

Appendix A
FY 2009 Utah State Plan (UOSH) Enhanced FAME Report prepared by Region VIII
Summary of Findings and Recommendations

Findings- General Case File Management		Recommendations- General Case File Management	
1	The Case File Management checklist in the case file is not consistently used by management to ensure post citation actions are completed.	Ensure post citation actions are completed. Complete the Case File Management checklist in all case files.	
2	There are overall organization problems with safety case files and some of these are missing documentation.	Ensure that safety case files are organized and are completely documented.	
3	A follow-up inspection done at a later date was not attached to the original case file.	Include the follow-up inspection information with the original case.	
Findings- Un Programmed Activity		Recommendations- Un Programmed Activity	
4	One referral was not responded to in a timely manner as required by the Complaint Directive adopted by Utah, which is now part of the federal FOM, Chapter 9, Section I, B.	Ensure all referral inspections are opened in a timely manner.	
5	Three unprogrammed inspections were missing notifications to the complainant. This was due to the contact information not being documented in the case file. According to the Utah FOM, Chapter XI Section 11(d), "the complainant should be informed of the results" of the complaint after the completion of an inspection.	Ensure complainants are notified of the results of the inspection for all complaints not filed anonymously. Document contact information in the file for all non-anonymous complainants in order to provide the results of the inspection.	
6	One local government agency inspection addressed hazards that were not cited.	Perform a review of the local government agency inspection file to determine if any follow-up action is necessary.	
Findings- Inquiries		Recommendations- Inquiries	
7	There was not consistent documentation in case files that the complainant was advised of the employer's response to the inquiry as stipulated in the Utah FOM, Chapter XI, Section A(5)(d) and or in the federal FOM, Chapter 9, Section I(I)(6).	Place documentation of complainant's notification of the employer's response in the case files of inquiries.	
8	Negotiated abatement times for employers to respond to inquiries were exceeded without documentation that the employer had requested more time and the conditions around that request.	Enforce the newly negotiated five day abatement period for phone and fax. Document the reasoning and extension period in the case file, as required by the federal FOM, Chapter 9, Section I(I)(5), when an inspection is not scheduled because of overdue abatement. Enter extensions for abatement of inquiries in the computer database as required.	
9	Inquiries, instead of inspections, were sometimes scheduled to address serious hazards and prompt abatement was not required.	Ensure that serious hazards are abated quickly. Follow the guidelines in the federal FOM, Chapter 9, Section I(I)(3)(b) for inquiries, which provide the latitude to decrease response times based on circumstances of the complaint.	
10	Proof of abatement in cases with serious hazards was not sufficient.	Follow the guidelines in Chapter 9, Section I (I)(3)(c) for proof of abatement.	
11	Some complaint items were vague and non-specific, making it difficult for employers to properly abate the hazards.	Follow the procedures in the Utah FOM, Chapter XI, Section A(3)(a)(3) which stipulates "determine the exact nature of the alleged violation."	
12	An inquiry, instead of an inspection, was scheduled to address a past exposure that was alleged to cause a permanent illness.	Schedule inspections in accordance with Chapter XI, Section A(2)(f), when "The complaint alleges that physical harm, such as disabling injuries and illnesses has occurred as a result of the complained of hazards and that there is reason to believe that the hazard or related hazard still exists." This criteria is reiterated in the federal FOM, Chapter 9, Section I(C) (3).	

