

**FEDERAL ANNUAL MONITORING  
AND  
EVALUATION REPORT  
(FAME)**

**for the**

**STATE OF WYOMING**

**Evaluation Period:**  
**October 1, 2009 - September 30, 2010**  
(Includes a Follow-up to the 2009 EFAME)

**Prepared by**

**U.S. Department of Labor  
Occupational Safety and Health Administration  
Region VIII**

## TABLE OF CONTENTS

1. Executive Summary.....	3
a. Introduction.....	3
b. Summary of the Report.....	4
c. Methodology.....	5
d. Findings and Recommendations.....	5
2. Major New Issues.....	5
3. State Actions in Response to Recommendations from the FY 2009 EFAME.....	6
4. Assessment of State Performance.....	14
a. Enforcement.....	14
b. Review Procedures.....	18
c. Standards and Federal Program Changes Adoption.....	19
d. Variances.....	20
e. Public Employee Program.....	20
f. Discrimination Program.....	20
g. CASPAs.....	21
h. Voluntary Compliance Program.....	21
i. Public Sector Consultation Program.....	22
j. Program Administration.....	22
5. Assessment of State Performance in Achieving Annual Performance Goals.....	24
6. Appendices	
a. Appendix A: FY 2010 Findings and Recommendations	
b. Appendix B: Status of FY 2009 EFAME Findings and Recommendations	
c. Appendix C: Enforcement Comparison	
d. Appendix D: FY 2010 State Activity Measures (SAMM) Report	
e. Appendix E: State Information Report (SIR)	
f. Appendix F: 2010 State OSHA Annual Report (SOAR)	

## 1. Executive Summary.

### a. Introduction.

During fiscal year 2010, the Wyoming Workers' Safety and Compensation Division (WSCD) was located in Wyoming's Department of Employment. Steve Czoschke, Administrator for Workers' Safety and Compensation, is the State Designee. JD Danni serves as the Program Manager. The Wyoming Workers' Safety Program consists of enforcement, discrimination, compliance assistance, consultation and risk management in both the public and private sectors. The last mentioned function is 100% funded by the state. Private sector consultation is funded under the 21(d) cooperative agreement. The WSCD main office is located in Cheyenne, Wyoming with satellite offices in Casper, Gillette and Rock Springs. The program follows a traditional five day workweek schedule and closely mirrors the federal program, having only unique Oil and Gas Well Drilling, Servicing and Special Servicing standards.

The enforcement program is benchmarked for six safety and two health compliance officers. Currently, Wyoming has one vacancy in safety and one in health. Hiring procedures are underway to fill both positions. Additional staff includes the program manager, one supervisor and two administrative persons. In FY 2010, there were seven consultants, one consultation manager and an administrative person. The consultants' time is split between the grant and the cooperative agreement depending on whether the consultation visit is in the public or private sector. All Compliance Assistance work, including the Voluntary Protection Program, is funded under the 23(g) grant.

The Wyoming 2010 fiscal year (FY) final grant amount was \$1,361,873 which includes federal/state matching funds of \$628,700 and a State overmatch of \$104,473. This amount includes the \$28,700 increase in the state base which occurred midway through the fiscal year.

Wyoming jurisdiction covers private employers having one or more employees and all state and local government agencies, including public education. Wyoming has jurisdiction over approximately 23,733 employers and 264,562 employees, with 55,850 of them in the public sector. Public sector coverage is the same as that in the private sector, but penalties are statutorily prohibited.

Federal jurisdiction remains over: maritime industries, federal government offices including federal civilians at F.E. Warren Air Force base, the Casper Naval Petroleum and Oil Shale Reserve, private sector hazardous waste disposal facilities designated as Superfund sites, and the United States Postal Service. In addition, any hazard, industry, geographical area, operation or facility over which the state is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan is deemed to be an issue not covered by the approved plan and is subject to

federal enforcement. Federal OSHA maintains jurisdiction over approximately 1,400 employees in the state of Wyoming.

**b. Summary of the Report.**

Wyoming Workers' Safety exceeded two of their three performance goals during FY 2010. There were only three fatalities in the state's jurisdiction this fiscal year, which is a seventy-one percent drop from the baseline rate of 10.4, which is a five year average. The number of worker compensation claims in Wyoming fell for the second year in a row, falling this year by over thirteen percent. The cost of claims also continued to fall for the second year at a rate of thirty-one percent. This indicates a drop in both the frequency and severity of injuries and illnesses in the state. Wyoming made progress on their third goal of promoting safety and health cultures, but was not able to secure an additional site in their Voluntary Protection Program (VPP) during fiscal year 2010. However, the state remains on track to meet the five year strategic plan goal for VPP.

Wyoming uses worker compensation data to identify employers with high injury and illness rates, thereby getting inspectors into the right places. Seventy-five percent of inspections during FY 2010 were programmed, thus continuing the state's focus toward a reduction of injuries and illnesses through the reduction of worker compensation rates. Wyoming uses the 75/25 penalty reduction program as an incentive for select employers with high rates to lower their rates. Only seven employers were offered participation in the program this fiscal year, with five employers reducing their rates by the targeted twenty-five percent and the entire group experiencing a reduction of thirty-three percent.

The state has dedicated considerable resources this fiscal year to addressing the 2009 Enhanced FAME (EFAME) corrective action plan. Due to the specificity of the EFAME recommendations, there were extensive corrective actions to be addressed. Most of these actions were process related.

Two refinery inspections (one due to an accident) this fiscal year, along with extensive work on the Corrective Action Plan and some staff turnover prevented the state from reaching their projected number of inspections. Wyoming experienced a shortfall of forty-two inspections. However, the state did exceed their projection of fifty public sector consultation visits by seventeen. The state has been active with the governor initiated Wyoming Workplace Fatality Taskforce, serving as technical advisor during the board's monthly meetings. The State of Wyoming continues to exhibit a significantly lower percentage of serious violations when compared to federal OSHA as well as lower penalty retention rates. The state did proactively adopt the federal penalty change in January of 2011. The small staff in this state program is struggling to meet the increasing demands being made of the state plan partners and have concerns their resources are being stretched too thin.

**c. Methodology.**

This report is a summation of 2010 statistical results as well as a follow-up for the Corrective Action Plan (CAP) being worked on by the state. No on-site activity by the region has occurred in this state since prior to the completion of the 2009 EFAME. The region is providing sufficient time for the state to complete their CAP and will conduct an on-site verification visit following the end of the 2011 fiscal year. That visit will also include an assessment of the FY 2011 performance.

Data sources for this report include: the State's Corrective Action Plan (CAP), the 2010 State Operations Annual Report (SOAR), the 2010 State Plan Grant Application, the State Activity Mandated Measures Report (SAMM), the State Information Report (SIR), the Mandated Activities Report for Consultation (MARC), the minutes from quarterly conference calls and various enforcement reports as well as well as the WY 2010 Enforcement Activity chart generated from OSHA Integrated Management Information System (IMIS) data.

**d. Findings and Recommendations.**

No on-site visit will be conducted this fiscal year; therefore, there are no additional findings. The state will continue to complete outstanding items on the corrective action plan (CAP) identified in the 2009 Enhanced Federal Monitoring Evaluation as outlined below. The only additional item of concern is updating of the fall protection height in Wyoming's Oil and Gas Drilling and Servicing standards. This change should be made as soon as possible.

**2. Major New Issues.**

- a. As a result of the Wyoming Workplace Fatality Taskforce (WWFT) created by the Governor in FY 2009, Wyoming Workers' Safety is currently working with the Wyoming Oil and Gas Industry Safety Alliance (WOGISA). This alliance consists of various employers (producers, drillers, servicers, support activities) and employees. WOGISA is currently drafting by-laws and is operating under a board of thirteen members who meet on a monthly basis. The WSCD program manager or the supervisor attends the board meetings in the capacity of technical advisor to the group, answering questions and providing advice on safety issues. General meetings are held quarterly for all members, as well as the general public. These meetings include information sharing on best practices and training. The next general meeting is scheduled in April of 2011. The alliance has attracted tremendous support from Wyoming employers and employees to date.
- b. The Department of Employment, which previously housed the Workers' Safety Compensation Division, is being abolished. The Department of

Workforce Services now oversees the Wyoming Worker Compensation Division, which houses Wyoming Workers' Safety. This transition is expected to be complete by the beginning of the state's next fiscal year which starts July 1, 2011.

- c. Wyoming Workers' Safety completed a comprehensive inspection of one of their five refineries during the 2010 fiscal year. The inspection resulted in over thirty citations and was a resource intensive endeavor for a program that consists of only eight compliance officers. The inspection involved the dedication of three compliance officers for a period of between two and three months.
3. **State Actions in Response to Recommendations from the FY 2009 EFAME.**  
During FY 2011, the state is focusing on the completion of their Corrective Action Plan (CAP), which was finalized in December of 2010. Completion dates were assigned to each recommendation made in the 2009 EFAME and progress on these actions will be monitored during quarterly calls throughout the year. Progress on the CAP recommendations current to March 2011 is assessed below.

- a. Outstanding Recommendations

**10-01 formerly 09-14**

***Finding:*** Personally identifiable information (PII) such as: social security numbers and coroners reports were found in some case files. The state indicated they limit the release of personal information when appropriate.

***Recommendation:*** Ensure a written process is in place to protect personally identifiable information.

***Update:*** Wyoming is currently not releasing any PII. The state will document their policy by 07/01/11.

**10-02 formerly 09-16**

***Finding:*** Wyoming has no inspections in the construction emphasis areas of silica and lead.

***Recommendation:*** Wyoming historically conducts less health inspections than the national average. Proactively train safety Compliance Officers (CSHO) to identify and refer health related construction and oil and gas hazards to the Wyoming health staff.

***Update:*** While Wyoming does not plan to participate in the silica or lead national emphasis programs, the state anticipates adopting three other health National Emphasis Programs by the end of this fiscal year.  
09/30/11

**10-03 formerly 09-18**

***Finding:*** Wyoming had not developed written instructions or criteria for any of their Local Emphasis Programs (LEP) describing the scope, procedures and coding to be used.

***Recommendation:*** Document the current local emphasis programs specifying criteria and procedures to be followed.

***Update:*** Written procedures for LEPs will be submitted by 07/01/11.

**10-04 formerly 09-28**

*Finding:* The complete criteria of the 75/25 program were not in writing.

*Recommendation:* Document the criteria of the 75/25/ program and insert it into the State Internal Evaluation Plan (SIEP).

*Update:* By 07/01/11, the state will have documented the criteria of this program in writing.

**10-05 formerly 09-29**

*Finding:* Employers are being allowed to participate in the 75/25 program multiple times each year.

*Recommendation:* Change the parameters of this program so employers are not able to participate multiple times.

*Update:* The state is reviewing the program and will decide on any changes by 07/01/11 and discuss with the Region.

**10-06 formerly 09-34**

*Findings:* The state appears to have unlimited time to settle a case at the informal level.

*Recommendations:* Review the state policy for post-contest informal settlements.

*Updates:* Discussion continues on this issue. According to the Wyoming Rules of Practice and Procedures (ROPP), the state can conduct an informal settlement agreement at any time prior to a formal hearing. The region needs to make a determination as to the effectiveness of the Wyoming process and will review this issue during the FY 12 on-site visit.

