

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

**for the**

**STATE OF WYOMING**

**WORKERS' SAFETY AND COMPENSATION DIVISION**

**Evaluation Period:  
October 1, 2008 - September 30, 2009**

**Prepared by:**

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

## TABLE OF CONTENTS

Executive Summary .....	3
Major New Issues .....	7
Assessment of State Performance .....	8
1. Enforcement .....	8
General Case File Information .....	8
Unprogrammed Activity .....	10
Fatalities .....	13
Targeting/ Programmed Inspections .....	14
Employer and Union Involvement .....	17
Citations and Penalties .....	18
Abatement .....	19
Penalty Reduction Programs .....	20
Review Procedures .....	22
Public Employer Programs .....	24
Tracking Systems & Information Management .....	24
Bureau of Labor Statistics Rates .....	25
Stakeholder Interviews .....	26
2. Standards and Plan Changes .....	27
3. Variances .....	29
4. Public Sector Consultation .....	29
5. Discrimination Program .....	29
6. CASPAs .....	30
7. Assessment of State Progress in Achieving Annual Performance Goals .....	30
8. Voluntary Compliance Programs .....	32
9. Program Administration .....	33
Training .....	34
10. State Internal Evaluation Program .....	35
11. List of Appendices .....	35
Appendix A – Findings and Recommendations Chart .....	36
Appendix B – Enforcement Comparison Chart .....	42
Appendix C – FY 2009 State Activity Mandated Measures (SAMM) .....	43
Appendix D – FY 2009 State Information Report (SIR) .....	45
Appendix E – FY 2009 Public Sector MARC .....	48
Appendix F – FY 2009 Combined SOAR (Available Separately/ Upon Request .....	

## **I. Executive Summary**

### **A. Summary of the Report**

This report assessed the Wyoming Department of Employment, Workers' Safety and Compensation Division (WSCD) progress towards achieving their performance goals established in their Federal Fiscal Year (FY) 2009 Annual Performance Plan and reviewed the effectiveness of programmatic areas related to enforcement activities during the period of October 1, 2008 to September 30, 2009.

A baseline onsite study was conducted at the Wyoming Workers' Safety Division in January of 2010. Case file reviews indicated that Wyoming compliance officers have good hazard recognition skills, cite standards appropriately and calculate penalties in accordance with the federal Field Operations Manual. Wyoming, on average, finds more violations per inspection than the national average, although the percent serious is less than the federal OSHA percentage. Fatality cases were well organized and complete, as were cases with willful citations. The report found no problems with hazard identification, violation classification (55% serious), or penalty calculation, noting that citations were issued in 92% of inspections. Penalty reductions were held at a minimum for both fatality cases and cases with willful violations. Wyoming inspectors show good proficiency in their knowledge of the Oil and Gas Industry.

Problems found during this special study include incomplete documentation, particularly with employer knowledge and specific information to support hazards. Employee interviews were not consistently documented and there were problems with abatement tracking and the length of time given to abate some violations. Documentation is critical in determining the correct classification of violations and defending them during contest. The 15 day contest period was not strictly adhered to and there was insufficient documentation of settlement agreements. Use of multiple penalty reduction programs often resulted in large penalty reductions for employers, which may counteract the deterrent effect of the original penalty.

Wyoming surpassed their projected number of 350 inspections this year by 160 for a total of 510 inspections. Wyoming is program driven and continues to target high hazard industries by using state worker compensation data. The use of this data has enabled the State to effectively get into the companies where injuries and illnesses are occurring as evidenced by the high numbers of serious, willful and repeat violations that are cited following these targeted inspections. This targeting scheme is quite successful in the discipline of safety, but the data does not seem to effectively target health hazards or hazards occurring in the public sector. Wyoming also targets several special industries through local emphasis programs. Inspection numbers have decreased in the public sector for the past two years.

While Wyoming did not adopt the Refinery National Emphasis Program (NEP) due to resource issues, the State intends to maintain a presence in refineries. There are five refineries in the State of Wyoming. Currently WSCD has open inspections in two of these five refineries. Both inspections were initiated due to incidents without injuries.

The state adopts all Federal OSHA standards and also enforces unique state safety and health standards for Oil and Gas Well Drilling, Servicing, and Oil and Gas Special Servicing. The Administrator recently tried to implement an “Adoption by Reference” process to expedite the adoption of updated standards. The Attorney General will not accept this change.

Wyoming has an extensive process for maintaining contact with victims’ families including letters, phone calls, distribution of the Ron Hayes’ FIGHT brochure, copies of the inspection narrative, citations and settlement agreements, and a framed certificate signed by the Governor commemorating the life of the victim.

A 2009 taskforce created by the Governor to reduce the State’s fatality rate particularly in the oil and gas industry, with NIOSH and Wyoming OSHA involvement, resulted in recommendations to hire an epidemiologist and increase fines for OSHA violations and seat belt fines. The State agreed to hire the epidemiologist, but the legislature rejected the increases in penalties.

Wyoming conducted 510 inspections in FY 2009. Problems identified include:

- The average penalty for serious violations is \$423.
- Employees are not always interviewed or unions contacted during inspections.
- Case files often did not contain evidence of employee exposure, employer knowledge, hazard documentation (e.g., measurements), field notes, Alleged Violation Descriptions, appropriate gravity and severity assessments, 300 logs, sampling.
- The state accepts contests filed, and frequently holds informal conferences after the 15-day contest period expires.
- Although public employees account for 21% of the state’s total employees, only 2% of the state’s inspections were conducted in public sector facilities.
- Multiple penalty reduction programs are used including a modified Quick Fix program (50% reduction for onsite abatement on day one, 30% on day two, and 20% on day three) and the 75/25 settlement program (75% penalty reduction in exchange for a 25% Workers Compensation Claim reduction over the 12-month period following the inspection.) However abatement is not verified and employers are allowed to use the 75/25 reduction plan multiple times.
- Staff are trained through an internal training program and do not generally receive OSHA Training Institute (OTI) training.
- According to the report, Wyoming is NOT participating in the Refinery NEP due to resource issues but is sending one CSHO for Process Safety Management (PSM) training at OTI.
- The Cowboy Voluntary Protection Program (VPP) does not have well documented procedures and does not follow the Federal.
- Data is not entered into the OSHA Integrated Management Information System (IMIS) properly and the management tools are not utilized.

## **B. Background and Methodology**

The Workers' Safety and Compensation Division (WSCD) is located in Wyoming's Department of Employment. Steven Czoschke, Workers' Safety and Compensation Division Administrator, is the State Designee. J.D. Danni serves as the Program Manager. The Workers' Safety Program consists of enforcement, discrimination, compliance assistance, public and private sector consultation and risk management. 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 compliance program is currently fully staffed with the recommended benchmark positions of six safety and two health compliance officers.

The Wyoming 2009 initial 23(g) grant amount was \$1,304,598, which included federal/state matching funds of \$510,900 each and state overmatch funds of \$282,798. The final 23(g) grant amount remained the same; however, federal/state matching funds increased to \$520,000, while state overmatch funds were reduced by \$18,200 to \$264,598. The State feels it has to overmatch to maintain an effective program and that the Federal OSHA Grant should provide 50% of the total amount of money to administer the program.

Workers' Safety is housed within the Workers' Safety and Compensation Division. The Compensation Division allows the Workers' Safety Program complete access to state workers' compensation data.

The special study was conducted by a team of five federal employees which included: a team leader, a health and a safety compliance person to review case files, a discrimination officer and the Region VIII VPP Manager to review the Wyoming Cowboy VPP. The results of the special study follow, under the appropriate topic headings.

A list of areas of emphasis was created by the Region. The Region decided to focus on the Oil and Gas Industry in Wyoming as this was an area of concern within the State, the Discrimination Program and the Voluntary Protection Program. Additional focused areas included: fatality inspections, inspections with willful citations, health sampling, abatement, contested cases and penalty reductions, process safety management (PSM) cases, training, and documentation in case files.

Four hundred seventy-three cases were closed during the 2009 fiscal year. Selection for the review was made from cases closed during the 2009 fiscal year so that cases could be reviewed through all processes, including abatement and settlement. Seventy-nine case files were reviewed to ensure a 95% confidence level. A decision was made to review all nine fatalities that were closed during the fiscal year as well as two cases with willful citations greater than \$15,000. These 11 cases were subtracted from the total of 79. The remainder of the sample was divided proportionally into three groups, safety, health, and oil and gas cases. The number reviewed for each group was proportional to the percentage of that type of inspection conducted during FY 2009. A random sample was selected for each group. Seventeen complaints and referrals handled as inquiries (phone and fax process) were also reviewed.

### C. Recommendations

The recommendations chart below summarizes the actions being solicited from the State and references the more detailed recommendations in the body of the report. A list of the detailed recommendations is included in Appendix A.

