

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

for the

STATE OF WYOMING

**Evaluation Period:
October 1, 2009 – September 30, 2011**

Prepared by

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

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I. Executive Summary

A. Summary of the Report

This report assesses the activities of Wyoming OSHA and their progress in resolving outstanding recommendations. During fiscal year (FY) 2011, Wyoming conducted 226 inspections, seven discrimination investigations and 27 public sector consultation visits. Due to staff turnover and a complex refinery inspection, Wyoming inspections were fewer than normal this fiscal year. Wyoming OSHA also approved one new star site for their Cowboy Voluntary Protection Program (CVPP) and maintains 15 sites in their public sector Safety and Health Achievement Recognition Program (SHARP). The state completed nine of the thirteen corrective actions identified in the FY 2010 Federal Annual Monitoring Evaluation (FAME) report, and anticipates completion of all action items by the end of this fiscal year. In addition, Wyoming OSHA exceeded all their performance goals for FY 2011.

An on-site review of the program identified well organized case files with fully documented violations and complete abatement. Fatality files, in particular, were exemplary. There are two enforcement related corrective actions related to hazard identification and documentation of employee exposure and employer knowledge. The latter enforcement related corrective action was a previous corrective action. In addition, there were three discrimination related corrective actions: improper screening, some problems with case file development and a lack of documentation to support the terms of the settlement. The third item is a repeat finding from 2009. Two additional previous corrective actions from last fiscal year are outstanding. These are referencing the Wyoming Rules of Practice and Procedure in the Federal Operation Manual and implementation of the state's internal evaluation program.

B. State Plan Introduction

Wyoming OSHA is housed in the Wyoming Department of Workforce Services, under the Office of Workforce Standards and Compliance and in the Division of Enforcement. John Ysebaert, the Administrator of the Office of Workforce Standards and Compliance is the designee. JD Danni, Deputy Administrator, manages Wyoming OSHA. Wyoming OSHA consists of enforcement, discrimination, compliance assistance, consultation and risk management in both the public and private sectors. Risk Management is 100% funded by the state. Private sector consultation is funded under the 21(d) cooperative agreement. The main office is located in Cheyenne, Wyoming with satellite offices in Casper, Gillette and Rock Springs. The program follows a five day workweek schedule and closely mirrors the federal program. Wyoming has 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. Additional staff includes the deputy director, one supervisor, one public sector consultant, one compliance assistance specialist (CAS), and two administrative persons. The public sector consultant and the CAS position is split among the 21(d) consultants which allows each consultant to do some work in the public sector and in compliance assistance. The grant and the cooperative agreement appropriately reflect those splits. All compliance assistance work, including the Cowboy Voluntary Protection Program (CVPP), is funded under the 23(g) grant.

The Wyoming 2011 fiscal year (FY) final grant amount was \$1,433,507, which includes federal/state matching funds of \$548,700 each and a state overmatch of \$336,107.

Wyoming jurisdiction includes private employers having one or more employees and all state and local government agencies, including public education. Wyoming has jurisdiction over approximately 251,808 employees, with 23% 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.

C. Methodology

The findings and recommendations in this report are based on the February 2012 enforcement onsite review and the following data sources:

- 2010 State's Corrective Action Plan (CAP)
- 2011 State Operations Annual Report (SOAR)
- State Plan Grant Applications (2011, 2012)
- State Activity Mandated Measures Report (SAMM)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- Minutes from quarterly meetings
- FY 2010 Enforcement Activity chart generated from the Integrated Management Information System (IMIS) data

Method:

The onsite review was conducted the week of February 27, 2012 by four Region VIII representatives. The onsite review focused on a review of the discrimination and enforcement case files, verification of completed actions from the 2009 CAP, and follow-up of outstanding CAP items.

Enforcement case files were selected following Appendix K of the 1994 "State Plan Monitoring Manual" per the FY 2011 Federal Annual Monitoring and Evaluation (FAME) Guidance. To ensure corrective actions from the last review were fully implemented, case files were selected from the last three quarters of FY 2011 with the exception of the fatality cases. Five fatality cases were reviewed from the entire fiscal year. Fifty-three enforcement case files were reviewed: 11 of those files were health and 42 were safety.

Seven discrimination cases for the 2011 fiscal year were reviewed and four pending cases were assessed.

In addition, ten non-formal complaints and five referrals, originally coded as inquiries (phone and fax investigations) were reviewed. Stakeholder and staff interviews were conducted.

D. Findings and Recommendations

Listed below are the major findings and recommendations from this report.

11-1

Finding: Wyoming is not consistently and appropriately documenting employer knowledge and employee exposure.

Recommendation: Wyoming should document the name and job duty of any exposed employee. Compliance officers should also document how the employer has knowledge of the hazard before issuing a citation.

11-2

Finding: In some cases Wyoming did not cite all hazards that were documented in the case file.

Recommendation: All hazards identified during an inspection must be cited or information provided in the case file as to why they were not cited.

11-03

Finding: In one whistleblower case a decision was made not to investigate where evidence merited further investigation.

Recommendation: When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, Wyoming Attorney General's Office, or the OSHA Denver Regional Office.

11-04

Finding: Some Whistleblower case files were not fully developed, as reflected by the reports.

Recommendation: Provide training in developing, testing the Respondent's defenses and nexus, i.e., disparate treatment, animus, and timing.

11-05

Finding: The two case files reviewed with settlements did not contain documentation related to the terms of a settlement.

Recommendation: Ensure the terms and rationale of the settlement is documented in the case file and/or report.

11-6 formerly 10-09

Finding: Add state specific references to the Wyoming Rules of Practice and Procedure (ROPP) in the federal Field Operations Manual (FOM).

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 09/30/12.

11-7 formerly 10-11

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 09/30/12.

II. Major New Issues

A. Reorganization

Wyoming reorganized their state government in July of 2011. The Department of Employment was dissolved and Wyoming OSHA was moved under the Department of Workforce Safety into the Office of Standards and Compliance where the designee resides. Wyoming OSHA is further located in the Division of Enforcement. Wyoming OSHA maintains access to worker compensation data, which is an integral part of their program.

Plans are currently underway to hire an additional industrial hygienist as well as a new state epidemiologist, who will be placed under the designee and will work in conjunction with the Wyoming OSHA program. Legislation recently passed that adds an additional seven consultants to the Wyoming consultation staff.

