend abatement that was requested after the abatement date was passed.	Follow the procedures in Chapter 7, Part III for Petitions for Modification of Abatement in the federal FOM for granting abatement extensions following the contest period. This language should be inserted or referenced in the new state FOM when completed.	We require all extensions to be filed in writing.	All abatement extensions will continue to be filed in writing and will follow the criteria of the Utah FOM, including how to protect employees in the interim.	Completed
9-32	There was not proof of abatement in two cases where the employer was not out of business.	Utah must implement an abatement tracking process that will ensure that all hazards are abated and that all the required information gets put into both the case file and the database.	UOSH requires "proof of abatement" (documentation) on all serious and /or other than serious with greater probability, cited items. These two cases appear to be isolated instances.	CSHOs, management and the support staff will continue checking the abatement for completeness. These two incidences were isolated.	Completed
9-33	Penalty reductions in Utah are excessive. One factor that contributes to this higher rate is the Penalty Reduction Settlement Agreement (PRSA) which offers an automatic 60% penalty reduction.	Adjust penalty reductions to come into compliance with OSHA's new penalty policy.	We disagree penalty reductions are excessive. Our PRSAs are only offered to small employers who have not been offered a previous PRSA within 3 years. The PRSA requirements were faxed to Region VIII on March 7,	Utah lowered the automatic penalty reduction to 50%, but did not yet document the criteria of the program in writing.	Continued

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
			2011.		
9-34	Penalty reductions at informal conferences averaged 70%.	[See recommendation #33.]	During the informal conferences, various employer situations are considered. Reductions are not offered without obtaining assurances of continued and improved employee safety. A complete explanation was given on this issue in the e-fame. Utah's current policies will remain in effect.	The State does not plan on any changes in this area. Discussion between OSHA and UOSH on this issue will continue. Utah was asked to document its policy on penalty reductions at informal conferences and submit it for regional review.	Continued
9-35	The Utah State Plan has a significant number of draft/incomplete records.	Utah OSHA must perform a review and cleanup of the IMIS database records to ensure that all draft forms are finalized and transmitted to the host computer as expeditiously as possible, except for OSHA-1Bs less than six-month old since they may still be modified before the citations are issued. A system must be developed to ensure that periodic review of draft and rejected IMIS forms are conducted to maintain a viable information system.	Utah will continue to use the unsatisfied activity, violation abatement and debt collection report to help maintain the integrity of our records. Copy of data entry report showing majority of old drafts and incomplete records corrected was emailed to Region VIII March 9, 2011.	The State is currently involved in an on-going process of file review and clean-up.	Completed
9-36	A total of 127 records were listed on the [Unsatisfied Activity Report]... Many of these records, including all accident reports, were well past due.	Utah must ensure that all outliers on the unsatisfied activity report, violation abatement report and debt collection report are properly addressed.	Utah will continue to use the unsatisfied activity, violation abatement and debt collection report to help maintain the integrity of our records. Unsatisfied data entry error report e-mailed to Region VIII March 9, 2011.	UOSH is using the suggested reports to manage their program. The State is currently involved in an on-going process of data entry review and clean-up.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-37	In discussions with management, it became clear that they are not familiar with most of the management reports available in the system to effectively monitor and control the flow of agency operations.	Utah OSHA must establish a comprehensive system for the proper handling of the IMIS management reports system. An automated report setup program will assist the agency in securing that the most widely used reports are automatically generated, reviewed and acted-upon on a periodic basis, either weekly, bi-weekly or monthly), based on the importance of the specific report and its volume of cases to be reviewed and monitored.	We appreciate the Region's assistance in showing us the value of these reports. Now that we are aware of these reports, they are being utilized.	Same as #36.	Completed
9-38	Problems were noted with individual tracking reports.	Utah OSHA must review the findings outlined in this segment and take corrective action to cleanup the deficiencies noted in the IMIS management reports noted herein.	Now that we are aware of these reports, they are being utilized and corrections made upon finding.	Same as #36.	Completed
9-39	Total Case Rates (TCR) were higher than the national average for non-residential construction, lumber and wood products, and metal fabrication. Residential construction was only slightly lower. DART rates were higher for all emphasis areas except highway, street and bridge construction.	Based on the BLS data, Utah should continue focusing resources in all of their current the emphasis areas with the possible exception of highway, street, and bridge construction.	For fiscal year 2009, the TCR for all industries in Utah including state and local government is 3.9, the same as the federal TCR. Utah is aware of the rate.	Utah will continue to monitor the TCR for all industries and apply its resources where necessary. Utah will continue to monitor the DART for all industries and apply its resources where necessary.	Completed

