

# **FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report**

**Utah**



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## **I. Executive Summary**

### **A. State Plan Activities, Themes, and Progress**

The purpose of this report is to assess Utah OSHA's State Plan activities for Fiscal Year (FY) 2014 and its progress in resolving outstanding findings and recommendations from previous FAME reports, with a focus on the FY 2013 Comprehensive FAME Report.

Utah OSHA underwent significant management changes in FY 2014. Scott McKenzie, the Division Director, left Utah OSHA in late June 2014 and the position was filled by an Acting Director during the recruiting process. Christopher Hill was hired to fill the position of Division Director on September 3, 2014. Mr. Hill works closely with his management team to ensure that Utah OSHA meets its responsibilities under the OSH Act. Additionally, he has worked closely with employers within Utah and the Utah legislature to ensure that multi-employer legal issues from the past could be resolved.

There were eleven findings and eleven observations in the FY 2013 FAME. Utah OSHA is making progress in addressing these findings and observations. In an effort to address both the findings and observations, Utah OSHA has conducted significant training for their compliance officers and team leads. The impact of this training will be monitored throughout this fiscal year, as well as during the next on-site audit.

### **B. State Plan Introduction**

Utah OSHA is housed within Utah's Labor Commission. The State Designee is Labor Commissioner Sherrie Hayashi. Christopher Hill serves as the Utah OSHA Program Director. The Utah OSHA 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, while consultation in the private sector is funded through a 21(d) cooperative agreement. Utah OSHA operates from a centrally located office in Salt Lake City. Utah OSHA closely mirrors the federal program, with some differences that allow for accommodation of unique state demands and issues, such as Utah OSHA's requirement that employers report not only all fatalities, but also disabling, significant and serious injuries or illnesses. This increased reporting by employers has historically resulted in a higher number of unprogrammed inspections.

Utah OSHA is currently staffed with 26 full-time positions in the Compliance Section, which includes eight safety and nine health compliance officers and one full-time discrimination investigator. Currently, Utah OSHA is in the process of hiring an additional safety compliance officer.

The following table shows the Federal Award Levels, One-time Money, and the State Plan Matching Funds from FY 2012 through FY 2014.

Fiscal Year	Federal Award	State Plan Match	100% State Funds	Total Funding	% of State Plan Contribution	One-time Money
2014	\$1,522,000	\$1,522,000	\$127,173	\$3,171,173	52%	\$58,866
2013	\$1,513,300	\$1,513,300	\$156,510	\$3,014,186	51%	\$0
2012	\$1,579,200	\$1,579,200	\$0	\$3,209,503	50%	\$0

Utah OSHA has jurisdiction over private employers with one or more workers, and all state and local government agencies, including public education. During FY 2014, Utah OSHA had jurisdiction over approximately 1,204,505 workers, with 178,799 of these workers employed in the public sector.

Federal enforcement jurisdiction remains over maritime employment in the private sector; employment at military facilities such as Hill Air Force Base and Tooele Army Depot, including the Tooele Chemical Demilitarization Facility; and federal government facilities, including the United States’ Department of Energy’s Naval Petroleum and Oil Shale Reserve, as it remains a Department of Energy facility. Federal jurisdiction also is in effect with regard to the United States Postal Service.

Utah OSHA maintains a website hosted within the Utah Labor Commission website. Utah OSHA’s website contains a wide array of information including Local Emphasis Programs (LEPs), regulations, requirements, and press releases. Some of the press releases issued in FY 2014 included information on the LEPs, Utah Safety Week information, information related to the Fall Stand Down in FY 2014, and the 2014 Campaign to Prevent Heat Illness in Workers.

The table below shows the number of Utah OSHA’s full-time and part-time staff as of the end of FY 2014.