B. Wyoming Oil and Gas Industry Safety Alliance (WOGISA)

Wyoming OSHA continues to participate in the Wyoming Oil and Gas Industry Safety Alliance (WOGISA). This alliance consists of various employers (producers, drillers, servicers, support activities) and employees. WOGISA operates under a board of thirteen members who meet on a monthly basis. The WY OSHA Deputy Director or the Consultation Manager attends 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 2012. The alliance has attracted tremendous support from Wyoming employers and employees to date.

C. Penalty Change

Wyoming adopted the increased penalty structure being used by federal OSHA in January of 2011. Due to the increased burden from this change on small employers, Wyoming OSHA decreased penalties for small employers, but reverted back in September of 2011 to the old gravity based penalty schedule for employers with less than 25 employees but kept the new calculation structure.

III. State Actions in Response to Recommendations from the FY 2010 EFAME

During FY 2011, the state continued to focus on the following actions from the 2010 FAME. All of the actions below originated in the 2009 EFAME. Those items marked “*completed*” were appropriately addressed this fiscal year and verified during the onsite visit. Those not marked as complete have been designated a new number and are included in the list of corrective actions for this 2011 FAME report (Section I, D).

10-01 formerly 09-14

Finding: Personally identifiable information (PII) such as: social security numbers and coroners

reports were found in some case files.

State Action: A written procedure to address the release of PII created and is currently in use.

Completed

10-02 formerly 09-16

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

State Action: Wyoming recently conducted a lead inspection referred to them by the Environmental Protection Agency. Wyoming also is now required to adopt all National Emphasis programs (NEP) which will require them to devote increased resources to health hazards. To accomplish this, Wyoming plans to add an additional health compliance officer to their staff during FY 12.

Completed

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 codes to be used.

State Action: Written procedures have been developed for the five Wyoming LEPs.

Completed

10-04 formerly 09-28

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

State Action: The state has documented the criteria of the 75/25 program in writing.

Completed

10-05 formerly 09-29

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

State Action: The state inserted a clause in the criteria document referenced in 10-04 to address participation of a company in this program multiple times within a year. While the state will not deny participation multiple times, they did agree to limit it by assessing each request on a case by case basis. Each company seeking repeat participation will be scrutinized to insure the program is not abused.

Completed

10-06 formerly 09-34

Findings: The state appears to have unlimited time to settle cases at the informal level.

State & Federal Action: An extensive review of the state policy for post-contest informal settlements revealed, that while different from the federal process, the state is following the process under which the state program was approved. This process was reviewed during the onsite visit and time to settle cases overall is not extensive when compared to federal OSHA. It was determined there was no adverse impact on safety or health from this process. A more detailed discussion of this process is provided in section IV, B, 1, Informal Conferences.

Completed

10-07 formerly 09-35

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

State Action: The state had not used the 75/25 program at all during FY 2011 and is now following federal guidelines for Quick Fix.

Completed

10-08 formerly 09-38

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

State Action: The state has worked with the region to resolve post citation data entry errors. Any remaining coding errors will be addressed through sharing the data base forms from the onsite review for each individual inspection with the state.

Completed

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 09/31/12.

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.

Completed

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 09/30/12.

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.

State Action: Wyoming OSHA requested permission to alter this process several times, but the Wyoming State government stands firm in their resolution to not allow adoption by reference.

Completed

IV. Assessment of State Performance

A. Enforcement

It is the policy of Wyoming OSHA to adopt all federal Occupational Safety and Health Administration standards with no changes. The state 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 2011 fiscal year.

Wyoming projected 375 inspections in their 2011 grant application and completed 226 inspections. The state attributes the shortfall to turnover caused by transfers to consultation and retirements as well as another refinery inspection which fully engaged two positions full-time for three to four months. Eighty-eight percent of inspections were safety, 12% were health and 57% were in the construction industry. These statistics are similar to the federal percentages of 82%, 18% and 56% respectively. Wyoming conducted six imminent danger inspections, all of which were opened within one day. Wyoming conducted thirty-one inspections in the Oil and Gas Industry, which is an area of emphasis in the state.

The 2011 Enforcement Activity chart showed a Wyoming inspection lapse time of 45 days for safety and 85 days for health as compared to the federal lapse time of 43 days for safety and 55 days for health. Lapse time is the number of working days between the opening conference and citation issuance. Lapse time for health inspections was exaggerated this fiscal year due to two refinery inspections conducted by the health CSHOs. These inspections take extensive time. Compliance officers in Wyoming average 21 hours for a safety case and 34 hours for a health case as compared to federal OSHA's 20 hours for safety and 33 hours for health.

Fifty-three inspection case files were reviewed onsite this fiscal year. Thirty of the 53 inspections reviewed were programmed related, 12 were generated by complaints, three by referral, five were fatality inspections, two were program related and one was un-programmed related. Twenty of the inspections were comprehensive inspections, 32 were partial and one, an independent contractor, was classified as "no inspection." Fifty inspections were in the private sector and three were in the public sector. The majority of case files were well organized.

1. Complaints

Wyoming addresses un-programmed activity in the same manner as federal OSHA. Wyoming negotiated a complaint response time of 16 working days for inspections (due to long distances traveled) and one working day for inquiries (phone and fax process). Twenty-two percent of Wyoming inspections (49 inspections) were complaint generated during FY 2011 as compared with 21% of federal OSHA inspections.

According to the SAMM report for FY 2011, Wyoming's response time was five days to initiate complaint inspections and approximately two days to initiate inquiries. The increased response time for inquiries was due to a couple of cases and is not considered a trend as the majority of cases are responded to within the one day time period. Complainants were notified of the inspection results in a timely manner 90% of the time. Six cases (10%) were outliers. Five of those six outlier cases were inspections where no citations were issued.

Twelve complaint inspection case files were reviewed onsite as well as ten inquiry files. Inquiry files are addressed informally using a phone and fax method. All cases reviewed were responded to in a timely manner and all hazards appeared to be addressed. No problems were found in either the complaint inspection or the inquiry process.

2. Fatalities

Wyoming investigated seven fatalities during FY 2011. Three fatalities were in construction and four in general industry. Three of the general industry fatalities involved the oil and gas industry. 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 and submits them to both the Regional and National Offices.

Five fatality inspections were reviewed during the onsite visit and no significant deficiencies were noted. One fatality involved an independent contractor and, therefore, was a “no inspection.” All fatality files were organized and well-documented.