<i>Enforcement Recommendation</i>	<i>Detailed Recommendation</i>	<i>Page Number</i>
Fully document employee exposure information, employer knowledge and employee interviews in every case file.	#2	10
Conduct employee interviews during all inspections.	#19, #20	18
Discontinue the use of multiple penalty programs being used for the settlement of cases.	#35	23
Change the parameters of the 75/25 penalty reduction program and limit participation to one time a year.	#29	21
Discontinue the penalty reduction program for onsite abatement until a complete program is written and concurrence is reached with the Regional Office.	#31	22
Document the current local emphasis programs in writing and initiate inspections in all the targeted industries.	#18	17
Assign a five day maximum response period for complaints handled through inquiries (phone and fax).	#12	12
The time period given to abate serious hazards should be as short as is feasible.	#24	20
Ensure abatement certification is being documented in each case file.	#25	20
Be more aggressive at collecting and tracking abatement.	#26	20
Require an employer to file a Notice of Contest within 15 working days after the Notice of Penalty is received.	#32	23
Adopt a format to be used for documentation of informal settlement agreements.	#33	23
Increase programmed inspection activity in the public sector by devising an appropriate emphasis program.	#36	24
Organize and document case files in a more thorough manner.	#1 #4, #6	9 10
<i>Voluntary Protection Program (VPP) Recommendations</i>	<i>Detailed Recommendation</i>	<i>Page Number</i>
Follow the VPP Policies and Procedures Manual using the standardized templates, forms, timeliness, tracking mechanisms and application and maintenance requirements.	#46 - 54	32 - 33
Ensure all action items are completed before a site is approved as a VPP participant. Limit timelines for outstanding items to 90 days.	#55	33
Ensure annual self-evaluation reports from VPP sites are complete before being accepted by the State.	#56	33

<b><i>Internal Training Recommendation</i></b>		
Add a “check for competency” section to the initial training program.	#57	35
Expand the data entry instruction in the Wyoming training.	#58	35
<b><i>State Internal Evaluation Program (SIEP) Recommendations</i></b>		
Complete the internal evaluation program. At a minimum reference the OSHA Field Operations Manual in the Rules of Practice and Procedures when FOM detail is to be followed. Document in writing all programs, processes and procedures, and internally evaluate a minimum of one process each year.	#60 – 62	35

## **II. Major New Issues**

### Wyoming Oil and Gas Task Force

As a result of the high rate of fatalities identified by the Wyoming Legislative session in February 2009, the Governor created the Wyoming Workplace Fatality Prevention Taskforce (WWFPT). The taskforce involved several state agencies (Department of Employment, Workers’ Compensation, OSHA, Department of Transportation, Department of Health, Wyoming Highway Patrol, and the Bureau of Land Management) and employers from a variety of industries such as Oil & Gas, Construction, Transportation, and Manufacturing. This task force was directed to study the last five years of workplace fatalities and determine trends and patterns to make legislative recommendations to help reduce the fatality rate. The National Institute for Occupational Safety and Health (NIOSH) was asked to assist in this undertaking. As a result of numerous meetings and continuous evaluation of the data (which consisted of data from the following sources: Bureau of Labor Statistics (BLS), Wyoming Department of Employment (WDOE), Wyoming Department of Transportation (WDOT), and Wyoming OSHA), NIOSH reported that general transportation accounted for 65% of worker deaths. Wyoming OSHA had jurisdiction in only 25% of the total 210 workplace fatalities, which is an average of about 10 per year. The industries having the highest number of fatalities were Transportation, Oil & Gas, Construction, and Agriculture.

NIOSH divided the task force members into four sub-committees (Data, Transportation, Oil and Gas and Construction) to focus attention in these areas. Wyoming OSHA participated in the Oil and Gas and Construction subcommittees. Final recommendations from the subcommittees included: hiring an epidemiologist to track state fatality data, increase the secondary seat belt law to a primary law by raising the penalty to \$75, raise OSHA fines and form an alliance between the industry and OSHA. The State agreed to hire the epidemiologist, put an increase in seat belt fines on the ballot and pursue raising OSHA fines. The penalty increase projected was to reflect pending federal legislation proposing an increase in serious fines from \$7,000 to \$12,000 and willful fines from \$70,000 to \$250,000. Both the seatbelt and the penalty increase motions were defeated in March of 2010. Wyoming OSHA has started preliminary work on an alliance with the oil and gas industry which, at a minimum, will involve training and OSHA updates to the industry.

### **III. Assessment of State Performance**

#### **1. Enforcement**

It is the policy of WSCD to adopt all Federal Occupational Safety and Health Administration standards with no changes. WSCD also enforces their own unique state safety and health standards for Oil and Gas Well Drilling, Servicing, and Oil and Gas Special Servicing. The State is not allowed to adopt standards more restrictive 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 guidance in conjunction with the detail provided in the federal FOM. Wyoming did not experience any denial of entries for the 2009 fiscal year as depicted by SAMM Indicator 5.

Wyoming projected 350 inspections in their 2009 grant application and actually conducted 510 inspections, which exceeded their projection by 160. Wyoming exceeded their projection of 300 safety inspections by 134 and fell short of their projection of 50 health inspections by 14. During 2009, Wyoming had a health inspector vacancy which contributed to this shortfall. Thirty-six inspections (7%) were health related and 474 (93%) were related to safety. This compares to the federal percentage of 15% health and 85% safety. Seventy-one percent of Wyoming's inspections were construction related as compared to 61% of federal OSHA inspections. According to SAMM #4, Wyoming conducted five imminent danger related inspections, all of which were opened within one day. Wyoming did not conduct any follow-up inspections in 2009.

The enforcement report denotes a Wyoming inspection lapse time of 36 days for safety and 53.6 for health as compared to the federal lapse time of 34.3 days for safety and 46.7 days for health. Lapse time is the number of working days between the opening conference and citation issuance. Compliance officers in Wyoming average 12 hours per safety inspection and 19.9 hours per health inspection as compared to Federal OSHA's 17.7 hours for safety and 33.1 hours for health.

#### **General Case File Information**

##### **Findings**

Of the case files reviewed during the on-site inspection: nine were fatalities, 58 were programmed, seven were complaints, three were referrals and two were follow-up inspections.

The case file review revealed problems with organization and documentation. 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 correct standards were cited and the initial penalties were calculated correctly 100% of the time.

While there was some order specified for case files, the order was not always followed and there were loose documents, particularly abatement, in many of the files. There was a list provided to compliance officers instructing them on what documents should be placed on the right side of the case file. Wyoming also used a form titled “Workers’ Safety Case File Summary Sheet,” which listed case file actions, violations being issued and provided a place to track abatement of violations. Case file reviews disclosed an overall problem with documentation of the case files in that page two of the OSHA Violation Worksheet (1B) was not filled out. Therefore, both employer knowledge and employee exposure information was frequently not included in the case files. Inspectors had been instructed to include this information in their narrative, but this was not consistently done. Employee interviews also could not be validated, due to the lack of documentation in the case files. The narrative often did not include measurements made concerning the hazards cited and the Compliance Safety and Health Officer (CSHO) field notes were not included for reference in the absence of this information being in the narrative. Wyoming continues to use photographs for documentation and does not use video for their inspections. There was a lack of specificity being used to complete the alleged violation description (AVD) on the citation form. The gravity of hazards was not always appropriate. Inspectors frequently overstated the severity of the hazard using a high severity designation for most serious hazards. The recordkeeping form 300 was not consistently collected and/or entered into the database. There was little opportunity for sampling, but sampling equipment was checked during the onsite review and equipment and media was found to be in good order.

There was limited contact information in the case files for exposed employees, employees interviewed and for employee representatives. The State is researching their requirements for the release of information to the public.

### **Conclusions**

- 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.
- 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.
- The gravity designation of high severity was inappropriately used for most serious violations.
- The OSHA form 300 was not routinely collected and inserted into the case file and entered into the database.
- The State does not include employee contact information in the case file.

### **Recommendations**

- 1. 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.**

2. **Employee exposure information, employer knowledge and employee interviews need to be documented and included in every case file.**
3. **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. **Collect the OSHA 300 for the last three years, insert it in the case file and enter the information into the database.**
6. **Follow the FOM, Chapter 5, Sections B(5) and B(11) as well as Section C (2)(g) for requirements of contact information.**

## **Unprogrammed Activity**

### **Complaints / Referrals**

Wyoming has adopted CPL 02-00-140, Complaint Policies and Procedures, now part of CPL 02-00-148, the Field Operations Manual (FOM), which deals with unprogrammed activity in the same manner as federal OSHA. Wyoming negotiated a complaint response time of 16 working days for inspections and one working day for inquiries. According to the Wyoming Rules of Practice and Procedure (ROPP), the State responds to complaints as soon as practical and 16 days were chosen to accommodate occasional long distances traveled. Historically, the Wyoming response time is much lower than the 16 day negotiated timeframe. Wyoming adopted the federal one day response time to initiate inquiries.

During FY 2009, Wyoming conducted 51 complaint inspections and 17 inspections generated by referrals. Wyoming also conducted 101 inquiries generated by complaints and 80 generated by referrals. Unprogrammed inspections accounted for 11.8% of Wyoming's total inspections in 2009. Eight percent of Wyoming inspections were complaint generated during FY 2009 as compared with 17% of federal OSHA inspections.

### Findings

For the audit period, the response time was 3.5 days to initiate inspections and 3.4 days for investigations (inquiries) according to the State Activity Mandated Measures Report (SAMM). According to SAMM Indicator 3, complainants were notified of the inspection results within 20 days 92% of the time.

Of the 79 inspection case files reviewed during the audit, only seven of them were complaint initiated and three were referrals. One referral was not responded to within the 16 working day time period. One of these eight inspection files was in the public sector and two were health cases. Two of the eight inspections were in-compliance. Two had the penalty reduced to zero; one of these was due to lack of documentation. One inspection originated as an inquiry and was appropriately assigned for inspection due to the severity of the complaint.

For the most part, alleged hazardous conditions were addressed by the compliance officers during the inspection and the hazards were adequately evaluated. One inspection did not clearly document if all complaint items were addressed. Measurements of potential fall distances were not obtained when addressing fall related complaint items. Employee interviews were often not documented or included in the case file. The Inspection Report (OSHA-1) for one inspection was marked as a complaint inspection, but there was no complaint number for related activity and no complaint paperwork in the file. Where complainant names were given, notifications of the results were sent. Two inspections remained open for long periods of time. One inspection was in the public sector where abatement typically takes extra time due to funding. The second inspection was open for 14 months due to the penalty not being collected. That inspection was administratively closed, but no notation was made in the file as to the reason. The complaint case files were not well organized nor was a diary sheet used to track the chronological activity of the file.

## **Inquiries**

### Findings

Seventeen inquiries, conducted using the phone and fax method, were reviewed. Eleven were complaints and six were referrals.