<b>FY 2014 Staffing</b>					
<b>23(g) Grant Positions</b>	<b>Allocated FTE* Funded 50/50</b>	<b>Allocated FTE 100% State Plan Funded</b>	<b>Total</b>	<b>50/50 Funded FTA On Board as of 8/15/14</b>	<b>100% State Plan Funded FTE On Board as of 8/15/14</b>
Mangers/Supervisors (Admin)	2.05	0.00	2.05	1.10	0.00
First Line Supervisors	2.00	0.00	2.00	2.00	0.00
Safety Compliance Officers	12.00	0.00	12.00	10.00	0.00
Health Compliance Officers	10.00	0.00	10.00	9.00	0.00
Discrimination Investigator	1.00	0.00	1.00	1.00	0.00
Public Sector Safety Consultants	0.50	0.00	0.50	0.50	0.00

Public Sector Health Consultants	0.50	0.00	0.50	0.50	0.00
Clerical/Admin/Data System	2.50	0.00	2.50	2.50	0.00
Total 23(g) FTE	30.55	0.00	30.55	26.60	0.00

### **C. Data and Methodology**

OSHA has established a two-year cycle for the FAME process. This is a follow-up year and as such OSHA did not perform the level of case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME.

The following data sources were used to support the information in this FAME:

- 2014 State Operations Annual Report (SOAR)
- State Plan Grant Application (2014)
- State Activity Mandated Measures Report (SAMM)
- Mandated Activities Report for Consultation (MARC)
- Minutes from Quarterly meetings
- Inspection Report generated through IMIS
- Enforcement Report generated through IMIS

### **D. Findings and Observations**

There were no new findings or observations in FY 2014. However, of the eleven findings in the FY 2013 FAME, nine are continued into FY 2015. Utah OSHA has addressed all of these items, but verification through the next on-site audit is necessary prior to closing out these findings. With regard to the observations found in the FY 2013 audit, these have been resolved through the training of compliance officers. It is important to note, however, that the impact of the training must be measured as well, and the on-site portion of the upcoming audit will strive to do that.

## **II. Assessment of State Plan Performance**

### **A. Major New Issues**

Christopher Hill replaced Scott McKenzie as Utah OSHA Division Director on September 3, 2014.

### **B. Assessment of State Plan Progress in Achieving Annual Performance Goals**

Information on the FY 2014 SAMM report, included in Appendix D of this FAME, shows that Utah OSHA conducted a total of 724 inspections, which represents 91% of its projected goal of

798 inspections for FY 2014. The following table, which is derived from the FY 2014 SAMM, shows that Utah OSHA exceeds its projected value for public sector inspections. However, Utah is only at approximately 60% of its goal with regard to total health inspections.

<b>Inspection</b>	<b>Projected Value</b>	<b>Actual Value</b>	<b>Percent of Goal</b>
<b>Total Inspections</b>	798	724	<b>90.73%</b>
<b>Private Sector</b>	755	636	<b>84.24%</b>
<b>Public Sector</b>	43	88	<b>204.65%</b>
<b>Total Safety</b>	625	619	<b>99.04%</b>
<b>Total Health</b>	173	105	<b>60.69%</b>

The first of Utah’s Annual Performance Goals is to reduce the number of workplace fatalities. Utah OSHA measures this by comparing the Utah average 3-year fatality rate calculated by the Bureau of Labor Statistics (BLS) average baseline from FY 2010 to FY 2012 of 1.1 to the fatality rate for FY 2014. In 2014, there were fourteen workplace fatalities under Utah OSHA’s jurisdiction. Given the number of workers under Utah OSHA’s jurisdiction, this calculates to be a fatality rate of 1.1 for FY 2014. Eleven of the fourteen fatalities occurred in general industry. While Utah OSHA did not meet this annual performance goal for FY 2014, it did meet this goal in FY 2013, and has established Local Emphasis Programs (LEPs) that address construction (effective August 1, 2014) and amputations (effective November 1, 2014).

The second of Utah’s Annual Performance Goals is to achieve an effective impact in the reduction of injuries and illnesses in industries that are under Utah OSHA’s jurisdiction. To evaluate achievement of this goal, the Total Recordable Case (TRC) rate will be compared to the baseline. The three-year average for FY 2010 to FY 2012 as calculated by the BLS is 4.6. This rate compares to the result of 3.4, which is the most current TRC available (FY 2013) for Utah. Utah OSHA is meeting its goal in this area.

