

**FEDERAL ANNUAL MONITORING
AND
EVALUATION REPORT
(FAME)
for the
STATE OF UTAH**

**Evaluation Period:
October 1, 2010 – September 30, 2011**

**Prepared by:
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Occupational Safety and Health Administration
Region VIII**

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I. Executive summary

A. Summary of the Report

This report assesses the activities of the Utah Occupational Safety and Health (UOSH) Division for FY 2011 (FY11) and their progress in resolving outstanding recommendations from the FY 2010 Federal Annual Monitoring Evaluation (FAME). During FY11, UOSH conducted 623 enforcement inspections, 75 public sector consultation visits, six discrimination investigations and managed several new partnerships. In addition, the state completed all but two of the 17 findings identified in the FY2010 FAME Report and achieved or made progress toward their Annual Performance Goals. The Utah Field Operations Manual was updated and submitted to the region for review and the state created and implemented an internal evaluation program for continuous improvement.

An on-site review of the program identified significant improvement in the process of documenting inspections, particularly those involving fatalities, as well as marked improvement in the documentation of abatement. Five new findings were identified: two related to the whistleblower program and three related to enforcement. Those related to enforcement include citing identified hazards and further evaluating potential hazards, documenting employee interviews, and sending follow up letters to non-employee complainants. The new whistleblower actions relate to screening of incoming complaints and correct analysis in the report. The enforcement item identified previously regarding penalty reductions remains outstanding this fiscal year.

B. STATE PLAN INTRODUCTION

The Utah Occupational Safety and Health (UOSH) Division is housed within Utah's Labor Commission. The State Designee is Labor Commissioner Sherrie Hayashi. Louis Silva serves as the UOSH Program Administrator. The UOSH program consists of enforcement, discrimination, cooperative programs and private and public sector consultation. Public sector consultation, the Voluntary Protection Program and partnerships are administered by the enforcement division and funded under the 23(g) grant. Consultation in the private sector is funded through the 21(d) cooperative agreement. UOSH operates on a traditional five day workweek from a centrally-located office in Salt Lake City. UOSH closely mirrors the federal program with some differences that allow for accommodation of unique state demands and issues.

UOSH currently employs 31 full time positions, which includes 12 safety and 10 health compliance officers. The Utah 2011 fiscal year (FY) final grant amount was \$3,158,400, which includes federal/state matching funds of \$1,579,200 each. UOSH jurisdiction includes private employers having one or more employees and all state and local government agencies, including public education. During 2011, UOSH had jurisdiction over approximately 1,142,970

employees, with 15% 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. These employees, exempt from state jurisdiction, account for approximately 3% of Utah employees.

C. DATA AND METHODOLOGY

The Finding and Recommendations found in this report are based on the December 2011 enforcement onsite review, the August 2011 onsite discrimination review and the following data sources:

- Corrective Action Plan (CAP) from FY 2009 Enhanced Federal Annual Monitoring Report (FAME)
- 2011 State Operations Annual Report (SOAR)
- 2011 and 2012 State Plan Grant Applications
- State Activity Mandated Measures Report (SAMM)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- Minutes from quarterly conference calls
- FY 2010 Enforcement Activity Chart that is generated from the Integrated Management Information System (IMIS).

Method:

The enforcement review was conducted by three Region VIII representatives on December 5-9, 2011. The onsite review focused on case file reviews, verification of completed actions from the 2009 Corrective Action Plan (CAP) and follow-up of outstanding CAP items.

Enforcement case files were selected following Appendix K of the 1994 "State Plan Monitoring Manual" per the FAME guidance. To ensure corrective actions from the last review were fully implemented, case files were selected from the last three quarters of FY 2011, with the exception of eight fatality files which were from the entire fiscal year. In total, 70 enforcement case files were reviewed: 21 of those files were health and 49 were safety. In addition, three complaints and four referrals originally coded as inquiries (phone and fax investigations) were reviewed.

All partnerships were reviewed. A review of the discrimination process was conducted. Seventeen files were reviewed; 11 from 2010 and six from 2011. Stakeholder interviews were conducted as part of this process.

D. FINDINGS AND RECOMMENDATIONS

LISTED BELOW ARE THE MAJOR FINDINGS AND RECOMMENDATIONS FROM THIS REPORT:

11-01: The results of a complaint inquiry are not being sent to non-employee complainants who provide contact information. Letters should be sent to all complainants that file complaints and provide their contact information.

11-02: Twenty-three percent of the cases with violations contained additional hazards that were not cited or were not further evaluated when there was evidence that potential hazards existed. Violations identified in the case file should be cited. Potential hazards should be further evaluated when warranted.

11-03: Employee interviews were not documented in all case files. A representative number of employee interviews should be conducted and documented on all inspections.

11-04: (formerly 10-04) Penalties were reduced at a percentage of 69% in Utah during FY 2011 as compared to 44% for federal OSHA. This is an increase of 3% from the state's reduction rate last fiscal year. Penalty reductions are a current open CAP item from the 2009 EFAME. The average percentage of penalty reductions should be reduced.

11-05: In two whistleblower cases a decision was made not to investigate where evidence merited further investigation. When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, UOSH's Attorney General's Office, or the OSHA Denver Regional Office.

11-06: Some Whistleblower case files may not have been fully developed as reflected by reports. Provide training in developing and testing the Respondent's defenses and nexus, i.e., disparate treatment, animus and timing.

II. MAJOR NEW ISSUES

A. SCHEDULE REVISION

The state of Utah returned to a traditional five day workweek in September of 2011. UOSH will continue with their telework program which provides increased flexibility in scheduling for coverage.

B. OCCUPATIONAL MEDICINE PRACTICUM

UOSH initiated a residency training practicum this year with the University of Utah's Occupational Medicine Program by sponsoring a physician for three weeks. This experience exposed the physician to the regulatory aspects of occupational safety and health.

C. STAFF COMPENSATION AND RETENTION

UOSH is experiencing increased difficulty in hiring staff with experience and/or training in engineering or Industrial Hygiene due to the limited pay scale and infrequent pay increases. UOSH invests substantial amounts of money to train the staff only to lose them to better opportunities and pay once they gain some experience.

III. STATE RESPONSE TO FY 2010 FAME RECOMMENDATIONS

During FY 2011, the state continued to focus on the following actions from the 2010 FAME. All of the actions below originated in the 2009 EFAME. Those items marked completed were appropriately addressed this fiscal year and verified onsite in December of 2011. Those not marked as complete will be designated a new number and added to the list of corrective action for this 2012 FAME report.

10-01 – Penalty Reduction Agreement for Fatalities

Action completed. The state no longer uses this process for fatality inspections.

10- 02 – Use of the Penalty Reduction Agreement Process

Action completed. UOSH lowered the automatic settlement penalty reduction to 50% and created criteria for the program.

10-03 – Penalty Reductions at Informal Conferences

Pending. Penalties were reduced at a percentage of 69% in Utah during the 2011 fiscal year as compared to 44% for federal OSHA and an increase of 3% from the state's reduction rate last fiscal year. Penalty reductions are a current open CAP item from the 2010 EFAME. The average percentage of penalty reductions should be reduced.

10-04 – Whistleblower Special Study Action Items

Action Completed: Outstanding items were verified complete in this on-site review.