Wyoming has adopted a one day response time to initiate complaint inquiries. For fiscal year 2009, the response time was 3.4 days according to SAMM Indicator 2. This elevated response time was discovered to be erroneous, due to a data entry error and was not a response time issue. The State has initiated a fix for this problem which should resolve the erroneous results.

Two complaints concerned trenches, a national emphasis program adopted by Wyoming. One complaint occurred on Friday afternoon and was an extreme distance from any Wyoming office. This complaint was correctly referred to a local government office to address immediately, and was handled as a phone and fax inquiry. The other trench complaint should have been inspected per the requirement of CPL 02-00-140, Complaint Policies and Procedures, now part of the new Field Operations Manual, which requires an inspection to be conducted if the complaint item is covered under an emphasis program.

Adequate abatement was documented in ten of the eleven complaints and in three of the six referrals. Four of the six referrals came from the Wyoming Worker Compensation division, which reports amputations to Wyoming OSHA. Acceptable abatement was not documented in three of the four amputation referral inquiries. Because of the severity and/or potential severity of those referrals, inspections should have been conducted. Wyoming did not adopt the national emphasis program for amputations.

Five day abatement periods were given in twelve of the seventeen inquiries. Four of the seventeen cases received a response from the employer outside the five day

period. Two of those four cases had documented extensions. 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 now scheduled.

Wyoming implements a program titled “Tenth Letter Follow-up” that follows up every tenth letter inquiry with an inspection to verify that correct abatement is in place. There were seven tenth letter inspections opened in FY 2009. Only two of them had violations. Two follow-up inspections were reviewed that were closed during FY 2009. Both had no citations or additional hazards addressed.

### Conclusions

- Eight percent (8%) of complainants were not notified of the results of an inspection within twenty days (when citations are issued).
- The reason for closing a case file with an unpaid penalty was not documented.
- The response time was erroneous due to a data entry issue.
- There are 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.
- Acceptable abatement was not documented in three of the four amputation referral inquiries.
- Maximum response periods of five days were not consistently given for inquiries.
- Five of the seven, tenth letter inspections were in-compliance during FY 2009.

### Recommendations

- 7. 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. Document in the case file the reasons for administratively closing the case.**
- 9. 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.”**
- 10. 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. 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. 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. The State should assess the productivity of doing 10<sup>th</sup> 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.**

**Fatalities**

Wyoming experienced eight fatalities during fiscal year 2009. Two of these fatalities were oil and gas related. Bureau of Labor fatality statistics annually identifies Wyoming as one of the states with the highest number of fatalities for their population. The majority of these fatalities are the result of “over the road” incidents. WSCD does not have jurisdiction for any of these fatalities.

The onsite review focused on the nine fatality inspections that were closed in fiscal year 2009. Eight of the nine inspections were reviewed. One inspection was still under settlement at the time of the onsite visit and, therefore, was not reviewed. Of the eight fatalities reviewed, three occurred in general industry, three in the oil and gas well industry and two in construction. Wyoming OSHA had jurisdiction in all eight instances. Seven of the eight fatality inspections were opened within one day. One fatality inspection was opened 14 days after the date of death. This case was assigned to an inspector on the date of the fatality, but was reassigned to another inspector nine days later, due to weather and scheduling problems. The case was opened five days following re-assignment.

Findings

Three documents are sent to the families of fatality victims. The first letter is sent within the first two weeks after the inspection is opened. This letter is included with another document explaining the investigation process and includes a contact name and number. A tri-fold document referred to as the Ron Hayes, “The Fight Project – Families in Grief hold together” is also sent at this time. The Compliance Inspector then calls the next of kin and explains the same information as stated in the letter. After the case file is closed, a letter, referred to as the “Family Closure” letter, is sent to the family. Included with the letter is: a copy of the inspection narrative, any citations and penalties issued, a copy of the consent agreement and a framed certificate, signed by the governor, commemorating the life of the victim.

The fatality investigations were thorough and completely addressed all factors which may have contributed to the fatality. The inspection narratives were well written. However, employer knowledge was not adequately documented in three of the files. *Personally identifiable* information, such as social security numbers and coroner reports, was found in a few of the files. A fatality checklist was used to insure all information was included in these case files.

The average total penalty for fatalities was approximately \$4,770.00. This does not include one case where two willful citations and one serious citation were issued with a total penalty of \$113,500.00. An average penalty reduction of approximately 18.5% was applied at the informal conferences. The penalty was reduced in three of the cases.

In six of the eight files, the citations were not modified in any way at the informal conference. In the two instances where citations were modified, one was a change to

unclassified and one combined two willful citations into one. Three general duty clause violations were issued. The four elements of a violation were properly documented in all three instances.

Thirty day abatement dates were issued in three cases. One instance involved a crane boom which should have been taken out of service. In another instance, the extended date was issued for a violation which was a contributing factor in the fatality. The third instance involved willful citations. (See "Abatement for recommendation.")

### **Conclusion**

- 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.

### **Recommendation**

#### **14. Ensure a written process is in place to protect personally identifiable information.**

#### **Targeting/ Programmed Inspections**

Four hundred fifty or 88% of Wyoming inspections in 2009 were programmed inspections as compared to 62% of federal inspections. Wyoming conducted 90.6% programmed inspections in safety and 62.1% in health as compared to federal OSHA percentages of 66.8% and 35.3% respectively as indicated by the State Indicator Report (SIR), item C1. According to SAMM Indicator 8, about 82% percent of these programmed safety inspections and 74% percent of these programmed health inspections had serious, repeat or willful violations. Wyoming is program driven and focuses their resources into the following six areas:

1. Worker's Compensation Targeting
2. Construction (including lead, silica and trenching)
3. Oil and Gas Well Drilling and Servicing
4. Lumber and Wood Products
5. Trucking and Warehousing (SIC 4200)
6. Nursing and Personal Care Facilities (SIC 8050)

#### **Worker Compensation**

Wyoming does not participate in the federal Site Specific Targeting program. Since Wyoming requires all high hazard industries to acquire state worker compensation insurance, the State uses that data to target employers with high worker compensation rates. All Wyoming sites operated by a targeted employer are inspected. The Wyoming Employers' Needs list (WEN) is run every March and is arranged by rate in descending order. The list is then divided in half. Letters are sent to the employers informing them they may be targeted for inspection. Half of the letters are mailed to employers in March and the remaining half in August. Similar to the federal Site Specific Targeting Program, employers are given the

opportunity to call the OSHA consultation program if they so choose. Companies that have had an inspection or a consultation visit in the past year are not reviewed by the state OSHA, but are reviewed by Wyoming Risk Management for that year. The company is inspected by OSHA if they return to the list for a third time. Companies in the Cowboy Voluntary Protection Program (CVPP) and Safety and Health Achievement Recognition Program (SHARP) are exempt from these inspections. This emphasis area is directly related to Strategic Goal #2, described on page 8. Compliance personnel have access to each employer's worker compensation information and are required to review the information prior to their visit. A cost benefit analysis of each site is conducted by the CSHO with the employer during each WEN List inspection.

### Construction

Wyoming uses the Dodge List to target construction companies and has adopted three national emphasis programs that impact this industry: lead, silica and trenching.

### Local Emphasis Programs

Wyoming has adopted four local emphasis programs (LEP) in addition to their worker compensation and construction targeting. Those areas are as follows: Lumber and Wood Products, Trucking and Warehousing, Nursing and Personal Care Facilities, Oil and Gas Well Drilling, and Oil and Gas Well Servicing.

### Additional Emphasis Areas

Wyoming currently has an informal amputation referral program in place for referrals from the Wyoming Worker Compensation Division. The scope of these referrals is broader than the scope used in the national emphasis program; therefore, the state has not adopted the Amputation NEP.

Wyoming did not adopt the Refinery National Emphasis Program due to resource issues, but intends to establish a presence in the refinery industry. The State currently has two open refinery inspections initiated by incidents.

## Findings

### Worker Compensation

During the audit period, Wyoming conducted 47 inspections under this program. These inspections resulted in 467 violations being issued or 9.9 violations per inspection. Of the 467 violations issued, 52% (247) of them were classified as serious and 46% (216) were classified as non-serious. Four regulatory violations were also issued.

### Construction

There were no 2009 inspections to review during the onsite review addressing potential lead or silica exposure during construction activities. Review of construction related case files indicated that compliance officers would inspect any construction site where potential fall hazards or trench hazards were observed as well as any complaint information indicating a potential fall or trench hazard.

During the time period covered by this audit, 310 construction inspections had been conducted. Forty-six construction files were reviewed. Eleven hundred thirty-five violations

were issued. This is an average of 3.7 violations per inspection. Of these, 759 violations were classified as serious (66%). Three-hundred and forty-five were classified as non-serious, (30%). There were also 15 repeat violations issued, which is approximately 1% of the total violations issued. In addition, 11 regulatory violations were issued which were mostly for failing to keep the OSHA 300 log.

## Emphasis Programs

### *Oil and Gas Well Drilling and Servicing*

According to a report run using standard industrial codes for oil and gas related activities, 59 inspections were conducted in the oil and gas well drilling and servicing industries during the fiscal year. Wyoming implements their LEP, by focusing their resources on a particular oil field during designated weeks in the year. The State counts their oil and gas inspections differently by tracking activity on the actual job being done versus the SIC or NAIC of the employer. Therefore, according to a state report on their LEP activity, 35 inspections were conducted during FY 2009; 29 of these were on drilling sites and six were on servicing sites. The 24 inspections counted by federal OSHA, but not counted by Wyoming, primarily involve oil and gas related work being done off-site. While the standard industrial codes fall into the federal NEP, these inspections are not part of the Wyoming LEP. One hundred and fifty-two total violations were issued for both industries from these 35 inspections. One hundred thirty-seven were issued on drillings sites and 21 on servicing sites. On drilling sites, 85 serious violations were issued, which is 64% of the violations issued. Thirty-three non-serious violations (25%) were issued. There were also eight repeat violations issued (6%) and 11 regulatory violations issued (8%). On servicing sites, seven serious violations were issued (33%). Fourteen non-serious violations were issued (66%). There is some overlap in these statistics.