The third Annual Performance Goal is to increase participation in recognition programs and compliance assistance to promote workplace safety and health. The strategy that Utah uses to ensure that this goal is met is to promote public sector consultation services, VPP, partnerships and compliance assistance. Utah OSHA is meeting this non-mandatory goal as shown on the following table:

	2014 Goal	2014 Results	Percent of Goal
Consultation Visits Public Sector	14	63	350%
Form 66s – Consultation Public Sector Interventions	22	49	123%

Form 55s – Compliance Interventions	43	102	137%
VPP Presentations	5	7	140%
VPP Applications	1	1	100%
SHARP Presentations	12	6	50%
SHARP Applications	2	2	100%

### C. Highlights from the State Activity Mandated Measures (SAMM)

Utah’s SAMM Report for FY 2014 is found in Appendix D of this document, and the State Plan’s performance as indicated by the SAMM remains largely unchanged from FY 2013. There is improvement in SAMM 1, which shows that the average number of days to initiate complaint inspections was reduced from 6.76 to 3.84. The reference standard for this is 5 days, which is a negotiated value. SAMM 2, the average number of days to initiate complaint-based investigations, increased slightly from 0.81 days to 1.48 days. This is well within the negotiated number of 3 days for Utah. With a value of 100%, Utah OSHA continues to excel in SAMM 3, which is the percent of complaints and referrals that allege imminent danger that Utah OSHA has responded to within 1 day. Finally, as indicated in SAMM 23, Utah OSHA continues to maintain above average lapse times for both safety and health, at 38.24 days and 54.55 days, respectively.

SAMMs 20a and 20b, which represent the percent of inspections found to be in compliance for safety and for health, are 45.98% and 58.82% respectively. These values are considerably higher than the reference values of 29.1% for safety and 34.1% for health, and indicate that Utah OSHA must continue to improve both their hazard recognition and targeting.

The measures not mentioned in this section will be addressed in Section III of this report, as they relate to findings and observations found in the FY 2013 FAME.

## III. Assessment of State Plan Corrective Actions

The FY 2013 FAME identified 11 findings and 11 observations. Utah OSHA has reported that it has corrected many of the findings, and this will be verified in the FY 2015 on-site audit. Taking these findings in numerical order, the assessment of State Plan corrective actions is as follows:

**Finding FY 2013-01** – *There was no process in place to determine whether targeting programs were effective.*

Utah OSHA developed a system to evaluate the effectiveness of its targeting programs in response to this finding. In the SOAR, Utah OSHA indicated that a LEP to address construction was implemented on August 1, 2014, and a second LEP to address amputations was

implemented on November 1, 2014. The upcoming audit will include a review of how these LEPs are evaluated.

**Finding FY 2013-02** – *The number of inspections where no violations were found is high.*

This item remains open. Utah OSHA maintains that it is addressing this item through training. Measures 20a and 20b in the FY 2014 SAMM show that the percent in compliance for safety inspections was 45.98% and for health was 58.82%. These values are higher than the values found in FY 2013 SAMM, which were 43.47% and 41.90%, respectively.

**Finding FY 2013-03** – *During the audit, interviews indicated that compliance officers were instructed that no violations should be issued as willful.*

Utah OSHA reports that its compliance officers received legal training and refresher training on the identification and development of willful violations, and that Utah OSHA will issue willful citations when appropriate. This training was completed in September 2014. A review of the citations issued in 2014 showed that no willful citations were identified. Only one inspection yielded willful violations in FY 2013. The upcoming audit will include a review of Utah OSHA's willful citation policy.

**Finding FY 2013-04** – *By policy, Utah provides a 30-day abatement period.*

According to the Utah Field Operations Manual, abatement periods must be the shortest interval within which the employer can be reasonably expected to correct the violation. Utah OSHA's enforcement staff was informed that the 30-day abatement period for all violations was no longer appropriate. The upcoming audit will verify that this change has been implemented.

**Finding FY 2013-05** – *Abatement policies were not consistently applied.*

Utah OSHA indicated that it will ensure appropriate abatement verification, and that CSHOs were trained on abatement verification policies. The upcoming audit will verify the abatement policies in place.

**Finding FY 2013-06** – *Utah OSHA does not consistently document modifications that were made in the informal and formal conference.*

Utah OSHA attested that it updated the Utah Field Operations Manual to include documenting the modifications made during formal and informal conferences. Additionally, Utah OSHA affirmed that the justifications for the modification must now be placed in the case files. The upcoming audit will verify that this change has been implemented.

**Finding FY 2013-07** – *Utah OSHA did not properly adopt rule changes through their formal rule change process in FY 2013.*

This finding remains open.

