

**FY 2020**  
**Follow-up Federal Annual Monitoring Evaluation (FAME) Report**

Utah Occupational Safety and Health Division  
(UOSH)



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## I. Executive Summary

The primary purpose of this report is to assess the Utah State Plan’s progress in Fiscal Year (FY) 2020 in resolving outstanding findings and observations from the previous FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. Despite the pandemic, the Utah Occupational Safety and Health Division (UOSH) performed at a very high level on the State Activity Mandated Measures (SAMMs). Some areas where the State Plan performed particularly well included response times to initiate complaint inspections and complaint investigations, management of inspection timelines, and the overall enforcement presence.

The State Plan made progress in addressing the previous two findings and six observations from the FY 2019 Comprehensive FAME Report. UOSH has taken corrective action on both findings and on four of six observations. The pandemic may have played a role in the corrective action in one observation, limiting the State Plan’s ability to perform follow-up inspections for fatalities. For the final observation, UOSH is still considering a course of action to resolve the issue. OSHA closed one finding and one observation. The other finding and five observations will continue until OSHA can conduct an on-site review in the FY 2021 Comprehensive FAME process. No additional findings or observations were noted.

## II. State Plan Background

UOSH is housed within Utah’s Labor Commission. The State Plan designee is Labor Commissioner Jaceson Maughan, and Cameron S. Ruppe is the UOSH Division Director. The program, funded through the 23(g) grant, consists of the enforcement, whistleblower, and cooperative programs (including the Voluntary Protection Program and Partnerships), as well as state and local government consultation. A separate 21(d) cooperative agreement funds private sector consultation. UOSH closely mirrors the federal program, with some differences that allow for the accommodation of unique state demands and issues.

At the end of FY 2020, UOSH employed 27 full-time positions in the Compliance Section. The staff included nine safety and eight health compliance officers, one full-time whistleblower investigator, one compliance assistance specialist, one public sector consultant, a senior business analyst, and one program support position. Other than the director, management consisted of a field operations manager, a standards and technical assistance manager, and two safety and health supervisors.

The following table shows the federal award levels, State Plan matching funds, and one-time money from FY 2018 through FY 2020:

Fiscal Year	Federal Award	State Plan Match	100% State Funds	Total Funding	% State Plan Contribution	One-time Money
2020	\$1,646,300	\$1,646,300	\$16,902	\$3,309,502	50%	N/A
2019	\$1,528,800	\$1,528,800	\$0	\$3,057,600	50%	N/A
2018	\$1,528,800	\$1,528,800	78,202	3,135,802	51%	N/A

Even though the COVID-19 pandemic altered the inspection landscape significantly in FY 2020, UOSH still accomplished 91% of its inspection goal. In addition, the State Plan did an exceptional job of managing inspection timelines. Lapse time is the number of work days from the opening conference date to the citation issuance date. In FY 2020, health inspection lapse times were half the national average while safety inspection lapse times were less than half the national average. During the pandemic, the State Plan allowed its compliance officers to telework 100% of the time, which resulted in increased efficiency and productivity. In addition, UOSH's electronic case file processes also contributed to this success.

## **New Issues**

### Maximum Penalties

In accordance with the Bipartisan Budget Bill passed on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum penalties. As required by law, OSHA then increased maximum penalties annually, most recently on January 8, 2021, according to the consumer price index. State Plans were required to adopt both the initial increase and subsequent annual increases within the corresponding six-month timeframe set by regulation. December 2020 marked four years since the first deadline passed for adoption, and the Utah State Plan has not yet completed the legislative changes to increase maximum penalties.

## **III. Assessment of State Plan Progress and Performance**

### **A. Data and Methodology**

OSHA has established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform an on-site 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 analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- SAMM Report (Appendix D)
- State Information Report (SIR)
- Mandated Activities Report for Consultation
- OSHA Information System (OIS) Reports
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan

## B. Findings and Observations

### FINDINGS (STATUS OF PREVIOUS AND NEW ITEMS)

The State Plan made progress in addressing the two findings and six observations from the FY 2019 Comprehensive FAME Report. This Follow-up FAME report contains one continued finding and five continued observations. One finding and one observation were closed. Appendix A describes the continued finding and recommendation. Appendix B describes observations subject to continued monitoring and the related federal monitoring plans. Appendix C describes the status of the FY 2019 findings and recommendations in detail.

#### Closed Finding

**Finding FY 2019-02:** The State Plan has denied due process and a possible remedy for complainants in four whistleblower cases who reported an injury as a protected activity. The State Plan has not pursued these investigations while waiting for the results of a case in the UOSH Division of Adjudication appealing UOSH's authority to reopen the case.

**Status:** In July 2020, UOSH explained that the legal interpretation of their statute dictates that they do not have the authority to reopen the four whistleblower cases mentioned, even when an error occurred, because a final order has been issued. Based on this understanding of UOSH's legal position and the amount of time that has elapsed since the initial receipt of these complaints, OSHA has determined there is little value in UOSH focusing on reopening these cases. UOSH has made corrections in its process to ensure that the protected activity is treated the same way as it is in the federal program. As a result, this finding is closed.

#### Continued Finding

**Finding FY 2020-01 (previously FY 2019-01):** In FY 2019, UOSH did not ensure that non-management employees were provided an opportunity to participate in the inspection process, through interviews or other means, in 11 of the 102 (10.8%) case files.

**Status:** In July 2020, UOSH provided training to CSHOs and management staff to ensure they provide and document opportunities for non-management workers to participate in the inspection process. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's case file review during the FY 2021 Comprehensive FAME and is awaiting verification.

### OBSERVATIONS

#### Closed FY 2019 Observation

**Observation FY 2019-OB-02:** UOSH obtained a warrant for an inspection, then suspended and closed the inspection without completing the inspection process.

**Status:** In FY 2020, UOSH has addressed this observation by reviewing the file in question and then providing additional training to the staff. This observation is closed.

## Continued FY 2019 Observations

**Observation FY 2020-OB-01 (previously FY 2019-OB-01):** In FY 2019, seven of the 40 unprogrammed activities (complaints/referrals/accidents) files reviewed had areas of concern: two (5%) complaint files lacked abatement documentation; two complaints (5%) in OIS did not include all of the hazards originally complained about; and three (7.5%) complaints included references to whistleblower concerns, but the files did not include documentation of referrals to a whistleblower investigator.

**Status:** In FY 2020, UOSH promoted two senior compliance officers to safety and health supervisor positions. The State Plan has tightened control and improved consistency of the complaint/referral process by delegating oversight to these supervisors. UOSH has provided additional training to employees on the complaint process. In addition, the State Plan has included a review of the complaint process in the State Internal Evaluation Program. A case file review is necessary to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME and will be continued.

**Observation FY 2020-OB-02 (previously FY 2019-OB-03):** The State Plan did not conduct follow-up inspections for fatality inspections that included serious citations.

**Status:** OIS reports show UOSH conducted six follow-up inspections in FY 2020, compared to 16 fatality inspections. However, COVID-19 limited the ability of the State Plan to conduct follow-up inspections in FY 2020. In addition, Utah experienced 10 of the 16 fatalities in the last half of the year, and with consideration to case file write-up time, a number of the follow-up inspections would be scheduled in FY 2021. A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME and will be continued.

**Observation FY 2020-OB-03 (previously FY 2019-OB-04):** In 12 of 70 (17%) cases where compliance officers identified hazards as "corrected during inspection," the inspection files did not sufficiently document whether there was evidence of a continuing violative practice for serious hazards.

**Status:** The State Plan has provided training to compliance officers about the documentation of hazards corrected during inspection. In addition, management has stepped up its review of abatement in the file review. A case file review is necessary to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME and will be continued.