**10-07 formerly 09-35**

*Finding:* Multiple penalty reduction programs were being used for settlement resulting in larger than average penalty reductions.

*Recommendation:* Discontinue multiple penalty reduction programs for the settlement of a case or create written criteria to address the problem of large penalty reductions using the federal average penalty reduction percent for guidance.

*Update:* This item is pending further discussion between Wyoming and Federal OSHA.

**10-08 formerly 09-38**

*Finding:* Numerous data entry errors were identified during the onsite visit.

*Recommendation:* The state will work with the Region to set up an onsite visit with a data entry person supplied by the region to conduct training.

*Update:* The need for training will be reassessed after the OSHA Information System (OIS) rollout and before the end of the calendar year.

**10-09 formerly 09-59**

*Finding:* References to the federal Field Operations Manual (FOM) are not made in the Rules of Practice and Procedure (ROPP).

*Recommendation:* References should be made between the ROPP and the FOM to clarify what procedures are being followed by the Wyoming state plan staff.

*Update:* Anticipated completion date of 09/30/11

**10-10 formerly 09-60**

*Findings:* State unique processes and procedures are not in writing.

*Recommendations:* As part of the State Internal Evaluation Program (SIEP), processes and procedures need to be in writing.

*Update:* Anticipated completion date of 09/30/11

**10-11 formerly 09-61**

*Finding:* Internal evaluations are not done in the state.

*Recommendation:* Document and evaluate a minimum of one internal process each year.

*Update:* Anticipated completion date of 09/30/11

**10-12 formerly 09-62**

*Recommendation:* The region recommends the state of Wyoming allow WSCD to “adopt standards by reference” in order to more easily meet the adoption timelines stipulated in the State Plan Agreement.

*Update:* The state attempted to change this process but it was denied by the current administration. This item is pending.

- b. Completed Recommendations (Pending On-site Verification) – An Update is provided only for the “findings” that were addressed in a method different from the Recommendation or for those using a revised process or form. The “findings” addressed by using the recommendation given and providing training are marked “Completed.”

**09-01**

*Finding:* Case files are not well organized. A case file summary sheet was included in the case files, but was not completely or consistently used.

*Recommendation:* Use a diary sheet in each case file to provide a historical record of all activities done during the life of the file as stipulated in the FOM, Chapter 5, section X.

*Update:* Completed. Wyoming will continue to use their case file summary sheet and has provided training to all CSHOs in its use.

**09-02**

*Finding:* Case files lack critical documentation needed to uphold violations and should include documentation of employee interviews. Information specific to the hazard should be included in the Alleged Violation Description (AVD).

*Recommendation:* Employee exposure information, employee interviews and employer knowledge need to be included in every case file with citations.

*Update:* Completed. Wyoming has created an Inspection Narrative Template and an Employee Hazard Interview form and provided training in the use of both these forms.

**09-03**

*Finding:* The gravity designation of high severity was inappropriately used for most serious violations.

*Recommendation:* Follow the guidelines in Chapter 6, section III (A)(1) of the FOM for assessing severity.

*Update:* Completed. Wyoming believes the criteria for severity in the FOM was being followed. However, the supervisor will be monitoring this in case file review.

**09-04**

*Recommendation:* Include information in the AVD that specifically identifies the location, identity and an actual description of the hazard. This information assists the employer at effectively abating the hazard.

*Update:* Completed 09/02/10.

**09-05**

*Finding:* The OSHA form 300 was not routinely collected and inserted into the case file and entered into the database.

*Recommendation:* Collect the OSHA 300 for the last three years, insert in the case file and enter the information into the database.

*Update:* Completed.

**09-06**

*Finding:* The state does not include employee contact information in the case file.

*Recommendation:* Follow the FOM, Chapter 5, section B(5) and B(11) as well as section C(2)(g) for requirements on contact information.

*Update:* Completed.

**09-07**

*Finding:* Eight percent of complainants were not notified of the results of an inspection within twenty days when citations are issued.

*Recommendation:* Wyoming employees who file complaints need to be notified of the results of the inspection within 20 days of issuing the citations 100% of the time. (SAMM indicator #3)

*Update:* Completed. This will continue to be reviewed quarterly.

**09-09**

*Finding:* The response time was erroneous due to a data entry error.

*Recommendation:* Using the complaint received date on the "Complaint Query Report" along with the date of the original letter "D" the state can calculate the response time to insure accuracy of the data.

*Update:* Completed.

**09-10**

*Finding:* There were no criteria to use when assessing the severity of amputation referrals by the Division of Worker Compensation. There was not documentation in the case file to show the severity of the amputation hazards.

*Recommendation:* Create a local emphasis program with a written policy for addressing the amputation referrals from Worker Compensation. That policy should include a process to assess and document the severity of the hazard.

*Update:* Completed. The state made a decision to continue addressing amputation referrals from Worker Compensation through the referral system, assessing the severity of the hazard as directed in the complaint section of the FOM, which is identical to the former complaint directive

adopted by Wyoming.

**09-11**

***Finding:*** Acceptable abatement was not documented in three or four amputation referral inquiries.

***Recommendation:*** The state must take action to secure appropriate abatement for three inquiries involving amputations. The region will identify the inquiries in question.

***Update:*** Completed. One file did contain adequate abatement. In the other two files, the abatement had occurred but was not documented.

**09-12**

***Finding:*** Maximum response periods of five days were not consistently given for inquiries.

***Recommendation:*** Follow the FOM, Chapter 9, Section I for Inquiries and assign a five day maximum abatement period to each employer.

***Update:*** Completed.

**09-13**

***Finding:*** Five of the seven, tenth letter inspections were in-compliance during FY 09.

***Recommendation:*** The state should assess the productivity of doing the tenth letter inspections. If the violations being periodically found are not related to the inquiry, the program should be considered for cancellation.

***Update:*** Completed. Wyoming will continue using this program inspecting only those employers with an EMR above their industry average.

**09-15**

***Finding:*** Compliance officers have access to worker compensation information about each employer which can be reviewed prior to opening an inspection. This data can be used to better focus the inspection into the areas where the accidents are occurring. There was very little documentation in the case files noting this information was being used.

***Recommendation:*** It is recommended that compliance officers be required to review the worker compensation data prior to visiting a targeted company in order to better ensure the inspection is focused into areas where the accidents are occurring.

***Updates:*** Completed.

**09-17**

***Finding:*** No inspections were conducted in the two emphasis areas of trucking and warehousing and lumber and wood products.

***Recommendation:*** Reassess these targeted areas for effectiveness.

***Update:*** Completed.

**09-19**

***Finding:*** Employees are not consistently being interviewed during the inspection.

***Recommendation:*** Conduct employee interviews during inspections as dictated in Chapter 5, section (VII)(A) of the FOM.

***Update:*** Complete

**09-20**

***Finding:*** Employee interviews are not in writing.

***Recommendation:*** Follow Chapter 5 of the FOM in regard to employee interviews.

***Update:*** Completed. Interviews are documented on the newly created Employee Hazard Interview Form.

**09-21**

***Finding:*** Union involvement was not consistently documented in the case file.

***Recommendation:*** Follow Chapter 3, section D of the FOM which dictates the involvement of the union in all phases of the inspection process.

***Update:*** Completed. Union involvement is now documented on the Employer Contact Sheet.

**09-22**

***Finding:*** The OSHA 1B was not completely and appropriately filled out. Exposure information and employer knowledge were not appropriately documented. Inappropriate grouping of violations was used.

***Recommendation:*** Completely fill in both pages of the OSHA 1B for all violations and follow directions for grouping in Chapter 4, section X of the FOM.

***Update:*** Completed.

**09-23**

***Finding:*** Incorrect procedures were being followed for onsite abatement verified by a CSHO.

***Recommendation:*** For CSHO observed abatement follow the guidelines in Chapter 7, section (VI)(D) of the FOM.

***Update:*** Completed.

**09-24**

***Finding:*** Thirty day abatement periods were being given with no regard to the gravity of the violation.

***Recommendation:*** Insure abatement periods reflect the gravity of the violation.

***Update:*** Completed.

**09-25**

***Finding:*** Abatement verification is not consistent in the case file.

***Recommendation:*** Follow Chapter 7, Section V and VI in the FOM for abatement certification. Ensure there is certification for all violations in the case file.

***Update:*** Completed.

**09-26**

***Finding:*** Abatement was often untimely. Abatement extensions were not used in four inspections.

***Recommendation:*** The state should be more aggressive at collecting and tracking abatement. Abatement extensions need to be documented.

Follow the guidelines of Chapter 7, section (v)(C) of the FOM.

*Update:* Completed.

**09-27**

*Finding:* Follow-up inspections were not scheduled when abatement was not received.

*Recommendation:* Initiate a follow-up inspection protocol for those employers who do not submit timely abatement.

*Update:* Completed.

**09-30**

*Findings:* Quick Fix was not being used as described in Chapter 6, Section IV of the FOM.

*Recommendations:* If Quick Fix is used, follow the guidelines in the FOM.

*Updates:* Completed. The Wyoming version of a quick fix program was cancelled.

**09-31**

*Recommendation:* If the state chooses to use an alternate penalty reduction program for onsite abatement, the state should write a complete program and submit it to the regional office for concurrence.

*Update:* Completed. The state is no longer using this program and is now correctly verifying onsite abatement as described in 09-23.

**09-32**

*Finding:* A notice of contest was not always filed within 15 working days after the receipt of notification of penalty.

*Recommendation:* The state should follow Chapter 7, section I of the Wyoming Rules of Practice and Procedures (ROPP), which gives an employer the right to appeal a final order.

*Update:* The state encourages the employer to file a notice of contest within 15 working days after the receipt of notification. This entire issue will be resolved when item 10-6 (above) is resolved.

**09-33**

*Finding:* Conditions for settlement were not indicated in the informal settlement notes. These notes were not consistently included in the case files.

*Recommendation:* Adopt a format to be used for note taking during settlements and place them in the case file.

*Update:* Completed. Wyoming adopted a form titled “Informal Conference.”

**09-36**

*Finding:* Only 2.35% of Wyoming’s inspections were conducted in the public sector.

*Recommendation:* Increase inspection activity in the public sector by devising an appropriate emphasis program.

*Update:* Completed.

**09-37**

*Finding:* The abatement tracking process was not working well.

*Recommendation:* The state needs to revise their abatement tracking

process and place an emphasis on prompt abatement and abatement verification.

*Update:* Completed.

**09-39**

*Finding:* BLS supports the area being targeted by the program except the areas of wood & lumber and trucking & warehousing

*Recommendation:* Reassess emphasis programs.

*Update:* Completed.

**09-40**

*Finding:* Employees may not know who to call in the case of unsafe conditions. This statement is supported by the low number of complaints.

*Recommendation:* Find ways to market the Wyoming State OSHA program to employees including information on how to file a complaint with OSHA in the event of unsafe working conditions.

*Update:* The state reaches out to employees in several ways. The Wyoming Workforce Fatality Taskforce is comprised of employers and employees. Wyoming also conducted crane training during the 2010 FY through the Steel Workers Union. All ten hour classes held by WSCD devote two hours of instruction to employees on how OSHA works, which includes information on how to file a complaint.