Twelve oil and gas case files were reviewed during the on-site review. For the most part, hazards were appropriately addressed and the compliance staff demonstrated good knowledge of this industry.

Three fatalities occurred in this industry group. Two of them occurred on a drilling site and one on a servicing site. The fatality inspections were investigated thoroughly and were well written.

### *Nursing and Personal Care Facilities*

A total of three inspections were conducted in the service industries covered under SIC 8050. Five non-serious violations were issued.

There were no 2009 inspections to review during the onsite review addressing the local emphasis programs for Trucking & Warehousing or Lumber & Wood Products.

## Conclusions

- 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.

- Wyoming had no inspections in the construction emphasis areas of silica and lead.
- No inspections were conducted in the two emphasis areas of Trucking & Warehousing and Lumber & Wood Products.
- Wyoming had not developed written instructions or criteria for any of their local emphasis programs describing the scope, procedures and coding to be used.

### **Recommendations**

- 15. 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.**
- 16. 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. 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. Document the current local emphasis programs, specifying criteria and procedures to be followed.**

### **Employer and Union Involvement**

Chapter 3, Section 2, paragraph (g), of the Wyoming Rules of Practice and Procedure states, “The Department representative may consult in private with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection.” Wyoming follows the federal FOM for more detailed procedures.

### **Findings**

During one follow-up inspection, only one employee interview was conducted using generic questions which did not pertain to the hazards originally cited. During one inspection of a trench, which did not have cave-in protection, no employee interviews were documented in the file. No employee interviews were documented on six construction dodge list inspections. During the inspection of three employers targeted by worker’s compensation data, no employee interviews were conducted or documented. No employee interviews were conducted on one complaint inspection. Documentation of employee interviews could not be located for two oil and gas inspections.

Employees were represented by unions on only three of the 79 inspections reviewed by this audit. The case file documented union participation in the opening but not the closing conference. No documentation of union involvement could be located in one of the files.

### **Conclusions**

- Employees are not consistently being interviewed during inspections.

- Employee interviews are not in writing. Contact information for interviewed and exposed employee is not consistently collected and noted on the OSHA 1A.
- Union involvement was not consistently documented in the case file.

### **Recommendations**

- 19. 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.”**
- 20. 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. Follow Chapter 3, Section D of the FOM which dictates the involvement of the union in all phases of the inspection process.**

### **Citations and Penalties**

During fiscal year 2009, Wyoming issued: two willful citations, 32 repeat, 998 serious and no failure to abate citations. According to SAMM Indicator 9, Wyoming averaged 2.81 serious, willful or repeat violations per inspection as compared to the reference standard of 2.1. The reference standard used for the SAMM indicators is an average of all federal and state plan offices. Per SAMM indicator 9, Wyoming also averaged 1.62 other than serious violations in comparison to the reference of 1.64. Fifty-five percent of Wyoming’s citations were serious in FY 2009 and 43% were other than serious citations. This compares to 77% serious citations for federal OSHA with 19% other than serious. Citations were issued in 92% of Wyoming inspections and serious citations were issued in 80% of inspections. The federal indicators for comparison are 70% and 87% respectively.

The Wyoming average initial penalty per serious violation for fiscal year 2009 was \$970.50 compared to the national reference standard of \$1,335.60 as demonstrated in SAMM Indicator 10. The average serious penalty for 2009 in Wyoming was \$423.10 as compared to the federal average serious penalty of \$970.20. Many Wyoming employers are small in size and get the full size reduction for penalty, which may account for some of this difference. Wyoming is experiencing a downward trend in penalties evident from the end of the 2008 fiscal year when the average initial penalty was \$1,117. Wyoming does not assess penalties in the public sector.

### **Findings**

The following number of citations was issued for case files reviewed during the on-site visit: 191 serious, 95 other, 16 repeat and 3 willful.

Due to the fact that the second page of the OSHA 1B form was not being completed, the duration and frequency of employee exposure was not being well documented. Therefore, when the employer makes an objection to the citation involving circumstances surrounding employee exposure, the supervisor had no documentation available to maintain the violation. As mentioned earlier, there was a general lack of well documented employee interviews to support the violations. In fall related violations, potential fall distances were being estimated and not measured. Many of the violations were not well supported by good employer

knowledge documentation. In many instances, employer knowledge was documented by stating that the employer should have known with the exercise of reasonable diligence.

In almost every instance, violations were classified appropriately. A calculation sheet which addressed all the relevant factors for severity and probability was being used by all the compliance officers. All willful and repeat violations which were issued were appropriately classified, documented, and the correct penalties were issued. On a few of the files, violations, which were not closely related or abated by the same or similar methods, were grouped. Overall, inappropriate grouping was not excessive. All apparent hazards were routinely addressed and appropriate citations were issued.

### **Conclusions**

- 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.

### **Recommendations**

- 22. 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.**

### **Abatement**

The abatement process used by Wyoming is described in Chapter Three of the Wyoming ROPP. Wyoming also adopted the Abatement Verification Directive, which has been incorporated into the FOM, Chapter VII. Wyoming encourages employers to promptly abate violations by granting penalty reductions for those hazards that can be quickly fixed.

### **Findings**

Seventy-five of the 79 case files reviewed included adequate proof of abatement. Abatement due dates on citations were often prior to the issuance date without the notation "Corrected during Inspection" being made on the citation where onsite abatement was being verified as described in Chapter 7, Section VI, of the FOM.

Thirty day abatement periods were routinely given with the intention to have the violation abated prior to citation issuance. This abatement period was allowed for serious violations, including fall hazards and machine guarding hazards. Willful and repeat violations all contained thirty day abatement periods.

The State sends each employer a booklet titled "The Wyoming OSHA Citation Instruction Booklet for Employers" along with the citation package and Violation Abatement form. This booklet is a step by step guide that includes a checklist for the employer to use as he goes

through the post citation process. Despite this booklet, the majority of the case files did not contain abatement certification forms which had been completed by the employer. The abatement was often received months after the original abatement dates, even for serious violations. Abatement date extensions were not being granted during informal conferences.

### Conclusions

- Incorrect procedures were being followed for on-site abatement verified by a CSHO.
- Thirty day abatement periods were being given with no regard to the gravity of the violation.
- Abatement certification is not consistently in the case files.
- Abatement was often untimely. Abatement extensions were not used. In four reviewed inspections, abatement was not documented.
- Follow-up inspections were not scheduled when abatement was not received.

### Recommendations

23. **Code abatement observed and verified on-site by CSHOs in the IMIS with an “P”. 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. **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.”**
25. **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. **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. **Initiate a follow-up inspection protocol for those employers who do not submit timely abatement.**

### **Penalty Reduction Programs**

Wyoming uses several penalty reduction programs as described below.

#### **75/25 Plan**

The 75/25 plan offers penalty reductions to inspected employers that have eight or more worker compensation claims that incurred cost. These employers are offered penalty reductions in exchange for claim reductions over the 12-month period following the inspection when compared to the 12-month period before the inspection. A 75% reduction in penalties is given for a 25% reduction in worker compensation claims. The penalty is prorated at the end of the year, based on the percent reduction in rates. If a company does not achieve a reduction in rates, they must pay the entire penalty at the end of the year minus a 15% reduction for good faith effort.

### Findings

There is no limit to the number of times a company can participate in this program each year. If a company has three inspections in a year, the company can participate three times in the program. Oil and gas well drilling companies are frequent participants and participation often overlaps. This means the employer is using the same injuries as justification for getting a penalty reduction multiple times. To augment that fact, the employer receives a 15% incentive reduction to join the program each time. Although some state employers have experienced short term success, lowering their worker compensation rates from 30% to 60%, frequent participation in the program casts doubt on the long term effectiveness of this program.

### Conclusions

- The complete criteria for this program are not in writing.
- Employers are being allowed to participate in this penalty reduction program multiple times each year.

### Recommendations

- 28. Document the criteria of the 75/25 program and insert it into the State Internal Evaluation Program.**
- 29. 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.**

### **On-Site Abatement**

#### Findings

Reductions were being given for onsite abatement using the code and title of Quick Fix. Early during the on-site visit, it was discovered the State was not using the federal Quick Fix Penalty Reduction Program but was using a state specific on-site abatement program. For penalties abated quickly, the following penalty reductions were being given: 50% reduction for onsite abatement on the first day, 30% for abatement on the second day and 20% for abatement on the third day. The abatement was not necessarily observed by the CSHO after the initial day.

#### Conclusion

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

#### Recommendations

- 30. 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 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.” Discontinue the State’s current onsite abatement program until concurrence is reached with the Regional Office.**

## **Review Procedures**

Chapter 6 of the Wyoming Rules of Practice and Procedure (ROPP) provides guidance on review procedures. Secondary guidance is provided by the federal FOM.

### *Informal conferences*

#### Findings

A notice of contest is not always filed within the 15 day period as dictated in Chapter 6 of the Wyoming ROPP. Informal conferences were frequently held weeks and occasionally months after the expiration of the 15 day contest period. This is in accordance with Chapter 6, section 2(a)(vi) of the Wyoming ROPP which states, “an informal conference may be held at any time prior to a formal hearing.” In order to obtain more time to conduct all the informal conferences which were being requested, the Wyoming office encourages employers to contest. The informal conference may be held months later and the case settled. The State exhibits a relaxed attitude toward the 15 day contest period. If an employer indicates he may contest if agreement cannot be reached, that statement is taken as official notification. The State then starts or continues negotiations, while continuing to honor the intention of the employer to contest if a settlement cannot be reached. Any settlement drawn up by the state OSHA office is considered an informal agreement. The State makes every effort to settle cases and uses penalty reductions as its primary mode of settlement. There is concern with how long a case can remain in informal settlement negotiations. The length of time the State has ownership of the case for settlement after contest needs to be reconciled.

