

# **FY 2017 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report**

**Wyoming Occupational Safety and Health Administration (Wyoming OSHA)**



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## **I. Executive Summary**

The purpose of this report is to assess Wyoming OSHA's performance for Fiscal Year (FY) 2017 and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) Reports.

During the evaluation period, Wyoming OSHA experienced the departure of several compliance safety and health officers (CSHOs) and the compliance assistance specialist (CAS), as well as two lead CSHOs who played a large role in field and supervisory duties. Staffing turnover has forced the State Plan to dedicate significant time and resources to training and mentoring new workers at the entry and management levels.

Despite the challenges in staffing, Wyoming OSHA was able to exceed their overall inspection goals for FY 2017 and perform at a high level with respect to many of their mandated measures. A specific area of success for Wyoming OSHA was their commitment to providing formal training and education to their staff.

The State Plan made significant progress in addressing the seven findings and seven observations from the FY 2016 Follow-up FAME Report. Wyoming OSHA put considerable effort into addressing their lapse time concerns and the collection of abatement and, therefore, was able to close three of the seven findings from the previous FAME Report. They were also able to close four of the seven observations noted in the previous FAME Report while one observation was converted to a finding. Many of the previous observations were related to inspection procedures and proper case file documentation.

This FY 2017 Comprehensive FAME Report has four findings related to: complaints, health hazards, review and settlement of cases, and the whistleblower program. There are also two observations. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plans. Appendix C describes the status of previous findings with associated completed corrective actions.

## **II. State Plan Background**

### **A. Background**

Wyoming OSHA is housed in the Wyoming Department of Workforce Services, Office of Workforce Standards and Compliance. The State Plan designee is Jason Wolfe, who also serves as the Administrator of the Office of Workforce Standards and Compliance. Daniel Bulkley is the Deputy Administrator of Wyoming OSHA and has been in this position since October of 2014. The Compliance Project's main office is located in Cheyenne, Wyoming. Wyoming OSHA also has two field offices located in Casper and Rock Springs.

Wyoming OSHA closely mirrors the OSHA program. However, the State Plan has unique regulatory standards for oil and gas well drilling and servicing that address general operations at

a well once it has been drilled. The State Plan also has unique regulatory standards for anchor testing and special servicing that address special operations at a well site, including wireline operations, mobile pumping, and fracking, as well as drill-stem testing. The enforcement program maintains jurisdiction over safety and health issues for workers in state and local government workplaces and the private sector.

The State Plan is benchmarked for six safety and two health compliance officers. In addition to the CSHOs, the Wyoming OSHA staff consists of an operations manager, a compliance manager, a CAS, and three administrative personnel. In total, Wyoming OSHA has 15 workers on staff. All compliance assistance work, including the Voluntary Protection Program (VPP), is funded through the 23(g) grant. Whistleblower investigations are also funded by the 23(g) grant.

The following table shows the federal award levels, State Plan matching funds, and one-time money from FY 2015 through FY 2017.

<b>Fiscal Year</b>	<b>Federal Award</b>	<b>State Plan Match</b>	<b>100% State Funds</b>	<b>Total Funding</b>	<b>% of State Plan Contribution</b>	<b>One-time Money</b>
2017	\$531,200	\$531,200	\$1,046,041	\$2,108,441	75%	N/A
2016	\$531,200	\$531,200	\$1,046,041	\$2,108,441	75%	N/A
2015	\$528,800	\$528,800	\$980,352	\$2,037,952	74%	N/A

## **B. Major New Issues**

Toward the end of the evaluation period, the state informed Wyoming OSHA that they would not be able to fill the extra CSHO position they had on staff. While the State Plan is still operating at their mandated benchmarks, the loss of a CSHO clearly impacts the number of field staff available to conduct inspections.

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

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

OSHA has established a two-year cycle for the FAME process. FY 2017 is a comprehensive year, and as such, OSHA was required to conduct an on-site evaluation and case file review. A six-person OSHA team, which included a whistleblower investigator, was assembled to conduct a full case file review. Since Wyoming OSHA has electronic case files, the case file review was conducted from the OSHA Regional Office in Denver, Colorado. The electronic files were provided to the Regional Office on January 10, 2018, and the on-site review took place from January 29-31, 2018. A total of 129 safety, health, and whistleblower inspection case files were reviewed. The safety and health inspection files were randomly selected from inspections conducted during the evaluation period. The selected population included the following:

- Five (5) fatality case files

- Fifty (50) inspection files
- Thirty (30) informal complaint case files
- Forty-four (44) whistleblower case files

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- State Activity Mandated Measures (SAMM) Report (Appendix D)
- State Information Report
- Mandated Activities Report for Consultation
- State OSHA Annual Report (SOAR) (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Interviews of Wyoming OSHA staff
- Case file review

Each SAMM has an agreed-upon further review level (FRL) which can be either a single number or a range of numbers above and below the national average. This range of number is also known as the FRL range or the acceptable range. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan’s FY 2017 SAMM Report and includes the FRL for each measure.