10-05 – Partnerships

Action completed. The State completed a written policy for a formal Partnership Program and is continuing to ensure all required elements are documented.

10-06 through 10-13 – Voluntary Protection Program

Action completed. The state is following the policy set out in the Voluntary Protection Program Policies and Procedures Manual, CSP 03-01-003.

10-14 through 10-15 – Accident Investigation Training

Action completed. The OSHA Training Institute (OTI) Accident Investigation class will be brought to Utah and held for the staff in December 2012.

10-16 - State Internal Evaluation Program (SIEP)

Action completed. The state has implemented the evaluation part of the SIEP and results were shared with the review team in December of 2011.

10-17 – Adoption of Federal Field Operations Manual (FOM)

Action completed. The UOSH FOM has been completed and submitted to the Regional Office for review.

IV. ASSESSMENT OF STATE PERFORMANCE

A. ENFORCEMENT

Utah conducted 623 inspections according to the FY 2011 Enforcement Activity Chart. This is 97% of the projected 640 inspections in their 2011 grant. Of the inspections conducted 22% were health; 78% were safety. The 10 health compliance officers conduct both safety and health inspection activity. Fifty percent of Utah's inspections were in the construction industry. Utah conducted one imminent danger related inspection.

Seventy inspection case files were reviewed for this fiscal year. Twenty of the 70 inspections were complaint inspections, 17 were referrals, 13 were programmed, eight were fatalities, four were follow-up inspections. Of the remaining eight, two were accident related and should have been coded as referrals. The remaining six were un-programmed related. Six of the 70 inspections were done in the public sector and five were comprehensive inspections.

UOSH case files were organized and well documented in most cases. Electronic video media was used to document worksite violations and employee interviews, but it was not consistently used for all cases.

1. COMPLAINTS

Nineteen complaint inspections were reviewed to assess the complaint process. The state made progress since the 2009 onsite visit in fine tuning their process. Eighteen of the complaint files reviewed followed policy and appropriately addressed all issues. According to IMIS data, 129 of the total inspections (21%) were complaint initiated,

which equals the federal percentage for complaint inspections. According to the State Activity Mandated Measure (SAMM), complaint inspections were initiated in five days and investigations were initiated in one day. These measures are within the state negotiated time frames of five and three days, respectively.

Notification letters are being sent to complainants, but for those files reviewed those letters were not always sent in a timely manner. The average time to send these notification letters averaged 33 days; the goals are 20 days following citation issuance and 30 days after closing when no citations are issued. According to SAMM #3 for FY 2011, 89% of complainants are notified in a timely manner. The state should closely monitor this metric.

Three complaint inquiries (phone and fax process) were reviewed. One of the three complaint files had inadequate abatement. Two of the three complainants were not notified of the results of the inspection. It is the state's practice not to send notification letters to non-employee complainants under the inquiry process which is not in line with federal OSHA policy. Four referral inquiries were reviewed; one was generated by mistake and three were satisfied by inspection.

Findings and Recommendations

11-01 The results of a complaint inquiry are not being sent to non-employee complainants who provide contact information. Letters should be sent to all complainants that file complaints and provide their contact information.

2. FATALITIES

Overall, UOSH has done an excellent job of implementing the fatality process and procedures, which was a corrective action in the 2010 EFAME. Reviewers found fatality cases well documented and inspected.

Utah investigated 11 fatalities, one more than last fiscal year. Seven of the fatalities were in the construction industry and four 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 inspects all fatalities including heart attacks in order to ascertain if the fatality is work related. This occasionally results in a fatality inspection that is "in compliance." Utah defines a catastrophe as one or more persons hospitalized and conducts inspections for all catastrophes.

Ten fatality inspections, closed during FY 2011, were reviewed while onsite. Two of the ten inspections were deemed "not work related." All eight work-related fatality inspections were opened within one working day and proper procedures were followed. The inspections and employee interviews were conducted very well and documented appropriately.

3. TARGETING AND PROGRAMMED INSPECTIONS

Twenty-four percent (150) of UOSH inspections during FY 2011 were programmed as compared with fifty-eight percent of federal inspections. Due to Utah statute that requires inspection of all workplace accidents, UOSH is driven by un-programmed activity.

The following industries and entities were areas of emphasis in Utah:

- Oil and Gas
- Grain & Oil Seed Milling
- High Hazard Industries dealing with Industrial Machine Guarding and Control of Hazardous Energy
- Residential Construction
- Public Sector Activity

UOSH also participated in the following National Emphasis Programs (NEPs):

- Recordkeeping
- Hexavalent Chromium
- Trenches
- Amputations
- Primary Metals

Utah has one more refinery to inspect to complete inspections at all five of their refineries. The state has committed to completing this inspection by the end of FY 2012. Another resource-intensive inspection has taken precedence with the use of CSHO resources who have process safety management training.

According to SAMM indicator 8, 70% of programmed safety inspections and 100% of programmed health inspections had serious, willful or repeat violations.

Nineteen percent (13) of the inspections reviewed during the on-site review were programmed inspections. Eleven cases were coded as safety and two as health. One health case was incorrectly coded as safety. Of the 13 programmed inspections, seven were in compliance. In the six cases where citations were issued, all the citations were appropriately supported and documented, violations were correctly classified and abatement was complete. However, in one case it appeared that all existing violations were not cited.

4. CITATION AND PENALTIES

Citation statistics demonstrate that UOSH is performing within or above average when compared with federal OSHA, with the exception of the percentage of in-compliance inspections. During FY 2011, Utah issued 879 citations as follows: 49 repeat, 663

serious, 166 other-than-serious, and one failure-to-abate. There were no willful citations issued this fiscal year; however, the state will cite willful violations as warranted. For example in FY 2010, multiple willful violations were issued to a single employer resulting in penalties exceeding \$1,000,000. When a willful citation is issued, the state considers criminal prosecution if warranted. According to SAMM indicator 9, Utah averaged 2.06 serious, willful or repeat violations per inspection which is in line with the national average.

Following is a comparison of Utah data versus Federal data in regard to citations:

	<u>Utah</u>	<u>Federal OSHA</u>
Percent Serious Violations	75%	73%
Percent Other-than-Serious Violations	19%	22%
Percent of Inspections with Citations	53%	71%
Percent of In-Compliance Inspections	47%	29%
Percent of Inspections with Serious Violations	90%	86%

Of the 70 inspections that were reviewed during the on-site visit, 39 were in compliance, 30 resulted in citations and one was “no inspection.” This demonstrates a higher in-compliance rate (56%) than shown above and could be due to the case file selection method. According to the UOSH Administrator, one factor affecting the state’s overall higher in-compliance rate is a program which focuses resources in residential construction. The state has worked with the residential construction industry and due to these efforts; many inspections are in-compliance. In 90% of the inspections that had violations (27 out of 30), the violations were correctly classified.

Despite the fact that UOSH CSHOs identify a substantial number of serious violations, 23% of the cases reviewed that had violations were identified to contain hazards that were not cited or were not further evaluated when there was evidence that potential hazards existed. This was noted in seven of the 30 inspections with citations.

A high percentage of cases with citations (93% or 28 out of 30) exhibited good documentation for the violations cited including good employee exposure information and properly classified violations which were all areas of concern in the 2010 EFAME.