**Finding FY 2013-08** – *The discrimination program throughout FY 2013 had significant programmatic deficiencies involving the receipt, processing, and disposition of whistleblower complaints.*

Utah OSHA has undergone several changes with regard to its discrimination program. Initially, two CSHOs were selected to conduct discrimination investigations as a collateral duty, and these CSHOs were trained at OTI in December 2013. Utah OSHA subsequently hired a full-time discrimination investigator with a legal background, allowing the CSHOs to return to full time safety and health work. The new investigator attended one of the two weeks of the whistleblower investigator training at OTI, but otherwise is being trained in-house. The upcoming audit will verify that the whistleblower complaints are being appropriately addressed.

**Finding FY 2013-09** – *The Voluntary Protection Program (VPP) in operation at Utah OSHA in FY 2013 was stagnant due to inconsistent resource commitment to the program.*

Utah OSHA indicated that it has refocused its commitment to VPP based on available resources. Utah OSHA assigned responsibilities for the VPP to a designated CSHO, and sent this CSHO to the Region VIII VPPPA Conference and application workshop. This CSHO also participated in a Federal OSHA VPP site visit in another state. Also, Utah OSHA assisted with a VPP application workshop in October 2014. There are six active VPP companies in Utah, four additional VPP applications are being reviewed or waiting for corrections from the employer, and one new application was submitted in FY 2014. This finding is considered administratively closed.

**Finding FY 2013-10** – *Compliance officers are not equally trained in developing a legally sufficient case or in conducting a thorough inspection.*

The Utah OSHA Assistant Attorney General and the Utah Labor Commission Deputy Commissioner conducted training with all CSHOs on developing a legally sufficient case on July 17, 2014. Refresher training will be provided as necessary and CSHO performance will closely be monitored by Utah OSHA management in this regard. This item is closed.

**Finding FY 2013-11** – *Key elements of the enforcement process were eliminated. Some inspections were not reviewed by management, and compliance officers were not reviewing OSHA Form 300 logs.*

Utah OSHA conducted OSHA Form 300 log training on April 2, 2014, and instructed CSHOs to collect and review OSHA Form 300 logs during all inspections where OSHA Form 300 logs are required. Additionally, in December 2013, a policy was instituted requiring that all case files be reviewed by management. These items will be verified in the upcoming audit.

In the FY 2014 SOAR, Utah indicated that it had developed two Local Emphasis Programs (LEPs). The first of these LEPs addresses the construction industry and addresses the “Big 4” construction hazards: falls from elevations, caught-in or between, struck-by and electrocution. It became effective August 1, 2014. The second of these LEPs address amputations in general

industry. Although the effective date of this LEP was early in FY 2015, it was developed in FY 2014.

The Status of the FY 2013 Findings and Recommendations can be found in Appendix C of this document.

**Appendix A – New and Continued Findings and Recommendations**  
 FY 2014 Utah Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 2013-# or FY 2013-OB-#
FY 2014-1	There is no process in place to determine whether targeting programs were effective.	Utah OSHA should evaluate, on an annual or more frequent basis, the effectiveness of its targeting programs.  Corrective Action Complete – Awaiting Verification.	FY 2013-01
FY 2014-2	The number of inspection where no violations were found is high.	Utah OSHA should provide additional training for compliance officers in the recognition of violations and in the documentation of violations.  Open.	FY 2013-02
FY 2014-3	During the audit, interviews indicated that compliance officers were instructed that no violations should be issued as willful.	Utah OSHA should instruct compliance officers on the identification and development of willful violations, and cite willful violations as willful.  Corrective Action Complete – Awaiting Verification.	FY 2013-03
FY 2014-4	By policy, Utah OSHA provides a 30-day abatement period.	Utah OSHA should ensure that the shortest possible abatement period is given in order to abate hazards quickly.  Corrective Action Complete – Awaiting Verification.	FY 2013-04
FY 2014-5	Abatement policies were not consistently applied.	Utah OSHA should ensure that employers provide appropriate abatement verification.  Corrective Action Complete – Awaiting	FY 2013-05