## **B. Review of State Plan Performance**

### **1. PROGRAM ADMINISTRATION**

#### a) Training

Throughout FY 2017, training was provided to the Wyoming OSHA staff via webinars, the OSHA Training Institute (OTI), and online courses. The FY 2017 SOAR (Appendix E) presents a complete listing of all the training completed.

#### b) State Internal Evaluation Program Report (SIEP)

The purpose of the SIEP is to ensure that the State Plan is performing internal audits of their operations and organizational functions. The following are some of the aspects that Wyoming OSHA has included in the SIEP:

Orientation of New CSHOs	Formal Training for All CSHOs
On-the-Job Evaluations of Field Staff	Review of Work Products
Communicating with Employers	Employer Obligations
Hazard Identification	Abatement Verification

Corrective Advice  
Program Management  
Communication

Written Policies  
Individual Accountability  
Staff Meetings

Two areas of greater focus in FY 2017 were on-the-job evaluations and the review of work products. The lead CSHO and compliance manger provide on-the-job evaluations to ensure that CSHOs are conducting proper inspections. Wyoming OSHA will continue to focus on this aspect of their internal auditing in FY 2018. The lead CSHO and compliance manager also review work products to develop and maintain consistency in the case file review and citation review processes.

## 2. ENFORCEMENT

### a) Complaints

Wyoming OSHA conducted a total of 57 complaint inspections and processed 77 informal complaint investigations during FY 2017. SAMMs 1, 2, and 3 measure State Plan performance regarding responses to complaints throughout the year. The FRLs for SAMMs 1 and 2 are negotiated by OSHA and the State Plan. SAMM 1 measures the average number of work days to initiate a complaint inspection. In FY 2017, the FRL for SAMM 1 was 16 days; the State Plan took an average of 4.32 days to initiate a complaint inspection, which is an improvement over their average of 5.89 days in FY 2016. Next, SAMM 2 accounts for the average number of work days to initiate a complaint investigation. In FY 2017, the FRL for this SAMM was one day; Wyoming OSHA took an average of 5.35 days to initiate a complaint investigation, which is more time than their FY 2016 average of three days. Moreover, SAMM 3 measures the percentage of imminent danger complaints and referrals that are responded to within one day. The FRL of 100% is fixed for all State Plans. Wyoming OSHA met this FRL in both FY 2016 and FY 2017.

Also, SAMM 4 addresses the number of inspections where Wyoming OSHA was denied entry to conduct an inspection. The FRL of zero is fixed for all State Plans. There were no denials during FY 2016 or FY 2017.

Complaint processing was an issue during the evaluation period. The case file review included 30 informal complaints. The review team determined that eight (26%) of the 30 informal complaint files were processed, signed, and closed by CSHOs; four (12%) allowed for an excessive employer response time; 10 (33%) did not include a close-out letter; seven (23%) lacked an adequate response or documentation to close the file; and eight (26%) contained information that could have justified an inspection.

**FY 2017-1:** In FY 2017, there were significant deficiencies with the processing and disposition of informal complaints. Of the 30 informal complaint files reviewed, it was determined that eight (26%) were processed, signed, and closed by CSHOs; four (12%) allowed for an excessive employer response time; 10 (33%) did not include a close-out letter; seven (23%) lacked an adequate response or documentation to close the file; and eight (26%) contained information that could have justified an inspection.

**Recommendation:** Wyoming OSHA should implement in-depth training for compliance officers and the management team specific to complaint processing. The training should be followed up with a quarterly review of complaint files.

**Status:** This finding is new.

#### b) Fatalities

Overall, Wyoming OSHA performed satisfactorily in terms of conducting fatality investigations and addressing the appropriate hazards. The compliance staff followed proper procedures for investigating fatalities. Also, there was one instance of a fatality where the employer did not provide adequate notification to Wyoming OSHA, and the State Plan cited the employer for the late notification. SAMM 10 measures the percentage of work-related fatalities that are responded to in one workday. The FRL of 100% is fixed for all State Plans. In FY 2017, Wyoming OSHA met the FRL by responding to all of their fatalities within one workday. This is an improvement over the 85.7% response rate in FY 2016.

As previously mentioned, the fatality rate was significantly lower in FY 2017 than in previous years. Wyoming OSHA investigated five workplace fatalities, but one was determined to be outside of their jurisdiction. This marks a substantial decrease from the 10 fatalities the State Plan investigated in FY 2016. On average, Wyoming has investigated 8.9 workplace fatalities per year for the last 10 years. Wyoming OSHA believes the slow-down in Wyoming's economy has potentially played a role in the decrease in their fatality rate.