**Observation FY 2020-OB-04 (previously FY 2019-OB-05):** The State Plan adopted the Site-Specific Targeting (SST) Directive (CPL 02-18-01) through the Amputation Local Emphasis Program (LEP), but the Amputation LEP does not provide for comprehensive general industry inspections.

**Status:** UOSH is considering any changes needed to implement its own site-specific inspection targeting policy in order to comply with OSHA's updated SST Directive (CPL 02-01-062). This observation is continued.

**Observation FY 2020-OB-05 (previously FY 2019-OB-06):** In FY 2019, UOSH did not follow guidance in the UOSH Whistleblower Investigation Manual when processing and reviewing complaints (seven of nine or 78% of cases), when sharing the respondents' position statements with complainants (three of nine or 33% of cases), and when documenting settlements (two of eight or 25% of cases).

**Status:** The State Plan has begun focusing on the administrative issues of the whistleblower investigation process. A case file review is necessary to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 Comprehensive FAME and will be continued.

### **C. State Activity Mandated Measures (SAMM) Highlights**

Each SAMM has an agreed upon further review level (FRL) which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2021 SAMM Report and includes the FRL for each measure. The State Plan was outside the FRL on the following SAMMs:

#### **SAMM 5 – Average number of violations per inspection**

Discussion of State Plan Data and FRL: In FY 2020, UOSH averaged 1.20 serious, willful, repeat, or unclassified (SWRU) violations per inspection, compared to an FRL range of 1.43 to 2.15. The State Plan also averaged 0.58 other-than-serious (OTS) violations per inspection, compared to an FRL range of 0.76 to 1.14. Neither was a positive outcome.

Explanation: An average number of violations per inspection that is lower than the FRL indicates that the State Plan is not identifying as many violations compared to other programs. UOSH based their current plan for targeting general industry inspections on the Amputation LEP, which includes only amputation hazards and hazards which are in plain view. UOSH is considering the adoption of a site-specific targeting plan for comprehensive general industry inspections. In addition, UOSH is considering providing additional training for compliance officers to better address hazards in plain view (e.g. chemical hazard communication, egress, and fire safety violations). Since the State Plan has demonstrated good faith in moving forward with a plan for resolution, no observation is justified at this time.

#### **SAMM 6 – Percent of total inspections in state and local government workplaces**

Discussion of State Plan Data and FRL: In FY 2020, 4.24% of the total inspections occurred in state and local government workplaces, compared to an FRL range of 7.62% to 8.42%. This was not a positive outcome.

Explanation: UOSH implemented the Public Sector LEP in FY 2018, establishing a legal basis for conducting state and local government inspections. Through this LEP, UOSH significantly increased its presence in state and local government workplaces and even exceeded the FRL for SAMM 6 in FY 2019. However, with many of the state and local government facilities closed in FY 2020 because of the pandemic, the State Plan had limited opportunities to conduct state and local government inspections. OSHA anticipates that UOSH's presence in state and local governments will get back on track when the pandemic subsides. As a result, OSHA considers this negative result to be an aberration and not deserving of an observation.

### **SAMM 7 – Planned versus actual number of inspections**

Discussion of State Plan Data and FRL: In FY 2020, with a total of 772 safety inspections, the State Plan met the safety FRL range of 768.55 to 849.45. On the other hand, UOSH conducted 78 health inspections, compared to the FRL range of between 119.70 and 132.30 health inspections; this was not a positive outcome.

Explanation: Since UOSH actually exceeded the health FRL in FY 2019, and taking into account the pandemic, OSHA considers this result to be more of an aberration that does not warrant an observation. Moreover, UOSH adopted an LEP on Respirable Crystalline Silica on August 4, 2020, which will likely support an increased number of health inspections.

### **SAMM 8 – Average current serious penalty in private sector - total (1 to greater than 250 workers)**

Discussion of State Plan Data and FRL: With an FRL range from \$2,223.65 to \$3,706.08, UOSH's average serious penalty in FY 2020 was \$1,357.39. This was not a positive outcome.

Explanation: UOSH has been unable to raise its maximum penalties as required due to challenges associated with Utah's legislative process; therefore, the State Plan has remained outside the FRL.

### **SAMM 9 – Percent in compliance**

Discussion of State Plan Data and FRL: In FY 2020, UOSH met the safety FRL range of 24.82% to 37.24% with a safety in-compliance rate of 28.74%. However, the State Plan's health in-compliance rate of 47.89% fell outside the FRL range of 29.72% to 44.58%; this was not a positive outcome.

Explanation: Higher in-compliance rates reflect that compliance may be better served by sending compliance officers to locations where hazards are present. The SIR shows that only 14.10% (11 of 78) health inspections were programmed (planned) inspections in FY 2020. As previously mentioned, UOSH adopted an LEP for Respirable Crystalline Silica on August 4, 2020. By targeting inspections where silica hazards are likely to occur, UOSH may be able to decrease its health inspection in-compliance rate to closer to the national average. No observation is justified at this time.



### **SAMM 11 – Average lapse time**

Discussion of State Plan Data and FRL: The State Plan’s average lapse time for safety in FY 2020 was 20.71 days, compared to the FRL range of 40.46 to 60.70 days. The State Plan’s average lapse time for health was 29.60 days, compared to the FRL range of 48.31 to 72.47 days. The safety and health lapse times were positive outcomes.

Explanation: The State Plan’s average lapse time for both safety and health was significantly lower than the FRL, demonstrating effective case file management. UOSH’s lower lapse times show that the State Plan is managing its inventory of open cases by processing citations in a timely manner, thereby typically achieving timelier hazard abatement. UOSH’s electronic case file processes have contributed to this success. In addition, the State Plan allowed its compliance officers to telework 100% of the time during the COVID-19 pandemic, resulting in increased efficiency and productivity.

### **SAMM 14 – Percent of 11(c) investigations completed within 90 days**

Discussion of State Plan Data and FRL: UOSH completed 17% of their whistleblower investigations within 90 days in FY 2020. The FRL for SAMM 14 was fixed at 100%. This was not a positive outcome.

Explanation: Since the end of FY 2020, UOSH has taken steps to strengthen their whistleblower program. UOSH requested and received state approval to hire a second whistleblower investigator. With the additional investigator, UOSH will likely improve the consistency of its whistleblower program, reducing the time it takes to complete whistleblower investigations. No observation is needed at this time.

### **SAMM 16 – Average number of calendar days to complete an 11(c) investigation**

Discussion of State Plan Data and FRL: The Utah State Plan’s average number of days to complete an 11(c) investigation in FY 2020 was 348 days, exceeding the FRL of 90 days. This was not a positive outcome.

Explanation: In FY 2020, UOSH opened 28 new docketed cases and completed 19, taking an average of 348 days to complete these cases. As of September 30, 2020, UOSH had 39 pending cases with an average of 399 pending days. These metrics demonstrate that the Utah State Plan was falling behind in whistleblower activity in FY 2020. However, as stated in the explanation for SAMM 14 above, UOSH has taken steps to strengthen its whistleblower program by hiring an additional investigator. No observation is warranted at this time.

### **SAMM 17 – Percent of enforcement presence**

Discussion of State Plan Data and FRL: In FY 2020, UOSH exceeded the FRL range of 0.82% to 1.36% with an enforcement presence of 1.37%. This was a positive outcome.

Explanation: Even during a pandemic, UOSH maintained a strong enforcement presence.