Informal conference notes were very limited and vague. Changes in classification of violations or dropped violations were not substantiated in the notes. The reasons for penalty reductions also are not clearly documented in the notes or file.

Penalties were reduced at a percentage of 67.8% in Wyoming during the 2009 fiscal year as compared to 43.7% for federal OSHA. The employer and the State first come to agreement in the informal settlement meeting on abatement and penalty reductions such as quick fix or other reasons. After the initial penalty reduction, if the employer has greater than eight worker compensation claims, the employer is given an option to join the 75/25 program. Multiple penalty reduction programs are often used for the settlement of a case. Large penalty reductions are not used for the settlement of fatality cases.

According to the SIR, Indicator 7, violations in Wyoming were vacated 5.1% of the time as compared to federal OSHA's 7.1%. Wyoming reclassified violations during informal settlements 4.6% of the time, compared to 6.6% for federal OSHA according to SIR indicator 8.

### Conclusions

- A notice of contest was not always filed within 15 working days after the receipt of the Notification of Penalty.
- The State appears to have unlimited time to settle a case at the informal level.
- Conditions for settlement were not indicated in the informal settlement notes. These notes were not consistently included in the case files.
- Settlements made after the 15 day 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.
- Multiple penalty reduction programs were being used for settlements, resulting in larger than average penalty reductions.

### Recommendations

- 32. 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. 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.**
- 34. 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. 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.**

#### *Formal review of citations (Independent Review Board/Commissions/Others)*

A contested case that cannot be settled at the program office level is turned over to a hearing officer from the Office of Administrative Programs. The recommendation from the hearing is then taken to the Commission within thirty days. The Commission in Wyoming is comprised of seven individuals, including a labor representative. The Commission meets four times a year to consider state plan changes and to make decisions on whether to uphold or deny recommendations made by the hearing officer. Commission decisions can be appealed to the district court and then to the state supreme court.

During 2009, one case, a discrimination case, was heard by the hearing officer early in the fiscal year. That decision was forwarded to the commission who supported the decision of the hearing officer to uphold the case. The decision occurred at the end of the fiscal year.

### **Public Employer Programs**

According to the Wyoming 2009 grant application, 21.5% of employees in Wyoming work in the public sector. Wyoming projected 35 public sector inspections for FY 2009.

#### Findings

For the 2009 fiscal year, Wyoming conducted 12 inspections in the public sector (according to SAMM Indicator 11), which is only 2.35% of their total inspections. This is 23 less inspections than projected by the State for the fiscal year. The baseline, for the SAMM indicator uses the average of public sector inspections in Wyoming during the last three years. This average was 6.1. Wyoming does not assess penalties in the public sector. Traditionally, the State has difficulty securing timely abatement in the public sector due to funding issues.

Wyoming depends strongly on their Worker Compensation Targeting program to target the worst industries, including those in the public sector. In years where the public sector does not show up on this list, Wyoming does not have a high presence in the public sector. Wyoming does have a proactive presence in the public sector through their public sector consultation program (See section 4).

#### Conclusion

- Only 2.35% of inspections were conducted in the public sector.

#### Recommendation

- 36. Increase programmed inspection activity in the public sector by devising an appropriate emphasis program.**

### **Tracking Systems & Information Management**

#### Findings

The State actively uses the NCR to enter inspection information into the national database. CSHOs enter their own inspection information and the Administrative Assistant enters most post inspection information. Errors identified by the system are quickly corrected and data is sent to the host frequently to keep the database up to date. The SAMM report, used to monitor state activities at the quarterly conferences, is checked prior to the meeting for resolutions of errors. The State has made a good effort to use the data information system with integrity.

For the most part, the State does not make use of the Integrated Management Information System's (IMIS) tracking reports to track enforcement activity. The State has created and utilizes several of their own tracking systems. The Compliance Supervisor tracks several processes using his computer. These include: complaints, amputations and discrimination activity as well as all inspection activity. The Enforcement Administrative Assistant is responsible for tracking receipt of abatement, contest dates, abatement dates and abatement extensions, the 75/25 penalty reduction program and debt collection. The tracking system is effective for the inspection process until the citations are issued. There is not a clearly defined system that ensures abatement is tracked, reviewed and verified in a timely manner. The Supervisor checks the abatement process monthly, using the abatement tracking form from the IMIS.

During the on-site visit, the following data entry errors were noted:

- the second page of the OSHA 1B form is not being completed
- health samplings forms are not being entered into the IMIS
- the code NO1 is not consistently entered into the system for use with multi-employer worksites
- proper coding of LEPs was not always entered into the database
- inspections were sometimes coded for safety or health, based on the profession of the inspector versus basing the coding on the hazards of the inspection
- post inspection processes were not being entered into the database and; therefore, there was no information in SAMM indicator 12.

### **Conclusions**

- The abatement tracking process is not working well.
- Numerous data entry issues were identified during the onsite visit

### **Recommendations**

- 37. 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. 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.**

### **Bureau of Labor Statistics Rates**

The Bureau of Labor Statistics (BLS) tracks the fatalities of all employees in Wyoming. Wyoming OSHA typically has jurisdiction over approximately 25% of the employers that experience fatalities at their worksite. Many of the fatalities are transportation related over which OSHA has no jurisdiction. Therefore, the BLS fatality data is misleading in relation to the effectiveness of the OSHA program in Wyoming.

Wyoming has emphasis programs in construction, oil and gas, trucking and warehousing, lumber and wood products and nursing homes and personal care facilities. BLS information

for the oil and gas industry was not available beyond 2006, so a valid assessment of progress could not be made in relation to that industry. Construction rates for non-residential and highway, street and bridge construction have decreased since 2004, but the rates for residential construction have fluctuated since 2004 and were elevated at the end of 2008. All rates for construction still remain above the national average except the 2008 DART rate (days away, restrictions and transfers) for highway, street and bridge construction. While rates for lumber and wood products have decreased since 2004, the rate still exceeds the national average. Both trucking and warehousing and nursing home and personal care facilities rates have increased since 2004 and continue to increase significantly above the national average. The BLS data supports all areas being targeted by Wyoming in their local emphasis programs.

The following is a table comparing Wyoming 2008 rates to the national average of a TRC of 4.2 and a DART of 2.1.

INDUSTRY	TRC (4.2)	DART (2.1)
Residential Construction	9.6	6.5
Non-residential Construction	6.6	3.8
Highway, Street, Bridge Construction	3.9	2.0
Wood Products / Lumber	9.4	3.2
Trucking / Warehousing	12.4	*
Nursing / Personal Care Facilities	7.8	3.3

\* Information was not available for FY 2009.

**Conclusions:**

- BLS data supports the areas being targeted by the program.
- There were no inspections in wood and lumber or trucking and warehousing during the 2009 fiscal year.

**Recommendations**

**39. 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.**

**Stakeholder Interviews**

Four stakeholders were interviewed from Wyoming: two labor representatives, one member of the Chamber of Commerce and one board member of the Wyoming Contractor Association.

All four interviewees thought Wyoming OSHA was well known by employers but all did not

agree that employees knew who to call in the case of unsafe conditions. This information correlates to the low rate of employee complaints in Wyoming. Three of the four were complimentary about the consultation and compliance assistance program and appreciated the training and outreach concerning safety and health provided by Wyoming OSHA. Three of the four interviewed had inaccurate information about the number of compliance officers working for Wyoming OSHA. Two of the four interviewed stated that while Wyoming OSHA does get hazards fixed, they do not hold the employer accountable in that employers are not strictly penalized. They feel this practice does not deter employers from allowing employees to work unsafely. Two of the four were concerned about the high fatality rates depicted by the BLS rates and the lack of action from the task force to alleviate those hazards identified by the task force. One of the stakeholders interviewed, had direct involvement with Wyoming OSHA through a complaint and found the experience to be helpful. Another interviewed did not have much interaction with Wyoming OSHA at all.

### **Conclusion**

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

### **Recommendation**

- 40. 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.**

## **2. Standards and Plan Changes**

### **Standards Adoption**

The following represent standards changes during FY 2009 and the State's actions:

Electrical Installation Standard 1910 Subpart S: Clarification and Correction – The State made the changes to this previously adopted standard.

Long-shoring & Marine Terminal Vertical Tandem Lifts – The State of Wyoming does not have jurisdiction in maritime.

Clarification of Employer Duty to Provide Personal equipment & Train Employees – The State adopted this change on 04/27/09.

Updating OSHA Standards based on National Consensus Standards: Personal Protective Equipment – This was a required change. This change is on the Commission's June agenda and should be final by September of 2010.

The Administrator recently tried to incorporate an "Adoption by Reference" process in Wyoming so that standards that are merely being updated would not have to go through the extensive Commission review process. The Wyoming Attorney General will not accept that

change but is continuing to require a “Strike Out and Underline” process that is lengthy. Due to the effort made to streamline that process, the PPE National Consensus Standard changes are delayed.

The State is looking to update 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 restricted height used by federal OSHA of four feet. The State has agreed to cite the more restrictive height until that change is officially made.

### **Federal Program/State Plan Initiated Changes**

The following represent federal program initiated changes during FY 2009 and the State’s actions:

CPL02-00-148 Field Operation Manual (FOM) – The State plans to adopt an altered version based on state processes and procedures. A supplement will be sent to Regional Office by 09/30/10.

09-06 (CPL 02) Site Specific Targeting 2009 – Wyoming did not adopt. The State uses state worker compensation rates to target.

09-06 (CPL 02) PSM Covered Chemical Facilities NEP – Wyoming did not adopt this NEP.

CPL 03/00/010 Petro Refinery NEP (extension) – Wyoming did not adopt the original NEP, so did not adopt the extension.

CPL 02-01-046 Recision of OSHA’s de Minimis policies relating to floors, nets & shear connectors (Revision to OSHA Instruction CPL 02-01-034 – The State has completed this recision.