3. Targeting and Inspections

Sixty-nine percent (156) of Wyoming’s inspections in FY 2011 were programmed as compared to 58% of federal inspections. Seventy-one percent (85) of safety related programmed inspections and 100% (7) of health programmed inspections resulted in serious, willful or repeat violations. Wyoming is program driven and uses state worker compensation data to target individual employers in high hazard industries with high rates of injuries and illnesses. This is Wyoming’s primary targeting tool. Using worker compensation data to target is a precise tool and gets Wyoming into workplaces that are experiencing injuries. 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 2011 included: Construction, Oil and Gas Drilling, Oil and Gas Servicing, Nursing Care Facilities / Care for the Elderly and Public Sector Employment with a high Employer Modification Rate.

Wyoming adopted the trenching, recordkeeping, and primary metals 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 Management Information System (IMIS).

Case file reviews during the onsite visit indicate that inspections are taking place in areas of emphasis and those inspections are appropriately coded.

4. Citations and Penalties

Wyoming issued 20 repeat, 304 serious and 237 other-than-serious citations. No willful or failure-to-abate citations were issued this fiscal year nor were any cases reviewed that

indicated either of these citations should have been issued. Willful citations have been issued in past years. Wyoming averaged 2.5 serious violations per inspection which is in line with the national average.

Following is a comparison of Wyoming data versus Federal data in regard to citations:

	<u>Wyoming</u>	<u>Federal OSHA</u>
Percent Serious Violations	54%	73%
Percent Other-than-Serious Violations	42%	22%
Percent of In-Compliance Inspections	32%	29%
Percent of Inspections Where Citations were issued with Serious Violations	77%	86%

Of the 53 cases that were reviewed during the onsite visit, 40 had citations. While all case files contained most of the evidence to support the violations, employee exposure and/or employer knowledge were not documented in 13% of the case files. Six (10%) of the 40 cases with violations contained hazards identified in the case file that were either not cited, or information was not provided as to why they were not cited.

The average initial penalty per serious violation for fiscal year 2011 was \$1,913 compared to the national reference standard of \$1,680 (average of federal and state offices). The high initial penalties in Wyoming are attributed to the state's adoption of the new federal penalty increases in January of 2011. The average current serious penalty for FY 2011 in Wyoming (private sector only) was \$1,242 as compared to the federal (private sector only) average serious penalty of \$2,133. This latter is an average of the penalties in opened cases; some initial penalties and some already reduced by settlement, making it lower than the average initial penalty as indicated above.

Penalties were appropriate and were correctly calculated in the case files reviewed.

Finding and Recommendations

11-1

Wyoming is not consistently and appropriately documenting employer knowledge of apparent hazards and employee exposure. Wyoming should document the name and job duty of any exposed employee. Compliance officers should also document how the employer has knowledge of the hazard before issuing a citation.

11-2

Wyoming did not cite all hazards that were documented in 10% of the 40 case files that had violations. All hazards identified during an inspection must be cited or

documentation provided in the case file as to why they were not cited.

5. Abatement

The state does an excellent job of obtaining and documenting abatement. For the 40 cases reviewed during the onsite where citations were issued, no problems were noted with the abatement process. The number of days given to abate was appropriate for the violations being cited. Two cases included petitions for modification of abatement (PMA).

Due to limited resources, Wyoming did not conduct any follow-up inspections this fiscal year.

6. Employee and Union Involvement

The State of Wyoming is a “right to work state” and has a small workforce working in establishments with unions. During every inspection, CSHOs are required to fill out the “Employer Contact Sheet.” This form insures documentation of union presence and participation. Unions were present in 9% (five of 53) of the inspections reviewed for FY 2011. There was 100% participation by union representative in those five cases and that participation was documented in the case files.

Three inspections involved industrial hygiene (IH) sampling. Documentation for calibration of sampling equipment was included in all three inspection case files. The correct forms were used to document the sampling in two of the three inspections and the sampling results were correctly calculated in two of the three inspections. There appeared to be a discrepancy in calculating sampling results in one of the case files.

It is suggested the state consider sending one Industrial Hygienist to the Industrial Hygiene course at the OSHA Training Institute this fiscal year to learn OSHA related IH techniques and forms.

B. Review Procedures#

1. Informal Conferences

The state requires that a letter of contest be submitted to Wyoming OSHA within 15 working days after the receipt of citations. According to the Rules of Practice and Procedures (ROPP), the state has unlimited time to informally settle cases; therefore, informal conferences are not routinely scheduled within the 15 working days. Wyoming OSHA does not file the letter of contest immediately, but continues to work informally with each employer to settle the case until there is no forward progress. At the point where no progress is being made, the letter of contest is officially filed and the case is turned over to the state Attorney General’s Office for formal settlement or litigation.

In order to resolve the past CAP item of “the state appears to have unlimited time to settle a case at the informal level” a report was run for all open cases where citations had been

issued, in order to assess the impact of this policy on the safety and health of employees. The results showed that 35 inspections where citations had been issued remained open. Of those 35 inspections, seven were under settlement and one case had outstanding long term abatement that was in progress. Nineteen of the inspections were in debt collection, two were contested, two were completing the training required by their informal agreement, two were related to fatality inspections that were not yet closed, and two involved a commission decision. A commission decision occurs if an employer ignores citations and penalties. The state takes that case before the commission and the employer is given a chance to present their case directly to the commission for a decision. For employers who ignore citations and penalties and do not appear before the commission, the commission rules those citations a final order and collection proceeds. The results of the review of open inspections with citations issued demonstrated on a small scale that the alternate process does not adversely affect abatement as employers continue to follow their required abatement plan through the settlement talks. While this state process is different than the federal process, it does not adversely affect the safety and health of employers as long as the abatement scheduled continues to be followed throughout the settlement process.

While it is difficult to make data comparisons due to the differences in the processes, the following comparison depicts the strategies being used to reach settlement. Due to the Wyoming informal process, most cases in Wyoming are settled informally. The average penalty reduction in Wyoming for FY 2011 was 57% as compared to 44% for federal OSHA. This is a decrease of three percent from last fiscal year. According to the Wyoming SIR indicators, 4% of violations were vacated and 14% of violations were reclassified during the informal settlement process during FY 2011. In comparison, 7% of violations were vacated and 5% of violations were reclassified for federal OSHA during the same time period.

Onsite review demonstrated that informal conferences were requested in 24 of the 40 inspections where citations were issued. Of the 19 inspections where sufficient data was collected, 10 of those (53%) were not settled within the 15 day contest period. Seven notices of contests were filed: five were timely and two were not filed within the required 15 days. The state is currently taking action to secure a team leader position to assist with informal conferences in order to decrease the amount of time between citation issuance and the informal conference.