## Appendix A – New and Continued Findings and Recommendations

### FY 2020 UOSH Follow-up FAME Report

FY 2020	Finding	Recommendation	FY 2019-# or FY 2019-OB-#
FY 2020-01	In FY 2019, UOSH did not ensure that non-management employees were provided an opportunity to participate in the inspection process, through interviews or other means, in 11 of the 102 (10.8%) case files.	UOSH should ensure that each inspection case file includes documentation of how UOSH provided opportunities for non-management workers to participate in the inspection process. <i>Corrective action is complete and awaiting verification.</i>	FY-2019-01 FY 2018-OB-02 FY 2017-OB-03 FY 2016-OB-07 FY 2015-OB-08

## Appendix B – Observations and Federal Monitoring Plans

### FY 2020 UOSH Follow-up FAME Report

Observation # FY 2020-OB-#	Observation# FY 2019-OB-# or FY 2019-#	Observation	Federal Monitoring Plan	Current Status
FY 2020-OB-01	FY 2019-OB-01	In FY 2019, seven of the 40 unprogrammed activities (complaints/referrals/accidents) files reviewed had areas of concern: two (5%) complaint files lacked abatement documentation; two complaints (5%) in OIS did not include all of the hazards originally complained about; and three (7.5%) complaints included references to whistleblower concerns, but the files did not include documentation of referrals to a whistleblower investigator.	The FY 2021 Comprehensive FAME will include a case file review to verify that this item was addressed.	Continued
FY 2020-OB-02	FY 2019-OB-03	The State Plan did not conduct follow-up inspections for fatality inspections that included serious citations.	The FY 2021 Comprehensive FAME will include a case file review to verify that this item was addressed.	Continued
FY 2020-OB-03	FY 2019-OB-04	In 12 of 70 (17%) cases where compliance officers identified hazards as “corrected during inspection,” the inspection files did not sufficiently document whether there was evidence of a continuing violative practice for serious hazards.	The FY 2021 Comprehensive FAME will include a case file review to verify that this item was addressed.	Continued
FY 2020-OB-04	FY 2019-OB-05	The State Plan adopted the SST Directive (CPL 02-18-01) through the Amputation LEP, but the Amputation LEP does not provide for comprehensive general industry inspections.	The FY 2021 Comprehensive FAME will include a review of UOSH’s inspection targeting methodology.	Continued
FY 2020-OB-05	FY 2019-OB-06	In FY 2019, UOSH did not follow guidance in the UOSH Whistleblower Investigation Manual when processing and reviewing complaints (seven of nine or 78% of cases), when sharing	The FY 2021 Comprehensive FAME will include a case file review to verify that this item was addressed.	Continued

## Appendix B – Observations Subject to Continued Monitoring

### FY 2020 UOSH Follow-up FAME Report

		the respondents' position statements with complainants (three of nine or 33% of cases), and when documenting settlements (two of eight or 25% of cases).		
	FY 2019-OB-02	UOSH obtained a warrant for an inspection, then suspended and closed the inspection without completing the inspection process.		Closed

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2020 UOSH Follow-up FAME Report

FY 2019-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2019-01	In FY 2019, UOSH did not ensure that non- management employees were provided an opportunity to participate in the inspection process, through interviews or other means, in 11 of the 102 (10.8%) case files.	UOSH should ensure that each inspection case file includes documentation of how UOSH provided opportunities for non-management workers to participate in the inspection process.	In July 2020, UOSH provided training to CSHOs and management staff to ensure they provide and document opportunities for non-management workers to participate in the inspection process.	July 6, 2020	Awaiting Verification
FY 2019-02	The State Plan has denied due process and a possible remedy for complainants in four whistleblower cases who reported an injury as a protected activity. The State Plan has not pursued these investigations while waiting for the results of a case in the UOSH Division of Adjudication	To operate at least as effective as OSHA, the State Plan needs to have the authority to re-open final orders where the State Plan erred in closing the cases. UOSH should move forward with the investigation of these four whistleblower cases to provide due process and a	In their July 2020 FAME response, UOSH explained that their legal interpretation of their statute dictates that they do not have the authority to reopen the four whistleblower cases mentioned, even when an error occurred, because a final order had been issued.  Based on this new understanding of UOSH’s legal position and the amount of time that has elapsed since these complaints were initially received, the Region has determined there is little value in UOSH focusing on reopening	Not Applicable	Closed December 14, 2020

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2020 UOSH Follow-up FAME Report

	appealing UOSH's authority to reopen the case.	remedy for these complainants.	these cases. UOSH has made corrections in its process to ensure that the protected activity is treated the same way as it is in the federal program. As a result, this finding is closed.		
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## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 UOSH Follow-up FAME Report

<b>U.S. Department of Labor</b>				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Utah – UOSH			FY 2020	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	4.86	5	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	3.84	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	1.51	3	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	1.24	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 UOSH Follow-up FAME Report

<b>U.S. Department of Labor</b>				
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 1.20	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.76 to 1.14 for OTS.
		Other: 0.58	+/- 20% of Other: 0.95	
<b>6</b>	Percent of total inspections in state and local government workplaces	4.24%	+/- 5% of 8.02%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 7.62% to 8.42%.
<b>7</b>	Planned v. actual inspections – safety/health	S: 772	+/- 5% of S: 809	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 768.55 to 849.45 for safety and from 119.70 to 132.30 for health.
		H: 78	+/- 5% of H: 126	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,357.39	+/- 25% of \$2,964.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,223.65 to \$3,706.08.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$1,001.00	+/- 25% of \$1,967.64	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,475.73 to \$2,459.55.



## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 UOSH Follow-up FAME Report

<b>U.S. Department of Labor</b>				
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$1,536.01	+/- 25% of \$3,513.45	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,635.09 to \$4,391.81.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$2,265.24	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,770.27 to \$6,283.78.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$3,390.54	+/- 25% of \$6,190.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,643.18 to \$7,738.64.
<b>9</b>	Percent in compliance	S: 28.74%	+/- 20% of S: 31.03%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.82% to 37.24% for safety and from 29.72% to 44.58% for health.
		H: 47.89%	+/- 20% of H: 37.15%	
<b>10</b>	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 20.71	+/- 20% of S: 50.58	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 40.46 to 60.70 for safety and from 48.31 to 72.47 for health.
		H: 29.60	+/- 20% of	

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 UOSH Follow-up FAME Report

<b>U.S. Department of Labor</b>				
			H: 60.39	
<b>12</b>	Percent penalty retained	76.36%	+/- 15% of 67.51%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 57.38% to 77.64%.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
<b>14</b>	Percent of 11(c) investigations completed within 90 days	17%	100%	The further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	16%	+/- 20% of 18%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 14.40% to 21.60%.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	348	90	The further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	1.37%	+/- 25% of 1.09%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.82% to 1.36%.

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 9, 2020, as part of OSHA’s official end-of-year data run.

**STATE OF UTAH**

**STATE OPERATIONS**

**ANNUAL REPORT**

**(SOAR)**

**FY 2020**

12/16/2020



**UTAH LABOR COMMISSION**

**UTAH OCCUPATIONAL SAFETY AND HEALTH DIVISION**  
**(UOSH)**

## Appendix E – FY 2020 State OSHA Annual Report (SOAR)

FY 2020 UOSH Follow-up FAME Report

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## **Introduction**

Helping to ensure a safe and healthy workplace for every worker in the State of Utah is a joint effort by both the UOSH Compliance program (Compliance) and the UOSH Consultation and Education Services program (Consultation).

This introduction is common for both the State Operations Annual Report (SOAR) and the Consultation Annual Project Report (CAPR) because the Utah State Plan is a joint Compliance/Consultation effort to provide a safe and healthy workplace for every worker in the State of Utah through either the enforcement of the UOSH standards by Compliance and/or the assistance to employers through Consultation.