09-08 (CPL 02) Injury & Illness Recordkeeping NEP – The State has adopted this NEP.

### **Conclusions**

- 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.

### **Recommendation**

- 41. 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.**

### **3. Variances**

Wyoming currently has one permanent variance with chimney construction company T.E. Ibberson. The variance was granted on December 5, 2008. The State has been instructed to enter this variance into the automated tracking system (ATS).

### **4. Public Sector Consultation**

During FY 2009, 20% of six consultants' time and 10% of one consultant's time or 1.3 full time equivalent (FTE) positions were devoted to consultation in the public sector. The State projected a total of 60 visits to be completed in the grant application and achieved 82% of their goal. During fiscal year 2009, a total of 49 visits were conducted in the public sector, 11 short of the projection. Forty-three of these visits were initial visits and six were follow-up visits. All 41 hazards identified were verified, 29 were verified in the original time period.

At the end of fiscal year 2009, Wyoming had 19 approved employers enrolled in the Safety and Health Achievement Recognition Program (SHARP). Four new sites were added to the program this fiscal year and the program was monitoring all sites appropriately.

### **5. Discrimination Program**

Wyoming follows Chapter 7 in the Wyoming Rules of Practice and Procedures (ROPP) to conduct discrimination investigations. Wyoming rules are similar to the discrimination procedures outlined in the federal whistleblower directive but reference specific state titles and procedures. Wyoming, however, does issue citations to employers for merit cases, referencing the ROPP. Employers are given 15 days to contest a determination. According to SAMM indicator 13, Wyoming investigated two cases that had determination dates in fiscal year 2009. One of those cases had the determination made within the reference standard of 90 days. One of the two determinations had merit and that case was settled.

#### **Findings**

Four investigations were reviewed by the Whistleblower investigator during the onsite special study. This included the two cases with determinations made in 2009, one case that was opened at the end of the 2008 fiscal year and remained open at the time of the audit and one current case where the investigation had been filed in October of 2009, but was still on the pending list.

Overall documentation of the conditions of the complaints was very good. There were a few discrepancies concerning: conflicting dates between the actual dates on the documents and those recorded in the case file, incomplete information on the IMIS forms and inappropriate use of the word "alleged" in respect to employer knowledge after employer knowledge was confirmed. One case file did not address "disparate treatment" which needs to be investigated in every case. Overall, an insufficient number of employee interviews were

being done to support the determination of the cases. Using the information in the case file, the reviewer did agree with the determinations being made.

Of the four cases reviewed, three were considered timely although one of those was past the ninety day target period for determination. The circumstances around this last case were beyond the control of the state agency to get the case closed in that the complainant's attorney was alleged to have used unethical tactics to delay settlement of the case. A second timely case appeared untimely, but this was due to improper data entry of determination levels and was fixed during the on-site visit. The untimely case was the case on the pending list at the end of the first quarter. This case had been investigated by the time of the on-site visit. Apparently, the case had not been promptly assigned.

### **Conclusions**

- There are insufficient employee interviews being done to support the determination of the case.
- One case did not address "disparate treatment."
- Post settlement data was not correctly entered into the Whistleblower database.
- One case remained on the pending list for several months without being assigned.

### **Recommendations**

- 42. Conduct increased employee interviews in each case in order to support the determination.**
- 43. Address "disparate treatment" in all cases.**
- 44. 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. Use an adequate tracking system to insure cases are assigned in a timely manner.**

## **6. CASPAs**

Wyoming had no Complaints filed against the state program administration in fiscal year 2009.

## **7. Assessment of State Progress in Achieving Annual Performance Goals**

Fiscal year 2009 marks the first year of a five year Wyoming 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 as compared to nine in FY2008, which is a decrease of 11%. Three fatalities occurred in general industry, three in the oil and gas well industry and two in construction.

Since the number of fatalities in Wyoming is small, Wyoming uses a five year standard as a baseline. The baseline for this five year Strategic Plan is 10.4 fatalities, which is the average number of fatalities from October 2004 through September 2008. Wyoming experienced a 23.1% decrease in fatalities for FY 2009 from the five year baseline. This goal was successfully accomplished.

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

**Annual Performance Goal #2 – Reduce injuries and illnesses (Worker Compensation claims) by 2% by focusing enforcement on workplaces identified through Workers Safety and Compensation Division 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, and the cost of claims. Wyoming compares data collected for the 12 month period prior to the inspection/visit to data collected 12 months after the inspection/visit.

For fiscal year 2009, results from inspections indicated an 8.6% decrease in the number of claims. This was accompanied by a 4.2% increase in employees and a 15.4% decrease in the cost of claims. A total of 337 companies were analyzed.

The pool of employers involved, which includes those receiving enforcement inspections and consultation visits, experienced a 10.4% decrease in the number of claims as well as a 2.1% decrease in number of employees, and a 20.9% decrease in the cost of claims.

Wyoming exceeded their reduction goal this fiscal year. Wyoming is effectively impacting the number of claims in high hazard industries.

**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 and Recognition Program (SHARP) Recognition Programs by 4% by developing relationships with companies applying safety and health best practices**

Wyoming approved one additional VPP site during FY 2009. This is an increase of 8.3%, which exceeds the projected 4% goal. SHARP is a consultation program which was not addressed in this report.

## **8. Voluntary Compliance Programs**

Wyoming used 10% of six consultants' time and 40% of one consultant's time or one FTE for Compliance Assistance Specialist (CAS) work. This work involves providing training and outreach to employer groups and employees. During FY 2009, 46 outreach training seminars were provided. These seminars included: construction 10 hour trainings, general industry 24 hour trainings, hazard specific training (such as falls & excavations), behavior based safety introductions, recordkeeping training, oil and gas related training and the Management Excellence Seminar. This last seminar is held by the administrator to groups of employers as a condition in their Informal Settlement Agreements.

Wyoming continued to hold their annual two day Governor's Conference, a safety and health training conference that recognizes specific employers for excellence in the field of safety and health.

### **VPP**

Wyoming administers the Cowboy Voluntary Protection Program and has agreed to follow the Guidelines of the federal Voluntary Protection Program Manual (CSP 03-01-003). Wyoming had 13 Cowboy VPP (CVPP) at the end of fiscal year 2009.

### **Findings**

The results of the review were mixed. Wyoming has developed some useful tools which includes the two described below.

- 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.
- 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.

The following is a list of recommendations that will bring the program into alignment with the requirements of the VPP Manual.

### **Recommendations**

- 46. Adopt an assurances template consistent with the assurances in the VPP Policies and Procedures Manual.**
- 47. 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.**
- 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 timelines 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.**

## **9. Program Administration**

### Funding/Benchmarks/Furloughs

The State of Wyoming has no current critical fiscal issues. The State, however, continued to overmatch the grant amount by \$264,598 in FY 2009 to maintain their program. The State is also in the process of changing their classification system and, due to that change; promotions and pay increases cannot be made at this time. Wyoming has removed their career ladder for state employees which could ultimately affect the retention of staff.

Wyoming, an 18(e) state, continues to meet the required benchmarks with all allocated positions on board. The State is not anticipating any need for furloughs, offices closures or other changes in service at this time.

All four quarterly meetings, between the State and the Region, were held during FY 2009. Two meetings were held on-site, one in Cheyenne and one in Denver. The remaining two meetings were conducted via telephone conferencing. A set agenda was used for the quarterly calls. Items on the agenda included a review of: the status of state plan changes, the SAMM indicators and other appropriate data, state strategic goal progress, as well as discussion of other program issues and technical updates. Actions items were tracked for completion and minutes were taken and distributed by the regional State Plan Monitor.

## **Training**

The on-site review did not reveal any problems with the technical expertise of the compliance staff. Many problems found during the review indicated a misunderstanding of some procedures in the FOM and data entry issues into the NCR. The latter issues are described in the Tracking and Information Management section.

Wyoming conducts all initial training for new compliance officers in house. The new hire training program is usually completed during the first year. The training program consists of both classroom training and on the job training conducted by experienced compliance officers. Approximately nine weeks of classroom training takes place during the initial training. This classroom training is conducted by the administrator, the enforcement supervisor, 21(d) consultants (technical issues) and Region VIII for discrimination. Presentations shared by the OSHA Training Institute (OTI) have been incorporated into the initial training. Formal testing for competency is not done, but informal testing and review and discussion of answers is conducted by the consultant responsible for the health training section. Training on the NCR is not done during the formal training, but is done as part of “on the job” training

Wyoming has been requesting an onsite OTI Accident Investigation course for several years. They were recently informed that class can not be taken on the road. Since Wyoming feels it is not cost effective for the program to send all their new people to OTI, Wyoming elected to send one of their more experienced CSHOs to the course in a “train the trainer” mode. That CSHO will then be responsible for putting together a similar training presentation and will act as trainer for the new CSHOs on the Wyoming staff.

Wyoming conducts training for all their existing CSHOs at least twice a year when the entire staff gathers in one location for a week long meeting. During that week, one or two issues are identified and proficient trainers are secured. Region VIII often supplies trainers for these sessions. The summer meeting this year will include a training session on interview techniques. CSHOs occasionally do attend OTI for unique training sessions. One CSHO is currently attending the Process Safety Management Training series

Wyoming is encouraged to reference Appendix A and B in the Initial Training Program for OSHA Compliance Personnel (TED 01-00-018) as a comparison tool to ensure all topics are covered in the Wyoming on-site training program.

## **Conclusions**

- A check for competency was not being used in all parts of the new hire training.
- There were numerous data entry problems throughout the program, particularly in post citation issuance processes, such as abatement verification and contested cases.
- 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.