The Utah average initial penalty per serious violation for FY 2011 was \$1,938.73 compared to the reference standard of \$1,679.60 as demonstrated in SAMM indicator 10. The average current penalty for a serious violation for 2011 in Utah was \$1,058.30 as compared to the federal average current penalty for a serious violation of \$2,132.60. The average current penalty is an average of the penalties in open cases, which includes some initial penalties and some already reduced by settlement. Utah does not assess penalties in the public sector.

Findings and Recommendations

11-02 Twenty-three percent of the cases with violations contained additional hazards that were not cited or were not further evaluated when there was evidence that potential hazards existed. Violations identified in the case file should be cited. Potential hazards should be further evaluated when warranted.

5. ABATEMENT

Overall, the state is doing a very good job of obtaining and documenting abatement. Two of the 30 cases (6%) reviewed needed additional abatement information. Abatement periods were noted to be appropriate.

In the case files reviewed, abatement was verified timely, although discrepancies were found in the SAMM report. According to SAMM indicator 6, approximately 84% of private sector violations, and 71% of public sector violation abatement was verified in a timely manner. The outliers could have been the result of not updating the data in a timely manner.

UOSH conducted 40 follow-up inspections, three percent of the total inspections conducted.

6. EMPLOYEE AND UNION INVOLVEMENT

The 70 case files reviewed were assessed for union and employee involvement. There are few unionized employers in Utah. Unions were present in only six of the 70 inspections reviewed for FY 2011. In four of the six inspections, unions were documented to be involved in the inspection.

Employee interviews were not consistently being documented or conducted. Out of the 70 case files reviewed, 23% (16 out of 70) had no notation that interviews were conducted. In cases where it was noted that interviews were conducted (54), nine of these cases contained no documentation of the interview. The nine files where interviews were noted, but not documented, included files that identified employee information on the citation worksheet (Form 1b) but no mention of an interview, or files that had interviews of managers or owners only. Interviews that were conducted and documented, mostly on compact discs, were well done and complete.

Findings and Recommendations

11-03 Employee interviews were not documented in all case files. A representative number of employee interviews should be conducted and documented on all inspections.

B. REVIEW PROCEDURES

1. INFORMAL CONFERENCES

Documentation of informal settlement agreements has improved significantly in UOSH. Employers in Utah have thirty days to submit a written notice of contest to the Adjudication Division. Settlements reached between UOSH and the employer before that thirty days are considered informal settlement agreements with the exception of the Penalty Reduction Agreement (PRA). Utah does not consider the PRA an informal settlement agreement. Informal conferences are conducted by the Compliance Manager and/or Program Administrator.

According to the SIR, Indicator C7, violations in Utah were vacated 2% of the time as compared to federal OSHA's 7%. Utah reclassified violations during informal settlements .6% of the time, compared to 5% for federal OSHA according to SIR indicator C8.

It is the philosophy 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. The state's philosophy is to maintain history by not deleting or reclassifying citations. This gives the state the latitude to issue repeat citations to "bad actors" that refuse to comply. UOSH uses payment plans for penalties only in cases of extreme financial hardship.

The PRA is the only formal penalty reduction program used by UOSH. If the employer has less than 250 employees, has not used the PRA in the past three years, and is not being issued any willful or repeat violations, an agreement will be sent with the citations with a 50% penalty reduction. If this agreement is signed by the employer, appropriate abatement is submitted and a check for the designated penalty on the agreement is enclosed, the case is then closed. The maximum penalty reduction for the PRA is 50%.

Fourteen of the thirty case files reviewed had informal conferences. All fourteen informal conferences were conducted in a timely manner. Violations were reclassified in one case, and penalties were reduced in ten of the fourteen cases. Five of the ten cases had penalty reductions that were appropriate and reasons for modifications were documented in seven of the ten cases. It took an average of twenty-eight days to settle the fourteen cases.

While the size of the penalty reductions remains an area of concern, the decreased reduction for the PRA should serve to mitigate this issue in the next fiscal year as well as the decision to not use the PRA in fatality cases. UOSH can only control the settlement of cases in the informal process, but does not maintain the method used for settlement once the case enters the adjudication process.

2. 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 one other 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.

Nine 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 235 days. The SIR, section E1-3, reports that 40.4% of violations were vacated, 10.6% of violations were reclassified and 40.9 % of the penalty was retained during formal settlement processes. This compares to the federal rate of 23.5%, 13.3.7% and 62.3 respectively.

Findings and Recommendations

11-04 Penalties were reduced at a percentage of 69% in Utah during the 2011 fiscal year as compared to 44% for federal OSHA. This is an increase of 3% from the state's reduction rate last fiscal year. Penalty reductions are a current open CAP item from the 2009 EFAME. The average percentage of penalty reductions should be reduced.

C. STANDARDS AND FEDERAL PROGRAM CHANGES ADOPTION

The Utah Occupational Safety and Health Program closely mirrors the federal program while still addressing the unique characteristics of the state. UOSH continues to adopt all new and updated federal Occupational Safety and Health Administration (OSHA) standards.

1. STANDARDS ADOPTION

During the 2011 fiscal year, the state adopted the following standards changes either formally or by a non-substantive change which is used for revisions and updates:

Federal:

- Standards Improvement Project, Phase III

2. FEDERAL PROGRAM / STATE INITIATED CHANGES

CPL 03-00-012 OSHA's NEP on Shipbuilding – The state did not adopt.

CPL 02-01-049, 29CFR Subpart I, 1915 Enforcement Guidance for PPE in Shipyard Employment – The state does not have jurisdiction for maritime.

STD 03-11-00 Compliance Guidance for Residential Construction - The state never adopted this STD and; therefore, did not need to rescind it.

DIR 11-01 (CPL3) NEP Microwave Popcorn Processing Plants – The state adopted the NEP on 04/01/11.

CPL 02-00-150 Field Operations Manual, Maritime & Federal Agency Programs Chapter Added – The state has no jurisdiction in either of these areas so did not need to adopt.

CPL 03-00-013 Primary Metals NEP – The state adopted on 10/31/11.

CPL 02-01-151, 29 CFR Part 1951, Subpart B, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment – The state does not have jurisdiction in maritime.

CPL 02-00-151 Subpart T, Commercial Diving Operations – The state adopted on 12/01/11.

CPL 02-01-052 Enforcement Procedures for Investigation or Inspecting Workplace Violence Incidents – The state anticipates adoption on 02/29/12.

11-03 (CPL 02) Site Specific Targeting 2011 – The state uses their own targeting system.

CPL 02-03-003 Whistleblower Investigations Manual – The state submitted these changes in their FOM supplement which is awaiting review in the Regional Office.

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 EMPLOYEE PROGRAM

According to the Utah 2011 grant application, approximately fifteen percent of employees in Utah work in the public sector. In May, UOSH continued their participation in the 2011 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-seven public sector inspections for FY 2011 and completed forty, which is a decrease of two inspections in the public sector from last fiscal year. According to SAMM indicator 11, 6.4% of inspections were in the public sector, which is consistent with 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 5.6. Penalties in the Utah public sector are statutorily prohibited similar to federal entities under federal OSHA jurisdiction.