**09-41**

*Finding:* There were an insufficient number of interviews being conducted in discrimination cases.

*Recommendation:* Conduct an increased number of employee interviews in each case in order to support the determination.

*Updates:* Completed.

**09-42**

*Finding:* One case did not address “disparate” treatment.

*Recommendation:* Address disparate treatment in all cases.

*Update:* Completed.

**09-43**

*Finding:* Post settlement information was incorrectly entered into the Whistleblower database.

*Recommendation:* Input all post agency settlements into the Whistleblower database.

*Update:* Completed.

**09-45-55**

*Finding:* These eleven items describe various discrepancies with the approved guidance document: Voluntary Protection Program Policies and Procedures Manual, CSP 03-01-003.

*Recommendation:* Follow CSP 03-01-003 as agreed.

*Update:* Completed.

**09-57**

*Findings:* There were numerous data entry problems, particularly in post citation issuance, abatement verification and contested cases.

**Recommendations:** Expand the initial Wyoming training program to include data entry training. Conduct periodic training to address any data entry issues.

**Updates:** Completed.

**09-58**

**Findings:** There were numerous problems with knowledge of directives and the policies in the FOM.

**Recommendations:** Include clarification of procedures identified as problematic during the onsite visit, into the 2010 summer training session.

**Update:** Completed.

c. Recommendations Deleted by the Region

**09-08**

**Finding:** The reason for closing the case file with an unpaid penalty was not documented.

**Recommendation:** Document in the case files the reasons for administratively closing the case.

**Deleted:** The state provided audited case files to demonstrate this information was in the file. The Administrator includes a note to the case file that was overlooked during the onsite visit.

**09-44**

**Finding:** One case file remained on the pending list for several months without being assigned.

**Recommendation:** Use an adequate tracking system to insure cases are assigned in a timely manner.

**Deleted:** This issue was dropped due to inadequate details collected during the review.

**09-56**

**Findings:** A check for competency was not used in all parts of the new hire training.

**Recommendations:** Expand the use of “check for competency” as used in the health section to the rest of the initial training program.

**Deleted:** Based on the state’s input and the lack of a problem during the onsite visit with CSHO competency, this item was dropped.

4. Assessment of State Performance

a. Enforcement

It is the policy of Wyoming Workers’ Safety to adopt all federal Occupational Safety and Health Administration standards with no changes. WSCD also enforces their own unique state standards for Oil and Gas Well Drilling, Servicing and Oil and Gas Special Servicing. By statute, the state is prohibited from adopting more restrictive standards than those used by federal OSHA.

Wyoming provides effective first instance sanctions and has right of entry into workplaces. Wyoming follows Chapter 3 in the Wyoming Rules of Practice

and Procedure (ROPP) for enforcement guidelines in conjunction with the detail provided in the federal FOM. Wyoming did not experience any denial of entries for the 2010 fiscal year as depicted by SAMM indicator 5.

Wyoming projected four hundred twenty-five inspections in their 2010 grant application and completed three hundred eighty-three inspections, which is a shortfall of forty-two inspections. This is attributed to the additional documentation requirements put in place by the CAP, as well as the resource drain created by two refineries inspections. Eighty-one percent of inspections were safety, nineteen percent were health and fifty-six percent were in the construction industry. These statistics are similar to the federal final percentages of eighty-four percent, sixteen percent and sixty percent respectively. According to SAMM 4, Wyoming conducted seven imminent danger inspections, all of which were opened within one day. Wyoming conducted three follow-up inspections in FY 2010.

The enforcement report denotes a Wyoming inspection lapse time of 41.7 days for safety and 57.5 days for health as compared to the federal lapse time of 37.9 days for safety and 42.8 days for health. Lapse time is the number of working days between the opening conference and citation issuance. Compliance officers in Wyoming average 18.8 hours for a safety case and 35.8 hours for a health case as compared to federal OSHA's 18.6 hours for safety and 33 hours for health.

**i. Complaints**

Wyoming addresses un-programmed activity in the same manner as federal OSHA. Wyoming negotiated a complaint response time of sixteen working days for inspections (due to long distances traveled) and one working day for inquiries (phone and fax process). Nineteen percent of Wyoming inspections (72 inspections) were complaint generated during FY 2010 as compared with twenty percent of federal OSHA inspections.

According to the SAMM report for FY 2010, Wyoming's response time was 7.02 days to initiate complaint inspections and 4.06 days to initiate inquiries. While the complaint response times falls within the negotiated time frame, the response time for inquiries is excessive. A data entry error was corrected for SAMM #2, which resulted in the final response time for inquiries to be 3.17 days, still over the negotiated timeframe. Complainants were notified of the inspection results in a timely manner 92% of the time. Of the seven cases that were exceptions, four of these cases were in-compliance inspections.

**ii. Fatalities**

Wyoming experienced three fatalities during FY 2010, five less than last fiscal year. There was one fatality in the construction industry and

Wyoming follows the same procedures for the inspection of fatalities as federal OSHA and, in addition, issues a signed letter of condolence from the governor, to the family of any fatality victim. Wyoming also completes the Fatality Catastrophe Report (form 36) and the Investigation Summary Report (form 170) for all fatality inspections. These are submitted to the regional office.

### **iii. Targeting and Inspections**

Seventy-five percent of Wyoming's inspections in FY 2010 were programmed as compared to sixty percent of federal inspections. According to SAMM indicator 8, seventy-seven percent of safety related programmed inspections and eighty-seven percent of health programmed inspections resulted in serious, willful or repeat violations. Wyoming is program driven and uses the state worker compensation data to access individual employers in high hazard industries with high rates of injuries and illnesses. This is the primary targeting tool. Using Worker Compensation to target is a precise tool and gets Wyoming in the workplaces that are having problems. The second performance goal in the State's five year Strategic Management Plan is related to the outcome of this targeting effort. Additional local emphasis areas for FY 2010 included: Construction, Oil and Gas Drilling, Oil and Gas Servicing, Wood Product Manufacturing excluding sawmills and Nursing Care Facilities.

Wyoming has adopted the trenching and recordkeeping national emphasis programs (NEP). Wyoming prioritizes inspections that include hazards addressed in national emphasis areas they have not adopted and codes them appropriately in the Integrated Information Management System (IMIS). Wyoming did not have a practice of adopting every NEP. Those NEPs that mandate a minimum number of inspections result in a drain on resources. Wyoming chose to maintain the latitude to be able to prioritize the use of their resources relative to more imminent hazards in their state.

### **iv. Citations and Penalties**

During fiscal year 2010, Wyoming issued three willful, thirty-five repeat, eight hundred three serious and ten failure to abate citations. According to SAMM indicator 9, Wyoming averaged 2.76 violations

per inspection that had violations, as compared with the reference standards of 2.1. The reference standard for the SAMM indicators is an average of all federal and state plan offices. Forty-seven percent of the citations issued during FY 2010 in Wyoming were serious and fifty percent were other. This compares to the FY 2010 federal average of seventy-seven percent serious and eighteen percent other-than-serious. During the onsite review in FY 2010, violation classification did not appear to be a problem. During the FY 2011 review, this will again be addressed. Eighty-six percent of inspections conducted in Wyoming had citations and eighty-one percent had serious citations as compared to seventy-one percent of federal inspections having citations with eighty-eight percent having serious citations.

The average initial penalty per serious violation for fiscal year 2010 was \$960.19 compared to the national reference standard of \$1360.40 as demonstrated in SAMM indicator 10. Most employers in Wyoming are small in size and get the full size reduction for penalty, which may account for some of the difference. Wyoming adopted the new federal penalty increases in January of 2011. The average current serious penalty for FY 2010 in Wyoming (private sector only) was \$603.60 as compared to the federal (private sector only) average serious penalty of \$1,068.70. This statistic is an average of the penalties in opened cases; some initial penalties and some already reduced by settlement. Thus the average penalty is lower than the average initial penalty as indicated above.

**v. Abatement**

Since it is difficult to assess the State's progress in the area of abatement without conducting an onsite visit, abatement will be a topic of interest for the onsite visit to verify 2011 performance. During fiscal year 2010, the state made various changes in the area of abatement in order to complete CAP items. For example the use of the abatement tracking report to ensure timely abatement, changes made to the time given to abate in line with the gravity of the violation, abatement certification and/or verification required in the case file, to name a few. For FY 2010, SAMM indicator 6 shows timely verification occurred in the private sector eighty-nine percent of the time and in the public sector eighty-one percent of the time.

**vi. Employee and Union Involvement**

The State of Wyoming is a "right to work state" and has a small workforce working under union protection. During every inspection, CSHOs are required to fill out the "Employer Contact Sheet." That sheet includes a question asking if the employees have union protection. If a union is present in that workplace, a union representative is requested and an additional "Employer Contact

Sheet” is filled out with information concerning the union and that representative. The CSHOs note the parts of the inspection the union representative participated in.

## **b. Review Procedures**

### **i. Informal Conferences**

The state strongly suggests, but does not require, a letter of contest be filed within fifteen working days after the receipt of citations. Due to resource issues, the state does not usually hold informal settlement conferences within that timeframe (see CAP 10-06) and does not require a letter of contest until a reasonable effort has been made to settle the case. This process continues to be an area of discussion and will be a topic of interest for the onsite visit in FY 2011. All changes are documented on the “Informal Conference” worksheet and placed into the case file.

Based on the overall strategy of Wyoming Workers’ Safety to reduce worker compensation claims, the state reduces penalties for employers who abate their violations quickly and/or have an employer modification rate (EMR) below the base rate.

Wyoming currently has one formal penalty reduction program (75/25). In this program, an employer, who has eight or more worker compensation claims, is given an opportunity to pay only 75% of their penalty in return for lowering their worker compensation claims by 25% within one year following the inspection. Less reduction is given for a smaller rate decrease on a sliding scale. Some parameters of this program are under discussion with federal OSHA. For FY 2010, seven employers participated in the 75/25 program. Five employers successfully met their 25% reduction in claims for a combined reduction of fifty-three percent. One employer reduced claims, but failed to meet the goal. Claims increased for the remaining employer. The average reduction for the entire group of seven was 33%. Wyoming has limited the number of times an employer can participate in the program and is using this program conservatively.

According to the Wyoming SIR indicators seven through nine, 4.6% of violations were vacated, 6.9% of violations were reclassified and 37.7% of the original penalty was retained during the informal settlement process during FY 2010. In comparison, 4.7% of violations were vacated, 4.0% of violations were reclassified and 63.0% of the penalty was retained for federal OSHA during the same time period.

## **ii. Formal Review of Citations**

According to the ROPP, the state is given unlimited time to settle a case informally; therefore, few cases go to litigation. According to SAMM indicator 12, there were no cases with a first level decision during FY 2010. The first level decision in Wyoming is made by the Wyoming State appointed commission based on the recommendation of the Hearing Officer.