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-40	<p>Two cases were untimely filed, but were docketed and investigated.</p> <p>Several files did not contain documented interviews and/or recordings were corrupted.</p> <p>Files did not adequately document inspection activity.</p> <p>One case file contained information that the complainant decided to withdraw his complaint, but did not document the reasons for the withdrawal. This raises a concern because complainant had presented a strong prima facie showing.</p> <p>Several case files did not contain a Final Investigation Report.</p> <p>Several Final Investigation Reports contained inadequate information and/or the analysis was incorrect.</p> <p>Full Field investigations were rare.</p>	<p>Track and rectify any outstanding items, identified in the concerns above, in the discrimination program for all Recommendation #40 items.</p>	<p>Pre-screening is being utilized for all whistleblower cases to determine if all elements are present to validate a prima facie complaint.</p> <p>The current whistleblower investigators carefully document all interviews and findings in the file.</p> <p>Investigators carefully document all interviews and findings in the file.</p> <p>In this isolated case, the complainant did not share his/her reason for withdrawal.</p>	<p>All the whistleblower items are the result of a special study conducted in FY 2009. The state has responded with their actions taken, but the on-site follow-up to the special study was not conducted. State actions will be verified by a special study that will be conducted during fiscal year 2011.</p>	Continued

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-41	Cooperative relationships in the Utah compliance program did not follow the guidelines of a formal program.	For existing cooperative relationships, document the guidelines being used and ensure that appropriate compliance protocol is being followed. Submit a copy to the Regional Office. The Regional Office should be apprised of any cooperative relationship that impacts compliance.	UOSH as a state agency, has maintained for many years active working relationships with numerous organizations and agencies. UOSH has not used in the past, this approach of a formal program, due to the voluntary nature of this type of approach. For more specific uses, UOSH has been working on a pilot program called ARCHES for site specific and long term large construction projects to amplify coverage and effectiveness of use of resources.	The state has submitted a formal partnership program to the regional office for review. Discussion continues on some criteria.	Continued
9-42	Full field investigations were rare.	The OSHA Voluntary Protection Program (VPP) website clearly instructs prospective sites to exclude trade secret and personal information; therefore, this requirement should be followed in the application process.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	Recommendations #42 through #49 will be addressed in the following manner: The State will review and proceed with implementation of the improvements to the program.	Continued
9-43	The VPP Manager does not formally acknowledge receipt of the application within 15 days of receipt for applications that are dropped at the office.	Initiate a process to formally acknowledge receipt of an application no matter how it is delivered. This acknowledgment can be sent either by letter or electronic mail.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42.	Continued

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-44	UOSH Managers conduct a review of the applicant’s enforcement history for the time period of three years prior to the application.	Use the standardized VPP report and worksheet template to ensure all application criteria is documented. If this recommendation is not taken, the State needs to include documentation of enforcement history in their current process. The standardized worksheet includes all the required criteria which includes a brief section on enforcement history.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42.	Continued
9-45	VPP evaluations are scheduled within 6 months, but report preparation and approval are not done in a timely manner.	At a minimum, compile a draft report while doing the on-site audit so it can be left with the employer. This change in process will also serve to improve the timeliness of the report.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42.	Continued
9-46	The template being used by UOSH for evaluation for VPP status is not current and therefore is missing newer criteria.	Adopt the federal template or update the current UOSH template to cover current criteria.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42	Continued
9-47	The State is experiencing increased applications and interest in VPP. Due to resource issues, the State is not marketing the program at this time.	Address the resource issue by making use of the Special Government Employee program in order to effectively serve Utah companies interested in VPP status.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42	Continued