Based on the overall strategy of Wyoming Workers' Safety to reduce worker compensation claims, the state reduces penalties during informal conference for proactive activities by employers that would improve the safety culture. These activities would include implementing or making improvements to their safety and health program, attending recommended training classes, agreeing to utilize the consultation program and implementing a self-inspection program at their workplace.

Wyoming retained the 75/25 Program, a unique penalty reduction program, but did not use this program this fiscal year. In this program, an employer, who has eight or more worker compensation claims, is given an opportunity have the penalty reduced 75% 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.

2. Formal Review of Citations

Because of the unlimited time to settle a case informally, few cases go to litigation. According to SAMM indicator 12, there were no cases with a first level decision during FY 2011. 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

1. Standards Adoption

During the 2011 FY, the State adopted the following standards changes:

- Standards Improvement Project, Phase III

The revised state Oil and Gas Standards, to include coal methane extraction, will be finalized during FY 2012.

2. Federal Program / State Initiated Changes

The following represent federal program initiated changes during FY 2011 and the State's corresponding action.

CPL 03-00-012 OSHA's NEP on Shipbuilding – The state did not adopt.

CPL 02-01-049, 29CFR Subpart I, 1915 Enforcement Guidance for PPE in Shipyard Employment – The state does not have jurisdiction for maritime.

STD 03-11-00 Compliance Guidance for Residential Construction - The state adopted the guidance.

DIR 11-01 (CPL3) NEP Microwave Popcorn Processing Plants – The state did not have any facilities.

CPL 02-00-150 Field Operations Manual, Maritime & Federal Agency Programs Chapter Added – The state has no jurisdiction in either of these areas so did not need to adopt.

CPL 03-00-013 Primary Metals NEP – The state adopted on 10/01/11.

CPL 02-01-151, 29 CFR Part 1951, Subpart B, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment – The state does not have jurisdiction in maritime.

CPL 02-00-151 Subpart T, Commercial Diving Operations – The state adopted on

10/01/11.

CPL 02-01-052 Enforcement Procedures for Investigation or Inspecting Workplace Violence Incidents – The state adopted on 10/01/11.

11-03 (CPL 02) Site Specific Targeting 2011 – The state did not adopt, but uses Wyoming worker compensation data to target.

CPL 02-03-003 Whistleblower Investigations Manual – The state adopted the changes on 10/01/11.

D. Variances

There were no new variances granted in Wyoming during this fiscal year.

E. Public Employee Program

According to the most recent data available (2010), approximately 21% of employees in Wyoming work in the public sector. Wyoming projected 45 inspections in the public sector for FY11 and completed nine. This is four 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 in an attempt to direct more resources into the public sector. While the state attempted to direct resources into this area this fiscal year, staff turnover and a complex refinery inspection impeded the expected increased activity in this area.

F. Discrimination Program – Special Study

The Special Study was conducted by an onsite audit of the program which occurred on February 27, 2011, and March 19, 2011. The special study consisted of a review of the Investigative Case Files, Program Management, and Resources.

1. Program Management

Assessment of Data Entry

- Wyoming utilizes administrative staff for entry of discrimination data into the IMIS web as soon as a complaint is filed through closing. Data is entered in a complete and timely fashion.
- Use of Data Management Reports
The Wyoming Supervisor utilizes a power point spreadsheet to track a complaint through the system.
- Confirmation of Effective Procedure to Appeal
The program utilizes the *Closing* letter to notify the Complainant of the right to appeal to the Wyoming Administrator.
- Review of logs or other Documentation that are Administratively Closed

See Screenings Section

Resources

- Adequacy and frequency of Training
 - Discrimination training for Wyoming is normally provided by Region VIII. The last formal training was conducted in 2009
 - The staff receives annual internal refresher discrimination training
 - The program is considering sending investigators to the OSHA Training Institute's Basic Whistleblower Investigations (1420) course.

2. Investigative Casefile Reviews.

The audit involved a review of screening and investigative case files from FY 2011. The review included five (5) screening files and eight (8) investigative case files. Since the number of files completed in the state each year is few, findings may not constitute a trend, but are identified due to the emphasis of this report on the discrimination program.

The following table is a summary of discrimination investigations during FY 2011.

Disposition	Totals
Total Cases from FY 2011	8
Cases completed in FY 2011	8
Case completed timely	13%
~Withdrawn	2
~Dismissed	4
~Merit	0
~Settled	2
~Settled other	0
~Litigated	0
Investigator on Staff (collateral duty)	8

Complaint Intake (Screening)

Wyoming OSHA reviews all potential complaints for appropriate coverage requirements, timeliness of filing and presence of a *prima facie* allegation. The screening process is completed by the Supervisor. Wyoming OSHA appropriately refers Federal Statute cases to the OSHA Denver Regional Office and has procedures in place to notify private sector complainants of the right to concurrently file Section 11(c) complaints with Federal OSHA. The findings are as follows:

- Four (4) cases were appropriately screened out for lack of cooperation in that the complainant did not return the *State of Wyoming Workers Safety and Compensation Complaint of Discrimination (WSCD 007D) Form*.
- In one (1) case a decision was made not to investigate where evidence merited further investigation. The complainant alleged he/she was terminated for

reporting an injury to management, thus articulating a *prima facie* allegation.

Findings and Recommendation:

11-03: Some Whistleblower case files were not fully developed as reflected by the reports. Provide training in developing, testing the Respondent's defenses and nexus, i.e., disparate treatment, animus, and timing

Investigations and Report Writing

Three (3) of eight (8) cases did not follow OSHA's recommended case file organization. In most cases, the Final Investigation Report contained a good description of the findings. However, there were discrepancies in the analysis section of the report writing. A few examples include errors in the identification of adverse action and nexus, i.e., timing, animus and disparate treatment. Wyoming will be able to improve the quality of the investigations and report writing by having a better understanding of how to develop and analyze evidence in testing the Respondent's defenses and nexus, i.e., disparate treatment, animus and timing.

Findings and Recommendation:

11-04: Some Whistleblower case files were not fully developed as reflected by the reports. Provide training in developing, testing the Respondent's defenses and nexus, i.e., disparate treatment, animus, and timing

Settlements

Wyoming conducted settlements that were "as effective" as OSHA. The program seeks voluntary settlements early and throughout the investigation. The two (2) settlements reviewed were good settlements given the factors at the time of settlement. The Supervisor was able to verbally provide information on the justification of settlement; however the files did not contain a written justification of the settlement nor did either file contain a Final Investigation Report.