UOSH has developed a 5-year Strategic Performance Plan that is in effect from FY 2020 through FY 2024. This five-year Strategic Performance Plan was developed on the basis that occupational safety and health in Utah is an integrated process with Compliance and Consultation working together to accomplish a common goal.

Utah operates a state plan occupational safety and health program under Section 18 of the federal Occupational Safety and Health Act of 1970. Funding for this program is provided in accordance with Section 23 of the Act. Establishment and enforcement of state occupational safety and health standards form the core of this program. Utah provides a Consultation program in accordance with 29 CFR 1908 and the Consultation Policies and Procedures Manual (CSP 02-00-003). This program is designed to operate within the requirements established in Section 21 of the Act.

This report is a performance report of UOSH Compliance activities accomplished for the fulfillment of requirements included in the Strategic Plan (FY 2020 - 2024) and identified in the FY 2020 23(g) Grant Application.

## **UOSH Compliance Performance Summary**

The UOSH program mirrors the federal program as closely as possible while still recognizing the autonomy and unique characteristics of the state.

During FY 2020 (Federal Fiscal Year), UOSH Compliance performed a total of 1,178 Compliance Interventions (Inspections, Public Sector Visits and Compliance Assistance Activities). The total UOSH interventions include 850 inspections, 23 visits, and 305 compliance assistance (CA) in the public and private sectors. Due to the COVID-19 pandemic which caused multiple challenges with doing Inspections and Visits the last six months of the year, our totals are down from the previous year but are still about 85% of the FY 2019 totals, which allowed UOSH to positively affect a large number of employees throughout the State. These interventions removed approximately 121,927 employees from exposure to 1,670 identified hazards and violations.

UOSH, in line with its strategic and performance plans, emphasized the prevention of fatalities

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and the reduction of the Utah fatality rate for industries under UOSH’s jurisdiction. UOSH also made a concerted effort to reduce the Utah Annual Recordable Case Rate in Construction and General Industry. UOSH promoted a safety and health culture through participation in Compliance interventions, presentations and the Voluntary Protection Program (VPP).

### Compliance Activity

<b>1. Compliance Activities</b>	<b># of</b>
Compliance Activities	<b>1,178</b>
Inspections	850
Visits (Public Sector)	23
Compliance Assistance (CA)	305
<b>2. Emphasis Initiatives - Inspections</b>	<b># of</b>
Construction LEP	311
Amputation LEP	139
Public Sector LEP	21
<b>3. Fatality Cases Reported to UOSH</b>	<b># of</b>
Reported to UOSH	<b>30</b>
Inspections accomplished	16
Investigations accomplished	14
<b>4. Serious Injury Cases Reported to UOSH</b>	<b># of</b>
Reported to UOSH	<b>574</b>
Inspections accomplished	213
Investigations accomplished	330
Non-UOSH Cases	31
<b>5. Safety and Health Complaints</b>	<b># of</b>
Safety and Health complaints received	636
Inspections accomplished	301
Referred to other agencies	171
Invalid	164
<b>6. General Industry Activities</b>	<b># of</b>
Total General Industry	<b>388</b>
Inspections accomplished	347

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<b>1. Compliance Activities</b>	<b># of</b>
CA accomplished	41
<b>7. Construction Activities</b>	<b># of</b>
Total Construction	<b>651</b>
Inspections accomplished	467
CA accomplished	184
<b>8. Public Sector Activities</b>	<b># of</b>
Total Public Sector	<b>139</b>
Public Sector Inspections	36
Public Sector Consultation Visits	23
Public Sector Compliance Assistance	80
<b>9. Whistleblower Complaints</b>	<b># of</b>
Whistleblower complaints received in FY2020	84
Total Investigations completed in FY2020	67
Investigations opened in FY2020 and not completed	32
Merit Determinations in FY2020	1
Non-Merit Determinations in FY2020	40
Cases settled in FY2020	2
Administratively closed in FY2020	24
<b>10. VPP Applications Activities</b>	<b># of</b>
Total Participants	10
Applications received	2
Presentations accomplished	3
Pre-audits accomplished	0
Recertification audits accomplished	1
<b>11. Compliance Outreach Presentations</b>	<b># affected</b>
American Society of Safety Professionals Annual Meeting	40
Blue Stakes Event	600
COVID Worksite Response	200
Governor's Office of Management and Budget Conference	1,200
High Risk Individual Workgroup	1,000
Latino News Conference	1,000

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<b>1. Compliance Activities</b>	<b># of</b>
RMCOEH Conference	300
Universal Synaptics SHARP Award Ceremony	100
Utah Coalition for Opioid Overdose Prevention.	50
Utah Petroleum Association Annual Conference	500
Utah Service, Transmission, Exploration & Production (STEPS)	2,000
Utah Safety Council Annual Meeting and Awards Luncheon	100
WCF Insurance Safety Seminar	50
Workplace Safety Grants Committee	2,000
<b>Total Outreach Activities Accomplished</b>	<b>9,140</b>

### Compliance Outreach Presentations

UOSH continually provides outreach to employers on construction and general industry standards. Management staff is working with members of the construction industry, general industry, construction trade associations and manufacturing to keep them informed of changing UOSH requirements. Many opportunities to share the safety message were made available this year.

Presentations were conducted at:

- American Society of Safety Professionals Annual Meeting
- Blue Stakes Event
- COVID Worksite Response
- Governor's Office of Management and Budget Conference
- High Risk Individual Workgroup
- Latino News Conference
- RMCOEH Conference
- Universal Synaptics SHARP Award Ceremony
- Utah Coalition for Opioid Overdose Prevention.
- Utah Petroleum Association Annual Conference
- Utah Service, Transmission, Exploration & Production Safety (STEPS)
- Utah Safety Council Annual Meeting and Awards Luncheon
- WCF Insurance Safety Seminar
- Workplace Safety Grants Committee

Typically UOSH attends approximately 25 – 40 events hosted by employers and associations



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each year. Some of the associations and a few of the employers are listed above. Due to the COVID-19 pandemic this year many of those events were cancelled or postponed to a later date. The CSHOs work with employers and associations to assist and support them in their efforts to promote workplace safety and health.

The UOSH Advisory Council continued to promote and improve occupational health and safety conditions for employers and employees in Utah. The UOSH Advisory Council functions by providing information, advice and assistance regarding issues, programs and activities related to occupational safety and health in Utah.

The Local Emphasis Program (LEP) for the Public Sector is recognized by the Governor's Office of Management and Budget as part of the SUCCESS Plus initiative. This Governor's initiative and the Public Sector LEP Directive has been seen by thousands of public sector employees and emergency services personnel, and has raised awareness on hazards found in public sector workplaces.

### **Public Sector Consultation Activities**

The Public Sector Consultation Program conducted 23 visits statewide. Of the visits conducted, 16 were initial visits, 7 were training and education visits and 0 were follow-up visits.

As a result of the 23 visits conducted, 200 hazards were identified and abated, removing over 4,083 employees from exposure to serious hazards.

The Public Sector Consultation Program conducted 66 Compliance Assistance (CA) activities which involved outreach, promotion, presentations, training and education with both safety and health related aspects. These activities affected over 45,000 employees.

Many cities were visited in Salt Lake and Utah counties as an ongoing outreach effort to promote Public Sector Consultation.

A number of state agencies, county departments, cities and special service districts were provided assistance this year. Many of these requests came from those visited in promotions of Public Sector Consultation previously or from the outreach activities from the current and prior years.

Due to the COVID-19 pandemic which caused multiple issues with doing Visits the last six months of the fiscal year, our totals are down from the previous year, but we still managed to positively affect a large number of employees throughout the State.