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-48	The State is not ensuring the annual report is submitted by February 15th of each year. The State is not reviewing the VPP reports or providing feedback to the sites for improvement.	Follow the required February 15th due date for submission of the annual reports from VPP companies. In addition, UOSH needs to devote resource to analysis of the reports and provide feedback to the sites. Sites that do not submit an annual report must be removed from the program.	UOSH manages an effective state plan VPP program. We consider this item a valuable recommendation for further improvement and will review implementation to the program.	See #42.	Continued
9-49	PSM sites are not submitting the PSM Supplement B questionnaire with their annual report.	The State needs to require the use of the PSM Supplement B from PSM facilities annually.	UOSH concurs with this finding.	See #42.	Continued
9-50	Based on the on-site review of files, extensive problems were noted with the investigative skills of CSHOs. Open-ended interview questions pertinent to the existing violations were not asked which prevented investigators from identifying the root cause of the violations so the appropriate regulation could be cited.	<p>Include training on investigation skills in the UOSH new hire training program. Since resources are limited at this time, one staff member could attend the OSHA Training Institute (OTI) course on investigations in a train the trainer mode and subsequently train the rest of the enforcement staff.</p> <p>Assess interview skills of the compliance staff and conduct training on how to effectively interview employers and employees to get to the root cause of the violation.</p>	This office has conducted a complete review of the federal FOM manual and there is not one mention of the term "Root Cause." Federal FOM page 11-7, Section C.1. "All fatalities and catastrophes will be thoroughly investigated in an attempt to determine the cause of the event, whether a violation of OSHA safety and health standards, regulations or the general duty clause occurred and any effect the violation had on the accident.	<p>UOSH will assess the possibility of sending a compliance person to OTI in the mode of "train-the-trainer." The State is perplexed over the reluctance of OTI to take this course into the field, as this would be a more cost effective way to train an entire staff at one time. The State has requested this training over the past five years. The completion of this item has been impacted by the budget uncertainty.</p> <p>The State will contact the region with their assessment.</p>	Continued

**Appendix B – Utah State Plan
Status of FY 2009 EFAME Findings and Recommendations**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
9-51	See Finding #50.	Assess interview skills of the compliance staff and conduct training on how to effectively interview employers and employees to get to the cause of the violation.	This office over the past years has requested the Accident Investigation Course be presented at our location. The OTI has not met this request. UOSH will request the assistance of Region VIII in bringing the "Accident Investigation" course to Utah.	Same action as Recommendation #50.	Completed
	The State has created a State Internal Evaluation Program (SIEP), but has not yet implemented it.	The State needs to implement the evaluation part of the SIEP, sharing the results with the federal regional office.	Completion of the written program was delayed awaiting the E-FAME evaluation for better use of resources. Majority of the program is already implemented in practice, just need to add to written final draft, with the exception of case review section, which was also delayed to see the results of Region VIII's own case review and use those results. A copy of the SIEP was submitted to the Regional Office.	The State will complete the SIEP and a final copy will be sent to Region VIII for review.	Continued
9-53	The State is in the process of adopting the federal FOM with minor non-substantive changes, and in updating their Policies and Procedures Manual.	Complete the updating of UOSH guidance documents this fiscal year.	UOSH has followed the Utah FOM since 1985 and will continue to follow this FOM considered more effective for Utah. UOSH continuously reviews and updates the applicability of its FOM by generating a series of policies and procedures captured in a separate set of state agency policies.	Utah will complete the review and updating of the Utah FOM, integrating all separate agency policies into one manual and provide a copy to Region VIII. It is due to the Regional Office 9/30/11.	Continued.