F. DISCRIMINATION PROGRAM – SPECIAL STUDY

The Special Study was conducted by an onsite audit of the program which occurred on August 29, 2011, and December 5, 2011. The special study consisted of a review of the Investigative Case Files, Program Management, and Resources.

1. PROGRAM MANAGEMENT

Assessment of Data Entry

- UOSH initiates entry of discrimination data onto the IMIS web as soon as a complaint is filed and follows until case is closed. Data is entered in a complete and timely fashion.

- Use of Data Management Reports

The UOSH Supervisor utilizes an excel spreadsheet to track a complaint through the system

- Confirmation of Effective Procedure to Appeal

The program utilizes the closing letter to notify the complainant of the right to appeal to the UOSH Administrator.

- Review of Logs or other Documentation of Cases that are Administratively Closed

Resources

- Adequacy and Frequency of Training
 - o UOSH discrimination officers attended a three day mediation training in October of 2011.
 - o Discrimination training for UOSH is normally provided by Region VIII. The last formal training was conducted in 2009.
 - o It is the practice of UOSH to work together as a group, which provides on-the-job training. Cases are assigned to two investigators: one primary and one secondary. All cases are discussed by the entire group. The supervisor works

closely with the regional RSI and communicates that information directly to the group during these sessions.

2. INVESTIGATIVE CASE FILE REVIEWS.

The audit involved a review of case files from two years, including FY 2010 and FY 2011 through August 29, 2011. The review of FY 2010 involved eleven (11) case files. The review involved six (6) case files and five (5) of ten (10) screened out cases.

The following table is a summary of discrimination investigations during FY 2011.

Disposition	Totals
Total cases from FY 2011	6
Cases completed in FY 2011	6
Cases completed timely	83%
Overage cases	0
~ Withdrawn	0
~ Dismissed	3
~ Merit	3
~ Settled	1
~ Settled other	2
~ Litigated	0
~ Investigator on Staff (collateral duty)	4

Intake Complaints (Screening)

UOSH reviews all potential complaints for appropriate coverage requirements, timeliness of filing and the presence of a *prima facie* allegation. The screening process is documented on a *Whistleblower Pre-Screen & Intake Case File Checklist*. UOSH appropriately refers Federal Statute cases to the OSHA Denver Regional Office and has procedures in place to notify private sector complainants of the right to concurrently file Section 11(c) complaints with Federal OSHA.

The findings are as follows:

- Three (3) potential complaints were appropriately screened for the presence of a *prima facie* allegation.
- In one (1) case one *prima facie* element of the allegation was not properly identified. UOSH determined that the complainant’s suspension was not an adverse action. However, there was insufficient evidence in the file to determine whether the suspension was “adverse.” Therefore, further investigation was warranted.

- One (1) case was not investigated because UOSH concluded that the complainant was not a covered employee. However, the evidence contained in the file indicated that the complainant was a spouse of a covered employee, was also employed by the respondent, and believed she was retaliated against based on protected activity of her husband; thus she does have protections and an investigation should have been conducted. This was a unique situation.

Finding and Recommendation

11-05: In two whistleblower cases a decision was made not to investigate where evidence merited further investigation. When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, UOSH's Attorney General's Office, or the OSHA Denver Regional Office.

Investigation and Report Writing

The files were organized and the investigations were essentially appropriate. UOSH normally attempts to contact complainants within a two day period from the date the complaint is filed. Once a determination is made to investigate the complaint, UOSH assigns two (2) Investigators per case to conduct the onsite investigation. In some of the reports reviewed, there was no full development of the respondent's defenses and nexus. UOSH will be able to improve the quality of the investigations by having a better understanding of how to develop and analyze evidence in testing the respondent's defenses and nexus, i.e., disparate treatment, animus and timing.

UOSH documents the investigative findings by using a similar format as the Federal OSHA's former Final Investigation Report. In most cases, the Final Investigation Report contained a good description of the findings. However, there were discrepancies in the analysis section of the report writing. For example, the Final Investigation Report did not contain a discussion of disparate treatment or animus. If there was a discussion, the section could have been enhanced by collecting additional information related to the element of disparate treatment or animus during the investigation.

Finding and Recommendation

11-06: Some Whistleblower case files may not have been fully developed as reflected by reports. Provide training in developing and testing the respondent's defenses and nexus, i.e., disparate treatment, animus and timing.

3. STAKEHOLDER INTERVIEWS

For purposes of this Special Study, there was attempt to contact five stakeholders. The plan was to contact the stakeholders to inquire about their contact with UOSH to include; reason for contact, frequency of contact, and any feedback on the strengths and

weaknesses of the UOSH program. Of the five attempts to contact stakeholders, three were able to be interviewed. The following feedback was provided:

A representative of a local union, a safety and health manager of a large employer and an attorney that represents employers all indicated that they have had limited contact with UOSH related to the whistleblower program. However, they reported that their limited contact was positive. Those that had contact in the safety and health compliance arena indicated the same.

G. CASPAS

There were no Complaints about State Plan Administration (CASPA) filed this fiscal year.

H. VOLUNTARY COMPLIANCE PROGRAM

Utah administers a Voluntary Protection Program following the Guidelines of the federal Voluntary Protection Program Manual (CSP 03-01-003). Utah currently has six approved VPP sites: five “Star” and one “Merit.” There were no new sites approved this fiscal year. The state is currently reviewing six applications and has one on-site audit scheduled early in FY 2012.

UOSH is working in partnership with three employers in the Utah Arches Workplace Safety and Health Partnership Program. This program is similar to the OSHA Strategic Partnership Program for Worker Safety and Health. In response to a previous audit, UOSH developed a template for their program.

During the on-site visit, files of the three partners were reviewed to assess compliance with the UOSH template. Two of the partners had one site each, and a third partner had three sites. Each partnership had a signed agreement; however, there was no documentation in the case file for the periodic monitoring visits or the annual reports as stipulated in the UOSH criteria. There was no statistical or baseline data in the files to assess the success of the partnership. The region will allow Utah time to document their activity and assessment of this program.

I. PUBLIC SECTOR ON-SITE CONSULTATION PROGRAM

UOSH has one public sector consultant. In the 2011 grant application, the state projected a total of 32 visits to be conducted in the public sector. According to the MARC, UOSH conducted a total of 75 visits, which is an increase of 32 visits from last fiscal year and 43 visits beyond their projection. Forty-seven visits were initial visits, 17 were follow-up visits and 11 were training classes. One hundred eighty-nine hazards were identified during these visits. Of those hazards, 97 were corrected within the original time frame, 90 were corrected within an extension time frame, and one was corrected within 14 days of the latest correction date. At this time, there are no public sector participants in the Safety and Health Achievement Recognition Program (SHARP).

This was an exemplary year for public sector consultation in Utah. UOSH began focusing on their public sector consultation program approximately five years ago, with one position doing both public sector consultation and compliance assistance. In 2008, that position merged and was devoted strictly to consultation and outreach in the public sector. The state spent a year developing a marketing scheme and, since then, performance has substantially increased every year. The state promotes their services primarily through the Utah Local Government Trust, who invites them to regional meetings to conduct training throughout the state. This increased presence and the associated training has resulted, not only in increased outreach, but also has increased the number of visit requests. One county in Utah submitted 27 requests during the month of October. Ten years ago, a public sector entity would not have approached UOSH for assistance. State efforts in this area, has resulted in a culture shift that benefits the safety and health of UOSH employees in the public sector. The state is to be commended for their progress in this area.