#### c) Targeting and Programmed Inspection

Since Wyoming OSHA exceeded their overall FY 2017 inspection goal of 210 total inspections by conducting 233, the State Plan also performed reasonably well with respect to SAMM 7, which compares the actual number of safety and health inspections conducted to the projected number of inspections. The FRL for safety inspections conducted was +/- 5% of the projected 184 inspections, which equals a range of 175 to 193 inspections. In FY 2017, Wyoming OSHA conducted 213 safety inspections, compared to 224 safety inspections in FY 2016. The FRL for health inspections conducted was +/- 5% of the projected 26 inspections, which equals a range of 24.7 to 27.3 inspections. In FY 2017, Wyoming OSHA was outside the FRL range with 20 health inspections, half of the 40 health inspections conducted in FY 2016. The State Plan attributes this to the loss of one of the health CSHOs, a vacancy the State Plan has yet to fill.

Wyoming OSHA uses several Emphasis Programs (EPs) to help identify and target high-hazard industries and workplaces for inspection. The EPs are mainly focused on the construction industry but also include amputation hazards, silica, the oil and gas industry, and employers with high experience modification ratings. Over the course of FY 2017, 71% (166 inspections) of Wyoming OSHA's inspection activity occurred in the construction industry. Only about 9% (20 inspections) of the State Plan's inspection activity was health-related. OSHA suggests Wyoming OSHA should develop health-focused EPs to increase the number of health inspections over the next several years.

Next, SAMM 9 measures the percent of inspections in compliance, i.e., the percent of

inspections without violations. For FY 2017, the safety FRL range for SAMM 9 was from 23.62% to 35.44%. The State Plan's percent in-compliance for safety inspections was 23.00%. This data point is largely due to the significant number of programmed inspections that often result in the issuance of citations. In FY 2016, Wyoming OSHA had a safety in-compliance rate of 28.22%, which was well within the FRL range of 23.08% to 34.62%. For FY 2017, the FRL range for percent in-compliance for health inspections was from 28.62% to 42.94%. The State Plan was within the FRL range at 36.84% in FY 2017. Wyoming OSHA was only slightly outside the health FRL range of 28.54% to 42.81% in FY 2016 with 27.78%. These data points being below the FRL indicate that the State Plan is performing well with respect to hazard identification during their inspection activity.

Next, SAMM 5 measures the average number of serious, willful, repeat, or unclassified (SWRU) violations per inspection. For FY 2017, the FRL range was from 1.46 to 2.20. Wyoming OSHA was above the range at 2.65 SWRU violations per inspection in FY 2017, compared to an average of 2.52 in FY 2016. These averages are understandably high considering the number of imminent danger inspections that took place in the construction industry.

Additionally, SAMM 17 measures the State Plan's enforcement presence. This percentage is a ratio of the total number of inspections to the total number of establishments. It should be noted that for this SAMM, total establishments do not include state and local government establishments or establishments in low-hazard private sector industries. Wyoming OSHA performed well for SAMM 17 in both FY 2016 and FY 2017. For FY 2017, the FRL range was from 0.95% to 1.58%. Wyoming OSHA had an enforcement presence of 1.37% in FY 2017, which is less than their FY 2016 enforcement presence of 1.57%. The State Plan also met the FRL for FY 2016, which established a range of 0.94% to 1.57%.

An area of ongoing concern for Wyoming OSHA is their lack of attention to health hazards, specifically their failure to conduct industrial hygiene sampling for exposures to noise or air contaminants. No full-shift personal air samples were collected during the evaluation period, and noise measurements only consisted of screening. Wyoming OSHA has struggled in the past to hire and maintain health CSHOs, and FY 2017 was no exception. As stated earlier, at the end of FY 2017, the State Plan was operating with one health CSHO, and they had been working for several months to fill the other health vacancy.

**FY 2017-2 (previously FY 2016-3 and FY 2015-6):** Wyoming OSHA does not consistently address health hazards. During FY 2017, no full-shift personal noise samples or full-shift personal samples for exposures to air contaminants were taken.  
**Recommendation:** In addition to training health CSHOs, Wyoming OSHA should research, develop, and implement an EP to specifically identify and assess health hazards.  
**Status:** This finding remains open.

#### d) Citations and Penalties

A review of the Inspection Summary Report shows that Wyoming OSHA issued a total of 817 citations throughout the course of FY 2017. Of these citations, approximately 60% (495) were



classified as serious, 31% (256) were classified as other-than-serious, 7% (50) were unclassified, and 2% (15) were classified as repeat. No citations were issued as willful or failure-to-abate.

