



State of Utah
GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

Utah Labor Commission
SHERRIE HAYASHI
Commissioner
Occupational Safety and Health Division
LOUIS M. SILVA
Director

October 14, 2010

OCT 18 2010 PM 3:02

Gregory J. Baxter
Regional Administrator
Federal OSHA Region VIII Office
1999 Broadway, Suite 1690
Denver, Colorado 80202

Re: Response of Utah Occupational Safety and Health Division to OSHA EFAME report

Dear Mr. Baxter,

The Utah Occupational Safety and Health Division (UOSH) takes seriously its mission of achieving workplace safety and health--worker protection is our guiding principle. For that reason, UOSH is pleased to address the Enhanced Federal Annual Monitoring and Evaluation Report ("EFAME") issued by Federal OSHA for the period of October 2008 through September 2009.

The EFAME report is the final step in OSHA's process of continuous oversight over state occupational safety and health plans. This monitoring process includes weekly telephone conferences and electronic communications with OSHA's Regional Office in Denver Colorado, as well as quarterly meetings and on-site visits to Utah. UOSH views these efforts as a positive process that improves UOSH's efforts to serve Utah's workers and employers.

UOSH is very pleased that the EFAME report complements several aspects of UOSH's activities. In addition to noting the dedication of UOSH staff, the report also identifies the following accomplishments:

- Utah has responded every year with state financial support to cover declining federal funding. Utah has demonstrated a solid commitment to the program by over-matching federal grants for many years, in order to maintain the state's service and commitment to Utah workers.
- UOSH has adopted and updated federal occupational safety and health standards and has promulgated state standard to address other safety and health issues unique to Utah or not covered by federal standards.
- UOSH has maintained a watchful eye on injury and illness trends in Utah workplaces in order to identify areas requiring emphasis. UOSH has then addressed those areas of concern with additional education and compliance resources.
- In 2008, UOSH began the "Big Four" emphasis program to address the four major causes of workplace injuries in Utah. Federal OSHA adopted a similar emphasis program in 2010.

*"Working together we can make the beautiful State of Utah a safer place to work,
elevating our safety and health culture to a higher level of excellence"*

- UOSH investigated 100% of workplace fatalities and 100% of serious workplace accidents. This resulted in more than 200 investigations per year to ensure correction of hazardous conditions and to prevent further injuries. This approach is in contrast to federal OSHA, which only investigates incidents when three or more workers are hospitalized.

While the EFAME report notes UOSH's foregoing accomplishments, the report also identifies areas for improvement. After careful review, USOH believes that most of these issues relate to misunderstandings of documentation. Specifically, OSHA's conclusions are affected by the limited time it spent reviewing case files and by its out-dated information system. This is truly unfortunate, because the review process offers a unique and valuable opportunity for mutual learning between UOSH and OSHA.

UOSH also regrets that several findings in the final EFAME report were not discussed during OSHA's review visit in March 2009. This resulted in factual errors in the report. For example, the report finds employee interviews missing from a UOSH case file. However, UOSH's review of the same file reveals that the interviews were properly referenced throughout the file. The report also identifies two instances in which employers were given abatement extensions without submitting written requests or documenting the need for extensions. UOSH's review of the first case establishes that the employer had formally contested the underlying safety and health citation; consequently, there was no need for an extension request. In the second case, the case file contains the employer's letter requesting the extension, explaining the reasons for the request, and setting out the employer's temporary abatement actions pending permanent abatement. Had these matters been discussed with OSHA, oversights in the EFAME report could have been avoided.

Nevertheless, many of the recommendations contained in the EFAME report will improve UOSH's efforts to improve workplace safety in Utah. UOSH was implementing some of the recommendations even prior to the report. UOSH will continue with those efforts and will also implement additional recommendations in the report, as follows:

- Better file management, including: a) consistent use of the Case File Management Checklist developed last year; b) more detailed documentation; c) continuation of current efforts to correct and update IMIS data; and d) additional review by UOSH management to verify documentation;
- Adequate and timely complaint inspection notification and next-of-kin notification;
- Continued improvement of abatement-verification processes that were implemented last year; and
- Additional training with assistance from OSHA Region VIII to improve inspectors' investigation techniques and interviewing skills. This will include an annual "refresher" program.

*"Working together we can make the beautiful State of Utah a safer place to work,
elevating our safety and health culture to a higher level of excellence"*

UOSH recognizes the time and effort invested by OSHA staff in evaluating Utah's occupational safety and health program. Obviously, the review of such a complex subject would benefit from more time and more discussion between OSHA and UOSH. Unfortunately, that additional time was not available this year because of federal deadlines, but UOSH particularly appreciates the cooperation and mutual support that has been customary between UOSH and our federal partners in the OSHA Region VIII office. UOSH looks forward to OSHA's continued assistance in developing and improving Utah's ability to meet the ever-changing challenges to workplace safety and health.

One final observation is in order. Efforts to improve workplace safety and health are nothing new in Utah. By the 1950s, two decades before the creation of federal OSHA, Utah had promulgated standards addressing some of the most serious threats to worker safety. This proactive approach was again evident in 1973, when Utah enacted the Utah Occupational Safety and Health Act and created UOSH with a mandate to be as good, or better, than the federal occupational safety and health program. Since 1985, federal OSHA has recognized UOSH as substantially equivalent to the federal program. Today, Utah's commitment to worker safety and health remains as strong as ever.

Respectfully,

/signed/

Louis M. Silva
Division Director, OSHA State Plan Administrator
State of Utah Labor Commission
Occupational Safety and Health Division

Copy: Sherrie Hayashi, Commissioner
Alan Hennebold, Deputy Commissioner

*"Working together we can make the beautiful State of Utah a safer place to work,
elevating our safety and health culture to a higher level of excellence"*