J. PROGRAM ADMINISTRATION

Four quarterly meetings were held this fiscal year. A face-to-face meeting was held in conjunction with the Regional Planning meeting in August, which was attended by three of the Utah management staff.

1. TRAINING

Training in Utah is done in-house due to restricted funds to travel out of the state. UOSH has a well-documented training program and is based on OSHA's competency model. 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.

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 and is in the process of scheduling Accident Investigation training this year.

The UOSH staff participated in five enforcement related webinars last fiscal year, attended Electrical Safety Work Practices and NFPA 70 E training put on by Region VIII, and participated in Laser Safety, an alliance sponsored training. UOSH also attended local training on: Pressure Relief Systems for the Petrochemical Processing Industries, Wind Turbines, Trench Shoring Systems, Electrical Work Platforms, Wood Chippers and attended Oil and Gas Training including a field trip to a working rig put on by Wyoming OSHA. UOSH also secures additional training throughout the year from the Rocky Mountain Center for Occupational & Environmental Health.

The state has a well-organized training program for new CSHOs and exerts considerable effort in securing additional training for CSHOs on a variety of topics including new technology. Currently Utah has four compliance staff fully trained in process safety management to the team leader level.

2. FUNDING

Economic challenges continue in Utah. Limited compensation for professional staff is a hindrance to acquiring experienced technical staff. The state spends a large amount of money to train inexperienced staff members only to lose them to higher paying jobs in a couple of years. The telecommuting program continues to provide some relief in operational costs and is being continued. Utah continuously explores other cost saving ideas but does not expect their strained economic situation to improve any time soon.

3. STAFFING

The State of Utah has returned to a five day workweek as described in “Major New Issues” section II, A.

In 2011, Utah exceeded the required benchmarks of ten safety and nine health compliance officers with a total of 12 safety officers and 10 health officers. UOSH used excess money in FY 2010 to hire additional staff as a buffer to staff retention problems.

4. INFORMATION MANAGEMENT

No issues exist at this time related to the Integrated Management Information System (IMIS). The state has made a decision to roll out a state specific data management

system in lieu of the OSHA Information System (OIS). The state system must be effectively linked to the OIS for the collection of national data by the projected rollout in January of 2013. The state has initiated communication with the OIS team to effectively plan this link.

5. STATE INTERNAL EVALUATION PROGRAM

The state implemented their State Internal Evaluation Program this fiscal year. Two checklists were developed for use: a complaint checklist and an abatement verification checklist. The compliant checklist was also used to assess phone and fax complaints as well as formal signed complaints. Approximately twenty files were reviewed using the checklists. Corrections were discussed and added to the file. The checklists were left in the files and several were viewed during the on-site review.

This issue was previously CAP item 10-16, which is now closed.

V. PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOALS

FY 2011 marked the third 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 eleven fatalities this fiscal year, an increase of one from last fiscal year. This calculates to a fatality rate of 1.0, which is a 0.5 decrease from the baseline rate. Utah achieved the annual performance goal.

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 consultation investigators to impact the results of this goal. In FY 2011, UOSH activities directed toward this goal include 601 inspections, 386 consultation visits

and 412 outreach initiatives. This includes one hundred forty-four outreach initiatives from enforcement, which includes assistance phone calls lasting more than fifteen minutes.

Since the results of this goal are based on BLS data, the results are delayed one year. The TRC for FY 10 was 3.4, which is a reduction of 2.1 from the baseline of 5.5. This is a thirty-eight percent reduction in the total recordable case rate from the baseline and a thirteen percent reduction from FY 09. The state has effectively achieved this goal. The state is commended for 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	2011 Goals	2011 Results	% Change
21(d) Consultation Visits	292	298	386	+32.2%
Form 66	217	221	286	+31.8%
Form 55	426	435	144	-66.2%
VPP Presentation	5	2	2	-60%
VPP Application	1	1	0	-100%
SHARP Presentation	10	2	2	-80%
SHARP Application	2	1	3	+50%
Public Sector Consultation	15	30	65	+333%

Based on the result of the above chart, the state made some progress in accomplishing this goal. The focus of UOSH was on enforcement versus VPP this fiscal year.

Appendix A
FY 2011 Utah State Plan FAME Report
Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 10 Rec #
11-1	Complaints: The results of a complaint inquiry are not being sent to non-employee complainants who provide contact information.	Letters should be sent to all complainants that file complaints and provide their contact information.	
11-2	Inspections: Twenty-three percent of the cases with violations contained additional hazards that were not cited or were not further evaluated when there was evidence that potential hazards existed.	Violations identified in the case file should be cited. Potential hazards should be further evaluated when warranted.	
11-3	Inspections: Employee interviews were not documented in all case files.	A representative number of employee interviews should be conducted and documented on all inspections.	
11-4	Review Procedures: Penalties were reduced at a percentage of 69% in Utah during the 2011 fiscal year, which is higher than the 44% for federal OSHA and an increase of 3% from the state's reduction rate last fiscal year.	The average percentage of penalty reductions should be reduced.	10-04
11-5	Discrimination: In two whistleblower cases a decision was made not to investigate where evidence merited further investigation.	When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, UOSH's Attorney General's Office, or the OSHA Denver Regional Office.	
11-6	Discrimination: Some whistleblower case files may not have been fully developed as reflected by reports.	Provide training in developing and testing the Respondent's defenses and nexus, I.e., disparate treatment, animus and timing.	

Appendix B
FY 2011 Utah State Plan FAME Report
Status of 2011 Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-1	The state Penalty Reduction Agreement (PRA) is being used for fatality inspections.	To ensure appropriate penalties are issued in fatality inspections, discontinue the use of PRAs for fatality cases.	Discontinue use of PRA with fatality cases and document this exclusion in the PRA criteria in the UOSH FOM	The PRA will not be used to reduce penalties in fatality cases. The FOM will be updated.	Completed
10-2	The Penalty Reduction Agreement results in high penalty reductions in that an automatic 60% penalty reduction is offered.	Adjust the automatic penalty reduction to come in line with OSHA's new penalty reductions.	Reduce the automatic penalty to a lower percentage and create criteria for use of this policy.	Automatic Penalty Reduction lowered to 50% and criteria submitted to the region on March 7, 2011	Completed
10-3	Penalty reductions at informal conferences average 70%.	Attempt to bring penalty reductions in-line with the national average.	Streamline informal settlements to come in line with lower penalty reductions. Document in the case file, rationale for penalty reductions.	Discussions between the Region and Utah continue.	11-04
10-4	Variety of discrepancies in discrimination investigations such as: adequate information and analysis, final investigation reports and documentation of related inspection activity.	Address discrepancies through training and integrate into investigations.	Address identified deficiencies in the discrimination investigative process.	The state made substantial progress at addressing the majority of the discrepancies in the discrimination investigative process.	
10-5	Cooperative relationships in the Utah compliance assistance program did not follow the guidelines of a formal written program.	Document the guidelines being used and ensure that appropriate compliance protocol is being followed.	-Document guidelines - Share partnership agreements with the regional office.	The Arches program guidelines were sent to the regional office on 12/01/10.	Completed
10-6	The application process uses personal and trade secret information.	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.	Exclude employer trade secrets and personal information in the application process.	UOSH is following the federal guidelines which exclude trade secrets and personal information in the application process for VPP.	Completed
10-07	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.	Acknowledge receipt of application within 15 days of receipt.	UOSH now follows the federal guidelines for OSHA to include acknowledgement of receipt of application within 15 days of receipt.	Completed