Through the case file review process, the review team identified several areas of concern. It was determined that in 16% (9 of 55) of cases, there were apparent violations that were not cited; in 33% (16 of 48) of cases, there was inadequate evidence to support citations; in 25% (12 of 48) of cases, the hazards were incorrectly classified; and in 25% (12 of 48) of cases, the severity and probability were not properly justified. In at least 11 of the 29 cases with informal conferences, the informal conference notes referenced that the violation should not have been cited as serious. This is an issue that should have been addressed at the review stage and not after the citation had been issuance.

**FY 2017-3 (formerly FY 2016-2, FY 2015-5, FY 2016-OB-4, and FY-2015-OB-6):** It was determined that prior to the issuance of citations, Wyoming OSHA does not sufficiently review case file documentation related to: the identification of all apparent violations, necessary evidence to support violations, accurate hazard classification, and the proper justification of severity and probability. This deficiency at the review level impacts Wyoming OSHA's ability to make appropriate changes during the informal conference and settlement process.

**Recommendation:** Wyoming OSHA should ensure those individuals who are reviewing case files and holding informal conferences receive additional training to better understand the elements of a legally sufficient case, as well as the proper justifications for citation modification.

**Status:** This finding remains open.

Of the 55 case files reviewed, there were four cases where there may have been the potential to issue a willful citation. When potentially willful conditions are observed, Wyoming OSHA should ensure appropriate documentation is included in the file to detail why a willful citation could not be substantiated.

**FY 2017-OB-1:** When potentially willful conditions are observed, Wyoming OSHA does not thoroughly document why a willful citation is unable to be substantiated.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2018.

**Status:** This observation is new.

On the other hand, significant credit should be given to Wyoming OSHA for their efforts to reduce lapse time for both safety- and health-related cases (SAMM 11). Both the safety and health lapse times were 62 days in FY 2015. In FY 2016, Wyoming OSHA's safety lapse time increased to 75.06 days (acceptable range was from 36.13 days to 54.20 days,) and their health lapse time was 80.69 days (acceptable range was from 45.82 days to 68.74 days). In FY 2017, the State Plan met the both the safety and health FRL for SAMM 11. The safety lapse time was 52.68 days, compared to an acceptable range of 36.23 to 54.35. The health lapse time was 66.52 days, compared to an acceptable range of 44.82 days to 67.24 days. To reduce the lapse times, not only did the compliance manager and lead CSHO take on greater responsibility to ensure

timely processing of cases, but they also directed CSHOs to submit cases for review within 45 days of the opening conference unless there are mitigating circumstances. With these improvements, Region considers two findings from the FY 2016 FAME Report to be complete.

**FY 2016-4 (formerly FY 2015-7):** The lapse time for safety inspections in FY 2016, 75.06 days, is significantly above the reference standard of +/- 20% of 45.16 days.

**Recommendation:** Wyoming OSHA should reduce lapse time by ensuring inspections are completed and citations issued in a timely manner.

**Status:** This finding is complete.

**FY 2016-7:** The lapse time for health inspections in FY 2016, 80.69 days, is significantly above the reference standard of +/- 20% of 57.28 days.

**Recommendation:** Wyoming OSHA should reduce lapse time by ensuring inspections are completed and citations issued in a timely manner.

**Status:** This finding is complete.

Next, SAMM 8 calculates the average current serious penalty in the private sector. For FY 2017, the FRL range was from \$1,887.60 to \$3,146.00. Wyoming OSHA was within the FRL range with an average current serious penalty of \$1,989.87 in FY 2017. In FY 2016, the State Plan had a higher average current serious penalty of \$2,665.34. This penalty amount was also within the FRL range of \$1,709.27 to \$2,848.78.

Also, SAMM 12, which calculates the percent penalty retained, had an FRL range of 57.32% to 77.56% in FY 2017. Wyoming OSHA was significantly below the FRL with a penalty retention rate of 49.56%. For comparison, the State Plan was also outside the FRL range of 59.38% to 80.34% with a penalty retention rate of 50.58% in FY 2016. The Region believes this issue will be addressed as Wyoming OSHA works to improve their case file review and informal settlement process.

**FY 2016-1 (formerly FY 2015-4):** Wyoming OSHA has not developed an effective system to account for the collection of penalties.

**Recommendation:** Wyoming OSHA should implement a debt collection system to ensure employers are held accountable for paying penalties associated with any citations they receive.

**Status:** Wyoming OSHA contracted with an outside entity to ensure employers were held responsible for the penalties assessed during their inspections. This finding is complete.

**FY 2016-OB-1 (formerly FY 2015-OB-2):** Wyoming OSHA does not consistently request, evaluate, or enter OSHA-300 information as part of their inspection process.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2017.