### Recommendations

- 57. Expand the use of a “check for competency” as used in the health section to the rest of the initial training program.**
- 58. Expand data entry instruction to the Wyoming initial training and conduct periodic training to address data entry problems.**
- 59. Include clarification of procedures identified as problematic during the audit into the State’s bi-annual training meetings.**

### 10. State Internal Evaluation Program

The agreement to put an Internal Evaluation Program into place was a part of the 2010 grant agreement. Wyoming currently does not have a State Internal Evaluation Program (SIEP). Some processes, particularly state specific processes, are documented in the Rules of Practice and Procedures. Secondary guidance is taken from the federal FOM. The State is in the process of adopting this document. At present, there is no reference to this secondary guidance in the ROPP. Processes and procedures are not documented (e.g. emphasis programs and penalty reduction programs). Since the staff is small, documentation of this information is a resource issue. Internal evaluations are not done by the State.

### Conclusions

- References to the FOM are not made in the ROPP.
- State unique processes and Procedures are not documented in writing.
- Internal evaluations are not done in the State.

### Recommendations

- 60. References should be made between the ROPP and the FOM to clarify what procedures are being followed for the Wyoming state plan staff.**
- 61. As part of the SIEP, processes and procedures need to be in writing.**
- 62. Document and evaluate a minimum of one internal process each year.**

### 11. List of Appendices

Appendix A – Findings and Recommendations Chart  
Appendix B – Enforcement Comparison Chart  
Appendix C – FY 2009 State Activity Mandated Measures (SAMM)  
Appendix D – FY 2009 State Information Report (SIR)  
Appendix E – FY 2009 Public Sector MARC  
Appendix F – State OSHA Annual Report (SOAR)

**Appendix A**  
 FY 2009 Wyoming State Plan (WSCD) Enhanced FAME Report  
 Prepared by Region VIII

**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.
<b>Findings – Inquiries</b>		<b>Recommendations – Inquiries</b>	
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 <sup>th</sup> 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.
	<b>Findings- Fatalities</b>	<b>Recommendations- Fatalities</b>
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.
	<b>Findings- Targeted Inspections</b>	<b>Recommendations- Targeted Inspections</b>
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.
	<b>Findings- Employer and Union Involvement</b>	<b>Recommendations- Employer and Union Involvement</b>
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.

	<b>Findings- Citations and Penalties</b>	<b>Recommendations- Citations and Penalties</b>
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.	
	<b>Findings- Abatement</b>	<b>Recommendations- Abatement</b>
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.
	<b>Findings- Penalty Reduction Programs</b>	<b>Recommendations- Penalty Reduction Programs</b>
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.
	<b>Findings- On-Site Abatement</b>	<b>Recommendations- On-Site Abatement</b>
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.
	<b>Findings- Review Procedures</b>	<b>Recommendations- Review Procedures</b>
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 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.
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	
	<b>Findings- Review Procedures</b>	<b>Recommendations- Review Procedures</b>
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.
	<b>Findings- Tracking Systems &amp; Information Management</b>	<b>Recommendations- Tracking Systems &amp; Information Management</b>
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.
	<b>Findings- Bureau of Labor Statistics Rates</b>	<b>Recommendations- Bureau of Labor Statistics Rates</b>
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.	
	<b>Findings- Stakeholder Interviews</b>	<b>Recommendations- Stakeholder Interviews</b>
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.
	<b>Findings- Federal Program/State Plan Initiated Changes</b>	<b>Recommendations- Federal Program/State Plan Initiated Changes</b>
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.
	<b>Findings- Discrimination Program</b>	<b>Recommendations- Discrimination Program</b>
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.
	<b>Findings- Voluntary Compliance Program</b>	<b>Recommendations- Voluntary Compliance Program</b>
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.
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.
	<b>Findings- Training</b>	<b>Recommendations- Training</b>
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.
	<b>Findings- State Internal Evaluation Program</b>	<b>Recommendations- State Internal Evaluation Program</b>
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.

**Attachment B**  
**Wyoming State Plan (WSC)**  
**FY 2009 Enforcement Activity**

	Wyoming	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>510</b>	<b>61,016</b>	<b>39,004</b>
Safety	474	48,002	33,221
<i>% Safety</i>	93%	79%	85%
Health	36	13,014	5,783
<i>% Health</i>	7%	21%	15%
Construction	364	26,103	23,935
<i>% Construction</i>	71%	43%	61%
Public Sector	12	7,749	N/A
<i>% Public Sector</i>	2%	13%	N/A
Programmed	450	39,538	24,316
<i>% Programmed</i>	88%	65%	62%
Complaint	40	8,573	6,661
<i>% Complaint</i>	8%	14%	17%
Accident	8	3,098	836
Insp w/ Viols Cited	469	37,978	27,165
<i>% Insp w/ Viols Cited (NIC)</i>	92%	62%	70%
<i>% NIC w/ Serious Violations</i>	80%	62%	87%
<b>Total Violations</b>	<b>1,808</b>	<b>129,363</b>	<b>87,663</b>
Serious	998	55,309	67,668
<i>% Serious</i>	55%	43%	77%
Willful	2	171	401
Repeat	32	2,040	2,762
Serious/Willful/Repeat	1,032	57,520	70,831
<i>% S/W/R</i>	59%	44%	81%
Failure to Abate	-	494	207
Other than Serious	769	71,336	16,615
<i>% Other</i>	43%	55%	19%
Avg # Violations/ Initial Inspection	4.3	3.3	3.1
<b>Total Penalties</b>	<b>\$ 585,251</b>	<b>\$ 60,556,670</b>	<b>\$ 96,254,766</b>
Avg Current Penalty / Serious Violation	\$ 423.10	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 429.40	\$ 934.70	\$ 977.50
% Penalty Reduced	67.8%	51.9%	43.7%
<b>% Insp w/ Contested Viols</b>	<b>0.0%</b>	<b>13.0%</b>	<b>7.0%</b>
Avg Case Hrs/Insp- Safety	12.0	15.7	17.7
Avg Case Hrs/Insp- Health	19.9	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	36.0	31.6	34.3
Lapse Days Insp to Citation Issued- Health	53.6	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	33	2,010	2,234

*Source:*

*DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009.  
Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09*

## Appendix C State Activity Mandates Measures (SAMM)

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)

OCT 23, 2009  
PAGE 1 OF 2

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	182 3.71 49	9 3.00 3	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	513 5.02 102	0 .00 3	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	46 93.88 49	3 100.00 3	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	5 100.00 5	0 0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	931 94.71 983	2 66.67 3	100%
Public	51 83.61 61	0 0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	20333 49.59 410	499 41.58 12	2489573 43.8 56880 National Data (1 year)
Health	1759 62.82 28	187 62.33 3	692926 57.4 12071 National Data (1 year)

\*FY09WY

\*\*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)

OCT 23, 2009  
 PAGE 2 OF 2

State: WYOMING

RID: 0855600

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	321	6	92328
Safety	82.31	60.00	58.6 National Data (3 years)
	390	10	157566
	14	2	11007
Health	73.68	100.00	51.2 National Data (3 years)
	19	2	21510
9. Average Violations per Inspection with Vioations			
	1231	45	420601
S/W/R	2.81	3.00	2.1 National Data (3 years)
	438	15	201241
	710	26	243346
Other	1.62	1.73	1.2 National Data (3 years)
	438	15	201241
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1110260	20500	492362261
	970.50	732.14	1335.2 National Data (3 years)
	1144	28	368756
11. Percent of Total Inspections in Public Sector	12	0	80
	2.46	.00	6.2 Data for this State (3 years)
	488	4	1289
12. Average lapse time from receipt of Contest to first level decision	0	0	4382038
			246.1 National Data (3 years)
	0	0	17807
13. Percent of 11c Investigations Completed within 90 days	1	0	100%
	100.00		
	1	0	
14. Percent of 11c Complaints that are Meritorious	0	0	1466
	.00		20.8 National Data (3 years)
	1	0	7052
15. Percent of Meritorious 11c Complaints that are Settled	0	0	1263
			86.2 National Data (3 years)
	0	0	1466

\*FY09WY

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

## Attachment D State Indicator Report (SIR)

1100127

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

PAGE 1

### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = JANUARY 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	3954	29	9877	157	21487	362	42545	753
	66.4	70.7	66.8	89.2	67.3	88.9	66.0	89.7
	5952	41	14797	176	31913	407	64489	839
B. HEALTH	441	4	966	7	2008	18	3754	35
	36.9	44.4	36.2	43.8	35.5	52.9	34.7	61.4
	1195	9	2670	16	5663	34	10821	57
<b>2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)</b>								
A. SAFETY	3558	60	8259	182	16634	381	32774	730
	70.4	90.9	69.3	87.9	66.1	88.4	66.4	89.7
	5054	66	11919	207	25173	431	49371	814
B. HEALTH	383	2	760	9	1557	18	2904	33
	60.6	100.0	57.1	90.0	53.4	90.0	54.9	84.6
	632	2	1332	10	2916	20	5292	39
<b>3. SERIOUS VIOLATIONS (%)</b>								
A. SAFETY	13018	171	28380	396	56206	853	112472	1754
	82.5	56.4	82.2	54.1	80.7	55.5	79.8	57.7
	15770	303	34534	732	69639	1538	140967	3041
B. HEALTH	2395	21	5143	86	10308	111	19533	167
	71.5	41.2	70.2	46.7	69.7	44.2	68.5	47.4
	3348	51	7323	184	14784	251	28501	352
<b>4. ABATEMENT PERIOD FOR VIOLS</b>								
A. SAFETY PERCENT >30 DAYS	2777	55	5546	122	11848	325	25157	783
	17.9	31.8	16.4	30.1	17.5	36.7	18.4	42.6
	15507	173	33767	405	67676	886	136903	1837
B. HEALTH PERCENT >60 DAYS	168	0	460	0	1188	0	2919	0
	4.9	.0	6.2	.0	8.0	.0	10.2	.0
	3447	36	7462	116	14809	141	28648	221