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
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.	Use the standardized VPP report and worksheet template or an alternate enforcement history worksheet.	UOSH is uses the standardized VPP report and worksheet template.	Completed
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.	Create a draft report while on line to leave with employer to improve timeliness.	UOSH has not recently conducted an onsite review, but has revised their process to improve timeliness.	Completed
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.	Change template to include all criteria.	UOSH is using the federal template.	Completed
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 (SGE) program in order to effectively serve Utah companies interested in VPP status.	Make use of the SGE program to address increased interest.	UOSH has adopted the SGE program which will increase their resource base as help as help in marketing the program.	Completed
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.	The state should follow the February 15 th deadline for submission of reports from participants and provide feedback to the sites on their report.	The state has implemented this process.	Complete
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.	Where applicable require the use of the PSM supplement B.	This supplement will be used when applicable.	Complete

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-14	Based on the on-site review of files, problems were noted with the investigative skills of CSHOs.	Conduct training to address investigation skills.	Same as recommendation	OTI Accident Investigation is scheduled for December of 2011.	Completed
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.	This item was combined with 10-14.	Same state action as finding 10-14.	Complete
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.	Implement the SIEP.	The state has implemented the SIEP and the region reviewed the results and witnessed documentation of that process during the case file review.	Complete
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.	Update the UOSH FOM.	The updated Utah FOM was completed and the supplement was sent to the region.	Complete

**Appendix C
Utah State Plan
FY 2011 Enforcement Activity**

	UT	State Plan Total	Federal OSHA
Total Inspections	623	52,056	36,109
Safety	483	40,681	29,671
% Safety	78%	78%	82%
Health	140	11,375	6,438
% Health	22%	22%	18%
Construction	310	20,674	20,111
% Construction	50%	40%	56%
Public Sector	40	7,682	N/A
% Public Sector	6%	15%	N/A
Programmed	147	29,985	20,908
% Programmed	24%	58%	58%
Complaint	129	8,876	7,523
% Complaint	21%	17%	21%
Accident	20	2,932	762
Insp w/ Viols Cited	330	31,181	25,796
% Insp w/ Viols Cited (NIC)	53%	60%	71%
% NIC w/ Serious Violations	89.7%	63.7%	85.9%
Total Violations	879	113,579	82,098
Serious	663	50,036	59,856
% Serious	75%	44%	73%
Willful	-	295	585
Repeat	49	2,014	3,061
Serious/Willful/Repeat	712	52,345	63,502
% S/W/R	81%	46%	77%
Failure to Abate	1	333	268
Other than Serious	166	60,896	18,326
% Other	19%	54%	22%
Avg # Violations/ Initial Inspection	2.3	3.4	2.9
Total Penalties	\$ 973,529	\$ 75,271,600	\$ 181,829,999
Avg Current Penalty / Serious Violation	\$ 1,058.30	\$ 963.40	\$ 2,132.60
% Penalty Reduced	68.8%	46.6%	43.6%
% Insp w/ Contested Viols	13.7%	14.8%	10.7%
Avg Case Hrs/Insp- Safety	19.7	17.1	19.8
Avg Case Hrs/Insp- Health	26.2	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	41.6	35.6	43.2
Lapse Days Insp to Citation Issued- Health	62.9	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	21	1,387	2,436

Note: Federal OSHA does not include OIS data.

The total number of inspections for Federal OSHA is 40,684.

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.8.2011

Appendix D: State Activity Mandated Measures FY 2011

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)

NOV 09, 2011
PAGE 1 OF 2

State: UTAH

RID: 0854900

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD	
1. Average number of days to initiate Complaint Inspections	647 4.90 132	38 3.80 10	Negotiated fixed number for each State	
2. Average number of days to initiate Complaint Investigations	49 1.06 46	2 .40 5	Negotiated fixed number for each State	
3. Percent of Complaints where Complainants were notified on time	110 89.43 123	15 100.00 15	100%	
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	1 100.00 1	0 0 0	100%	
5. Number of Denials where entry not obtained	0	0	0	
6. Percent of S/W/R Violations verified				
Private	461 83.82 550	22 84.62 26	100%	
Public	45 71.43 63	2 100.00 2	100%	
7. Average number of calendar days from Opening Conference to Citation Issue				
Safety	17664 56.79 311	1214 33.72 36	2631708 51.9 50662	National Data (1 year)
Health	5088 86.23 59	283 47.16 6	767959 64.8 11844	National Data (1 year)

*UT FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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)

NOV 09, 2011
 PAGE 2 OF 2

State: UTAH

RID: 0854900

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	107	10	90405
Safety	76.43	90.91	58.5 National Data (3 years)
	140	11	154606
	2	0	10916
Health	100.00	0	51.7 National Data (3 years)
	2	0	21098
9. Average Violations per Inspection with Vioations			
	763	79	419386
S/W/R	2.06	1.88	2.1 National Data (3 years)
	369	42	198933
	161	7	236745
Other	.43	.16	1.2 National Data (3 years)
	369	42	198933
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1256300	135750	611105829
	1938.73	1885.41	1679.6 National Data (3 years)
	648	72	363838
11. Percent of Total Inspections in Public Sector	40	2	104
	6.42	3.92	5.6 Data for this State (3 years)
	623	51	1847
12. Average lapse time from receipt of Contest to first level decision	2111	203	3533348
	234.55	203.00	199.7 National Data (3 years)
	9	1	17693
13. Percent of 11c Investigations Completed within 90 days	5	0	100%
	83.33		
	6	0	
14. Percent of 11c Complaints that are Meritorious	3	0	1517
	50.00		23.0 National Data (3 years)
	6	0	6591
15. Percent of Meritorious 11c Complaints that are Settled	0	0	1327
	.00		87.5 National Data (3 years)
	3	0	1517

*UT FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

REPORT-ID	COMPL-NR	COMPL-HDATE	OPEN-CONF	CLOSE-CONF	ISSU-DATE	
08549	0	205934813	20101118	20101006	20101006	00000000
08549	0	205934912	20101228	20101025	20101026	00000000
08549	0	205935042	20110228	20101129	20101130	00000000
08549	0	205935166	20110718	20110120	20110512	00000000
08549	0	205935570	20110719	20110316	20110603	00000000
08549	0	205935661	20110719	20110407	20110427	00000000
08549	0	205935752	20110719	20110419	20110503	00000000
08549	0	205935760	20110809	20110428	20110622	00000000
08549	0	205935869	20110719	20110510	20110601	00000000
08549	0	205935901	20110923	20110513	20110518	00000000
08549	0	205935919	20110923	20110809	20110809	00000000
08549	0	205936073	20110823	20110628	20110628	00000000
08549	0	205936081	20110824	20110628	20110628	00000000