**Status:** Wyoming OSHA addressed this issue during compliance officer training in FY 2017. The case file review revealed only three of 55 cases where the OSHA 300 information was not included in the file. This observation is closed.

**FY 2016-OB-5 (formerly FY 2015-OB-7):** Wyoming OSHA does not consistently use a case file diary sheet. It was observed that 45 case files did not include a diary sheet. The diary sheet provides organization and helpful information on the progress and disposition of the case.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2017.

**Status:** Wyoming OSHA addressed this issue during compliance officer training in FY 2017. The case file review determined that only four of the 55 (7%) files reviewed were missing a diary sheet. This is a significant improvement from the previous case file review. This observation is closed.

#### e) Abatement

In FY 2017, Wyoming OSHA performed particularly well in the area of abatement. It was noted in multiple case files the efforts made by the CSHOs to obtain adequate abatement while they were on-site conducting the inspection. This was especially true for inspections involving the construction industry. After accounting for unresponsive employers or those whose businesses have dissolved, Wyoming OSHA was able to adequately verify evidence of abatement for more than 90% of their inspections where it was required. There were very few (two files) opportunities to conduct follow-up inspections. Wyoming OSHA did not conduct a follow-up inspection in either case; however, abatement for both investigations was ultimately received at a later date. In greater than 97% (41 of 42 files which required abatement) of the files reviewed, the State Plan assigned appropriate abatement periods to the citations.

**FY 2016-OB-2 (formerly FY 2015-OB-4):** Wyoming OSHA does not conduct follow-up inspections to obtain abatement. In cases where abatement was not obtained (27 out of 35 cases reviewed), Wyoming OSHA did not verify that the violative condition had been corrected.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2017.

**Status:** Wyoming OSHA addressed this item through training and by collecting a significant amount of abatement during the on-site portion of the inspection. This observation is closed.

**FY 2016-5 (formerly FY 2015-8):** Wyoming OSHA does not promptly obtain abatement from employers post-contest. Of the 35 cases reviewed which required abatement, 27 of them lacked adequate verification or evidence of abatement.

**Recommendation:** Wyoming OSHA should implement a system to ensure informal conferences are held timely so abatement is promptly obtained.

**Status:** Wyoming OSHA management encourages CSHOs to obtain abatement while they are on-site. Management has also taken a more active role in obtaining abatement during informal conferences and scheduling those conferences shortly following the issuance of citations. This finding is complete.

#### f) Worker and Union Involvement

Wyoming OSHA has adequate policies and procedures pertaining to worker involvement during an inspection. They follow instruction that is provided at OTI, as well as the guidance in the Field Operations Manual (FOM), which they have adopted from OSHA identically. Similar to FY 2016, only two of the 55 (3%) inspection files reviewed involved a site with a union in FY 2017. However, in both FY 2017 cases, CSHOs followed the proper procedures to involve the union in the inspection process.

**FY 2016-OB-3 (formerly 2015-OB-5):** Wyoming OSHA does not ensure policies and procedures are followed with respect to inspections that involve worksites with union representation. Only two cases involved a union, and in one of those cases, a fatality, the union was not involved in the walkaround or the closing conference.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan's performance in this area during quarterly meetings throughout FY 2017.

**Status:** Wyoming OSHA addressed this item through internal training with their compliance staff. The case file review indicated CSHOs followed proper protocol during the two inspections that involved the union. This observation is closed.

SAMM 13 calculates the percent of initial inspections with worker walk around representation or worker interview. The FRL of 100% is fixed for all State Plans. Wyoming OSHA met the FRL in both FY 2016 and FY 2017. In FY 2017, five of the 55 (9%) files reviewed did not have documentation of worker interviews. Since that time, Wyoming OSHA has made significant improvement in this area. This is a significant improvement from the FY 2015 case file review where it was determined that 36 of 60 (60%) case files did not have documentation of employee interviews.

### 3. REVIEW PROCEDURES

#### a) Informal Conferences

An area of concern for a significant portion of FY 2017 had been the percentage of penalty retained. As stated earlier, the penalty retention rate for FY 2017 was 49.56%, compared to 50.58% in FY 2016. The review team determined that 48% (12 of 25) of cases with informal conferences had inappropriate changes to either the citation classification, the penalty amount, or both. Changes included reductions in classification with complete deletion of the penalty amount, reductions in classification or penalty without documented justification, or reductions based on worker misconduct. Other reasons given for reductions stated that the citation should have been issued as other-than-serious or that the condition did not meet the definition of a serious hazard. Again, the Region believes this issue will be addressed as Wyoming OSHA works to improve their case file review and informal settlement process.