## **c. Standards and Federal Program Changes Adoption**

### **i. Standards Adoption**

During the 2010 FY, the State adopted the following standards changes:

- Revision of Standards Referenced in the Acetylene Standard: Final rule
- Revision of the Notification Requirements in the Exposure Determination Provisions of the Hexavalent Chromium Standards: Direct Final Rule
- Final Rule: Technical Amendment concerning Safety Standards for Steel Erection
- Final Rule: Cranes and Derricks in Construction

The state uses a “Strike and Underline” process versus an adoption by reference technique. This is a lengthy process and further involves all changes getting approval by the Commission, who meets only three times per year. During FY 2010, there were three late adoptions (greater than 6 months): one exceeded the six month timeframe by one month, one by two months and the third by five months. Wyoming has no pending adoptions that are overdue at this time.

The state is still looking at updating their Oil and Gas Standards to include coal methane extraction. At the same time the standards are updated, the state will alter the height requirement for fall protection from six feet to the more restrictive height of four feet used by federal OSHA. This was proposed during last fiscal year, but due to other priorities did not get completed. The region expects that the state will place a high priority on the adoption of this change.

### **ii. Federal Program / State Initiated Changes**

The following represent federal program initiated changes during FY 2010 and the State’s action.

CPL 03-00-011 Food Flavorings Containing Diacety NEP – The

State did not adopt.

CPL 02-02-148 Field Operation Manual – The State adopted and is in the process of incorporating into their Rules of Practice and Procedures (CAP item).

CPL 02-02-075 Enforcement Procedures for High to Very High Occupational Exposure Risk to H1 N1 Influenza – The State adopted the procedures.

10-02 (CPL 02) Injury and Illness Recordkeeping NEP – The State adopted this NEP.

CPL 02-02-076 Hexavalent Chromium NEP – The State did not adopt this NEP.

CPL 02-01-048 Clarification of OSHA’s enforcement policies relating to floors/nets and shear connectors. Cancellations of CPL 02-01-046 – The State adopted.

CPL 02-00-149 FY Severe Violator Enforcement Program (SVEP) – The State adopted.

10-03 (CPL 02) PSM covered Chemical Facilities NEP – The State did not adopt this NEP.

CPL 02 Site Specific Targeting – The State did not adopt as they use their own targeting process.

10-07 (CPL 02) Recordkeeping Revision – The State adopted the revisions.

**d. Variances**

There were no new variances granted in Wyoming during this fiscal year. Wyoming currently has one permanent variance with a chimney construction company, T.E. Ibberson, granted on December 5, 2008.

**e. Public Employee Program**

According to the Wyoming 2010 Grant Application, approximately twenty-two percent of employees in Wyoming work in the public sector. Wyoming projected fifty inspections in the public sector for FY10 and completed only twenty-eight. This is seven percent of the total inspections conducted by Wyoming for the fiscal year. The state adopted a public sector emphasis program at the beginning of FY 2011 to direct more resources into the public sector.

**f. Discrimination Program**

Wyoming follows Chapter Seven in the Wyoming ROPP and the federal Whistleblower Manual to conduct discrimination investigations.

Wyoming issues citations to employers for merit cases, referencing the ROPP. Employers are given fifteen days to contest a determination.

According to SAMM indicator 13, Wyoming investigated six cases that had determination dates in FY 2010. Sixteen percent of investigations (one of the six) were completed within the ninety days. Fifty percent (three cases) were meritorious, which exceeded the national standard of twenty-one percent. Sixty-six percent (two of three cases) were settled. At the end of the fiscal year, Wyoming had nine cases on their pending list waiting for determination dates: five of these cases had already exceeded the reference standard of ninety days.

Wyoming uses the eight members of their compliance staff to conduct whistleblower investigations.

**g. CASPAs**

There was one discrimination CASPA filed against the state this fiscal year. The allegations were unfounded and no corrective actions were required by the state as result of the CASPA.

**h. Voluntary Compliance Program**

Wyoming uses one full time equivalent (FTE) position from among their six consultants for Compliance Assistance Specialist (CAS) work. The work involves providing training and outreach to employer groups and employees. For FY 10, forty-three outreach training seminars were conducted to 786 participants. Training topics included: a twenty-four hour course covering General Industry Standards (1910), construction Ten Hour training courses, Construction Safety courses specific to: excavation, scaffolding and residential fall protection, Behavior-Based Safety Introduction, Recordkeeping, Oil and Gas Drilling and Servicing and other health and safety related seminars.

Wyoming's entire staff is involved in the presentation of cost benefit analyses to employers during inspections and consultation visits. During this analysis, the employer is shown his number of claims reported to Wyoming Worker Compensation, the body part injured, the cost of these claims and the amount of money held in reserve for future medical treatment of these claims. Lastly, the employer is shown current and past premium amounts, compared to the amount the employer would pay for an average number of claims and then for the least number of claims. It should be noted that the cost benefit analyses were not always documented in the file as indicated in CAP 09-15. This discrepancy has been rectified by the state.

Management and consultation personnel are also involved in the presentation of the Management Safety Seminar and the three day collateral duty Safety and Health Seminars.

In April of 2010, Wyoming held their fifth annual Department of Employment's Safety Awards Conference. Well over two hundred participants attended the event, taking part in various safety seminars and visiting the exhibition booths. The keynote speaker addressed the high rate of transportation accidents occurring in Wyoming. The Governor's Advisor to the fatality taskforce delivered an update during lunch and ten Governor Safety Awards were presented to companies with outstanding safety and health programs. These companies included two of the Cowboy Voluntary Protection Program (CVPP) participants and three members of the Safety and Health Achievement Recognition Program (SHARP).

**i. Public Sector Consultation Program**

The same staff members man both the public and private sector consultation programs as well as the CAS position. Public sector consultation and the CAS are funded from 23(g) grant money. The public sector staff accounts for 1.4 of an FTE.

The state projected a total of fifty visits in the public sector during FY 2010 and completed sixty-seven visits. This exceeded their goal by seventeen visits. Fifty-four of the sixty-seven visits were initial visits, twelve were follow-up visits and one was a training initiative. One-hundred sixteen hazards were identified; fifty-four of those were abated within the original timeframe and sixty-two within the extension time frame.

At the end of fiscal year 2010, Wyoming had nineteen approved employers enrolled in the Safety and Health Achievement Recognition Program (SHARP) in the public sector. One new site was added to the program this fiscal year.

**j. Program Administration**

The state continued to work proactively with the region throughout this past year, which was an unsettling year of change. All four quarterly meetings were conducted during this year. Two were face-to-face meetings: one held in conjunction with the opening of the on-site visit and a second conducted during the Regional Planning meeting which was attended by Wyoming managers. The two remaining meetings were via telephone conferencing.

The Wyoming management staff has worked tirelessly to implement the

changes required by the CAP, continuously juggling increased requirements with the actual operation of the program. Due to a management staff of two, the State continues to grapple with the increased need to document and the increased adoption requirements. WSCD has not been able to secure resources from their state to assist them with this additional work.

**i. Training**

Wyoming conducts “in-house” initial training for new CSHOs during the first year of employment. This training consists of both classroom training (approximately nine weeks) and “on the job” training. The classroom training is conducted by: the administrator, the supervisor and 21(d) consultants (for technical issues). Presentations shared by the OSHA Training Institute (OTI) have been incorporated into the initial training. On the job training is provided by experienced CSHOs. Data entry training is done by the compliance supervisor.

Wyoming does not typically send their CSHOs to OTI except for specialized training such as the Process Safety Management trio of classes. Due to the inability of getting OTI to bring the Accident Investigation Training to the field, the state sent a compliance officer to this training at OTI in a “train-the-trainer” mode. This CSHO then shared the information he had learned with the rest of the compliance staff during an “in-house” training.

The state does conduct “in-house” training for their staff when they gather in one location for a week long meeting twice a year. During that week, one or two issues are identified and training is conducted. The training sessions in FY 2010, were used to conduct training required by the CAP.

**ii. Funding**

Despite the ten percent federal increase in funding this fiscal year, the State of Wyoming continued to overmatch their grant by \$104,473 in order to maintain the integrity of the program. The state has no further funding problems at this time.

**iii. Staffing**

The state is currently engaged in hiring to fill several positions recently vacated due to retirement and job changes. The state maintains their eight benchmarked positions: six safety and two health. Wyoming has no plans for furloughs or hiring freezes, but has currently been restricted at providing in grade salary increases due to a change in the state classification system. This has made retention of CSHOs more difficult and has led to two of the three

current vacancies.

**iv. Information Management**

Due to the CAP items, the state is more engaged at using the IMIS reports for the management of their program and at ensuring that correct information is being entered into the database.

The state has also been extremely engaged in the rollout of the OIS, providing a consultation administrative person to assist with the pre-planning of the OIS. Both the enforcement supervisor and administrative person attended the super-user training held the end of March 2011. The state has fully cooperated with all requests for information as the OIS is rolled out.

**v. State Internal Evaluation Program**

This is a CAP item with a future due date of 09/30/11.

**5. Assessment of State Progress in Achieving Annual Performance Goals**

Fiscal year 2010 marked the second year of Wyoming's five year Strategic Management Plan (2009-2013).

**Strategic Goal #1 – By 2013, improve workplace safety and health for all Wyoming workers by reducing workplace fatalities.**

**Annual Performance Goal #1:** Reduce fatalities by inspecting workplaces identified through WSCD data, Wyoming fatality data, and Bureau of Labor Statistics (BLS) data and by conducting consultation visits.

Wyoming experienced three fatalities this fiscal year as compared to eight fatalities in FY 09, which is a decrease of sixty-six percent. This is the lowest number of fatalities since 1995. Since the number of fatalities in Wyoming is small, the state uses a five year average as their baseline. The baseline for this goal is 10.4 fatalities which is the average from October 2004 through September 2008. Wyoming experienced a 71.2% decrease from their baseline in FY 2010 and a 47.1% average decrease for the past two years. The state's goal was exceeded this year. The state is commended for their in this achievement.

**Strategic Goal #2 – Improve workplace safety and health for all Wyoming workers as evidenced by fewer hazards, reduced exposure, and fewer injuries, illnesses.**

**Annual Performance Goal #2:** Reduce injuries and illness (Workers compensation claims) by two percent by focusing enforcement on workplaces identified through Workers' Safety and Compensation

Division (WSCD) data and by conducting consultation visits.

Three variables are tracked each year to assess the success of this five-year goal: the number of employees, the number of claims (frequency) and the cost of claims (severity). Wyoming compares data collected for the twelve month period prior to the inspection /visit to data collected for the twelve month period after the inspection/visit.

For fiscal year 2010, results from inspections indicated an 12.2% decrease in the number of claims. This was accompanied by a 6.3% decrease in employees and a 34.4% decrease in the cost of claims. A total of 388 companies were analyzed.

The total pool of employers involved (509), which include those receiving enforcement inspections and consultation visits, experienced a 13.6% decrease in the number of claims as well as a 6.5% decrease in the number of employees and a 31.2% decrease in the cost of claims.

Wyoming exceeded their reduction goal this fiscal year and is commended for their work in this achievement.

**Strategic Goal #3 – By 2013, promote a safety and health culture in Wyoming through a strong and effective consultation and cooperative program.**

**Annual Performance Goal #3:** Increase new participants in the Voluntary Protection Program (VPP) and the Safety and Health Achievement Recognition Program (SHARP) by four percent by developing relationships with companies applying safety and health best practices.

