

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

Findings – General Case File Info		Recommendations- General Case File Info
1	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 that the State consider using a consistent order with tabs, as well as color coding, for fatalities, safety and health files, and ensure that there are no loose papers in the file.
2	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.
3	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.
4		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.
5	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.
6	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.
Findings – Inquiries		Recommendations – Inquiries
7	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)
8	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.
9	The response time was erroneous due to a data entry issue.	Using the complaint received date on the “Complaint Query Report” along with the SAMM 2 “Response Time to Initiate Complaint Investigations.”
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.
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.
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.
13	Five of the seven, tenth letter inspections were in-compliance during FY 2009.	The State should assess the productivity of doing 10 th 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.
Findings- Fatalities		Recommendations- Fatalities
14	Personally identifiable information 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.

Findings- Targeted Inspections		Recommendations- Targeted Inspections
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 targeting company to better ensure the inspection is focused into areas where the accidents are occurring.
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.
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.
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.
Findings- Employer and Union Involvement		Recommendations- Employer and Union Involvement
19	Employees are not consistently being interviewed during inspections.	Conduct employee interviews during inspections as dictated in Chapter 5, Section VIII, A. of the FOM, "Interview statement of employees and other individuals shall be obtained to adequately document a potential violation."
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.
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.
Findings- Citations and Penalties		Recommendations- Citations and Penalties
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.	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.
	On occasion, inappropriate use of grouping was used.	[See recommendation #22]
Findings- Abatement		Recommendations- Abatement
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.
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 abatement and observed by the CSHO onsite, no abatement date is necessary, but a notation should be made on the citation stating "Corrected during Inspection."
25	Abatement verification is not consistently in the case files.	Follow 29 CFR 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.
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.
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.

	Findings- Penalty Reduction Programs	Recommendations- Penalty Reduction Programs
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.
29	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.
	Findings- On-Site Abatement	Recommendations- On-Site Abatement
30	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.
31		If the State chooses to use an alternative penalty reduction programs 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." Discontinue the State's current onsite abatement program until concurrence is reached with the Regional Office.
	Findings- Review Procedures	Recommendations- Review Procedures
32	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.
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 if 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.
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.
35	Multiple penalty reduction programs were being used for settlements, resulting in larger than average penalty reductions..	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 percentage as guidance.
	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	[See recommendation #35]
	Findings- Review Procedures	Recommendations- Review Procedures
36	Only 2.35% of inspections were conducted in the public sector.	Increased programmed inspection activity in the public sector by devising an appropriate emphasis program.
	Findings- Tracking Systems & Information Management	Recommendations- Tracking Systems & Information Management
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.
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.

	Findings- Bureau of Labor Statistics Rates	Recommendations- Bureau of Labor Statistics Rates
39	BLS data supports the areas being targeting by the program.	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.
	There were no inspections in wood and lumber or trucking and warehousing during the 2009 fiscal year.	
	Findings- Stakeholder Interviews	Recommendations- Stakeholder Interviews
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.
	Findings- Federal Program/State Plan Initiated Changes	Recommendations- Federal Program/State Plan Initiated Changes
41	The timely adoption of standards is becoming problematic in Wyoming. Extensive resources are needed to perform the timely “strike and underline” process required by the State Government.	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.
	Findings- Discrimination Program	Recommendations- Discrimination Program
42	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.
43	One case did not address “disparate treatment.”	Address “disparate treatment” in all cases.
44	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.
45	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.
	Findings- Voluntary Compliance Program	Recommendations- Voluntary Compliance Program
46	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.
47	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.
48		Align the Wyoming CVPP with the federal VPP application requirements. In many cases, not all applications contain the necessary information to justify acceptance.
49		Review applications prior to the site visit in order to provide enough time to conduct a thorough review of the application details.
50		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.
51		Re-evaluations need to be scheduled inside the designated time frames as stipulated by the VPP Policies and Procedures manual.

Findings- Voluntary Compliance Program		Recommendations- Voluntary Compliance Program
52		Use the Supplement C report to provide a standardized documentation of the PSM program evaluation.
53		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.
54		Adopt the use of the standardized VPP report template and forms. The use of the Form-33 is inappropriate for VPP audits.
55		Ensure all action items are complete before a site is approved as a CVPP participant. Limit timeliness for outstanding items to 90 days.
56		Maintain CVPP reports and action items separately. Ensure annual self-evaluation reports from CVPP sites are complete before being accepted by the State.
Findings- Training		Recommendations- Training
57	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.
58	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.
59	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.
Findings- State Internal Evaluation Program		Recommendations- State Internal Evaluation Program
60	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.
61	State unique processes and Procedures are not documented in writing.	As part of the SIEP, processes and procedures need to be in writing.
62	Internal evaluations are not done in the State.	Document and evaluate a minimum of one internal process each year.