*****TOTAL ***** 13

MEASURE NUMBER: 4 COMPLAINTS

PAGE 1

REPORT-ID	COMPL-NR	COMPL-RCVD	OPEN-CONF	CLOSE-CONF	ISSU-DATE
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*****TOTAL*****

MEASURE NUMBER: 4 REFERRALS

PAGE 1

REPORT-ID REFL-NR REFL-DATE OPEN-CONF CLOSE-CONF ISSU-DATE

*****TOTAL*****

MEASURE NUMBER: 5 DENIALS >> ENTRY NOT OBTAINED

PAGE 1

REPORT-ID INSP-NR DENIAL-DATE

*****TOTAL*****

OWNER	REPORT-ID	INSP-NR	ABATE-DATE	VERIFY-DATE	CITATION-NR	ITEM-NR
PRI	08549 0	312412364	20091217	20101105	01	003
PRI	08549 0	312413362	20100322	20101109	01	001
PRI	08549 0	312413438	20100302	20101229	01	001
PRI	08549 0	312413578	20100319	20110801	01	001
PRI	08549 0	314187451	20100830	20101005	01	002
PRI	08549 0	314188111	20100823	20110822	01	001
PRI	08549 0	314188111	20100823	20110822	01	003
PRI	08549 0	314188111	20100823	20110822	01	002
PRI	08549 0	314188160	20101001	20101214	01	001
PRI	08549 0	314188160	20100927	20101214	01	002
PRI	08549 0	314188160	20100927	20101214	01	003
PRI	08549 0	314188160	20100927	20101214	01	004
PUB	08549 0	314188459	20101027	20110216	01	001
PUB	08549 0	314188459	20101027	20110216	01	006
PUB	08549 0	314188459	20101027	20110216	01	002
PUB	08549 0	314188459	20101027	20110216	01	003
PUB	08549 0	314188459	20101027	20110216	01	005
PUB	08549 0	314188459	20101027	20110216	01	008
PUB	08549 0	314188459	20101110	20110216	01	004
PUB	08549 0	314188459	20101027	20110216	01	007
PRI	08549 0	314188558	20100716	20101026	01	001
PRI	08549 0	314188913	20101020	20101214	01	001
PRI	08549 0	314188913	20101020	20101214	01	002
PRI	08549 0	314189036	20100905	20101025	01	001
PRI	08549 0	314189564	20101025	20101220	01	002
PRI	08549 0	314189564	20101025	20101220	02	001
PRI	08549 0	314189564	20101025	20101220	02	002
PRI	08549 0	314189564	20101025	20101220	01	001
PRI	08549 0	314189713	20101006	20101115	01	001
PRI	08549 0	314189713	20101006	20101115	01	002
PRI	08549 0	314189713	20101006	20101115	01	003
PRI	08549 0	314189788	20101021	20101201	01	001
PRI	08549 0	314189788	20101021	20101201	01	002
PRI	08549 0	314189929	20101016	20110104	01	002
PRI	08549 0	314189929	20101016	20110104	01	001
PRI	08549 0	314189929	20101016	20110104	01	003
PRI	08549 0	314189960	20101112	20101221	01	001
PRI	08549 0	314189986	20100914	20101109	01	001
PRI	08549 0	314189986	20100914	20101109	01	002
PRI	08549 0	314190000	20101003	20101110	01	001
PRI	08549 0	314190133	20100928	20101115	01	001
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PRI	08549 0	314190133	20100928	20101115	01	003
PRI	08549 0	314190174	20101101	20110110	01	001
PRI	08549 0	314190174	20101101	20110110	01	002
PRI	08549 0	314190315	20100921	20101214	01	001
PRI	08549 0	314190315	20100921	20101214	01	002
PRI	08549 0	314190315	20100921	20101214	01	003
PRI	08549 0	314190646	20100922	20101026	01	001
PRI	08549 0	314190646	20100922	20101026	01	002
PRI	08549 0	314190877	20101016	20101117	01	001
PRI	08549 0	314190877	20101016	20101117	01	002
PRI	08549 0	314190877	20101016	20101117	02	002
PRI	08549 0	314190950	20101206	20110210	01	001
PRI	08549 0	314190950	20101206	20110210	01	004

OWNER	REPORT-ID	INSP-NR	ABATE-DATE	VERIFY-DATE	CITATION-NR	ITEM-NR
PRI	08549 0	314191081	20101207	20110118	01	001
PRI	08549 0	314191214	20101129	20110224	01	001
PRI	08549 0	314191214	20101222	20110224	01	002
PRI	08549 0	314191586	20101213	20110118	01	001
PRI	08549 0	314191586	20101213	20110118	01	002
PRI	08549 0	314191743	20110214	20110323	01	001
PRI	08549 0	314191743	20110214	20110323	01	002
PRI	08549 0	314192261	20110121	20110602	01	001
PRI	08549 0	314192261	20110121	20110602	01	002
PRI	08549 0	314192295	20110217	20110404	01	001
PRI	08549 0	314192295	20110217	20110404	01	002
PRI	08549 0	314192451	20110221	20110329	01	001
PRI	08549 0	314192618	20110305	20110411	01	001
PRI	08549 0	314192618	20110305	20110411	01	002
PRI	08549 0	314192618	20110305	20110411	01	003
PRI	08549 0	314192618	20110228	20110411	01	004
PRI	08549 0	314192667	20110221	20110524	01	001
PRI	08549 0	314192667	20110221	20110524	01	002
PRI	08549 0	314192717	20110321	20110426	01	001
PRI	08549 0	314192949	20110322	20110531	01	002
PRI	08549 0	314192949	20110322	20110531	01	004
PRI	08549 0	314192949	20110322	20110531	01	001
PRI	08549 0	314192949	20110322	20110531	01	003
PRI	08549 0	314192949	20110322	20110531	02	001
PRI	08549 0	314193137	20110606	20110801	01	001
PRI	08549 0	314193277	20110406	20110517	01	001
PRI	08549 0	314193301	20110324	20110428	01	001
PRI	08549 0	314193301	20110325	20110428	01	002
PRI	08549 0	314193368	20110311	20110411	01	002
PRI	08549 0	314193376	20110613	20110801	01	001
PRI	08549 0	314193376	20110613	20110801	01	002
PUB	08549 0	314193442	20110405	20110519	01	005
PRI	08549 0	314193475	20110706	20110814	01	001
PRI	08549 0	314193665	20110415	20110530	01	001
PUB	08549 0	314193699	20110616	20110721	01	001
PUB	08549 0	314193822	20110712	20110906	01	002
PUB	08549 0	314193822	20110711	20110906	01	003
PUB	08549 0	314193822	20110711	20110906	01	007
PUB	08549 0	314193822	20110711	20110906	01	008
PUB	08549 0	314193822	20110711	20110906	01	009
PUB	08549 0	314193822	20110711	20110906	01	010
PUB	08549 0	314193988	20110517	20110627	01	001
PUB	08549 0	314193988	20110517	20110627	01	002
PRI	08549 0	314194143	20110429	20110627	01	001
PRI	08549 0	314194275	20110517	20110623	01	001
PRI	08549 0	314194762	20110702	20110802	01	001
PRI	08549 0	314194762	20110702	20110802	01	002
PRI	08549 0	314194812	20110627	20110908	01	001
PRI	08549 0	314194846	20110819	00000000	01	001
PRI	08549 0	314195512	20110729	20110906	01	001
PRI	08549 0	314195512	20110729	20110906	01	002
PRI	08549 0	314195520	20110729	20110919	01	002