Findings and Recommendation:

11-05: The two case files reviewed with settlements did not contain documentation related to the terms of a settlement. Ensure the terms and rationale of the settlement is documented in the case file and/or report.

3. Stakeholder Interviews:

For purposes of this Special Study, there was an attempt to contact six Stakeholders. Only one was available for interview. A business agent for a local union, expressed frustration several years back; however, now thinks the program has improved. This contact indicated that he believed the program needed increases in both funding and the numbers of investigators.

G. CASPAs

There were no CASPAs filed against the state this fiscal year.

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 2011, 55 outreach training seminars were conducted with 1,962 attendees. Training topics included: a twenty-four hour course covering General Industry Standards (1910), construction Ten Hour training courses, Construction Safety courses specific to: excavation, asbestos removal, confined space, scaffolding and residential fall protection, the new Crane standard, Recordkeeping, Oil and Gas Drilling and Servicing and a Management Excellence course including a Behavior-Based Safety Introduction.

Wyoming's entire staff continues to present a cost benefit analysis to employers during inspections and consultation visits. During this analysis, each employer is shown the specific injuries that occurred in their company and the exact cost associated with each claim.

In April of 2011, Wyoming held their sixth annual Department of Employment's Safety Awards Conference. Two hundred thirty-two participants attended the event. Awards were presented to companies with outstanding safety and health programs.

I. Public Sector Consultation Program

The same staff members provide public and private sector consultation as well as the compliance assistance. 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 50 visits in the public sector during FY 2011 and completed 27 visits. Three of the 27 visits were initial visits, none were follow-up visits and there were no visit related training initiatives. Fifty-six hazards were identified; three were abated on-site, 37 were abated within the original timeframe, and 16 within the extension time frame.

Wyoming had a great deal of turnover in their consultation staff including a new manager. These changes impacted some of the projected indicators for the fiscal year.

At the end of fiscal year 2011, Wyoming had 15 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 and four sites withdrew.

J. Program Administration

The state continued to work proactively with the region throughout this past year. All four quarterly meetings were conducted: two were face-to-face meetings and two were held via telephone conferencing.

1. 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. The state also conducts “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. Wyoming conducted training on the new crane standard during one session this fiscal year. A senior safety CSHO was assigned the task of putting together a power point on the new crane standard and training the rest of the staff. That presentation was then used to train employers during outreach sessions throughout the state.

Wyoming does not typically send their CSHOs to OTI except for specialized training such as the Process Safety Management trio of classes. Wyoming has repeatedly requested that the OTI Accident Investigation Training be brought to the state. Based on the CAP item concerning documentation of employee exposure and employer knowledge, the region suggests that Wyoming pursue requesting OTI course 1410 Inspection Techniques and Legal Aspects.

2. Funding

Wyoming continued to overmatch their grant by \$336,107 in order to maintain the integrity of the program. The state has no funding problems at this time.

3. Staffing

State turnover was extensive during the fiscal year, but is expected to slow down with changes to the classification system that allow for an increase in salary for senior positions within enforcement. The state classification system change last year did not allow a grade increase within the enforcement staff but provided the higher salaries for the consultation staff. That decision temporarily caused a shift in staff over to consultation resulting in vacancies and new personnel within the enforcement staff. The classification issue has now been resolved which should positively affect the resource issue in enforcement.

The state currently is experiencing one safety vacancy which is expected to be filled promptly. The state is allowing for one additional health position over the allotted benchmark of two. Wyoming health CSHOs are the Process Safety Management (PSM) specialists, so this addition should serve to reinforce resources during time extensive inspections in refineries and chemical facilities.

4. Information Management

The state is using IMIS reports and are proactively entering data and making corrections as needed. Wyoming consultation has been involved in the OIS rollout of consultation programs in Region VIII. Wyoming plans to participate in the rollout of the OIS in their

enforcement program when it is ready to implement.

5. State Internal Evaluation Program

This is a continuing CAP item with a due date of 09/30/12.

V. Assessment of State Progress in Achieving Annual Performance Goals

Fiscal year 2011 marked the third 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 eight fatalities this fiscal year. Because the number of fatalities in Wyoming is small, any change results in a huge percentage decrease or increase. For that reason, 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 23% decrease from their baseline in FY 2011 and a 39% average decrease for the past three years. The state's goal was exceeded this year.

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 2011, results from inspections indicated a 7% increase in the number of claims. This was accompanied by a 2.5% increase in employees and a 15.4% decrease in the cost of claims. A total of 282 companies were analyzed.

The total pool of employers involved (390), which include those receiving enforcement inspections and consultation visits, experienced a 13.6% decrease in the number of claims as well as a 0.7% increase in the number of employees and a 15.7% decrease in the cost of claims.

Wyoming exceeded their reduction goal this fiscal year and is commended for 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 Cowboy Voluntary Protection Program (CVPP) and the Safety and Health Achievement Recognition Program (SHARP) by four percent by developing relationships with companies applying safety and health best practices.

Wyoming started the 2011 fiscal year with 12 CVPP participants, all in the private sector. During the year, two of these companies went out of business and two did not renew their application and withdrew from the program. Based on these new numbers, Wyoming revised the baseline of their goal to eight. Wyoming added an additional CVPP site near the end of the fiscal year which brings the state to a total of nine CVPP sites.

Wyoming increased participation in their CVPP program by 12.5% and thereby exceeded their CVPP goal for the fiscal year.