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**Public Sector Consultation Activity Table**

<b>Visits</b>	<b>Type</b>
16	Initial visits
7	Training & Education Visits
0	Follow-up
<b>23</b>	<b>Total Public Sector Consultation</b>

<b>Public Sector Compliance Assistance</b>	
<b>66</b>	Outreach, Promotions and Training & Education

**Safety and Health Achievement Recognition Program (SHARP)**

Public Sector Consultation continues to promote the Safety and Health Achievement Recognition Program (SHARP). An integral part of each Consultation visit is an evaluation of the employer for SHARP potential. If the employer is eligible for SHARP information is presented at the closing conference. Consultation has an informational brochure which includes information on SHARP.

During FY 2020, there was one company, Lehi City FD #83, that was renewed SHARP. There are currently nine Public Sector SHARP entities.

**Public Sector SHARP Participants Table**

<b>Company Name</b>	<b>Initial SHARP Date</b>	<b>Status</b>	<b>Latest Recertification</b>	<b>Expiration</b>	<b>Employees</b>
Lehi City FD #81	04/09/2012	Current	07/06/2018	07/06/2021	90
Lehi City FD #82	04/09/2012	Current	07/06/2018	07/06/2021	90
Lehi City FD #83	07/06/2018	Renewed	07/06/2020	07/06/2023	90
North Davis Sewer	04/11/2016	Current	07/10/2018	07/10/2021	42
Sandy City FD #31	09/03/2013	Current	10/25/2018	10/25/2021	76
Sandy City FD #32	09/03/2013	Current	10/25/2018	10/25/2021	76

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Sandy City FD #33	09/03/2013	Current	10/25/2018	10/25/2021	76
Sandy City FD #34	09/03/2013	Current	10/25/2018	10/25/2021	76
Sandy City FD #35	09/03/2013	Current	10/25/2018	10/25/2021	76

### **Voluntary Protection Participants & Current Status**

UOSH continues to promote VPP through presentations with the assistance of existing VPP members and employees. UOSH will increase awareness in the Compliance and Consultation staff to assist in identifying potential candidates. Other means available to promote VPP in Utah are the Labor Commission website, participation at conferences; such as the Voluntary Protection Programs Participants’ Association National and Regional Conferences, the Annual Safety and Industrial Hygiene Conference, and through other professional associations. UOSH has continued the agreement with OSHA to utilize the use of Federal “Special Government Employees” (SGEs) to assist the Compliance staff in VPP audits.

Currently, there are 10 companies participating in the VPP program, with one company, Smithfield Foods, being audited for recertification. Two companies, Mortenson – Eagle Mountain Data Center and Clean Harbors Aragonite, which are new in the last year.

Current VPP sites are listed in the next table.

### **Voluntary Protection Participants Table**

<b>Voluntary Protection Participants</b>					
	<b>Company Name</b>	<b>Since</b>	<b>Status</b>	<b>Latest Recertification</b>	<b>Expiration</b>
1	Morton Salt	06/29/2004	Star	12/22/2016	12/22/2021
2	Frito Lay	07/20/2004	Star	01/29/2019	01/29/2024
3	Firestone Building Products	10/20/2009	Star	01/29/2019	01/29/2024
4	Phillips 66 NSL Terminal	01/06/2010	Star	06/19/2019	06/19/2024
5	McWane Ductile Inc.	05/15/2015	Star	07/21/2017	07/21/2021
6	Nucor Building Systems	5/10/2015	Star	6/19/2019	6/19/2024
7	Smithfield Foods *	12/07/2016	Star	n/a	12/07/2019
8	Energy Solutions	03/21/2018	Star	n/a	03/21/2021
9	Mortenson – Eagle	04/22/2020	Star	n/a	4/22/2023

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<b>Voluntary Protection Participants</b>					
	Mountain Data Center				
10	Clean Harbors Aragonite	5/4/2020	Star	n/a	5/4/2023

\* Currently being audited for Recertification, delayed due to COVID-19 precautions and concerns.

## Local Emphasis Programs

### Construction Industry

UOSH has focused on construction worksites by developing and implementing a Local Emphasis Program (LEP) for Construction Industry, Directive number 2014-001, which became effective August 1, 2014. On July 31, 2019 it ended and UOSH revised and renewed it as of August 1, 2019 as Directive 2019-001. The Directive was established to help reduce the incidence of injury, illness and fatality among workers in the construction industry by focusing on the “Big 4” construction hazards: falls from elevation, caught-in or between, struck-by and electrocution. For the renewed 2019 edition, trenching was added to the focus hazards. UOSH will continue to work in cooperation with the construction industry to help achieve effective safety and health management systems.

**LEP effectiveness:** Some of the data UOSH used to evaluate the effectiveness of the Construction LEP were the number of inspections and compliance assistance activities conducted, the number and types of violations cited as a result of the LEP and the number of injuries in the construction industry compared to previous fiscal years. By evaluating the information gathered, the effectiveness of the program can be determined as a result of compliance activity at construction sites throughout Utah as covered by the LEP.

**Number of Construction LEP inspections and violations:** Using LEP inspection criteria, data was gathered for Construction inspections conducted from October 1, 2019 through September 30, 2020. There were 311 inspections conducted (covering 1,554 employees) during the time period with 569 violations identified and eliminated. There were 429 Serious, 31 Repeat and 109 Other-than-serious violations. There were four inspections that were contested. In addition UOSH conducted 155 Compliance Assistance (CA) activities under the Construction LEP affecting 5,002 employees in Utah.

The following are the top five standards most frequently cited by UOSH as a result of the Construction LEP inspections:

1. Fall Protection (250 violations)
2. Scaffolds (116 violations)
3. Excavations (64 violations)
4. Ladders (53 violations)

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#### 5. Electrical (39 violations)

The standards most frequently cited by UOSH from the Construction LEP inspections (fall protection, scaffold, ladders, excavations and electrical) show that the focus of this LEP is in-line with the “Big 4” hazards and Trenching observed at the worksites.

The number of accidents in the construction sector reported to UOSH during the last four years has been rather consistent with 118 in FY 2017, 94 in FY 2018, 107 in FY 2019 and 103 in FY 2020. At the same time the average number of employees within this sector has increased from 98,686 FY 2017 to 111,268 in FY 2020, a 12.7% increase.

Results gathered from Construction LEP inspections conducted during FY 2020, as well as accident data from the Industrial Accident’s database, were compared to the results from the analysis conducted in previous years. See the table below for a comparison of some of the data.

#### Construction LEP Analysis - FY17, FY18, FY19 and FY20

<b>Construction Industry (LEP)</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
Inspections Conducted - LEP	192	195	216	311
Hazards Identified - LEP	409	446	359	569
Compliance Activities - LEP	70	70	82	155

<b>Construction Industry (Total)</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
Accidents Reported to UOSH in Construction	118	94	107	103
Avg Number of Employees in Construction NAICS	98,686	100,413	103,819	111,268
Injury & Illness Rate (BLS) (Latest Posted Results)	3.3	3.3	3.3	2.8

The above information shows the Construction LEP has had a positive impact on the construction industry, mainly by the decrease in the Injury & Illness Rate to employees in this sector.

UOSH will continue to provide education and compliance assistance to employers, as well as enforce regulations where hazards are observed, to ensure employers and contractors in the construction industry are aware of the hazards and take appropriate steps to eliminate employee exposure to those hazards.

With the continuance of the Construction LEP and targeting the “Big 4” hazards and trenching, UOSH believes the incidence of injury, illness and fatality among workers in construction will be further reduced.