*****TOTAL ***** 107

MEASURE NUMBER: 13

MEASURE 13

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0854900	022596001	20110808	L	R

*****TOTAL ***** 1

MEASURE NUMBER: 14

MEASURE 14

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL	
0854900	022592794	20110222	D	R	
0854900	022589550	20110126	D	R	
0854900	022595177	20110310	L	R	
0854900	022604441	20110518	D	R	
0854900	022574289	20101123	L	R	
0854900	022596001	20110808	L	R	
111111111111111	000000000	000000000	11		11

*****TOTAL ***** 7

MEASURE NUMBER: 15

MEASURE 15

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0854900	022595177	20110310	L	R
0854900	022574289	20101123	L	R
0854900	022596001	20110808	L	R

*****TOTAL ***** 3

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SPXREC

Appendix E: State Interim Indicator Report

QQQQ Q SIR Q4SIR49 SIR49 111011 111851 PROBLEMS - CALL H 202 693-1734

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U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 1

CURRENT MONTH = SEPTEMBER 2011

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	3694	45	8169	66	18137	130	40070	204
	61.3	32.8	61.4	27.2	62.5	29.1	63.7	21.3
	6026	137	13312	243	29042	446	62876	957
B. HEALTH	480	0	1020	0	2126	2	4357	7
	39.7	.0	36.4	.0	34.6	1.6	34.7	3.6
	1208	35	2806	68	6150	128	12569	196
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	3378	32	7266	44	14959	100	32614	138
	73.7	74.4	72.4	74.6	70.1	74.1	69.1	62.2
	4583	43	10036	59	21330	135	47196	222
B. HEALTH	456	0	890	0	1723	2	3487	5
	57.0	.0	57.2	.0	56.2	66.7	55.3	45.5
	800	0	1555	1	3068	3	6309	11
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	11703	144	23768	213	48704	463	109064	878
	79.6	77.8	77.4	79.5	76.7	74.7	78.4	73.4
	14698	185	30703	268	63528	620	139117	1197
B. HEALTH	2634	46	5290	68	10266	135	21598	215
	66.6	67.6	64.7	68.0	64.4	73.0	66.7	74.4
	3957	68	8180	100	15930	185	32380	289
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2394	95	4978	107	10776	236	23693	435
	16.6	41.3	16.8	32.2	17.9	32.6	17.9	32.3
	14465	230	29573	332	60243	724	132414	1345
B. HEALTH PERCENT >60 DAYS	259	1	711	13	1451	19	3159	33
	6.5	.9	8.6	8.3	9.4	6.7	10.0	7.0
	4006	106	8234	156	15507	282	31619	472

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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								
	505479	8600	1258835	10900	2803637	34600	5086228	70850
OTHER-THAN-SERIOUS	1181.0	409.5	1195.5	403.7	1126.9	455.3	1055.2	432.0
	428	21	1053	27	2488	76	4820	164
B. HEALTH								
	219203	6750	441915	7900	853346	8750	1667151	11200
OTHER-THAN-SERIOUS	1184.9	1125.0	1077.8	790.0	980.9	673.1	958.7	589.5
	185	6	410	10	870	13	1739	19
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	149	15417	264	33850	490	73070	1057
	6.0	5.0	5.6	4.1	5.5	3.2	5.4	3.2
	1138	30	2730	64	6145	151	13476	332
B. HEALTH								
	1458	39	3330	76	7311	142	14958	217
	2.4	4.9	2.2	4.5	2.2	4.1	2.0	2.2
	615	8	1501	17	3390	35	7404	100
7. VIOLATIONS VACATED %								
	1270	5	3026	9	6577	24	12352	62
	5.6	1.3	6.6	1.6	7.0	2.1	6.2	3.1
	22608	380	46128	546	93448	1124	200310	2023
8. VIOLATIONS RECLASSIFIED %								
	737	1	1997	2	4456	7	9147	13
	3.3	.3	4.3	.4	4.8	.6	4.6	.6
	22608	380	46128	546	93448	1124	200310	2023
9. PENALTY RETENTION %								
	19478404	117110	40012395	258001	77322520	551077	134938244	1207227
	61.0	62.6	61.6	58.3	62.8	53.1	62.8	49.6
	31918969	187050	65001782	442325	123124542	1038775	214845679	2435125

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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	45	0	66	2	130	12	204	23
	32.8	.0	27.2	13.3	29.1	40.0	21.3	35.4
	137	8	243	15	446	30	957	65
B. HEALTH	0	0	0	0	2	0	7	1
	.0	.0	.0	.0	1.6	.0	3.6	6.3
	35	4	68	6	128	10	196	16
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	144	14	213	37	463	62	878	126
	77.8	100.0	79.5	97.4	74.7	93.9	73.4	84.0
	185	14	268	38	620	66	1197	150
B. HEALTH	46	1	68	1	135	2	215	5
	67.6	100.0	68.0	100.0	73.0	50.0	74.4	55.6
	68	1	100	1	185	4	289	9

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U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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 %								
	579	6	1131	10	2220	19	4270	40
	22.8	60.0	23.4	52.6	23.5	40.4	23.0	39.2
	2542	10	4834	19	9442	47	18586	102
2. VIOLATIONS RECLASSIFIED %								
	328	0	620	0	1259	5	2360	9
	12.9	.0	12.8	.0	13.3	10.6	12.7	8.8
	2542	10	4834	19	9442	47	18586	102
3. PENALTY RETENTION %								
	3616720	2750	9500018	5040	16062961	37673	28079915	70193
	56.1	31.9	62.4	31.3	62.3	40.9	60.6	40.8
	6443756	8625	15212620	16125	25766759	92125	46371522	172000

APPENDIX F
FY 2011 State OSHA Annual Report (SOAR)
(Available Separately)

Appendix G
Utah State Plan
FY 2011 23(g) Consultation Activity

	UT Public Sector	Total State Plan Public Sector
Requests	57	1,328
<i>Safety</i>	50	576
<i>Health</i>	5	560
<i>Both</i>	2	192
Backlog	4	123
<i>Safety</i>	4	51
<i>Health</i>	-	58
<i>Both</i>	-	14
Visits	77	1,632
<i>Initial</i>	49	1,336
<i>Training and Assistance</i>	11	175
<i>Follow-up</i>	17	121
<i>Percent of Program Assistance</i>	0%	67%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%
Employees Trained	55	5,030
<i>Initial</i>	2	2,144
<i>Training and Assistance</i>	53	2,886
Hazards	176	6,063
<i>Imminent Danger</i>	-	3
<i>Serious</i>	169	4,804
<i>Other than Serious</i>	7	1,171
<i>Regulatory</i>	-	85
<i>Referrals to Enforcement</i>	-	6
Workers Removed from Risk	12,242	171,075
<i>Imminent Danger</i>	-	55
<i>Serious</i>	11,942	136,884
<i>Other than Serious</i>	300	26,046
<i>Regulatory</i>	-	8,090

Source: DOL-OSHA. 23(g) Public & Private Consultation Reports, 11.29.2011