Wyoming OSHA's informal conferences are scheduled differently than OSHA's in that they permit a 15-day period for the employer to determine if they want to contest any portion of the citation; the employer then has an additional 10 days to schedule an informal conference that will then take place within the next 30 days. Throughout this period, Wyoming OSHA works with the employer to obtain verification of abatement.

#### b) Formal Review of Citations

When an employer contests violations or proposed penalty abatement periods for violations, the case is referred to an independent hearing officer. The hearing officer shall submit written findings of fact, conclusions of law, and a recommended decision to the Wyoming OSHA Commission. The commission shall have the power to accept, amend, or overturn the recommended decision of the hearing officer.

After due and proper consideration of the contested case, the commission shall render its decision. The decision of the commission shall be the final administrative decision. A party adversely affected by a decision of the commission may appeal to the district court in the county where the violation allegedly occurred and ultimately to the Wyoming Supreme Court.

None of Wyoming OSHA's reported cases proceeded to the formal review process in FY 2017.

#### **4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION**

The standards adoption process in Wyoming begins once the State Plan is electronically notified that a new federal standard has been promulgated. Once this occurs, Wyoming OSHA has a multi-step process to promulgate the rule. Wyoming OSHA forwards the new requirement to the Wyoming OSHA Commission for approval. Once approved, the State Plan sends a courtesy memo to the governor explaining that Wyoming OSHA is requesting a new rule. The governor then has ten days to reply. After the 10 days have passed, the standard is filed with the Legislative Service Office and the Secretary of State where a 45-day period for public comments begins. After the 45 days have passed, the Wyoming OSHA Commission meets to review public comments and vote on the adoption of the standard. Once the commission approves the standard, it is sent to the attorney general's office and the Legislative Service Office for a final review before being sent to the governor's office for his or her approval and signature. The governor has 75 days to accept the federally promulgated standard, and once signed, it becomes law in the State of Wyoming.

#### **Standards**

The table below shows the State Plan's progress in adopting standards promulgated by OSHA since the last on-site review.

Standard Number	Standard Title	Adoption Status
29 CFR 1910	Final Rule on Walking-Working Surfaces and Personal Protective Equipment	Identical adoption anticipated on 4/25/2018
29 CFR 1902, 1903	Interim Final Rule on Maximum Penalty Increases	Identical adoption on 8/16/2016
29 CFR 1910, 1915, 1926	Final Rule for Occupational Exposure to Respirable Crystalline Silica	Identical adoption anticipated on 4/25/2018
29 CFR 1902, 1904, 2016-180	Improve Tracking of Workplace Injuries and Illnesses	Identical adoption anticipated on 9/1/2018
29 CFR 1910, 1915, 1926	Final Rule on Occupational Exposure to Beryllium	Identical adoption anticipated on 4/25/2018

### Maximum Penalty Increase

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016. As required by law, OSHA then increased maximum penalties annually on January 1, 2017, and January 1, 2018, according to the consumer price index. State Plans are required to adopt both initial increase and subsequent annual increases.

Wyoming was the first state to pass legislation to enable an increase in maximum penalties issued by its State Plan. The bill also included language to ensure that the annual increase due to inflation could be implemented by the Wyoming Occupational Safety and Health Commission without having to go through the legislative process. The commission increased maximum penalties as of May 16, 2017, and also approved the additional increase based on the annual consumer price index, which has an anticipated adoption date of May 1, 2018.

### Silica Standard

On March 25, 2016, OSHA published a *Federal Register* Notice on the Final Rule for Occupational Exposure to Respirable Crystalline Silica. OSHA's silica standard consists of two separate standards, one for general industry and maritime and one for construction, to tailor the standards to the circumstances in these sectors. The construction standard went into effect on September 23, 2017. The general industry/maritime standard is still expected to have an enforcement date of June 23, 2018. OSHA rolled out the construction standard with a 30-day compliance assistance initiative and then on October 23, 2017, began enforcing fully under the Interim Enforcement Guidance Memo for the Respirable Crystalline Silica in Construction Standard.

State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, or by September 26, 2016. State Plans were also required to have an effective date by the date of state promulgation or the federal effective date, whichever is later.

Industry members filed litigation challenging OSHA's silica standard. Despite the regulatory requirement that State Plans adopt the standard within six months of promulgation, several State Plans, including Wyoming OSHA, delayed their promulgation pending the outcome of the litigation. The U.S. Court of Appeals for the District of Columbia rejected all industry challenges to the standard in a ruling issued December 22, 2017. Wyoming OSHA will adopt the silica standard identically on April 25, 2018.