## Appendix A – New and Continued Findings and Recommendations

### FY 2014 Utah Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 2013-# or FY 2013-OB-#
		Verification.	
FY 2014-6	Utah OSHA does not consistently document modifications that were made in the informal and formal conference.	Utah OSHA should document why modifications are made and be consistent about the modifications that were made during the informal conference.  Corrective Action Complete – Awaiting Verification.	FY 2013-06
FY 2014-7	Utah OSHA did not properly adopt rule changes through its formal rule change process in FY 2013.	Utah OSHA should ensure that all rule changes are adopted and implemented.  Corrective Action Complete – Awaiting Verification	FY 2013-07
FY 2014-8	The discrimination program throughout FY 2013 had significant programmatic deficiencies involving the receipt, processing, and disposition of whistleblower complaints.	Utah OSHA should ensure that appropriate training and oversight is conducted.  Corrective Action Complete – Awaiting Verification.	FY 2013-08
FY 2014-9	Key elements of the enforcement process were eliminated. Some inspections were not reviewed by management, and compliance officers were not reviewing OSHA Form 300 logs.	Utah OSHA should ensure that citations issued are legally sufficient, reviewed by management, and that OSHA Form 300 logs are appropriately analyzed.  Corrective Action Complete – Awaiting Verification.	FY 2013-11

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2014 Utah Follow-up FAME Report

Observation # FY 2014-OB-#	Observation# FY 2013-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
	FY 2013-OB-1	In some cases when referrals were received from the public or from workers who would not sign complaints, there was no contact information for that person documented in the files.		Closed
FY 2014 – OB-1	FY 2013-OB-2	Processes, such as requiring a worker to print a complaint form, sign it and mail it in may hinder the formal complaint process.	The complaint process will be verified to ensure that it is as effective as the federal complaint process. This will be verified during the next on-site audit.	Continued
FY 2014 – OB-2	FY2013-OB-3	Next-of-kin letters were not written or sent in two of the fatality cases, and family members must request inspection findings after the completion of the inspection.	This will be verified during the next on-site audit.	Continued
	FY 2013-OB-4	A review of the inspection files showed inconsistent grouping of violations. For example, a machine shop has a variety of different guarding violations on different machines grouped into one serious violation. Utah OSHA should train their workers on appropriate grouping of violations.		Closed
	FY 2013-OB-5	Violations of the LOTO standard were not in accordance with the LOTO directive. In several cases, where LOTO violations were issued, only the program was cited, rather than its elements. This can result in inadequate abatement.		Closed
	FY 2013-OB-6	Few inspections addressed personal protective equipment such as safety glasses.		Closed
FY 2014 – OB-3	FY 2013-OB-7	Few inspections, even at employers with typically high noise levels such as machine shops, addressed health hazards or noise, either through	This will be verified during the next on-site audit.	Continued

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2014 Utah Follow-up FAME Report

		sampling or through referrals to an industrial hygienist.		
FY 2014 – OB-4	FY 2013-OB-8	Not all field notes and worker interview statements were placed in the files.	This will be verified during the next on-site audit.	Continued
	FY 2013-OB-9	In three cases, unions were not represented in inspections, nor were copies of the citations sent to the unions.		Closed
FY 2014 - OB-5	FY 2013-OB-10	Utah OSHA did not implement the enforcement requirement within a directive that required enforcement.	This will be verified during the next on-site audit.	Continued
	FY 2013-OB-11	Utah OSHA provided inappropriate enforcement incentives for companies that participated in alliances with Utah OSHA.		Closed

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Utah Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	There was no process in place to determine whether targeting programs were effective.	Utah OSHA should evaluate, on an annual or more frequent basis, the effectiveness of its targeting programs.	Utah OSHA has developed a system to evaluate, at least annually, the effectiveness of the targeting programs.	July 28, 2014	Awaiting Verification.
FY 2013-02	The number of inspection where no violations were found is high.	Utah OSHA should provide additional training for compliance officers in the recognition of violations and in the documentation of violations.	<p>CSHOs will receive refresher training on “Chapter 4 <i>Violations</i>” and “Chapter 5 <i>Case File Preparation and Documentation</i>” of the Utah Field Operations Manual (UFOM).</p> <p>Utah OSHA is using Formal OTI Training Courses, OSHA Webinars, focused internal training sessions, and OSHAcademy web-based training to provide refresher training to CSHOs in the recognition of violations.</p> <p>While the number of inspections without violations was above the national average, Utah OSHA conducted 145% of its projected number of inspections for FY 2013. Utah OSHA had a construction initiative where CSHOs opened inspections with all contractors at each construction site to demonstrate a</p>	Anticipated: Training Completed February 1, 2015	Open 9/26/2014