### Amputations

UOSH’s inspection history and employers’ accident reporting trends indicate that employee exposures to unguarded or inadequately guarded machinery and equipment, together with associated hazardous energy exposures during servicing and maintenance activities, occur in many workplaces. Based on this information, UOSH recognized the need to develop an LEP,

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implemented on November 1, 2014, Directive number 2014-002, designed to identify and reduce workplace hazards due to machinery and equipment which are causing or are likely to cause amputations in general industry. On October 31, 2019 it ended and UOSH revised and renewed it as of November 01, 2019 as Directive 2019-002.

**LEP effectiveness:** Some of the data that UOSH used to evaluate the effectiveness of the Amputation LEP were the number of inspections and compliance assistance activities conducted by UOSH, the number and types of violations cited as a result of the LEP and the number of injuries classified as amputations where machines are present that could likely cause such injury as compared to the previous federal fiscal years. By evaluating the information gathered, the effectiveness of the program can be determined as a result of compliance activity throughout the State of Utah that is covered by this LEP.

**Number of Amputation LEP inspections and violations:** Using LEP inspection criteria, data was gathered for the Amputation LEP inspections conducted from October 1, 2019 through September 30, 2020. During this time, UOSH conducted 153 inspections under the Amputation LEP (covering 14,914 employees) with 255 hazards identified and eliminated. There were 192 serious, one repeat and 62 other-than-serious violations cited.

The data gathered from OIS indicates that of the 255 violations, the most frequently cited standards were those related to machine guarding (123 violations) and lockout/tagout (34 violations).

The following are the top four standards most frequently cited by UOSH as a result of the Amputation LEP inspections:

1. Machine/Equipment guarding (123 violations)
2. Lockout/Tagout (34 violations)
3. Electrical (33 violations)
4. Personal Protective Equipment (15 violations)

The standards most frequently cited by UOSH as a result of the Amputation LEP inspections show that the focus of this LEP is in-line with the hazards observed at the worksites.

Although the data shows the number of work-related amputations in the manufacturing sector reported to UOSH has stayed about the same, FY 2017 had 22, FY 2018 had 21, FY 2019 had 21 and FY 2020 had 15 the average number of employees within this sector has significantly increased, from 129,231 in FY 2017 to 136,778 in FY 2020, a 6% increase. This shows that although the number of amputations has been consistent, the rate per employee has decreased each year.

Results gathered from LEP inspections conducted during FY20 were compared to the results from the analysis conducted in previous years. The amount of inspection activities under this LEP has led to the identification and elimination of hazards from the workplace thereby helping to create a safer working environment. See the table below for a comparison of some of the data.

#### **Amputation LEP Analysis - FY17, FY18, FY19 and FY20**

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<b>Amputation LEP Inspections</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
Inspections Conducted	213	202	226	153
Hazards Identified	524	552	513	255
Amputation Injuries (Manufacturing) reported	22	21	21	15
Average Number of Employees (Manufacturing)	129,231	132,987	136,109	136,778
Injury & Illness Rate (BLS) - Manufacturing (Latest Posted Results)	3.3	3.3	3.4	3.3

The above information shows that the Amputation LEP has a positive impact on places of employment where amputation hazards exist.

The number of Amputation inspections is down from previous years due to the COVID-19 pandemic which caused multiple challenges with doing Inspections the last six months of the year.

UOSH will continue to provide education and compliance assistance to employers, as well as enforce regulations where hazards are observed, to ensure employers who have equipment and/or machinery that are known to cause serious injury, including amputations, are aware of the hazards and take appropriate steps to eliminate employee exposure to those hazards.

With the continuance of the Amputation LEP, UOSH believes the incidents of amputations and fatalities will be reduced where machines are present that would likely cause such occurrences.

## Public Sector

UOSH has implemented a Public Sector Emphasis Program (LEP) that focuses on public sector employers which are comprised of counties, cities, school districts, colleges, technical schools, fire departments, police departments, correctional facilities, special service districts and Utah state agencies, Directive number 2017-001, which became effective November 20, 2017. The Directive was established to enforce initiatives to remove workplace hazards and reduce the incidents of injury, illness and fatality among workers in the public sector by focusing on worksites where serious hazards with a substantial probability that death or serious injury could result and to increase awareness of UOSH throughout the state.

Although public sector employees account for more than 15% of the workforce in Utah, a much smaller percentage of occupational safety and health inspections have been conducted by UOSH at public sector worksites historically.

**LEP effectiveness:** Some of the data UOSH used to evaluate the effectiveness of this LEP will be the number of inspections, Consultation visits and compliance assistance activities conducted, the number of violations and hazards cited as a result of the LEP and the number of reported accidents compared to previous fiscal years. By evaluating the information gathered, the effectiveness of the program can be determined as a result of compliance activity at public sector sites throughout Utah as covered by the LEP.



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**Number of Public Sector LEP inspections, visits and violations:** Using LEP inspection criteria, data was gathered for Public Sector inspections conducted from October 1, 2019 through September 30, 2020. The LEP accounted for 21 inspections conducted (covering 1,285 employees) with 63 violations; 23 consultation visits (covering 2,004) with 262 violations identified and eliminated.

CSHOs conducted 60 Compliance Assistance (CA) activities under the Public Sector LEP covering 2,996 employees in Utah.

Implementing the Public Sector LEP has significantly increased the total number of Public Sector inspections and visits. In FY 2016, UOSH conducted 17 public sector inspections, in FY 2017 the total was 16. However, in FY 2018 with the addition of the Public Sector LEP, inspections totaled 73 and in FY 2019 the total increased to 90. Unfortunately due to the COVID-19 pandemic, the last half of this year, has been dramatically affected in our ability to conduct inspections and visits due to many of the public sector entities being either closed or significantly unavailable.

#### Public Sector Inspections Analysis - FY17, FY18, FY19 and FY20

Public Sector Industry	FY17	FY18	FY19	FY20
Inspections Conducted Public Sector	16	73	90	34
Visits Conducted – Public Sector	38	77	76	23
Hazards Identified	230	1,112	1,003	283
Compliance Assistance Activities	64	53	74	79
Accidents Reported to UOSH	42	28	84	81
Avg Number of Employees in Public Sector	208,268	212,729	216,525	220,647
Injury & Illness Rate (BLS) - Government (Latest Posted Results)	3.6	3.1	3.8	2.7

This LEP gives UOSH a much needed presence in an under-served sector of the state that represents about 15% of the workforce. One measure that shows the LEP is being effective in educating the Public Sector is the significant increase in the amount of accidents that are being reported. In the past many of these accidents were not reported so that UOSH did not get an opportunity to educate and help eliminate hazards to help safeguard employees effectively.

UOSH will continue to provide education and compliance assistance to employers, as well as enforce regulations where hazards are observed, to ensure employers in the public sector industry are aware of the hazards and take appropriate steps to eliminate exposure to those hazards.

With the continuance of the Public Sector LEP, UOSH believes the incidents of injury, illness and fatality among workers in the public sector will be further reduced, as the Injury & Illness Rate for local and state government is indicating. As well as increases in Inspections, Visits and Compliance Assistance, will increase education and training to help further reduce hazards.



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#### **Respirable Crystalline Silica**

Due to the significant risk to a large population of workers and because OSHA's sampling data continues to show a high risk of employee overexposure to Respiratory Crystalline Silica, UOSH has implemented a Silica LEP, RCS-LEP, beginning August 4, 2020.

The goal of this LEP is to establish an enforcement initiative to identify and significantly reduce or eliminate worker exposures to RCS in general industry and construction. This goal will be accomplished by a combination of compliance inspections, consultation visits, outreach to employers and compliance assistance. The intent of the LEP is to focus on industries and worksites expected to perform tasks associated with RCS overexposures and focuses on enforcement of two RCS standards, 29 CFR § 1910.1053 and 29 CFR § 1926.1153, which UOSH incorporated by reference on September 21, 2018. Identifying such exposures through this enforcement initiative will be beneficial in helping employers control the health hazards associated with exposure to RCS.