### **Beryllium Standard**

On January 9, 2017, OSHA adopted new standards addressing occupational beryllium exposure in general industry, construction, and shipyards. State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, or by July 9, 2017. However, on June 27, 2017, OSHA published a notice of proposed rulemaking to revoke the ancillary provisions applicable to the construction and shipyard sectors but retain the new permissible exposure limits. OSHA will not enforce the provisions of the January 9, 2017, construction and shipyard standards that it has proposed to revoke while the current rulemaking is underway.

Given the unusual circumstances of this rulemaking, in which substantive changes have been proposed to a standard within six months following its initial promulgation, several State Plans, including Wyoming OSHA, have delayed promulgation pending completion of the second rulemaking. Wyoming OSHA will adopt the beryllium standard identically on April 25, 2018.

### **Electronic Reporting Rule**

On May 12, 2016, OSHA published the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, effective January 1, 2017. The rule required all affected employers to submit 300A log summaries in OSHA's Injury Tracking Application by the specified due date of July 1, 2017. This deadline was subsequently pushed back to December 15, 2017.

In its Fall 2017 Regulatory Agenda, OSHA announced that it intends to issue a proposal to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses Final Rule, 81 FR 29624 (May 12, 2016).

State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, or by November 14, 2016. However, given OSHA's intent to issue a proposed rule to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses Final Rule, a number of State Plans, including Wyoming OSHA, have delayed adoption until this additional rulemaking is complete. Wyoming OSHA anticipates identical adoption of this standard on September 1, 2018.

### **FPCs**

Due to a staffing change in FY 2017, some directives listed below may have been previously adopted, but records were not available to positively confirm adoption. Wyoming OSHA has

implemented procedures to ensure federal directive adoption is closely tracked in the future to ensure directives are evaluated for possible adoption.

The following FPCs were adopted by Wyoming OSHA since the last on-site review.

<b>FPC Number</b>	<b>FPC Title</b>	<b>Adoption Status</b>
TED-03-01-004 2015 825	Special Government Employee Program Policies and Procedures Manual for OSHA VPP Programs	Adopted identically 3/18/2016
CPL-02-00.124 1999	Multi-Employer Citation Policy	Adopted identically 11/20/2015
CPL-02-03-006 2016 844	Alternative Dispute Resolution for Whistleblower Protection Program	Adopted identically 11/20/2015
TED-01-00-020 2016 845	Mandatory Training Program for OSHA Whistleblower Investigators	Adopted identically 11/20/2015
CPL-02-00-159 2016 864	Field Operations Manual Directive	Adopted identically 11/20/2015
CPL-02-03-007 2016 905	Whistleblower Investigations Manual Directive	Adopted identically 3/18/2016
TED-01-00-015	OSHA Technical Manual – Section V, Chapter 4, Fall Protection in Construction	Adopted identically 3/18/2016
CPL-02-01-058	Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence	Adopted identically 3/17/2017
CPL-03-00-021	Process Safety Management Covered Chemical Facilities National Emphasis Program	Adopted identically 3/17/2017

## **5. VARIANCES**

Wyoming OSHA does not have any variances at this time.

## **6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM**

During the evaluation period, Wyoming OSHA was significantly below the FRL range of 12.21% to 13.50% for SAMM 6, which measures the percent of total inspections in state and local government workplaces. Only 2.58% (6 inspections) of Wyoming OSHA’s inspections were conducted in state and local government workplaces. In FY 2016, Wyoming OSHA had a much higher percentage of inspection activity for state and local government workplaces at



10.98%, compared to an FRL range of 6.23% to 6.88%. The reduction in this particular performance measure can be attributed to CSHO turnover throughout the evaluation period. There was also an increased focus on high-hazard conditions in the construction industry. Both factors took time and resources away from state and local government inspections.

**FY 2017-OB-2:** Wyoming OSHA was significantly below the FRL for SAMM 6, the percent of total inspections conducted in state and local government workplaces. At 2.58%, Wyoming OSHA was outside the FRL range of 12.21% to 13.50%.

**Federal Monitoring Plan:** The OSHA Regional Office will continue to effectively monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2018.

**Status:** This observation is new.

## 7. WHISTLEBLOWER PROGRAM

The FAME review included an evaluation of the Wyoming OSHA whistleblower program, including policy and procedures and investigative files. The review team evaluated six investigative case files from FY 2017, which included four dismissed investigative case files and two settlement<sup>1</sup> case files. In addition, the team reviewed 32 administratively closed case files from FY 2017. Given the small sample size, the ability to identify trends was limited in these types of cases. Thus, recommendations on these types of case files were based upon potential trends and significant observations.

The following table provides a summary of whistleblower complaints during FY 2017.