	Findings- Fatalities	Recommendations- Fatalities
13	UOSH is not consistently sending letters and copies of the citations to the victims' families as required in the federal FOM, Chapter 11, Part II, Section G, Families of Victims.	Follow the procedures in the federal FOM concerning proper notification to families of victims.
14	The standard 60% PRSA was given on two of the fatalities. An average 50% penalty reduction was given for fatality inspections during the FY2009.	Follow the guidance in the federal FOM, Chapter 11, Part II, and Section L (1) (d) that states: "insure that settlement terms are appropriate, including violation reclassification, penalty reductions, and additional abatement language."
15	A fatality that was not reported in one day was not cited during the inspection.	Cite any fatality that is not reported by the employer to OSHA in one day.
16	Fatality cases were not appropriately documented and interviews were not thoroughly conducted.	Follow the procedures in the federal FOM, Chapter 11, Part II, Section C, Investigative Procedures and D, Interview Procedures.
	The cause of employer knowledge and exposure was not well documented.	[See Recommendations #50 and #51 in Section 8, Program Administration/Training.]
	Findings- Targeting Programmed Inspections	Recommendations- Targeting Programmed Inspections
17	Utah has no coding instructions in ENF-006 to ensure coding is consistent when entering the activity into the federal database.	Add instructions to ENF-006 on how to code the various emphasis areas each year.
18	There are extensive problems with coding of programmed and un-programmed inspections. Utah has 166 programmed inspections out of 597 inspections. This calculates to about a 28% programmed rate which differs greatly from the 55% rate or 328 inspections designated as programmed in the enforcement report. While these numbers do not include inspections from the amputation and trenching NEP, it is doubtful those two hazards would account for over 250 inspections.	Accurately code inspections. At the end of the fiscal year, tally inspection numbers and reconcile those numbers with those from the Integrated Management System (IMIS). This will ensure inspections are being correctly coded.
19	Utah had one sawmill inspection and four material handling inspections.	Reassess targeted areas for effectiveness. If the data supports continued targeting, resources should be redirected to these high hazard industries.
20	The number of citations per construction inspection was considerably below the national average.	Place emphasis on hazard recognition skills, particularly in the area of construction, for the compliance staff.
21	The accident reporting utilizes significant resources and effectively gets UOSH into the right places.	Consider using the accident inspections, generated by legislation, as a formal emphasis program. Refine this program and track the number and types of violations cited during these inspections.
	Findings- Employee and Union Involvement	Recommendations- Employee and Union Involvement
22	Employee representatives were not consistently involved in both the opening and closing conferences of inspections.	For union involvement follow the guidance in the Utah FOM, Chapter IV, Sections B (2), B (10) (b) and D. If the union waives involvement, document the circumstances in the narrative of the case file.
23	A sufficient number of employees are not being interviewed during inspections including fatality inspections.	Follow the guidance in the Utah FOM, Chapter IV, Section C (1) (d) for conducting employee interviews. On fatality inspections follow federal FOM, Chapter 11, Part II Section D.
	Findings- Citations and Penalties	Recommendations- Citations and Penalties
24	There were frequent discrepancies between the case file documentation and the outcome of the inspections which made it difficult to determine what happened. This practice undermines the work of UOSH.	Implement and utilize a management review process that ensures the documentation of the case file is reconciled with the outcome of the inspection.
25	A video taken by a CSHO showed trenching violations, but no citations were issued and the case file did not include a justification as to the reason.	Issue citations for a documented violation. If for some reason a supervisor decided not to issue, that reason should be noted in the case file. Review the instances noted above for appropriate follow up action if necessary.

Findings- Citations and Penalties		Recommendations- Citations and Penalties
26	Hazard communication violations were addressed but not cited. The worksheets for citations (Forms IB) were in case files but, citations were not issued. There was no documentation in this case file to explain this discrepancy. No justification was given for an in-compliance case related to an injury.	Review the case that involved an injury where no citation was issued for discrepancies.
27	Utah experienced a high rate of in-compliance (IC) for fatality and accident inspections. This raises concerns about hazard recognition skills.	Prior to implementation, provide a written copy of any program used for on-site abatement, in lieu of "quick fix." Clearly define the parameters of that program and inform the Region when that type of program will be used.
28		Utilize the "Most Frequency Cited Violation Report" as a tool to track hazard recognition. This report can be used to track individual hazard recognition problems and identity individual training needs.
Findings- Abatement		Recommendations- Abatement
29	The abatement certification form used by Utah is not clear as to the type of abatement certification required.	Revise the abatement certification form so the employer is clear as to the type of abatement verification required for each violation.
30	The requirement for abatement documentation was not noted on repeat and high gravity serious violations.	Note verification in the form of documentation on all willful and repeat violations as required in Chapter 7, Section VI, C of the FOM. If documentation is not requested for high gravity serious violations, the reason for that decision needs to be noted in the case file.
31	Abatement extensions were granted, after the expiration of the contest period, without being filed in writing. An amended citation was issued in order to extend abatement that was requested after the abatement date was passed.	Follow the procedures in Chapter 7, Part III for Petitions for Modification of Abatement in the federal FOM for granting abatement extensions following the contest period. This language should be inserted or referenced in the new state FOM when completed.
32	There was not proof of abatement in two cases where the employer was not out of business.	Utah must implement an abatement tracking process that will ensure that all hazards are abated and that all the required information gets put into both the case file and the database.
Findings- Penalty Reduction Programs		Recommendations- Penalty Reduction Programs
33	Penalties reductions in Utah are excessive. One factor that contributes to this higher rate is the PRSA which offers an automatic 60% penalty reduction.	Adjust penalty reductions to come into compliance with OSHA's new penalty policy.
Findings- Review Procedures		Recommendations- Review Procedures
34	Penalty reductions at informal conferences averaged 70%.	[See recommendation #33.]
Findings- Tracking Systems and Information Mgmt.		Recommendations- Tracking Systems and Info. Mgmt.
35	The Utah State Plan has a significant number of draft/incomplete records.	Utah OSHA must perform a review and cleanup of the IMIS database records to ensure that all draft forms are finalized and transmitted to the host computer as expeditiously as possible, except for OSHA-1Bs less than six-month old since they may still be modified before the citations are issued. A system must be developed to ensure that periodic review of draft and rejected IMIS forms are conducted to maintain a viable information system.
36	A total of 127 records were listed on the [Unsatisfied Activity Report]... Many of these records, including all accident reports, were well past due...	Utah must ensure that all outliers on the unsatisfied activity report, violation abatement report and debt collection report are properly addressed.