Appendix A
 FY 2011 Wyoming State Plan FAME Report
 Findings & Recommendations

Rec #	Findings	Recommendations	FY-10#
11-01	Inspections: Wyoming is not consistently and appropriately documenting employer knowledge and employee exposure.	Wyoming should document the name and job duty of any exposed employee. Compliance officers should also document how the employer has knowledge of the hazard before issuing a citation.	
11-02	Inspections: In some cases Wyoming did not cite all hazards that were documented in the case file.	When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, Wyoming Attorney General's Office, or the OSHA Denver Regional Office.	
11-03	Discrimination: In one whistleblower case a decision was made not to investigate where evidence merited further investigation.	When evaluating unusual or questionable situations, refer to the Whistleblower Investigation Manual, Wyoming Attorney General's Office, or the OSHA Denver Regional Office.	
11-04	Discrimination: Some Whistleblower case files were not fully developed, as reflected by the reports.	Provide training in developing, testing the Respondent's defenses and nexus, i.e., disparate treatment, animus, and timing.	
11-05	Discrimination: Several case files did not contain documentation related to the terms of a settlement.	Ensure the terms and rational of the settlement is documented in the case file and/or report.	
11-06	Procedural: References to the federal Field Operations Manual (FOM) are not made in the Rules of Practice and Procedure (ROPP).	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 09/30/12.	10-09
11-07	SIEP: Internal evaluations are not done in the state.	Anticipated completion date of 09/30/12.	10-11

Appendix B
FY 2011 Wyoming State Plan FAME Report
Status of 2011 Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-1	Procedural: 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.	Written Process to Protect PII.	A written procedure to address the release of PII created and is currently in use.	Complete
10-2	Targeting: 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.	Look for health emphasis areas to address health hazards in Wyoming.	Wyoming recently conducted a lead referral inspection referred to them by the Environmental Protection Agency. Wyoming also is now required to adopt all National Emphasis programs (NEP) which will require them to devote increased resources to health hazards. To accomplish this, Wyoming plans to add an additional health compliance officer to their staff during FY 12.	Complete
10-3	Targeting: 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.	Written Local Emphasis Programs with Criteria.	Written procedures have been developed for the five Wyoming LEPs.	Complete
10-4	Review Procedures: 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.	Written Criteria for 75/25/ Program	The state has documented the criteria of the 75/25 program in writing. Completed	Complete

Appendix B Wyoming State Plan

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-5	Review Procedures: 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.	Address potential misuse of the 75/25 program by participating in the program multiple times within a one year period.	The state inserted a clause in the criteria document referenced in 10-04 to address participation of a company in this program multiple times within a year. While the state will not deny participation multiple times, they did agree to limit it by assessing each request on a case by case basis. Each company seeking repeat participation will be scrutinized to insure the program is not abused.	Complete
10-6	Review Procedures: 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.	None. Further discussion and review.	This process was reviewed during the onsite visit and time to settle cases overall is not extensive when compared to federal OSHA. It was determined there was no adverse impact on safety or health from this process.	Complete
10-07	Review Procedures: 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.	Address the use of multiple penalty reductions in a single case.	The state had not used the 75/25 program at all during FY 2011 and is now following federal guidelines for Quick Fix.	Complete

Appendix B Wyoming State Plan

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
10-8	Data Entry: 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.	Address errors as they are identified both in house and by federal OSHA>	The state has worked with the region to resolve post citation data entry errors. Any remaining coding errors will be addressed through sharing the data base forms from the onsite review for each individual inspection with the state.	Complete
10-9	Procedural: 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.	Incorporate the new FOM into the ROPP to eliminate incorrect or duplicative procedures.	References should be made between the ROPP and the FOM to clarify what procedures are being followed by the Wyoming state plan staff.	Anticipated completion date of 03/31/12.
10-10	Procedural: 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.	Document the SIEP.	Wyoming has created a written SIEP that incorporates their process and procedures.	Completed
10-11	SIEP: Internal evaluations are not done in the State.	Document and evaluate a minimum of one internal process each year.	Implement an internal evaluation and share documentation and results with the region.	Document and evaluate a minimum of one internal process each year.	Anticipated completion date of 09/30/12.
10-12	State Plan Changes: The state's standards adoption process is time consuming.	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.	Explore options to streamline standards adoption process.	Wyoming OSHA requested permission to alter this process several times, but the Wyoming State government stands firm in their resolution to not allow adoption by reference.	Completed

**Appendix C – Enforcement Comparison
Wyoming State Plan
FY 2011 Enforcement Activity**

	WY	State Plan Total	Federal OSHA
Total Inspections	226	52,056	36,109
Safety	200	40,681	29,671
% Safety	88%	78%	82%
Health	26	11,375	6,438
% Health	12%	22%	18%
Construction	128	20,674	20,111
% Construction	57%	40%	56%
Public Sector	9	7,682	N/A
% Public Sector	4%	15%	N/A
Programmed	156	29,985	20,908
% Programmed	69%	58%	58%
Complaint	49	8,876	7,523
% Complaint	22%	17%	21%
Accident	7	2,932	762
Insp w/ Viols Cited	154	31,181	25,796
% Insp w/ Viols Cited (NIC)	68%	60%	71%
% NIC w/ Serious Violations	76.6%	63.7%	85.9%
Total Violations	565	113,579	82,098
Serious	304	50,036	59,856
% Serious	54%	44%	73%
Willful	-	295	585
Repeat	20	2,014	3,061
Serious/Willful/Repeat	324	52,345	63,502
% S/W/R	57%	46%	77%
Failure to Abate	-	333	268
Other than Serious	237	60,896	18,326
% Other	42%	54%	22%
Avg # Violations/ Initial Inspection	2.9	3.4	2.9
Total Penalties	\$ 488,530	\$ 75,271,600	\$ 181,829,999
Avg Current Penalty / Serious Violation	\$1,241.60	\$ 963.40	\$ 2,132.60
% Penalty Reduced	56.5%	46.6%	43.6%
% Insp w/ Contested Viols	0.0%	14.8%	10.7%
Avg Case Hrs/Insp- Safety	20.6	17.1	19.8
Avg Case Hrs/Insp- Health	33.5	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	45.3	35.6	43.2
Lapse Days Insp to Citation Issued- Health	85.3	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	10	1,387	2,436

*Note: Federal OSHA does not include OIS data.
The total number of inspections for Federal OSHA is 40,684.*

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.8.2011.