Wyoming did not approve any new VPP sites during FY 2010, but did introduce a public sector SHARP site. Therefore, Wyoming had mixed results: achieving the goal for SHARP but not for VPP. The private sector SHARP is under the cooperative agreement and is not addressed in this report.

**Appendix A**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report**  
**Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	Personally identifiable information (PII) such as social security numbers and coroners reports were found in some case files. The State indicated they limit the release of personal information when appropriate.	Ensure a written process is in place to protect personally identifiable information.	09-14
10-2	Wyoming had no inspections in the construction emphasis areas of silica and lead.	Wyoming historically conducts significantly less health inspections than the national average. Proactively train safety CSHOs to identify and refer health related construction and oil and gas hazards to the Wyoming health staff.	09-16
10-3	Wyoming had not developed written instructions or criteria for any of their local emphasis programs describing the scope, procedures and coding to be used.	Document the current local emphasis programs, specifying criteria and procedures to be followed.	09-18
10-4	The complete criteria for the 75/25 program are not in writing.	Document the criteria of the 75/25 program and insert it into the State Internal Evaluation Program.	09-28
10-5	Employers are being allowed to participate in this penalty reduction program multiple times each year.	Change the parameters of the 75/25 program so that an employer is not able to participate multiple times. An employer should be completely out of the program before being considered for entry. Add criteria to the program to addresses repeat and regular participants.	09-29
10-6	The State appears to have unlimited time to settle a case at the informal level.	Review the State policy for post-contest informal settlements. Contact the State SOL and Hearing Officer to determine if timelines exist and who has ownership of the case after contest.	09-34

**Appendix A**  
**FY 2010 Wyoming (WSCD) Enhanced FAME Follow-up Report**  
**Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-7	Multiple penalty reduction programs were being used for settlements, resulting in larger than average penalty reductions. Settlements made after the 15 days deadline for filing a notice of contest were considered informal settlements. The term "formal settlement" was reserved for use with court decisions or decisions of the commission.	In order to maintain a deterrent effect, discontinue the use of multiple penalty reduction programs for settlement of a case, or create written criteria to address the problem of large penalty reductions using the average federal penalty reduction percent.	09-35
10-8	Numerous data entry issues were identified during the onsite visit.	The State will coordinate with the Region to set up an onsite visit with a data entry person supplied by the Region to educate the staff and resolve entry issues in preparation for the new data system.	09-38
10-9	References to the FOM are not made in the ROPP.	References should be made between the ROPP and the FOM to clarify what procedures are being followed for the Wyoming state plan staff.	09-59
10-10	State unique processes and Procedures are not documented in writing.	As part of the State Internal Evaluation Process (SIEP), processes and procedures need to be in writing.	09-60
10-11	Internal evaluations are not done in the State.	Document and evaluate a minimum of one internal process each year.	09-61
10-12		The Region recommends the State of Wyoming allow WSCD to "adopt standards by reference" in order to meet the adoption timelines stipulated in the State Plan agreement.	09-62

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
<b>09-1</b>	Case files are not well organized. A case file summary sheet was included in the case files, but for the most part, was not consistently or completely used.	Use a diary sheet in each case file to provide a historical record of all activities done during the life of the file as stipulated in the FOM, Chapter 5, Section X. This would eliminate the need for multiple checklists. It is suggested the State consider using a consistent order with tabs, as well as color coding, for fatalities, safety and health files, and ensure there are no loose papers in the file.	Wyoming OSHA does have and use a diary sheet called a "casefile summary sheet". It is used to document important events or actions relating to the casefile. We will ensure it is in all casefiles when appropriate. All inspectors were briefed on this issue.	CSHOs were trained in the use of case file summary sheet. Completed 5/22/10.	Completed
<b>09-2</b>	Files lack critical documentation needed to uphold violations and should include documentation of employee interviews. Information specific to the hazard should be included in the AVD.	Employee exposure information, employer knowledge and employee interviews need to be documented and included in every case file.	Wyoming OSHA saw the issue relating to our documentation last year and have instituted documentation criteria over the last year that will ensure this documentation is included relating to employer knowledge and employee interviews are available in the case files. The case file narrative is now in a template format which includes and addresses employer knowledge, employee exposure, and an employee interview form is being formalized which will be included in the casefile.	Wyoming created an Employee Interview form and Casefile Narrative Template. Completed 5/22/10  CSHOs were trained to insert documentation into the casefile narrative template and to document employee interviews onto employee interview form. Completed 5/22/10	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
<b>09-3</b>	The gravity designation of high severity was inappropriately used for most serious violations.	Follow the guidelines in Chapter 6, Section III (A)(1) of the FOM when assessing severity.	Wyoming OSHA does follow the guideline in Chapter 6, Section III (A)(1) and welcomes being provided examples of where we did not, so that we can recognize areas for improvement. We would like the audit sheets or written notes relating to this issue so that we can determine why you feel the severity was inappropriately used and what additional criteria Federal OSHA officers follow for determining a lower severity because the FOM does not give examples similar to the Probability section.	Wyoming believes the criteria for severity in the FOM was being followed. CSHO training was conducted on justifying low or medium severity versus high severity. Completed 05/22/10.  Supervisor will monitor.	Completed
<b>09-4</b>		Include information that specifically identifies the location, identity and an actual description of the hazard in the AVD. This information assists the employer at effectively abating the hazard.	In Wyoming we work very closely with the employer to ensure they understand what needs to be abated during the inspection and through follow-up phone calls. When asked, we provide a copy of the photo taken relating to the issue to assist with abatement concerns. Wyoming OSHA will improve in this area to document the location and actual description of the hazard in the AVD.	Wyoming created an Employee Interview form and Casefile Narrative Template. Completed 5/22/10	Completed
<b>09-5</b>	The OSHA form 300 was not routinely collected and inserted into the case file and entered into the database.	Collect the OSHA 300 for the last three years, insert it in the case file and enter the information into the database.	Since the new FOM, we have been collecting the three years of data and entering it into the NCR.	CSHOs were instructed on the collection and entry into the system of the OSHA 300 form for the last three years.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
<b>09-6</b>	The State does not include employee contact information in the case file.	Follow the FOM, Chapter 5, Sections B(5) and B(11) as well as Section C (2)(g) for requirements of contact information.	Wyoming OSHA collects contact information for each person interviewed relating to fatal accidents and catastrophes which is documented in the casefile. A form has been developed to seek personal information from employees during routine inspections. This document will be included in the casefile. Entering this information into the NCR is redundant.	See Recommendation #2 addressing use of the employee interview form.	Completed
<b>09-7</b>	Eight percent of complainants were not notified of the results of an inspection within twenty days (when citations are issued).	Wyoming employees who file complaints need to be notified about the results of the complaint within 20 days of issuing the citations 100% of the time. (SAMM Indicator 3).	Wyoming OSHA has adjusted to this issue and the compliance supervisor makes a concerted effort to review and approve the case file narrative for release to the complainant after the certified mail receipt is returned to our office that shows the citations were delivered to the employer.	The State is evaluating this item using the SAMM exceptions report for SAMM #3.	Completed
<b>09-8</b>	The reason for closing a case file with an unpaid penalty was not documented	Document in the case file the reasons for administratively closing the case.	Based on the information provided so far we are not sure this is an issue. We do make a concerted effort to document why we are administratively closing a case file. We would like the audit sheets and or notes relating to this issue so that we can determine how you came to this conclusion and make changes to our process if needed.	The state provided audited case files to demonstrate this information was in the file. The Administrator includes a note in the case file that was overlooked during the onsite review.	Deleted
<b>09-9</b>	The response time was erroneous due to a data entry issue.	Using the complaint received date on the "Complaint Query Report along with the date of the original letter "D" from their case file, the State should calculate the SAMM 2 "Response Time to Initiate Complaint Investigations."	As discussed in this report, Wyoming OSHA has adjusted to this issue and is using the proper fields and codes in the NCR now.	This data entry issue was addressed with CSHOs at the 5/22/10 meeting to discuss the results of the special study.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-10	There was no criteria to use when assessing the severity of amputations referred to by the Division of Worker Compensation. There was not documentation in the case file to show the severity of the amputation hazards was fully assessed.	Create a local policy or emphasis program with a written policy for addressing the amputation referrals from Worker Compensation. The criteria for this policy should be "at least as effective as" the federal national emphasis program and should include guidelines for tracking in the IMIS database. That policy should include a process to assess and document the severity of the hazard.	WY OSHA receives information directly from Claims Analysts (CA) as they become aware of accidents involving amputations with lost time. WY also reconcile the information in the claims system by running a monthly report to ensure accidents are not missed. The info collected from these accidents are handled as referrals. The CSHO collects info from CA to assess the severity and circumstances of the amputation. The Supervisor then reviews each event & makes a determination as to whether an inspection or inquiry is to be done. An inspection is to be done within 16 working days & an inquiry is handled within 1 working day. WY OSHA has a very active amputation targeting tool & has inspected a number of accidents over the previous year.	The State has decided to continue addressing amputations as referrals from the Worker Compensation Division.	Completed
09-11	Acceptable abatement was not documented in three of the four amputation referral inquiries.	The State must take follow up action to secure appropriate abatement for three inquiries involving amputations. The Region will identify the inquiries in question.	Wyoming OSHA has reviewed the three amputations referral inquiries and has found more than adequate acceptable abatement documentation.	CSHOs were informed of problems with abatement and educated on more stringent abatement requirements.	Completed
09-12	Maximum response periods of five days were not consistently given for inquiries.	Follow the FOM, Chapter 9, Section I, for Inquiries and assign a five day maximum abatement period to each employer. An extension can be granted if necessary.	Wyoming OSHA is following the FOM on this issue as much as possible. Wyoming recently changed their abatement process whereby the inspector makes one call as a reminder to secure abatement. If abatement is not received within the next five day period, an inspection is scheduled if practical.	This process was changed shortly following the special study and CSHOs were informed on those changes in the spring of 2010.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-13	Five of the seven, tenth letter inspections were in-compliance during FY 2009.	The State should assess the productivity of doing 10th Letter Inspections. If the violations being periodically found are not related to the violations identified in the inquiry, the program should be considered for cancellation.	This is a deterrent program to support inquiry activity, and provides us with a reason to visit an employer at a later date. In the future we will review EMR and lost run data before making a decision to inspect. If the company has a negative EMR and there is no reason to suspect inadequate reporting we will not inspect. Wyoming OSHA still feels this is an important program and will continue with this program.	Wyoming will continue this program with more stringent criteria. Completed 7/1/10	Completed
09-14	Personally identifiable information (PII) such as social security numbers and coroners reports were found in some case files. The State indicated they limit the release of personal information when appropriate.	Ensure a written process is in place to protect personally identifiable information.	Wyoming OSHA will develop a written process when resources allow. Administrative support has been briefed and understands that in the mean time no case file information is released until the Compliance Supervisor has reviewed the information and given approval for release. No personal information is released unless we are in the discovery process associated with a contested case or court order.	Wyoming will document their program.  In the interim, no PII will be released except during discovery or contested case court orders. The supervisor and compliance administrative person will handle all cases. 5/22/10	Continued
09-15	Compliance officers have access to worker compensation information about each employer, which can be reviewed prior to opening an inspection. This data can be used to better focus the inspection into the areas where accidents are occurring. There was very little documentation in the case files noting this information was being used.	It is recommended that compliance officers be required to review the worker compensation data prior to visiting a targeted company to better ensure the inspection is focused into areas where the accidents are occurring.	Compliance officers do review the workers compensation data prior to visiting the targeted company and during the inspection they educate the employer on their injuries. Training has been conducted on this issue and the Compliance officers are instructed to document in the casefile the hazards associated with this data (loss run).	CSHO training was conducted. 5/22/10	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-16	Wyoming had no inspections in the construction emphasis areas of silica and lead.	Wyoming historically conducts significantly less health inspections than the national average. Proactively train safety CSHOs to identify and refer health related construction and oil and gas hazards to the Wyoming health staff.	Wyoming OSHA only has two Compliance Health Officers when fully staffed. This office had a reduced health officer staff over the period assessed and is going to experience it again with the senior health person moving to consultation, leaving compliance with a vacancy that will need to be filled by the end of CY 2010. Also a PSM audit (one of the two Health Officers is the Team Leader) has been started this year resulting in a decrease in health inspections. Safety Offers have been trained and instructed to make health compliance referrals when needed. The health inspection numbers will increase when fully staffed and training has been completed on new hires.	Wyoming health inspectors will be more focused on health inspections, making increased referrals to safety.  The health inspection percentage increased during FY 2010.  In 2011, Wyoming has lost one health inspector, but will focus on the NEPs of diacetyl, primary metals and isocyanates. The state does not plan to participate in silica or lead programs. Wyoming hopes to be fully staffed midway into the fiscal year but new personnel will take some time to train.	Continued
09-17	No inspections were conducted in the two emphasis areas of Trucking & Warehousing and Lumber & Wood Products.	Since there were no inspections in two of the local emphasis areas, reassess these targeted areas for effectiveness. If the data supports continued targeting, resources should be redirected to these high hazard industries.	Wyoming OSHA has revised its local emphasis programs and identified new targeted inspection systems. These results will be impacted by the requirements of participating in National Emphasis Programs (NEP) mandated by Federal OSHA.	Wyoming revised their LEPs keeping oil and gas, nursing homes and personal care facilities and construction. They added a public sector LEP. Completed 7/15/10	Completed
09-18	Wyoming had not developed written instructions or criteria for any of their local emphasis programs describing the scope, procedures and coding to be used.	Document the current local emphasis programs, specifying criteria and procedures to be followed.	We will develop documents for current local emphasis programs as resources allow.	Written procedures for LEPs will be submitted by 7/1/11.	Continued