	Findings- Tracking Systems and Information Mgmt.	Recommendations- Tracking Systems and Info. Mgmt.
37	In discussions with management, it became clear that they are not familiar with most of the management reports available in the system to effectively monitor and control the flow of agency operations.	Utah OSHA must establish a comprehensive system for the proper handling of the IMIS management reports system. An automated report setup program will assist the agency in securing that the most widely used reports are automatically generated, reviewed and acted-upon on a periodic basis, either weekly, bi-weekly or monthly), based on the importance of the specific report and its volume of cases to be reviewed and monitored.
38	[Problems were noted with individual tracking reports].	Utah OSHA must review the findings outlined in this segment and take corrective action to cleanup the deficiencies noted in the IMIS management reports noted herein.
	Findings – BLS Rates	Recommendation- BLS Rates
39	TCR rates were higher than the national average for non-residential construction, lumber and wood products, and metal fabrication. Residential construction was only slightly lower.	Based on the BLS data, Utah should continue focusing resources in all of their current emphasis areas with the possible exception of highway, street, and bridge construction.
	DART rates were higher for all emphasis areas except highway, street and bridge construction.	
	Findings- Discrimination Program	Recommendations- Discrimination Program
40	Two cases were untimely filed, but were docketed and investigated.	Track and rectify any outstanding items identified, in the discrimination program.
	Several files did not contain documented interviews and/or the recordings were corrupted.	[See recommendation 40]
	Files did not adequately document inspection activity.	[See recommendation 40]
	One case file contained information that Complainant decided to withdraw his complaint, but did not document the reasons for the withdrawal. This raises a concern because Complainant had presented a strong prima facie showing.	[See recommendation 40]
	Several case files did not contain a Final Investigation Report.	[See recommendation 40]
	Several Final Investigation Reports contained inadequate information and/or the analysis was incorrect.	[See recommendation 40]
	Full field investigations were rare.	[See recommendation 40]
	Findings- Partnerships	Recommendations- Partnerships
41	Cooperative relationships in the Utah compliance program did not follow the guidelines of a formal program.	For existing cooperative relationships, document the guidelines being used and ensure that appropriate compliance protocol is being followed. Submit a copy to the Regional Office. The Regional Office should be apprised of any cooperative relationship that impacts compliance.
	Findings- VPP	Recommendations- VPP
42	The application used by UOSH does not include trade secrets or employee privacy issues.	The OSHA VPP website clearly instructs prospective sites to exclude trade secret and personal information; therefore, this requirement should be followed in the application process.
43	The VPP Manager does not formally acknowledge receipt of the application within 15 days of receipt for applications that are dropped at the office.	Initiate a process to formally acknowledge receipt of an application no matter how it is delivered. This acknowledgment can be sent either by letter or electronic mail.
44	UOSH Managers conduct a review of the applicant’s enforcement history for the time period of three years prior to the application.	Use the standardized VPP report and worksheet template to ensure all application criteria is documented. If this recommendation is not taken, the State needs to include documentation of enforcement history in their current process. The standardized worksheet includes all the required criteria which includes a brief section on enforcement history.

Findings- VPP		Recommendations- VPP
45	VPP evaluations are scheduled within 6 months, but report preparation and approval are not done in a timely manner.	At a minimum, compile a draft report while doing the on-site audit so it can be left with the employer. This change in process will also serve to improve the timeliness of the report.
46	The template being used by UOSH for evaluation for VPP status is not current and therefore is missing newer criteria.	Adopt the federal template or update the current UOSH template to cover current criteria.
47	The State is experiencing increased applications and interest in VPP. Due to resource issues, the State is not marketing the program at this time.	Address the resource issue by making use of the Special Government Employee program in order to effectively serve Utah companies interested in VPP status.
48	The State is not ensuring the annual report is submitted by February 15 th of each year. The State is not reviewing the VPP reports or providing feedback to the sites for improvement.	Follow the required February 15 th 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.
49	PSM sites are not submitting the PSM Supplement B questionnaire with their annual report.	The State needs to require the use of the PSM Supplement B from PSM facilities annually.
Findings- Training		Recommendations- Training
50	Based on the on-site review of files, extensive problems were noted with the investigative skills of CSHOs. Open-ended interview questions pertinent to the existing violations were not asked which prevented investigators from identifying the root cause of the violations so the appropriate regulation could be cited.	Include training on investigation skills in the UOSH new hire training program. Since resources are limited at this time, one staff member could attend the OTI course on investigations in a train the trainer mode and subsequently train the rest of the enforcement staff.
51		Assess interview skills of the compliance staff and conduct training on how to effectively interview employers and employees to get to the root cause of the violation.
Findings- State Internal Evaluation Program		Recommendations- State Internal Evaluation Program
52	The State has created an internal evaluation program, but has not yet implemented it.	The State needs to implement the evaluation part of their SIEP, sharing the results with the federal regional office.
53	The State is in the process of adopting the federal FOM with minor non-substantive changes and in updating their Policies and Procedures Manual.	Complete the updating of UOSH guidance documents this fiscal year.