Appendix D - S A M M Report

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)

NOV 09, 2011
PAGE 1 OF 2

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	307 5.20 59	7 1.16 6	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	133 1.66 80	2 .40 5	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	53 89.83 59	6 100.00 6	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	6 100.00 6	1 100.00 1	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	225 78.67 286	3 75.00 4	100%
Public	24 34.29 70	0 0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	8376 61.13 137	2830 57.75 49	2631708 51.9 50662
Health	2539 105.79 24	0 0 0	767959 64.8 11844
			National Data (1 year)
			National Data (1 year)

*WY FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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)

NOV 09, 2011
 PAGE 2 OF 2

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	85	45	90405
Safety	71.43	95.74	58.5 National Data (3 years)
	119	47	154606
	7	0	10916
Health	100.00	0	51.7 National Data (3 years)
	7	0	21098
9. Average Violations per Inspection with Vioations			
	403	86	419386
S/W/R	2.50	1.75	2.1 National Data (3 years)
	161	49	198933
	180	24	236745
Other	1.11	.48	1.2 National Data (3 years)
	161	49	198933
10. Average Initial Penalty per Serious Violation (Private Sector Only)	682949	144310	611105829
	1913.02	1924.13	1679.6 National Data (3 years)
	357	75	363838
11. Percent of Total Inspections in Public Sector	9	1	50
	3.98	4.76	4.5 Data for this State (3 years)
	226	21	1119
12. Average lapse time from receipt of Contest to first level decision	0	0	3533348
	0	0	199.7 National Data (3 years)
	0	0	17693
13. Percent of 11c Investigations Completed within 90 days	1	0	100%
	14.29		
	7	0	
14. Percent of 11c Complaints that are Meritorious	2	0	1517
	28.57		23.0 National Data (3 years)
	7	0	6591
15. Percent of Meritorious 11c Complaints that are Settled	2	0	1327
	100.00		87.5 National Data (3 years)
	2	0	1517

*WY FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

REPORT-ID	COMPL-NR	COMPL-HDATE	OPEN-CONF	CLOSE-CONF	ISSU-DATE	
08556	0	205847304	20101209	20101019	20101022	00000000
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08556	0	205847395	20110307	20101104	20101104	00000000
08556	0	205847403	20110316	20101118	20101118	00000000
08556	0	205847445	20110531	20101214	20101214	00000000
08556	0	205847619	20110505	20110112	20110112	20110316

*****TOTAL ***** 6

MEASURE NUMBER: 6

CITATION LISTING

PAGE 1

OWNER	REPORT-ID	INSP-NR	ABATE-DATE	VERIFY-DATE	CITATION-NR	ITEM-NR	
PRI	08556	0	312204316	20100521	20101217	01	006
PRI	08556	0	312204316	20100521	20101217	01	007
PRI	08556	0	312204316	20100521	20110105	01	008
PRI	08556	0	312204340	20101217	20110208	01	002
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PRI	08556	0	312206881	20100524	20101201	01	001
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PUB	08556	0	312206915	20100521	20110120	01	005
PUB	08556	0	312206915	20100521	20110120	01	007
PUB	08556	0	312206923	20100524	20101201	01	003
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PUB	08556	0	312206923	20100524	20101201	01	007
PUB	08556	0	312206923	20100524	20101201	01	005
PUB	08556	0	312206923	20100524	20101202	01	002
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PUB	08556	0	312207046	20100323	20101222	01	003

MEASURE NUMBER: 6

CITATION LISTING

PAGE 2

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PUB	08556	0	312207046	20100323	20110216	01	007
PRI	08556	0	312207632	20100510	20110715	02	001
PRI	08556	0	312207632	20100510	20101124	02	002
PRI	08556	0	312208077	20100713	20110228	01	003
PRI	08556	0	312208671	20101011	20110317	01	002
PRI	08556	0	312208671	20101011	20110203	01	003
PRI	08556	0	312208671	20101011	20110318	01	005
PRI	08556	0	312208671	20101011	20101112	01	001
PRI	08556	0	312208697	20100929	20110715	01	001
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PRI	08556	0	312208697	20100929	20110715	01	003
PRI	08556	0	312208697	20100929	20110715	01	004
PRI	08556	0	312208697	20100929	20110715	01	005
PRI	08556	0	312208697	20100929	20110715	01	006
PRI	08556	0	312208697	20100929	20110715	01	007
PRI	08556	0	312208697	20100929	20110715	01	008
PRI	08556	0	312208697	20100929	20110715	01	009
PRI	08556	0	312208739	20100723	20101101	02	002
PRI	08556	0	312208739	20100723	20101101	02	001
PRI	08556	0	314506106	20100928	20110824	01	001
PRI	08556	0	314506106	20100928	20110824	01	002
PRI	08556	0	314506635	20110104	20110411	02	016
PRI	08556	0	314506635	20110104	20110511	02	019
PRI	08556	0	314506635	20110104	20110413	02	020
PRI	08556	0	314506635	20110104	20110511	02	022
PRI	08556	0	314506635	20110104	20110411	02	031
PRI	08556	0	314506635	20110104	20110411	02	021
PRI	08556	0	314506635	20110104	20110413	02	030
PRI	08556	0	314506635	20110104	20110411	02	028
PRI	08556	0	314506635	20110104	20110411	02	012
PRI	08556	0	314506635	20110104	20110411	02	013
PRI	08556	0	314506635	20110104	20110923	02	014
PRI	08556	0	314506635	20110104	20110411	02	011
PRI	08556	0	314506635	20110104	20110408	02	004
PRI	08556	0	314506635	20110104	20110413	02	003
PRI	08556	0	314506635	20110104	20110422	02	006
PRI	08556	0	314506635	20110104	20110411	02	024
PRI	08556	0	314506635	20110104	20110406	02	001
PRI	08556	0	314506635	20110104	20110411	02	026
PRI	08556	0	314506635	20110104	20110411	02	027

PRI	08556	0	314506635	20110104	20110404	02	008
PRI	08556	0	314506635	20110104	20110411	02	034
PRI	08556	0	314506635	20110104	20110404	02	007
PRI	08556	0	314506635	20110104	20110416	02	009
PRI	08556	0	314506635	20110104	20110511	02	029
PRI	08556	0	314506635	20110104	20110422	02	005
PRI	08556	0	314507039	20110413	20110715	01	003
PRI	08556	0	314507039	20110413	20110715	01	002
PRI	08556	0	314507211	20110303	20110405	01	002
PRI	08556	0	314507245	20110303	20110411	02	001

*****TOTAL ***** 107

MEASURE NUMBER: 13 MEASURE 13

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0855600	001763986	20101023	S	R
0855600	001748151	20101122	D	R
0855600	001767466	20101202	W	R
0855600	001751213	20110303	D	R
0855600	001754977	20110209	D	R
0855600	022587174	20110604	W	R

*****TOTAL ***** 6

MEASURE NUMBER: 14 MEASURE 14

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0855600	001763986	20101023	S	R
0855600	001748151	20101122	D	R
0855600	001767466	20101202	W	R
0855600	001771955	20101103	S	R
0855600	001751213	20110303	D	R
0855600	001754977	20110209	D	R
0855600	022587174	20110604	W	R
000000000	000000000	000000000		