**Appendix C
Utah State Plan
FY 2010 Enforcement Activity**

	UT	State Plan Total	Federal OSHA
Total Inspections	622	57,124	40,993
Safety	548	45,023	34,337
% Safety	88%	79%	84%
Health	74	12,101	6,656
% Health	12%	21%	16%
Construction	324	22,993	24,430
% Construction	52%	40%	60%
Public Sector	42	8,031	N/A
% Public Sector	7%	14%	N/A
Programmed	94	35,085	24,759
% Programmed	15%	61%	60%
Complaint	88	8,986	8,027
% Complaint	14%	16%	20%
Accident	128	2,967	830
Insp w/ Viols Cited	298	34,109	29,136
% Insp w/ Viols Cited (NIC)	48%	60%	71%
% NIC w/ Serious Violations	88.6%	62.3%	88.2%
Total Violations	786	120,417	96,742
Serious	575	52,593	74,885
% Serious	73%	44%	77%
Willful	16	278	1,519
Repeat	23	2,054	2,758
Serious/Willful/Repeat	614	54,925	79,162
% S/W/R	81%	46%	82%
Failure to Abate	4	460	334
Other than Serious	168	65,031	17,244
% Other	21%	54%	18%
Avg # Violations/ Initial Inspection	2.7	3.4	3.2
Total Penalties	\$1,658,096	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 1,057.10	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 1,196.50	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	65.5%	47.7%	40.9%
% Insp w/ Contested Viols	9.8%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	26.7	16.2	18.6
Avg Case Hrs/Insp- Health	35.4	26.1	33
Lapse Days Insp to Citation Issued- Safety	41.6	33.6	37.9
Lapse Days Insp to Citation Issued- Health	68.9	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	12	1,715	2,510

Appendix D State Activity Mandated Measures Report (SAMM)

U. S. D E P A R T M E N T O F L A B O R
O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N
S T A T E A C T I V I T Y M A N D A T E D M E A S U R E S (S A M M s)

NOV 12, 2010
PAGE 1 OF 2

State: UTAH

RID: 0854900

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	352 3.95 89	164 18.22 9	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	28 .58 48	6 1.20 5	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	82 89.13 92	8 100.00 8	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	40 100.00 40	2 100.00 2	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	314 77.92 403	24 72.73 33	100%
Public	54 84.38 64	0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	15626 57.02 274	2565 77.72 33	2624646 47.3 55472 National Data (1 year)
Health	3631 93.10 39	0 0	750805 61.9 12129 National Data (1 year)

*UT 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D
State Activity Mandated Measures Report (SAMM)

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)
 State: UTAH

NOV 12, 2010
 PAGE 2 OF 2

RID: 0854900

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	43	6	93201
Safety	47.25	100.00	58.4 National Data (3 years)
	91	6	159705
Health	3	0	10916
	37.50		50.9 National Data (3 years)
	8	0	21459
9. Average Violations per Inspection with Vioations			
	643	80	428293
S/W/R	2.05	2.42	2.1 National Data (3 years)
	313	33	201768
Other	174	12	240266
	.55	.36	1.2 National Data (3 years)
	313	33	201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1039950	140325	509912690
	1969.60	2300.40	1360.4 National Data (3 years)
	528	61	374823
11. Percent of Total Inspections in Public Sector	42	3	81
	6.75	5.45	4.5 Data for this State (3 years)
	622	55	1796
12. Average lapse time from receipt of Contest to first level decision	1668	270	3826802
	166.80	270.00	217.8 National Data (3 years)
	10	1	17571
13. Percent of 11c Investigations Completed within 90 days	8	0	100%
	72.73		
	11	0	
14. Percent of 11c Complaints that are Meritorious	3	0	1461
	27.27		21.2 National Data (3 years)
	11	0	6902
15. Percent of Meritorious 11c Complaints that are Settled	0	0	1256
	.00		86.0 National Data (3 years)
	3	0	1461

*UT 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E State Indicator Report (SIR)

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = UTAH

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	43	11403	46	21912	74	43788	374
	62.4	32.1	63.8	14.7	65.1	14.8	65.9	38.0
	8493	134	17860	312	33647	501	66434	985
B. HEALTH	488	1	1094	3	2232	5	4202	26
	30.6	7.7	33.7	9.7	35.0	7.9	35.1	16.7
	1597	13	3249	31	6378	63	11960	156
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	12	9421	14	17649	37	34350	276
	72.7	35.3	71.2	37.8	69.1	44.0	67.1	65.2
	6413	34	13232	37	25525	84	51214	423
B. HEALTH	451	1	880	2	1756	3	3238	14
	57.8	50.0	53.9	40.0	55.4	37.5	53.4	45.2
	780	2	1632	5	3168	8	6066	31
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	153	33678	276	62211	427	117447	1035
	81.6	75.7	81.5	74.2	81.0	72.3	80.1	72.0
	21261	202	41304	372	76839	591	146593	1438
B. HEALTH	3233	8	6183	42	11743	82	21554	182
	69.6	72.7	70.5	75.0	70.2	77.4	69.6	71.1
	4645	11	8776	56	16725	106	30947	256
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	3054	25	6515	99	12732	202	25040	670
	15.0	10.6	16.3	23.5	17.2	31.5	17.7	42.0
	20398	235	39855	421	74010	641	141219	1597
B. HEALTH PERCENT >60 DAYS	255	0	633	2	1406	10	2977	18
	5.6	.0	7.3	2.0	8.5	5.2	9.6	4.7
	4548	13	8681	100	16580	192	30862	385