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Utah Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
			<p>Utah OSHA presence in the workplace and to ensure compliance with Utah OSHA standards. This construction initiative contributed to the increased number of inspections with no violations.</p> <p>Supervisors and Compliance Manager have been reviewing case files to ensure that Compliance Officers appropriately address hazards through violations and correctly document the violations. Additionally, the Supervisors and Compliance Manager provide feedback and instruction to Compliance Officers.</p>		
13-03	During the audit, interviews indicated that compliance officers were instructed that no violations should be issued as willful.	Utah OSHA should instruct compliance officers on the identification and development of willful violations, and cite willful violations as willful.	<p>Utah OSHA has issued willful citations as documented in the FY 2013 Fame Report and will continue to issue willful citations as warranted.</p> <p>CSHOs received legal training and refresher training on the identification and development of willful violations, and will issue such citations when</p>	Completed: September 18, 2014.	Awaiting Verification 9/26/2014

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Utah Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
			appropriate.		
FY 2013-04	By policy, Utah OSHA provides a 30-day abatement period.	Utah OSHA should ensure that the abatement period is the shortest interval in which the employer can reasonably be expected to correct the violation.	Per the UFOM, abatement periods are the shortest interval within which the employer can reasonably be expected to correct the violation. This policy will be followed on all future inspections conducted. CSHOs were informed that the requirement for abatement periods is no longer set at 30 days for all violations.	Completed: September 18, 2014.	Closed 9/26/2014
FY 2013-05	Abatement policies were not consistently applied.	Utah OSHA should ensure that employers provide appropriate abatement verification.	Utah OSHA will ensure that employers provide appropriate abatement verification in accordance with “Chapter 7 <i>Post-Citation Procedures and Abatement Verification</i> ” of the UFOM. CSHOs received training on the abatement verification policies.	Completed: September 18, 2014.	Awaiting Verification 9/26/2014
FY 2013-06	Utah OSHA does not consistently document modifications that were made in the informal and formal conferences.	Utah OSHA should document why modifications are made and be consistent about the modifications that were made during informal conferences.	Utah OSHA is updating “Chapter 8 <i>Settlements</i> ” of the UFOM which includes documentation of modifications during informal and formal conferences.  In accordance with the UFOM, justifications for modifications to the citations and notifications of penalties are now documented in the case file by placing emails of such	Completed: August 15, 2014	Awaiting Verification 9/26/2014

**Appendix C - Status of FY 2013 Findings and Recommendations**  
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FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
			modifications in file and/or documenting such modifications in the Utah OSHA Case Notes Sheet located in the file.		
FY 2013-07	Utah OSHA did not properly adopt rule changes through its formal rule change process in FY 2013.	Utah OSHA should ensure that all rule changes are adopted and implemented.	Utah OSHA is in the process of determining the number of rule changes necessary to satisfy this recommendation and will provide progress updates. Utah OSHA will ensure that all applicable rule changes are properly adopted and implemented in the future per “ADM-007 <i>Adopting Final Rules and OSHA Directives (January 1, 2003)</i> ”.	In progress	Open 9/26/2014
FY 2013-08	The discrimination program throughout FY 2013 had significant programmatic deficiencies involving the receipt, processing, and disposition of whistleblower complaints.	Utah OSHA should ensure that appropriate training and oversight is conducted.	Utah OSHA has two (2) designated Whistleblower Investigators who have received Whistleblower training from the Federal OSHA Training Institute (OTI) in December 2013. A Utah OSHA Compliance Section Supervisor is assigned to oversee the Whistleblower Program.	December 2013	Awaiting Verification 9/26/14
FY 2013-09	The Voluntary Protection Program (VPP) in operation at	Utah OSHA should provide clear guidance and	Utah OSHA has refocused its commitment to the VPP based on available resources. Utah OSHA has a	June 2014	Administratively Closed.