#### **Staff Training Activity**

Although training is a significant expense for the division, UOSH recognizes the importance of providing training to UOSH staff. Continual training contributes to the CSHOs' ability to represent UOSH with a high degree of professional expertise in the field of occupational safety and health. UOSH has implemented efforts to obtain training courses onsite and has utilized training centers within Utah to further educate CSHOs to help expand their knowledge of safety and health that assist with helping to ensuring employees are provided a workplace free from recognized hazards.

Employees continue on-line courses through the OSHAcademy. The OSHAcademy is a division of Geigle Safety Group, Inc., was originally established in 1999 by Steve Geigle, MA, CSHM, CET. Steve, a former Oregon OSHA Training Specialist, created the safety and health training courses and programs to meet the growing demand for high-quality online training. OSHAcademy provides online access to numerous occupational safety and health training courses, which include courses in construction, oil and gas, healthcare, HAZWOPER, general industry and public sector. Each course was a minimum of two hours of training to provide knowledge level safety and health training.

For the first half of the year several CSHOs traveled out-of-state to attend training courses provided by the OSHA Training Institute (OTI) Education Centers. In addition to these out-of-state training opportunities, training has been provided to UOSH staff at the local level through in-house training, webinars, OSHAcademy and courses taken locally.

Due to the COVID-19 pandemic many out-of-state and in-state training opportunities were cancelled, so UOSH relied on online training and its own experienced staff to conduct training of Consultants and CSHOs.

UOSH utilizes the expertise of its own most experienced CSHOs to provide training to new staff members, in addition to local courses offered by the University of Utah and the Utah

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Safety Council. The Utah Labor Commission also provides regular training sessions in other general areas important to the achievement of our mission.

### **Federal Guidance Adopted in FY 2020**

29 CFR 1910 2020 884	Final Rule on the Beryllium Standard for General Industry	UOSH plans to adopt identical, FY 2022
CPL 03-00-022 2020 1447	Amputations in Manufacturing Industries NEP	UOSH adopted non-identical, FY 2020, updated its own Emphasis Program
CPL 03-00-023 2020 1449	Respirable Crystalline Silica NEP	UOSH adopted non-identical, FY 2020; established its own RCS-LEP
CSP 03-01-005 2020 1450	Voluntary Protection Programs Policies and Procedures Manual	UOSH adopted identical, FY 2020
CPL 02-02-080 2020 1474	Inspection Procedures for the Respirable Crystalline Silica	UOSH will adopt non-identical, FY 2021; established its own procedures
29 CFR Part 1910, 1926 2017 184	Final Rule on Occupational Exposure to Beryllium	UOSH adopted identical, FY 2020.
29 CFR Part 1904 2019 807	Final Rule on the Tracking of Workplace Injuries and Illnesses	UOSH promulgated adoption of identical in FY 2020. Effective date of adoption will be in FY 2021.
29 CFR Part 1926 2019 646	Final Rule on Crane Operator Certification Requirements	UOSH promulgated adoption of identical, FY 2020. Effective date of adoption will be in FY 2021.
29 CFR 1904, 1910, 1926 2019 743	Final Rule on the Standards Improvement Project, Phase IV	UOSH plans to adopt identical, FY 2021.

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**State Internal Evaluation Program (SIEP)**

UOSH’s State Internal Evaluation Program (SIEP) included an evaluation of its internal operations. This is a critical component of the monitoring system and provides that mandates are met, remembering that states have the flexibility to design and implement programs that will fit each individual state’s needs and personnel resources.

**Areas of Emphasis SIEP program**

Inspection Scheduling	Utah Adjudication Process
Accident Referral Investigations	Contested Cases
Fatality/Catastrophe Investigations	Informal Conference
Complaint Investigations	Data Entry for Contested Cases
Case File Documentation	Data Entry for Informal Conference
Case File Data Entry	Settlement of Cases
Case File Review and Approval	Data Entry of Settlement Cases
Citation Processing	Data Quality – SAMM Report
Assurance of Abatement	CSHO Training
Petition for Abatement Modification	Industrial Hygiene Process
Denial of Entry Warrant	Review of CA files

During FY 2020, UOSH performed quarterly reviews of a random sample of Compliance safety and health cases to ensure the quality and efficiency of the process.

**Occupational Medicine Residency Program with University of Utah**

During FY 2020, three physicians from the Occupational Medicine Program of the University of Utah Department of Family and Preventive Medicine Division of Public Health served residency training with UOSH staff.

UOSH provides this training as part of a cooperative effort with the University of Utah. This training allows the residents to gain exposure to the administrative and regulatory aspects of UOSH with respect to health and safety in the workplace. Also, it increases their knowledge and familiarity regarding worker’s compensation and employment law in the State of Utah.

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## **General Organizational Information**

### **Staff Changes**

During FY 2020, there were four CSHOs who left the Compliance section, either by retirement or leaving UOSH for other employment opportunities. Those four and an additional two CSHO positions vacant from the previous fiscal year were filled throughout the year making UOSH fully staffed at the end of FY 2020.

### **Program Changes**

During FY 2020, UOSH Compliance has continued to implement a new paperless process for case files. This has enabled cases to be processed more efficiently. With additional technology that was implemented, these changes have also enable CSHOs to be productive while away from the office, not having to travel back to the main office. This allows UOSH Compliance to be better equipped to respond to issues without the constraints of infrastructure. During the year electronic tablets were issued to each CSHO to allow more efficient documentation and record keeping.

Also due to the COVID-19 pandemic, UOSH implemented a work from home policy for CHSOs. This has shown to benefit better time management, has saved costs, reduced fuel consumption, reduced vehicle usage and reduced travel time due to the ability to assign visits and outreach nearer to the CSHO's home-based offices. To date, this has been a very effective program in terms of cost savings, time management and employee productivity, which has been positive for the tax payers of Utah, driving efficiency within UOSH Compliance.

### **Compensation Level and Recruitment Challenges**

Limited compensation levels for personnel continue to be a tremendous challenge to UOSH for the type of professional level, technical knowledge, education, experience and expertise needed to perform complex occupational safety and health inspections. This continues to be a critical challenge for UOSH, limiting the ability to recruit candidates with the expertise and talent needed to accomplish UOSH's mission. This is evident by the difficulty in recruiting individuals with experience and expertise in engineering, chemistry and industrial hygiene.

Infrequent and limited pay increases, due to unstable/limited funding, result in trained and

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experienced employees leaving state jobs and going to the private sector for better pay and benefits after the state has invested an estimated \$50,000.00 in training for those individuals. Based on current economic forecasts, UOSH does not expect this situation to improve in the near future.

### **UOSH and Compliance Staff Meetings**

UOSH staff meetings are held quarterly to discuss current information, federal and state changes and provide staff training. In addition, to making improvements to processes, procedures and discuss program changes. The first half of the year the meetings were held in person, due to the COVID-19 pandemic and the work from home policy implemented by UOSH, the staff meeting are now held virtually.

### **2020 Annual Performance Goals and Results**

UOSH's performance plan includes a goal directed towards the reduction of fatalities, injuries, and illnesses. The change in the State's injury/illness/fatality rates will be included in UOSH's assessment of the achievement of the national goal(s).

As a performance measure, UOSH has had an increase in the fatality rate for industries that are under UOSH's jurisdiction with a rate of 1.04 per 100,000 workers, a rate increase from the State of Utah Fatality rate average for 2015-2017 baseline of 0.86. Although, UOSH's fatality rate is below the average of the national BLS rate (2015-2017) of the all-worker fatal injury rate of 3.5.