Appendix D
State Activity Mandated Measures Report (SAMM)

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = UTAH

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	11750	1106734	20500	2038916	37300	3500911	84350
OTHER-THAN-SERIOUS	837.5	379.0	803.1	418.4	894.3	414.4	967.6	376.6
	701	31	1378	49	2280	90	3618	224
B. HEALTH								
	249175	250	434447	1100	732953	2450	1039303	6350
OTHER-THAN-SERIOUS	817.0	250.0	801.6	550.0	835.8	408.3	842.2	302.4
	305	1	542	2	877	6	1234	21
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	140	20529	331	38849	554	76136	1068
	5.8	3.3	5.7	3.7	5.5	3.1	5.5	3.1
	1679	43	3593	90	7112	178	13925	341
B. HEALTH								
	1864	14	3844	32	7547	70	14276	169
	2.1	1.6	2.0	1.5	1.9	1.1	1.8	1.1
	908	9	1940	21	3898	64	8070	150
7. VIOLATIONS VACATED %								
	1123	1	2474	11	5103	29	10425	85
	3.7	.4	4.3	2.1	4.7	3.2	5.0	3.5
	29962	253	57441	513	108213	900	207527	2397
8. VIOLATIONS RECLASSIFIED %								
	844	3	1978	5	4276	6	9196	11
	2.8	1.2	3.4	1.0	4.0	.7	4.4	.5
	29962	253	57441	513	108213	900	207527	2397
9. PENALTY RETENTION %								
	15767907	22476	30073309	113018	57457651	539003	111052615	1045450
	64.5	29.9	63.9	34.3	63.0	46.3	62.8	46.6
	24439885	75275	47032897	329900	91194322	1163300	176868726	2245075

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State Activity Mandated Measures Report (SAMM)

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = UTAH

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC

D. ENFORCEMENT (PUBLIC SECTOR)

1. PROGRAMMED INSPECTIONS %

A. SAFETY	43	0	46	3	74	11	374	16
	32.1	.0	14.7	21.4	14.8	34.4	38.0	32.7
	134	2	312	14	501	32	985	49
B. HEALTH	1	0	3	0	5	1	26	2
	7.7	.0	9.7	.0	7.9	16.7	16.7	18.2
	13	1	31	1	63	6	156	11

2. SERIOUS VIOLATIONS (%)

A. SAFETY	153	8	276	33	427	65	1035	81
	75.7	53.3	74.2	75.0	72.3	75.6	72.0	75.7
	202	15	372	44	591	86	1438	107
B. HEALTH	8	0	42	1	82	3	182	3
	72.7	.0	75.0	50.0	77.4	60.0	71.1	60.0
	11	0	56	2	106	5	256	5

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State Activity Mandated Measures Report (SAMM)

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = UTAH

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610 22.5 2709	1 33.3 3	1134 23.2 4888	1 9.1 11	2052 21.9 9366	5 20.8 24	3827 23.0 16668	5 9.6 52
2. VIOLATIONS RECLASSIFIED %	306 11.3 2709	0 .0 3	585 12.0 4888	0 .0 11	1100 11.7 9366	1 4.2 24	2217 13.3 16668	2 3.8 52
3. PENALTY RETENTION %	4940512 65.3 7563023	9500 52.8 18000	7526155 62.3 12074308	12550 39.7 31650	12856359 58.1 22143463	16350 35.4 46150	23378285 58.4 40052611	28850 39.3 73375

Appendix F

Utah FY 2010 State OSHA Annual Report (SOAR)

Available Separately