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-19	Employees are not consistently being interviewed during inspections.	Conduct employee interviews during inspections as dictated in Chapter 5, Section VII, A. of the FOM, "Interview statement of employees and other individuals shall be obtained to adequately document a potential violation."	This recommendation is very similar to Recommendation # 2 and seems redundant. This item has been address and corrected in Recommendation #2.	Combined with and addressed in Recommendation #2.	Completed
09-20	Employee interviews are not in writing. Contact information for interviewed and exposed employee is not consistently collected and noted on the OSHA 1A.	Follow Chapter 5 of the FOM in regard to employee interviews during inspections. The form 1A should be filled out completely before submission to the host.	See recommendation #2. Wyoming OSHA has been developing a formalized interview form and will be included in the casefile. All compliance officers have been instructed and trained on this issue.	Combined with and addressed in Recommendation #2.	Completed
09-21	Union involvement was not consistently documented in the case file.	Follow Chapter 3, Section D of the FOM which dictates the involvement of the union in all phases of the inspection process.	Wyoming OSHA has always requested union involvement and does offer the union involvement in both the opening, walk around, and closing. The short coming was only that the union involvement was not always documented in the casefile. These issues have been reiterated and instructed to the compliance officers.	CSHOs were instructed to document all union involvement in the case file.  Completed 5/22/10	Completed
09-22	The OSHA 1B form was not completely and appropriately filled out. Information including employee exposure information, necessary measurements and employer knowledge were not consistently documented. This often made it difficult to retain a citation at settlement. On occasion, inappropriate use of grouping was used.	Completely fill in both pages of the OSHA 1B form for all violations. This form documents the conditions that support each violation. Follow the directions for grouping in Chapter 4, Section X, B of the FOM.	This recommendation is very similar to Recommendation # 2 and seems redundant. This item has been address and corrected in Recommendation #2. Wyoming OSHA still does not understand the recommendation on grouping violations. The examples provided did not justify the recommendation.	Combined with and addressed in Recommendation #2.  The grouping issue was resolved while on-site.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-23	Incorrect procedures were being followed for on-site abatement verified by a CSHO.	Code abatement observed and verified on-site by CSHOs in the IMIS with an "I". There is no need to enter the number of days for abatement as abatement has been verified. For CSHO Observed Abatement, follow the guidelines outlined in Chapter 7, Section VI, D, of the FOM.	This issue has been addressed already and you should find that to be the case in future audits.	Wyoming is correctly identifying on-site abatement in the IMIS.  Staff informed on 5/22/10.	Completed
09-24	Thirty day abatement periods were being given with no regard to the gravity of the violation.	Ensure abatement periods reflect the gravity of the violation. If a violation is abated and observed by the CSHO onsite, no abatement date is necessary, but a notation should be made on the citation stating "Corrected during Inspection."	Wyoming OSHA has begun to address abatement issues more specifically with the employer during the inspection and closing conferences. We have started documenting what is planned to be done and when in the case file narrative. Consequently the abatement periods will be shorter.	This recommendation was addressed as described by state.  CSHO training done on 5/22/10.	Completed
09-25	Abatement verification is not consistently in the case files	Follow 29CFR 1903.19 and/or Chapter 7, Section V and VI of the federal FOM for abatement certification. Ensure there is abatement certification for all violations and include that information in case files.	As stated in the report, WY OSHA provides a document called "WY OSHA Citation Instruction Booklet For Employers – A Step by Step Guide" with all citation packages that are sent to an employer. This document provides specific instructions relating to what types of abatement documentation is needed from the employer. If the employer has provided the necessary documentation / certification to show the hazard has been abated (i.e. photos, training documentation, written verification, etc.), we do not require the employer to fill out the Abatement Certification form. This process meets the intent of abatement certification and WY OSHA will endeavor to ensure all hazards have some sort of abatement verification as always.	Wyoming will be more aggressive at collecting certification of violations both during abatement follow-up and at informal conferences.  CSHO training was conducted.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-26	Abatement was often untimely. Abatement extensions were not used. In four reviewed inspections, abatement was not documented.	The State needs to be more aggressive at collecting and tracking abatement. Abatement extensions need to be documented and must follow the guidelines of Chapter 7, Section V, C, of the FOM.	Collection abatement – WY OSHA has responded to this issue by taking steps to ensure abatement follow up occurs in a timely manner. The inspector who conducted the inspection gets the file back when the 15 day contest period ends if abatement is needed. The inspector calls the employer to remind them that abatement is needed and follows up with a certified letter. The employer has 10 days to provide the information.  Abatement extensions – During our phone conversation with the employer, we establish a new abatement date or an understanding that they wish to contest the citation. If they intend to abate we enter the extension date into the NCR and make a note on the case file summary sheet relating to the abatement matter. If the employer does not comply, a follow-up inspection is scheduled if practical.	CSHO training on revised processes described in State response occurred on 5/22/10.	Completed
09-27	Follow-up inspections were not scheduled when abatement was not received.	Initiate a follow-up inspection protocol for those employers who do not submit timely abatement.	If the employer does not respond to our reminder call and letter, a follow-up inspection is scheduled if practical.	Combined with Recommendation #20.	Completed
09-28	The complete criteria for this program are not in writing.	Document the criteria of the 75/25 program and insert it into the State Internal Evaluation Program.	Wyoming OSHA still intends to offer this program when appropriate and will document the criteria as resources allow.	This issue has not been resolved. The region has two concerns: multiple participation by an employer during one year and the percent reduction simply to participate. The State is considering these concerns and will have documented the criteria of this program in writing by 7/1/11.	Continued