The Utah fatality rate for FY 2020 is based on the 16 fatalities for the year and an employee total of 1,530,285 under UOSH jurisdiction. The employee total is from the Utah Department of Workforce Services.

Compliance assistance and outreach conducted by UOSH has contributed to the reduction of the Utah total recordable injury and illness case rate from 3.5, which is the average of the 2015 - 2017 BLS data for Utah, to the currently published 2019 rate of 2.9.

UOSH works to promote a safety and health culture through participation with Consultation, VPP, SHARP and other CA. UOSH has continued its commitment to VPP with a designated Compliance Assistance Specialist (CAS) for the administration of VPP.

**Annual Goal Tables on next 3 pages**

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**Annual Performance Goal USG 1 Results Table**

<b>FY 2020 Annual Performance Goal USG1 – Reduce Fatalities (Mandatory Goal)</b>					
<b>Goal</b>	Achieve an effective impact in the reduction of the Utah fatality rate for industries that are under UOSH jurisdiction in 2020, measured by the most current averages of BLS fatality data available from 2015-2017.				
<b>Outcome</b>	Reduce the rate of workplace fatalities.				
<b>Annual Performance</b>	<i><b>USG1 Strategy</b></i>	<i><b>Industry</b></i>	<i><b>Baseline</b></i>	<i><b>2020 Goal</b></i>	<i><b>2020 Result</b></i>
	<i>Change in Utah Fatality Rate (Baseline, 3 year average of Utah's fatality rates per 100,000 workers, FY 2015-2017)</i>	<i>All Combined</i>	<i>0.86</i>	<i>&lt;0.86</i>	<i>1.04</i>
<b>Strategy</b>	<ol style="list-style-type: none"> <li>1. Focus UOSH inspections, compliance assistance and outreach activities on industry sectors with the highest injury incident rates related to the leading causes of fatalities in Utah.</li> <li>2. Review YTD fatalities reported to UOSH to identify specific areas of emphasis for the development and implementation of Local Emphasis Programs.</li> <li>3. Adopt National Emphasis Programs, as appropriate, for high risk industries.</li> </ol>				
<b>Outcome Indicator(s)</b>	Change in fatality rates based on State annual data and BLS.				
<b>Results (2020)</b>	Number of Fatalities: 16 Number of employees under UOSH Jurisdiction: 1,530,285 2020 Fatality Rate: 1.04 Change from baseline: 20% increase Special Areas of Emphasis: 7 Fatalities in General Industry 8 Fatalities in Construction 1 Fatality in Public Sector  Primary causes of fatality: Fall from Elevation (10 cases), Struck-By (5 cases), Electric Shock (1 case).				

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<b>FY 2020 Annual Performance Goal USG1 – Reduce Fatalities (Mandatory Goal)</b>	
<b>Data Source(s)</b>	Fatality rates from Utah employment under UOSH jurisdiction and BLS data, FY 2015 - 2017.
<b>Baseline</b>	Baseline rate from the average of FY 2015 - 2017 UOSH data.

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### Annual Performance Goal USG 2 Results Table

<b>Annual Performance Goal USG2 – Reduce Injuries and Illnesses (Mandatory)</b>					
<b>Goal</b>	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 <b>total recordable cases rate</b> (TRC).				
<b>Outcome</b>	Reduce the rate of workplace injuries and illnesses.				
<b>Annual Performance</b>	Annual reduction in total workplace injuries and illnesses rate for all industries.				
	<i><b>USG2 Strategy</b></i>	<i><b>Industry</b></i>	<i><b>Baseline</b></i>	<i><b>2020 Goal</b></i>	<i><b>2019 Result *</b></i>
	<i>Change in Utah Total Annual Recordable Case Rate (Baseline BLS 3 year average TRC rate FY 2015-2017)</i>	<i>All Combined</i>	<i>3.16</i>	<i>&lt;3.16</i>	<i>2.90</i>
<b>* BLS current published rate for 2019 for Utah.</b>					
<b>Strategy</b>	<ol style="list-style-type: none"> <li>1. Focus UOSH inspections, compliance assistance and outreach activities on industry sectors with the highest injury incident rates related to the leading causes of injuries and illnesses in Utah.</li> <li>2. Review YTD injuries and illnesses reported to UOSH to identify specific areas of emphasis for the development and implementation of Local Emphasis Programs.</li> <li>3. Adopt National Emphasis Programs, as appropriate, for high risk industries.</li> </ol>				
<b>Outcome Indicator(s)</b>	<ol style="list-style-type: none"> <li>1. Reduction in total annual recordable case rates in industries under UOSH jurisdiction.</li> <li>2. Number of compliance inspections in general industry and construction.</li> <li>3. Number of compliance assistance conducted in general industry and construction.</li> <li>4. Number of 23(g) public sector consultation interventions conducted in general industry and construction.</li> <li>5. Number of outreach activities.</li> </ol>				



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<b>Annual Performance Goal USG2 – Reduce Injuries and Illnesses (Mandatory)</b>				
<b>Results (2020)</b>	<b>Compliance</b>	<b>Inspections</b>	<b>CA</b>	<b>Total</b>
	General Industry	347	41	388
	Construction	467	184	651
	Public Sector	36	14	50
	<b>Total</b>	<b>850</b>	<b>239</b>	<b>1,089</b>
	<b>Public Sector</b>	<b>Visits</b>	<b>CA</b>	<b>Total</b>
	<b>Total</b>	<b>23</b>	<b>66</b>	<b>89</b>
	<b>Total UOSH</b>	<b>Inspections/Visits</b>	<b>CA</b>	<b>Total</b>
		<b>873</b>	<b>305</b>	<b>1,178</b>
	<b>Baseline</b>	Baseline rates from the average of 2015 - 2017 BLS data		

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### Annual Performance Goal USG 3 Results Table

<b>Annual Performance Goal USG3 – Safety and Health Culture (Non-mandatory)</b>				
<b>Goal</b>	Increase participation in Recognition Programs and Compliance Assistance, as well as more Visits to encourage and promote workplace safety and health.			
<b>Outcome</b>	Increase the number of public sector consultation visits, compliance assistance and recognition program applicants and participants. Conduct presentations to promote Recognition program applications.			
<b>Annual Activity</b>	<b>Interventions</b>	<b>Baseline</b>	<b>2020 Goal</b>	<b>2020 Results</b>
	Public Sector Consultation Visits	25	70	<b>23</b>
	Compliance Assistance, Private & Public	125	160	<b>305</b>
	VPP Applications	1	2	<b>2</b>
	VPP Participants	8	9	<b>10</b>
	Public Sector SHARP Participants	7	10	<b>9</b>
<b>Strategy</b>	<ol style="list-style-type: none"> <li>1. Promote Public Sector-Consultation Services to increase the number of requests.</li> <li>2. Promote VPP and partnerships to increase the number of applications and participants.</li> <li>3. Promote Compliance Assistance.</li> </ol>			
<b>Outcome Indicator(s)</b>	<ol style="list-style-type: none"> <li>1. Number of 23(g) Public Sector-Consultation visits</li> <li>2. Number of Compliance Assistance activities</li> <li>3. Number of VPP participants.</li> <li>4. Number of VPP new applications</li> <li>5. Number of Public Sector SHARP participants</li> </ol>			
<b>Data Source(s)</b>	OIS for visit and Compliance Assistance data. State data for VPP and SHARP			
<b>Baseline</b>	Baselines are determined by previous performance (FY 2015-FY 2017 average), staffing, resources, focus and emphasis.			