*****TOTAL ***** 8

MEASURE NUMBER: 15 MEASURE 15

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0855600	001763986	20101023	S	R
0855600	001771955	20101103	S	R

*****TOTAL ***** 2

\$\$EOF SPXREC

Appendix E - SIR

QQQ Q SIR Q4SIR56 SIR56 111011 111857 PROBLEMS - CALL H 202 693-1734

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

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	3694	74	8169	103	18137	144	40070	389
	61.3	85.1	61.4	85.1	62.5	76.6	63.7	78.6
	6026	87	13312	121	29042	188	62876	495
B. HEALTH	480	2	1020	3	2126	4	4357	25
	39.7	33.3	36.4	25.0	34.6	20.0	34.7	37.3
	1208	6	2806	12	6150	20	12569	67
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	3378	32	7266	51	14959	100	32614	350
	73.7	88.9	72.4	83.6	70.1	80.0	69.1	83.7
	4583	36	10036	61	21330	125	47196	418
B. HEALTH	456	3	890	3	1723	5	3487	25
	57.0	100.0	57.2	100.0	56.2	83.3	55.3	89.3
	800	3	1555	3	3068	6	6309	28
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	11703	54	23768	81	48704	257	109064	769
	79.6	68.4	77.4	61.8	76.7	57.6	78.4	48.3
	14698	79	30703	131	63528	446	139117	1593
B. HEALTH	2634	8	5290	13	10266	24	21598	150
	66.6	38.1	64.7	27.1	64.4	31.6	66.7	41.4
	3957	21	8180	48	15930	76	32380	362
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2394	0	4978	0	10776	0	23693	71
	16.6	.0	16.8	.0	17.9	.0	17.9	8.6
	14465	74	29573	112	60243	302	132414	827
B. HEALTH PERCENT >60 DAYS	259	0	711	0	1451	0	3159	5
	6.5	.0	8.6	.0	9.4	.0	10.0	2.9
	4006	11	8234	18	15507	29	31619	175

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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								
	505479	0	1258835	0	2803637	0	5086228	1200
OTHER-THAN-SERIOUS	1181.0	.0	1195.5	.0	1126.9	.0	1055.2	400.0
	428	0	1053	0	2488	0	4820	3
B. HEALTH								
	219203	0	441915	0	853346	0	1667151	0
OTHER-THAN-SERIOUS	1184.9	.0	1077.8	.0	980.9	.0	958.7	.0
	185	0	410	0	870	0	1739	0
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	88	15417	123	33850	193	73070	513
	6.0	4.6	5.6	3.3	5.5	2.4	5.4	2.9
	1138	19	2730	37	6145	79	13476	174
B. HEALTH								
	1458	6	3330	12	7311	26	14958	96
	2.4	.5	2.2	.8	2.2	1.0	2.0	1.6
	615	11	1501	15	3390	27	7404	61
7. VIOLATIONS VACATED %								
	1270	0	3026	6	6577	23	12352	107
	5.6	.0	6.6	2.5	7.0	3.7	6.2	4.9
	22608	125	46128	236	93448	621	200310	2176
8. VIOLATIONS RECLASSIFIED %								
	737	7	1997	33	4456	85	9147	213
	3.3	5.6	4.3	14.0	4.8	13.7	4.6	9.8
	22608	125	46128	236	93448	621	200310	2176
9. PENALTY RETENTION %								
	19478404	110148	40012395	168462	77322520	373118	134938244	699807
	61.0	55.0	61.6	46.8	62.8	44.3	62.8	42.1
	31918969	200093	65001782	359842	123124542	841458	214845679	1661907

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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 %								
	74	0	103	1	144	2	389	5
A. SAFETY	85.1	.0	85.1	100.0	76.6	66.7	78.6	50.0
	87	0	121	1	188	3	495	10
	2	0	3	0	4	1	25	19
B. HEALTH	33.3	.0	25.0	.0	20.0	16.7	37.3	67.9
	6	0	12	0	20	6	67	28
2. SERIOUS VIOLATIONS (%)								
	54	0	81	0	257	1	769	12
A. SAFETY	68.4	.0	61.8	.0	57.6	33.3	48.3	63.2
	79	0	131	2	446	3	1593	19
	8	0	13	0	24	24	150	159
B. HEALTH	38.1	.0	27.1	.0	31.6	54.5	41.4	56.2
	21	0	48	1	76	44	362	283

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

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								
	579	0	1131	0	2220	0	4270	0
1. VIOLATIONS VACATED %	22.8	.0	23.4	.0	23.5	.0	23.0	.0
	2542	0	4834	0	9442	0	18586	0
	328	0	620	0	1259	0	2360	0
2. VIOLATIONS RECLASSIFIED %	12.9	.0	12.8	.0	13.3	.0	12.7	.0
	2542	0	4834	0	9442	0	18586	0
	3616720	0	9500018	0	16062961	0	28079915	0
3. PENALTY RETENTION %	56.1	.0	62.4	.0	62.3	.0	60.6	.0
	6443756	0	15212620	0	25766759	0	46371522	

APPENDIX F
FY 2011 State OSHA Annual Report (SOAR)
(Available Separately)

Appendix G
Wyoming State Plan
FY 2011 23(g) Consultation Activity

	WY Public Sector	Total State Plan Public Sector
Requests	33	1,328
<i>Safety</i>	1	576
<i>Health</i>	17	560
<i>Both</i>	15	192
Backlog	5	123
<i>Safety</i>	-	51
<i>Health</i>	3	58
<i>Both</i>	2	14
Visits	27	1,632
<i>Initial</i>	24	1,336
<i>Training and Assistance</i>	-	175
<i>Follow-up</i>	3	121
<i>Percent of Program Assistance</i>	92%	67%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%
Employees Trained	42	5,030
<i>Initial</i>	42	2,144
<i>Training and Assistance</i>	-	2,886
Hazards	138	6,063
<i>Imminent Danger</i>	-	3
<i>Serious</i>	125	4,804
<i>Other than Serious</i>	11	1,171
<i>Regulatory</i>	2	85
<i>Referrals to Enforcement</i>	-	6
Workers Removed from Risk	1,933	171,075
<i>Imminent Danger</i>	-	55
<i>Serious</i>	1,718	136,884
<i>Other than Serious</i>	195	26,046
<i>Regulatory</i>	20	8,090

Source: DOL-OSHA. 23(g) Public & Private Consultation Reports, 11.29.2011.