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = JANUARY 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								
	274750	0	564385	1500	1257266	1875	2599013	9000
OTHER-THAN-SERIOUS	796.4	.0	855.1	750.0	952.5	625.0	1003.9	1285.7
	345	1	660	2	1320	3	2589	7
B. HEALTH								
	102600	0	187900	0	317050	0	659280	0
OTHER-THAN-SERIOUS	908.0	.0	824.1	.0	796.6	.0	851.8	.0
	113	0	228	0	398	0	774	0
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6897	43	16890	183	36420	422	72688	866
	5.5	2.7	5.5	4.9	5.5	5.8	5.4	5.7
	1244	16	3046	37	6598	73	13570	153
B. HEALTH								
	1413	23	3152	32	6798	53	12758	81
	2.0	3.8	1.8	2.7	1.7	2.9	1.6	3.0
	696	6	1712	12	3886	18	8190	27
7. VIOLATIONS VACATED %								
	767	2	2125	39	4761	132	9866	243
	3.4	.5	4.3	3.9	4.8	6.6	4.9	6.4
	22699	376	49281	999	99170	2000	201074	3814
8. VIOLATIONS RECLASSIFIED %								
	668	10	1852	39	4463	104	9176	266
	2.9	2.7	3.8	3.9	4.5	5.2	4.6	7.0
	22699	376	49281	999	99170	2000	201074	3814
9. PENALTY RETENTION %								
	11689142	79949	25094485	185232	52146953	427224	109315465	1168089
	61.3	32.4	62.6	33.5	62.4	33.0	62.8	33.5
	19056041	247095	40080530	552923	83517835	1292981	174071404	3483265

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = JANUARY 2010

## INTERIM STATE INDICATOR REPORT

STATE = WYOMING

0  
0

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 %								
	29	0	157	1	362	4	753	8
A. SAFETY	70.7	.0	89.2	25.0	88.9	50.0	89.7	61.5
	41	1	176	4	407	8	839	13
	4	13	7	14	18	15	35	18
B. HEALTH	44.4	100.0	43.8	93.3	52.9	83.3	61.4	78.3
	9	13	16	15	34	18	57	23
2. SERIOUS VIOLATIONS (%)								
	171	1	396	17	853	23	1754	59
A. SAFETY	56.4	100.0	54.1	81.0	55.5	59.0	57.7	61.5
	303	1	732	21	1538	39	3041	96
	21	35	86	45	111	76	167	140
B. HEALTH	41.2	47.3	46.7	53.6	44.2	57.1	47.4	56.9
	51	74	184	84	251	133	352	246

1100127

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = JANUARY 2010

## COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = WYOMING

0  
0

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %								
	326	0	736	0	1690	0	3615	0
	17.5	.0	20.4	.0	22.5	.0	23.5	.0
	1861	0	3615	0	7510	0	15414	0
2. VIOLATIONS RECLASSIFIED %								
	227	0	494	0	1110	0	2271	0
	12.2	.0	13.7	.0	14.8	.0	14.7	.0
	1861	0	3615	0	7510	0	15414	0
3. PENALTY RETENTION %								
	2514479	0	4666625	0	8960364	0	20572449	0
	53.0	.0	53.7	.0	52.5	.0	56.2	.0
	4741736	0	8697786	0	17065292	0	36622747	0

## Attachment E Mandated Activities Report for Consultation (MARC)

OSHA MARC REPORT  
REPORT ENDING DATE: DEC 2009  
QUARTER: 1 FY: 2010

@ U. S. DEPARTMENT OF LABOR  
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

JAN 06, 2010  
PAGE 9 OF 2

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
TOTAL VISITS	67	67	
1. Percent of Initial Visits in High Hazard Establishments			Not Less than 90%
Number High Hazard Visits	65	65	
Percent	100.00	100.00	
Number of Initial Visits	65	65	
2. Percent of Initial Visits to Smaller Businesses			Not Less than 90%
Initial Visits	65	65	
Visits <= 250 Employees in Estab	65	65	
Percent	100.00	100.00	
Visits <= 500 Employees CB by Empr	65	65	
Percent	100.00	100.00	
3. Percent of Visits where Consultant Conferred with Employees			100%
Initial			
Number with Empe Conferences	65	65	
Percent	100.00	100.00	
Number of Initial Visits	65	65	
Follow-Up	1	1	
Number with Empe Conferences	100.00	100.00	
Percent	1	1	
Number of Follow-Up Visits			
Training & Assistance Visits with Compliance Assistance ONLY			
Number with Empe Conferences	0	0	
Percent			
Number of T&A Visits	0	0	

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

OSHA MARC REPORT

@

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

JAN 06, 2010

REPORT ENDING DATE: DEC 2009

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 0 OF 2

QUARTER: 1 FY: 2010

MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
4A Thru 4D based on Closed Cases ONLY			
4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date)			100%
Number Verified Timely	244	244	
Percent	100.00	100.00	
Total Serious Hazards	244	244	
Number of Serious Hazards Verified Corrected:	244	244	
On-Site	10	10	
Within Original Time Frame	200	200	
Within Extension Time Frame	19	19	
Within 14 Days of Latest Correction Due Date	15	15	
4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date)			
Number NOT Verified Timely	0	0	
Percent	.00	.00	
Total Serious Hazards	244	244	
4C. Percent of Serious Hazards Referred to Enforcement			
Number Referred to Enforcement	0	0	
Percent	.00	.00	
Total Serious Hazards	244	244	
4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE)			65%
NUMBER VERIFIED	210	210	

Percent	86.07	86.07	
Total Serious Hazards	244	244	
Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE)	210	210	
On-Site	10	10	
Within Original Time Frame	200	200	
5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter)			0

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
TOTAL VISITS	32	102	
1. Percent of Initial Visits in High Hazard Establishments			Not Less than 90%
Number High Hazard Visits	29	97	
Percent	100.00	100.00	
Number of Initial Visits	29	97	
2. Percent of Initial Visits to Smaller Businesses			Not Less than 90%
Initial Visits	29	97	
Visits <= 250 Employees in Estab Percent	27 93.10	95 97.94	
Visits <= 500 Employees CB by Empr Percent	29 100.00	97 100.00	
3. Percent of Visits where Consultant Conferred with Employees			100%
Initial			
Number with Empe Conferences	29	97	
Percent	100.00	100.00	
Number of Initial Visits	29	97	
Follow-Up	3	4	
Number with Empe Conferences	100.00	100.00	
Percent	3	4	
Number of Follow-Up Visits			
Training & Assistance Visits with Compliance Assistance ONLY			
Number with Empe Conferences	0	0	
Percent			
Number of T&A Visits	0	0	

OSHA MARC REPORT  
 REPORT ENDING DATE: MAR 2010  
 QUARTER: 2 FY: 2010

\*\*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  
 MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

APR 06, 2010  
 PAGE 90

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
4A Thru 4D based on Closed Cases ONLY			
4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date)			100%
Number Verified Timely	75	343	
Percent	100.00	100.00	
Total Serious Hazards	75	343	
Number of Serious Hazards Verified Corrected:	75	343	
On-Site	3	16	
Within Original Time Frame	59	279	
Within Extension Time Frame	11	29	
Within 14 Days of Latest Correction Due Date	2	19	
4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date)			
Number NOT Verified Timely	0	0	
Percent	.00	.00	
Total Serious Hazards	75	343	
4C. Percent of Serious Hazards Referred to Enforcement			
Number Referred to Enforcement	0	0	
Percent	.00	.00	
Total Serious Hazards	75	343	
4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE)			65%
NUMBER VERIFIED	62	295	
Percent	82.67	86.01	

Total Serious Hazards	75		343	
Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE)	62		295	
On-Site	3		16	
Within Original Time Frame	59		279	
5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter)				0

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
TOTAL VISITS	49	156	
1. Percent of Initial Visits in High Hazard Establishments			Not Less than 90%
Number High Hazard Visits	42	144	
Percent	97.67	99.31	
Number of Initial Visits	43	145	
2. Percent of Initial Visits to Smaller Businesses			Not Less than 90%
Initial Visits	43	145	
Visits <= 250 Employees in Estab	42	142	
Percent	97.67	97.93	
Visits <= 500 Employees CB by Empr	43	145	
Percent	100.00	100.00	
3. Percent of Visits where Consultant Conferred with Employees			100%
Initial			
Number with Empe Conferences	25	127	
Percent	58.14	87.59	
Number of Initial Visits	43	145	
Follow-Up	5	9	
Number with Empe Conferences	83.33	90.00	
Percent	6	10	
Number of Follow-Up Visits			
Training & Assistance Visits with Compliance Assistance ONLY			
Number with Empe Conferences	0	0	
Percent			
Number of T&A Visits	0	0	

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

OSHA MARC REPORT  
 REPORT ENDING DATE: JUN 2010  
 QUARTER: 3 FY: 2010

U. S. D E P A R T M E N T O F L A B O R  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 MANDATED ACTIVITIES REPORT FOR CONSULTATION(MARC)

JUL 08, 2010  
 PAGE 90

- PROJECT NAME: Wyoming (21(D) PRIVATE)

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
4A Thru 4D based on Closed Cases ONLY			
4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date)			100%
Number Verified Timely	166	500	
Percent	96.51	98.81	
Total Serious Hazards	172	506	
Number of Serious Hazards Verified Corrected:	166	500	
On-Site	20	36	
Within Original Time Frame	133	403	
Within Extension Time Frame	13	42	
Within 14 Days of Latest Correction Due Date	0	19	
4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date)			
Number NOT Verified Timely	6	6	
Percent	3.49	1.19	
Total Serious Hazards	172	506	
4C. Percent of Serious Hazards Referred to Enforcement			
Number Referred to Enforcement	0	0	
Percent	.00	.00	
Total Serious Hazards	172	506	
4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE)			65%

NUMBER VERIFIED	153	439	
Percent	88.95	86.76	
Total Serious Hazards	172	506	
Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE)	153	439	
On-Site	20	36	
Within Original Time Frame	133	403	
5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter)			0

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**APPENDIX F**  
**FY 2009 STATE OSHA ANNUAL REPORT (SOAR)**

(Available separately)