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
<b>09-29</b>	Employers are being allowed to participate in this penalty reduction program multiple times each year.	Change the parameters of the 75/25 program so that an employer is not able to participate multiple times. An employer should be completely out of the program before being considered for entry. Add criteria to the program to address repeat and regular participants.	Wyoming OSHA is currently reviewing this program and will take appropriate steps once these reviews are completed.	See Recommendation #28.	Continued
<b>09-30</b>	Quick Fix was not being used as described in Chapter 6, Section IV of the FOM.	If Quick Fix is used, follow the guidelines described in Chapter 6, Section IV of the FOM.	As stated in the report, WY never applied the Quick-Fix guidelines to the initial proposed penalty in the NCR. The reduction to the penalty was initiated at the informal conference for good faith efforts for abating the hazard quickly. If and when Wyoming OSHA adopts the new increase penalty policy, this Quick Fix guideline will be followed.	The Wyoming version of Quick Fix was cancelled.  Staff informed on 5/22/10.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
<b>09-31</b>	N/A	If the State chooses to use an alternate penalty reduction program for onsite abatement to continue their practice of encouraging prompt abatement, the State should write a complete program which includes: the criteria of the program, the penalty structure, how the program will be tracked, and how the program will be coded in the database. This penalty reduction program will need to be as effective as the guidelines in Chapter 6, Section IV of the federal FOM, "Effect of Penalties if the Employer Immediately Corrects." This program should be submitted to the Regional Office for concurrence.	There is no alternate penalty reduction program to discontinue because the reduction was applied at the informal conference. See Recommendation #30.	See Recommendation #23.	Completed
<b>09-32</b>	A notice of contest was not always filed within 15 working days after the receipt of the Notification of Penalty.	The State should follow Chapter 7, Section I of the ROPP in reference to notice of contest. This process gives employers the right to appeal the final order.	Chapter 7, Section I of the ROPP deals with when a complaint of discrimination should be considered for investigation. Wyoming OSHA assumes the recommendation relates to Chapter 6, Section 2 through 4, in which Wyoming OSHA will encourage the employer to submit written notice to contest within the 15 working days.	The process was initiated on 5/22/10 when the staff was informed.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-33	Conditions for settlement were not indicated in the informal settlement notes. These notes were not consistently included in the case files.	Adopt a format to be used for note taking during settlements that includes: why the case is being settled, why citations are being reclassified, why penalties are being reduced and why items are being grouped. It is suggested, the notes should also indicate if the settlement is informal or formal and whether the meeting was face-to-face or by phone.	Wyoming OSHA has already begun to improve on this issue. Documentation during the informal conference will be improved on by the Compliance Supervisor taking the time to better document the conferences.	Wyoming created an informal conference sheet to be used for documentation during the informal conference. This process was initiated in May of 2010.	Completed
09-34	The State appears to have unlimited time to settle a case at the informal level.	Review the State policy for post-contest informal settlements. Contact the State SOL and Hearing Officer to determine if timelines exist and who has ownership of the case after contest.	Wyoming OSHA operates under the belief of the employer's good faith. Once there is a lack of good faith from the employer, Wyoming OSHA will start the process for a contest hearing.	Discussion continues on this issue. According to the Wyoming Rules of Practice & Procedure, Wyoming OSHA can conduct an informal conference at any time prior to a formal hearing. The Region will review the effectiveness of this process during the FY 12 on-site visit.	Continued
09-35	Multiple penalty reduction programs were being used for settlements, resulting in larger than average penalty reductions. Settlements made after the 15 days deadline for filing a notice of contest were considered informal settlements. The term "formal settlement" was reserved for use with court decisions or decisions of the commission.	In order to maintain a deterrent effect, discontinue the use of multiple penalty reduction programs for settlement of a case, or create written criteria to address the problem of large penalty reductions using the average federal penalty reduction percent.	Wyoming OSHA began to minimize multiple penalty reduction to no more than 50% of the original proposed penalty about a year ago.	The State will grant maximum penalty reductions not to exceed 50% until further guidelines are provided on this issue. This change started in June of 2010.  Further discussion between the Region and state is pending.	Continued
09-36	Only 2.35% of inspections were conducted in the public sector.	Increase programmed inspection activity in the public sector by devising an appropriate emphasis program.	For FY2011, Wyoming OSHA has developed a local emphasis program for employers in the public sector with a positive EMR.	Addressed in Recommendation #17.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-37	The abatement tracking process is not working well.	The State needs to revise their abatement tracking process and place an emphasis on prompt abatement and abatement verification. The abatement tracking report should be run and checked weekly.	Abatement verification – The inspector who conducted the inspection gets the case file back when the 15 day contest period ends if abatement is needed and no contest was requested. The inspector calls the employer to remind them that abatement is needed and follows up with a certified letter. The employer is given 10 days to provide the requested information. Abatement tracking report – The report is being run weekly and given to the inspector as a reminder for what cases still need abatement information.	Combined in the discussion for #26 and #27.	Completed
09-38	Numerous data entry issues were identified during the onsite visit.	The State will coordinate with the Region to set up an onsite visit with a data entry person supplied by the Region to educate the staff and resolve entry issues in preparation for the new data system.	Wyoming OSHA is always interested in providing its staff any helpful training and guidance to the data entry system. Please let us know when your trainer is available to travel and present their training.	The need for training will be reassessed after the OSHA Information System (OIS) rollout and before the end of the calendar year.	Continued
09-39	BLS data supports the areas being targeting by the program. There were no inspections in wood and lumber or trucking and warehousing during the 2009 fiscal year.	Based on the number of inspections in these areas, continue focusing resources in the emphasis areas of residential construction and nursing and personal care facilities. Increase the focus in the areas of trucking and warehousing and lumber and wood products, paying extra attention to worker compensation information and OSHA 300 logs to focus attention into the areas where the accidents are occurring.	Wyoming OSHA has and always will strive to improve on using the workers compensation data to help target employers where accidents are occurring.	Combined and addressed in Recommendation #17.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-40	Employees may not know who to call in the case of unsafe conditions. This statement is supported by the low number of complaints.	Find ways to market the Wyoming State Plan Program to employees. This outreach should include how to file a complaint with OSHA in the event of unsafe working conditions.	Wyoming OSHA feels this recommendation is not valid. Over the last five years, Wyoming OSHA has had a safety awareness campaign including a annual safety and health conference, increased training in all areas of Wyoming's industries (oil & gas, construction, general industry), very active in the Governor's Fatality Taskforce, and has developed an alliance with the Oil & Gas Industry called WOGISA (Wyoming Oil and Gas Industry Safety Alliance).	The new Oil & Gas alliance includes employee involvement.  Crane training was conducted through Steel Workers Union.  An extra hour is dedicated to address employee rights during the 10 hour OSHA construction training course.  WY will continue to look for opportunities to work with employees & unions.	Completed
09-41	There are insufficient employee interviews being done to support the determination of the case.	Conduct increased employee interviews in each case in order to support the determination.	Wyoming OSHA does interview as many persons/employees that we deem necessary to determine the merit of the case and would like more specific examples and reasons for increased employee interviews from the casefiles that were reviewed.	This discrimination item was combined and addressed in Recommendation #2.	Completed
09-42	One case did not address "disparate treatment."	Address "disparate treatment" in all cases.	Please provide specific example of where we did not address disparate treatment.	Discussion was held with staff on the specifics of documenting disparate treatment.	Completed
09-43	Post settlement data was not correctly entered into the Whistleblower database.	Input all post agency settlement actions into the Whistleblower database. The State was instructed on how to enter the post agency settlement actions by the Whistleblower investigator during the review.	Wyoming OSHA will ensure that the Compliance Supervisor and Administrative Support staff enters the post agency settlement actions into the Whistleblower data base.	Instructions were provided to Wyoming following a discussion on this issue. Post agency settlement actions are now entered.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-44	One case remained on the pending list for several months without being assigned.	Use an adequate tracking system to insure cases are assigned in a timely manner.	Please provide a more specific example of this recommendation.	This issue was dropped due to lack of detail.	Deleted
09-45	Wyoming has implemented a “two-part” application process. The first part of the process includes general information and the injury and illness rate information. This option can be used by the employer and is used by the program as a “gatekeeper” to assess eligibility before spending time completing the entire application only to discover the rates do not meet the criteria.	Adopt an assurances template consistent with the assurances in the VPP Policies and Procedures Manual.	Wyoming OSHA feels that our assurance template is meeting all of the program requirements for application to CVPP. A more detailed example of what is missing would be helpful in identifying this recommendation and provide to us Federal OSHA’s electronic application format so that it can be reviewed to meet the VPP Directive.	A copy of the regional template was provided to Wyoming for their use.	Completed
09-46	Wyoming has developed “The Historical Status” report which is a well designed tracking tool for VPP activity. The spread sheet identifies the company, the application date, the survey date(s) and comments.	Follow the document maintenance requirements of the VPP Directive in that all applications and assurances materials must be maintained by the State. To accomplish this, it is suggested that the State should consider reducing their VPP materials into electronic format to save space and provide easy storage.	Wyoming OSHA will follow and maintain all application and assurance material required in the VPP Directive for maintenance of participants files. The materials will be stored in archives.	Recommendations #46 - 55 concern VPP. All recommendations have been implemented into the Wyoming Cowboy VPP.	Completed
09-47	N/A	Align the Wyoming CVPP with the federal VPP application requirements. In many cases, not all applications contain the necessary information to justify acceptance.	Wyoming OSHA will follow Procedures for Receipt and Review of Applications in the VPP Directive.	See #46.	Completed
09-48	N/A	Review applications prior to the site visit in order to provide enough time to conduct a thorough review of the application details.	Wyoming OSHA does provide ample time to conduct a thorough review of the application details before doing an on-site review.	See #46.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-49	N/A	Record the application acceptance date in order to more effectively track that onsite audits are scheduled within six months of the acceptance date. It is suggested this information is added to the History Status report.	Wyoming OSHA will add an "Application Acceptance Date" column to our History Status report to justify the problem with an employer's application between the application received date and the acceptance date due to problems with the initial application. This will correct the outlier for not being onsite within 6 months.	See #46.	Completed
09-50	N/A	Re-evaluations need to be scheduled inside the designated time frames as stipulated by the VPP Policies and Procedures manual.	See Recommendation #49.	See #46.	Completed
09-51	N/A	Use the Supplement B report to provide a standardized documentation of the PSM program evaluation.	Wyoming OSHA will use Supplement B for employers that have a PSM program for their annual self-evaluation.	See #46.	Completed
09-52	N/A	Create a database to indicate who conducted and assisted on each VPP. This will assist at tracking the criteria for back-up and team leader.	OSHA will create a database to indicate who has conducted and assisted on each VPP audits.	See #46.	Completed
09-53	N/A	Adopt the use of the standardized VPP report template and forms. The use of the Form -33 is inappropriate for VPP audits.	Wyoming OSHA will use the standardized VPP report template format.	See #46.	Completed
09-54	N/A	Ensure all action items are complete before a site is approved as a CVPP participant. Limit timelines for outstanding items to 90 days.	Wyoming OSHA will ensure all action items are completed before a site is approved as a CVPP participant.	See #46.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-55	N/A	Maintain CVPP reports and action items separately. Ensure annual self-evaluation reports from CVPP sites are complete before being accepted by the State.	Wyoming OSHA will maintain a public file on all approved participants in accordance with the VPP Directive.	See #46.	Completed
09-56	A check for competency was not being used in all parts of the new hire training.	Expand the use of a "check for competency" as used in the health section to the rest of the initial training program.	Wyoming OSHA does not agree with this recommendation in that the findings are contradictory to this recommendation. In the report on page 8, it is stated that "No problems were noted with the competency of the inspectors' field work. Inspectors exhibited good hazard recognition and appeared to be technically competent. A wide range of hazards were effectively recognized and cited in the case files. For the most part, the standards were cited and the initial penalties were calculated correctly 100% of the time." Also on page 34, it states "The on-site review did not reveal any problems with the technical expertise of the compliance staff."	This issue was dropped based on Wyoming feedback and lack of a problem identified with CSHO competency during the on-site visit.	Deleted
09-57	There were numerous data entry problems throughout the program, particularly in post citation issuance processes, such as abatement verification and contested cases.	Expand data entry instruction to the Wyoming initial training and conduct periodic training to address data entry problems.	Wyoming OSHA will enhance training through classroom instruction for data entry into the NCR and into the new OIS system when it is deployed in February 2011.	See Recommendation #38. IMIS training is on-going as issues arise.	Continued
09-58	There were numerous problems with directives such as abatement verification as well as issues with the policies in the FOM, such as employee interviews and documentation of case files.	Include clarification of procedures identified as problematic during the audit into the 2010 summer training session.	Wyoming OSHA has always and will continue to share any helpful and positive constructive recommendations with its staff to ensure they are following the proper procedures according to their job duties.	These issues were resolved during the 5/22/10 meeting and address various recommendations.	Completed

**Appendix B**  
**Wyoming State Plan**  
**FY 2010 Enhanced FAME Follow-up Report Prepared by Region VIII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-59	References to the FOM are not made in the ROPP.	References should be made between the ROPP and the FOM to clarify what procedures are being followed for the Wyoming state plan staff.	Wyoming OSHA is currently reviewing this program and will take appropriate steps once these reviews are completed.	Work on referencing the ROPP to the FOM continues. Expected completion date is 9/30/11.	Continued
09-60	State unique processes and Procedures are not documented in writing.	As part of the State Internal Evaluation Process (SIEP), processes and procedures need to be in writing.	Wyoming OSHA is in the process of developing a SIEP and will submit the written procedure to the Region when completed.	Wyoming is in the process of development of an SIEP. Anticipated completion date is 9/30/11.	Continued
09-61	Internal evaluations are not done in the State.	Document and evaluate a minimum of one internal process each year.	Wyoming OSHA will ensure one internal process is evaluated each year in the SIEP.	See Recommendation #60.	Continued
09-62	N/A	The Region recommends the State of Wyoming allow WSCD to "adopt standards by reference" in order to meet the adoption timelines stipulated in the State Plan agreement.	Wyoming OSHA will review this issue with the Attorney General.	Wyoming reviewed this issue with the Attorney General's office and the state will not allow adoption by reference, but requires all state agencies to use the "strike and underline" method of adoption. This item is still pending.	Continued