## Appendix C - Status of FY 2013 Findings and Recommendations

### FY 2014 Utah Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
	Utah OSHA in FY 2013 was stagnant due to inconsistent resource commitment to the program.	support to the designated responsible compliance officer for the administration of VPP, in addition to developing accountability measures for VPP administration and should include these in the performance standards for the responsible parties.	designated CSHO for the administration of VPP and has sent this CSHO to the Region VIII VPPPA Conference and a VPP application workshop. This CSHO has also participated in a Federal OSHA VPP site visit in another state.  In addition, this CSHO was scheduled to attend the VPPPA National Conference and VPP PSM workshop in August, 2014. Utah OSHA was scheduled to host a VPP application workshop in October, 2014.		
FY 2013-10	Compliance officers are not equally trained in developing a legally sufficient case or in conducting a thorough inspection.	Utah OSHA should ensure that all compliance officers are appropriately trained with regard to legal sufficiency and case development.	The Utah OSHA Assistant Attorney General and the Utah Labor Commission Deputy Commissioner / General Counsel conducted training with all CSHOs on developing a legally sufficient case file on July 17, 2014.  Refresher training will be provided as necessary and CSHO performance will be closely monitored in this regard.	July 17, 2014	Closed 9/26/2014
FY 2013-11	Key elements of the	Utah OSHA should	The Utah OSHA Assistant Attorney	July 17, 2014	Awaiting Verification

**Appendix C - Status of FY 2013 Findings and Recommendations**  
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FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
	<p>enforcement process were eliminated. Some inspections were not reviewed by management, and compliance officers were not reviewing 300 logs.</p>	<p>ensure that citations issued are legally sufficient, reviewed by management, and that OSHA Form 300 logs are appropriately analyzed.</p>	<p>General and the Utah Labor Commission Deputy Commissioner / General Counsel conducted training with all CSHOs on developing a legally sufficient case file on July 17, 2014.</p> <p>Utah OSHA conducted OSHA Form 300 log training on April 2, 2014 and instructed CSHOs to collect and review OSHA Form 300 logs during all inspections where OSHA Form 300 logs are required.</p> <p>Previously, a limited number of inspections were not reviewed by Utah OSHA Management. However, prior to the federal OSHA Audit, Utah OSHA implemented a policy requiring review of all case files by Utah OSHA Management.</p>	<p>April 2, 2014</p> <p>December, 2013.</p>	<p>9/26/2014</p>

## Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Utah Follow-up FAME Report

OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Utah opened 724 enforcement inspections in FY 2014. Of those, 724 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data.

For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
- d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
- e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
- f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
- g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

## Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

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<b>U.S. Department of Labor</b>				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Utah			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
<b>1</b>	Average number of work days to initiate complaint inspections	3.84	TBD	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
<b>2</b>	Average number of work days to initiate complaint investigations	1.48	TBD	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
<b>4</b>	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100.0%	100%	State Plan data taken directly from SAMM report generated through IMIS.
<b>5</b>	Number of denials where entry not obtained	0	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
<b>9a</b>	Average number of violations per inspection with violations by violation type	1.53	SWR: 1.99	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.
<b>9b</b>	Average number of violations per inspection with violations by violation type	0.22	Other: 1.22	

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<b>11</b>	Percent of total inspections in the public sector	12.15%	5.39%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.
<b>13</b>	Percent of 11c Investigations completed within 90 calendar days	20%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
<b>14</b>	Percent of 11c complaints that are meritorious	0	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
<b>16</b>	Average number of calendar days to complete an 11c investigation	127	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
<b>17</b>	Planned vs. actual inspections - safety/health	619/105	625/173	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
<b>18a</b>	Average current serious penalty - 1 -25 Employees	1053.41		State Plan data taken directly from SAMM report generated through IMIS.
<b>18b</b>	Average current serious penalty - 26-100 Employees	1692.12		
<b>18c</b>	Average current serious penalty - 101-250 Employees	2444.56		
<b>18d</b>	Average current serious penalty - 251+ Employees	3647.11		
<b>18e</b>	Average current serious penalty - Total 1 - 250+ Employees	1548.88		

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<b>19</b>	Percent of enforcement presence	0.33%	National Average 1.51%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
<b>20a</b>	20a) Percent In Compliance – Safety	45.98	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>20b</b>	20b) Percent In Compliance – Health	58.82	Health - 34.1	
<b>21</b>	Percent of fatalities responded to in 1 work day	91%	100%	State Plan data is manually pulled directly from IMIS for FY 2013.
<b>22</b>	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
<b>23a</b>	Average Lapse Time - Safety	38.24	43.4	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>23b</b>	Average Lapse Time - Health	54.55	57.05	
<b>24</b>	Percent penalty retained	84.89	66	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.

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<b>25</b>	Percent of initial inspections with employee walk around representation or employee interview	100	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.
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