**Appendix C  
Wyoming State Plan  
FY 2010 Enforcement Activity**

	<b>WY</b>	<b>State Plan Total</b>	<b>Federal OSHA</b>
<b>Total Inspections</b>	<b>383</b>	<b>57,124</b>	<b>40,993</b>
Safety	312	45,023	34,337
<i>% Safety</i>	<i>81%</i>	<i>79%</i>	<i>84%</i>
Health	71	12,101	6,656
<i>% Health</i>	<i>19%</i>	<i>21%</i>	<i>16%</i>
Construction	215	22,993	24,430
<i>% Construction</i>	<i>56%</i>	<i>40%</i>	<i>60%</i>
Public Sector	28	8,031	N/A
<i>% Public Sector</i>	<i>7%</i>	<i>14%</i>	<i>N/A</i>
Programmed	287	35,085	24,759
<i>% Programmed</i>	<i>75%</i>	<i>61%</i>	<i>60%</i>
Complaint	72	8,986	8,027
<i>% Complaint</i>	<i>19%</i>	<i>16%</i>	<i>20%</i>
Accident	4	2,967	830
Insp w/ Viols Cited	329	34,109	29,136
<i>% Insp w/ Viols Cited (NIC)</i>	<i>86%</i>	<i>60%</i>	<i>71%</i>
<i>% NIC w/ Serious Violations</i>	<i>81.2%</i>	<i>62.3%</i>	<i>88.2%</i>
<b>Total Violations</b>	<b>1,710</b>	<b>120,417</b>	<b>96,742</b>
Serious	803	52,593	74,885
<i>% Serious</i>	<i>47%</i>	<i>44%</i>	<i>77%</i>
Willful	3	278	1,519
Repeat	35	2,054	2,758
Serious/Willful/Repeat	841	54,925	79,162
<i>% S/W/R</i>	<i>51%</i>	<i>46%</i>	<i>82%</i>
Failure to Abate	10	460	334
Other than Serious	858	65,031	17,244
<i>% Other</i>	<i>50%</i>	<i>54%</i>	<i>18%</i>
Avg # Violations/ Initial Inspection	4.9	3.4	3.2
<b>Total Penalties</b>	<b>\$645,960</b>	<b>\$ 72,233,480</b>	<b>\$ 183,594,060</b>
Avg Current Penalty / Serious Violation	\$ 499.60	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 603.60	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	60.0%	47.7%	40.9%
<b>% Insp w/ Contested Viols</b>	<b>0.0%</b>	<b>14.4%</b>	<b>8.0%</b>
Avg Case Hrs/Insp- Safety	18.8	16.2	18.6
Avg Case Hrs/Insp- Health	35.8	26.1	33
Lapse Days Insp to Citation Issued- Safety	41.7	33.6	37.9
Lapse Days Insp to Citation Issued- Health	57.5	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	30	1,715	2,510

**Appendix D**  
**Wyoming FY 2010 FAME Report**  
**State Activity Mandated Measures Report (SAMM)**

NOV 12, 2010

PAGE 1 OF 2

U. S. D E P A R T M E N T O F L A B O R  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
STATE ACTIVITY MANDATED MEASURES (SAMMs)

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2009		CURRENT	REFERENCE/STANDARD
	To: 09/30/2010		FY-TO-DATE	
1. Average number of days to initiate State Complaint Inspections	653	7.02	54 7.71	Negotiated fixed number for each
	93		7	
2. Average number of days to initiate State Complaint Investigations	350	4.06	0 .00	Negotiated fixed number for each
	86		2	
3. Percent of Complaints where Complainants were notified on time	85	92.39	6 100.00	100%
	92		6	
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	7	100.00	1 100.00	100%
	7		1	
5. Number of Denials where entry not obtained	0		0	0
6. Percent of S/W/R Violations verified				
Private	580	89.23	12 85.71	100%
	650		14	
Public	83	81.37	0 .00	100%
	102		1	
7. Average number of calendar days from Opening Conference to Citation Issue				
Safety	17384	57.56	2577 58.56	2624646 47.3
	302		44	55472
Health	4629	81.21	144 72.00	750805 61.9
	57		2	12129

\*WY 11.12

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

**Appendix D**  
**Wyoming FY 2010 FAME Report**  
**State Activity Mandated Measures Report (SAMM)**

NOV 12, 2010

PAGE 2 OF 2

U. S. D E P A R T M E N T O F L A B O R

O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N

S T A T E A C T I V I T Y M A N D A T E D M E A S U R E S ( S A M M S )

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations	212	31	93201
Safety	77.37	96.88	58.4
National Data (3 years)	274	32	159705
Health	34	1	10916
National Data (3 years)	87.18	100.00	50.9
	39	1	21459
9. Average Violations per Inspection with Vioations	993	89	428293
S/W/R	2.76	1.93	2.1
National Data (3 years)	359	46	201768
Other	776	43	240266
National Data (3 years)	2.16	.93	1.2
	359	46	201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	772957	70450	509912690
National Data (3 years)	960.19	848.79	1360.4
	805	83	374823
11. Percent of Total Inspections in Public Sector	28	3	72
Data for this State (3 years)	7.31	20.00	5.3
	383	15	1366
12. Average lapse time from receipt of Contest to first level decision	0	0	3826802
National Data (3 years)	0	0	217.8
	0	0	17571
13. Percent of 11c Investigations Completed within 90 days	1	0	100%
	16.67	.00	
	6	1	
14. Percent of 11c Complaints that are Meritorious	3	1	1461
National Data (3 years)	50.00	100.00	21.2
	6	1	6902
15. Percent of Meritorious 11c Complaints that are Settled	2	1	1256
National Data (3 years)	66.67	100.00	86.0
	3	1	1461

WY 11.12

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

# Appendix E

## Wyoming FY 2010 FAME Report

### State Indicator Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

1101007  
PAGE 1

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = WYOMING

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
<b>C. ENFORCEMENT (PRIVATE SECTOR)</b>								
<b>1. PROGRAMMED INSPECTIONS (%)</b>								
A. SAFETY	5298	33	11403	123	21912	240	43788	665
	62.4	66.0	63.8	78.8	65.1	80.0	65.9	86.6
	8493	50	17860	156	33647	300	66434	768
B. HEALTH	488	4	1094	12	2232	23	4202	42
	30.6	50.0	33.7	48.0	35.0	48.9	35.1	54.5
	1597	8	3249	25	6378	47	11960	77
<b>2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)</b>								
A. SAFETY	4663	42	9421	112	17649	252	34350	621
	72.7	75.0	71.2	84.2	69.1	86.0	67.1	87.0
	6413	56	13232	133	25525	293	51214	714
B. HEALTH	451	4	880	12	1756	20	3238	36
	57.8	100.0	53.9	100.0	55.4	95.2	53.4	85.7
	780	4	1632	12	3168	21	6066	42
<b>3. SERIOUS VIOLATIONS (%)</b>								
A. SAFETY	17341	100	33678	246	62211	537	117447	1397
	81.6	52.1	81.5	48.7	81.0	46.1	80.1	51.5
	21261	192	41304	505	76839	1164	146593	2710
B. HEALTH	3233	22	6183	62	11743	127	21554	193
	69.6	39.3	70.5	43.4	70.2	44.3	69.6	42.8
	4645	56	8776	143	16725	287	30947	451
<b>4. ABATEMENT PERIOD FOR VIOLS</b>								
A. SAFETY PERCENT >30 DAYS	3054	0	6515	3	12732	71	25040	430
	15.0	.0	16.3	1.2	17.2	12.9	17.7	29.5
	20398	101	39855	252	74010	550	141219	1460
B. HEALTH PERCENT >60 DAYS	255	0	633	0	1406	5	2977	5
	5.6	.0	7.3	.0	8.5	3.4	9.6	2.2
	4548	23	8681	63	16580	147	30862	226

**Appendix E**  
**Wyoming FY 2010 FAME Report**  
**State Indicator Report (SIR)**

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 2

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = WYOMING

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	1200	1106734	1200	2038916	1200	3500911	5325
OTHER-THAN-SERIOUS	837.5	600.0	803.1	600.0	894.3	400.0	967.6	887.5
	701	2	1378	2	2280	3	3618	6
B. HEALTH								
	249175	0	434447	0	732953	0	1039303	0
OTHER-THAN-SERIOUS	817.0	.0	801.6	.0	835.8	.0	842.2	.0
	305	0	542	0	877	0	1234	0
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	52	20529	161	38849	313	76136	793
	5.8	2.3	5.7	3.2	5.5	3.3	5.5	4.7
	1679	23	3593	51	7112	95	13925	169
B. HEALTH								
	1864	9	3844	27	7547	69	14276	106
	2.1	.9	2.0	1.4	1.9	2.0	1.8	2.4
	908	10	1940	20	3898	34	8070	45
7. VIOLATIONS VACATED %								
	1123	5	2474	36	5103	71	10425	227
	3.7	2.0	4.3	5.2	4.7	4.6	5.0	6.5
	29962	255	57441	692	108213	1560	207527	3509
8. VIOLATIONS RECLASSIFIED %								
	844	15	1978	51	4276	107	9196	251
	2.8	5.9	3.4	7.4	4.0	6.9	4.4	7.2
	29962	255	57441	692	108213	1560	207527	3509
9. PENALTY RETENTION %								
	15767907	108839	30073309	175611	57457651	332314	111052615	953909
	64.5	38.0	63.9	42.3	63.0	37.7	62.8	34.6
	24439885	286210	47032897	415160	91194322	881074	176868726	2753422

## Appendix E

### Wyoming FY 2010 FAME Report State Indicator Report (SIR)

U. S. D E P A R T M E N T O F L A B O R

PAGE 3

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = WYOMING

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	33 66.0 50	1 100.0 1	123 78.8 156	1 50.0 2	240 80.0 300	3 42.9 7	665 86.6 768	6 50.0 12
B. HEALTH	4 50.0 8	0 .0 1	12 48.0 25	0 .0 2	23 48.9 47	17 81.0 21	42 54.5 77	20 71.4 28
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	100 52.1 192	2 100.0 2	246 48.7 505	2 100.0 2	537 46.1 1164	11 68.8 16	1397 51.5 2710	27 56.3 48
B. HEALTH	22 39.3 56	5 31.3 16	62 43.4 143	56 52.8 106	127 44.3 287	136 56.9 239	193 42.8 451	167 58.0 288

**Appendix E**  
**Wyoming FY 2010 FAME Report**  
**State Indicator Report (SIR)**

1101007

U. S. D E P A R T M E N T O F L A B O R

PAGE 4

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = WYOMING

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610	0	1134	0	2052	0	3827	0
	22.5	.0	23.2	.0	21.9	.0	23.0	.0
	2709	0	4888	0	9366	0	16668	0
2. VIOLATIONS RECLASSIFIED %	306	0	585	0	1100	0	2217	0
	11.3	.0	12.0	.0	11.7	.0	13.3	.0
	2709	0	4888	0	9366	0	16668	0
3. PENALTY RETENTION %	4940512	0	7526155	0	12856359	0	23378285	0
	65.3	.0	62.3	.0	58.1	.0	58.4	.0
	7563023	0	12074308	0	22143463	0	40052611	0

**Appendix F**

**Wyoming FY 2010 State OSHA Annual Report (SOAR)**

**Available Separately**