Disposition	Totals
Total cases from FY 2017	6
Cases completed in FY 2017	5
Cases completed timely	-
Overage cases	5
~ Withdrawn	-
~ Dismissed	4
~ Merit	-
~ Settled	1
~ Settled other	-
~ Litigated	1
Administratively closed	32 <sup>2</sup>
Investigator on staff	1
Managers on staff	1

Wyoming OSHA reviewed all potential whistleblower complaints for appropriate coverage requirements, timely filing, and the presence of a prima facie allegation. New complaints were

<sup>1</sup> One reviewed case (14-018) was recommended merit in FY 2015; then the case was litigated and resolved in FY 2016.

<sup>2</sup> Case 16-023 has two unrelated case files numbered with the same case number.

received in three forms: an internal health and safety complaint, telephonic/facsimile complaint, or referrals from OSHA. New complaints were forwarded to the investigator to conduct an initial screening.

The initial screening process involves the investigator sending the complainant a worksheet to fill out and return to the investigator. Once the worksheet is returned, the investigator drafts a “discrimination worksheet,” which is then reviewed by the program supervisor. Next, the program supervisor approves the case for investigation or recommends the case be administratively closed.

Wyoming OSHA appropriately referred federal statute cases to the OSHA Denver Regional Office and had procedures in place to notify complainants of their right to concurrently dual-file Section 11(c) complaints with the OSHA Denver Regional Office.

The review team found multiple deficiencies in the intake, processing, and disposition of whistleblower cases. In 12 of 32 cases, respondent complaint notification letters were sent without docketing the case in IMIS; administrative closure letters were not sent in nearly all (32 files possible) cases; three cases were incorrectly administratively closed; five cases were missing the complaint notification letters to the complainant and/or respondent; in six files, a rebuttal was not provided by the complainant, so the case was administratively closed; and in nearly all cases, the file organization was not in accordance with the Whistleblower Investigations Manual.

It should also be noted that Wyoming OSHA was outside the FRL for two of the three SAMMs related to whistleblower functions in FY 2017. This is likely a result of newer workers taking on the functions of the whistleblower investigator. The percentage of investigations completed within 90 days (SAMM 14) was 0% in both FY 2016 and FY 2017. The FRL of 100% is fixed for all State Plans. Next, SAMM 15 measures the percentage of complaints that were meritorious; the FRL range is from 20% to 30%. Wyoming met the FRL at 20% in FY 2017, compared to 0% in FY 2016. Lastly, SAMM 16 calculates the average number of calendar days to complete an investigation; the FRL of 90 days is fixed for all State Plans. In FY 2017, the State Plan took an average of 726 days to complete an investigation. Due to clerical errors, this average was zero in FY 2016. Despite the challenges ahead, the Region believes Wyoming OSHA will improve with respect to SAMMs 14, 15, and 16 with the addition of a new whistleblower investigator who was hired in April of 2018.

**FY 2017-4 (formerly FY 2016-6 and FY 2015-9):** Throughout FY 2017, the whistleblower program had deficiencies involving the receipt, processing, and disposition of whistleblower cases.

**Recommendation:** Wyoming OSHA should improve program oversight, as well as ensure the sufficient training of managers and investigators.

**Status:** This finding remains open.

## **8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)**

There was one CASPA filed against Wyoming OSHA in FY 2016. Throughout the process, Wyoming OSHA met the predetermined deadlines and provided a response that was satisfactory to both the complainant and the Region. There were no CASPAs filed against Wyoming OSHA in FY 2017.

## **9. VOLUNTARY COMPLIANCE PROGRAM**

Wyoming OSHA has remained active with VPP in the last fiscal year. For more information on the State Plan's VPP promotion efforts, see the SOAR (Appendix E).

## **10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM**

The State and Local Government Sector Consultation Program conducted 33 consultation visits and seven compliance assistance visits throughout Wyoming. Based on their FY 2017 grant proposal, Wyoming OSHA had established a goal of 41 consultation visits. Similar to their VPP goal, reaching the goal for consultation visits became very difficult when the CAS departed Wyoming OSHA.

## **11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM**

Private sector on-site consultation is funded under 21(d) and, therefore, is evaluated under that same program.

## Appendix A – New and Continued Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2017-#	Finding	Recommendation	FY 2016-# or FY 2016-OB-#
FY 2017-1	In FY 2017, there were significant deficiencies with the processing and disposition of informal complaints. Of the 30 informal complaint files reviewed, it was determined that eight (26%) were processed, signed, and closed by CSHOs; four (12%) allowed for an excessive employer response time; 10 (33%) did not include a close-out letter; seven (23%) lacked an adequate response or documentation to close the file; and eight (26%) contained information that could have justified an inspection.	Wyoming OSHA should implement in-depth training for compliance officers and the management team specific to complaint processing. The training should be followed up with a quarterly review of complaint files.	
FY 2017-2	Wyoming OSHA does not consistently address health hazards. During FY 2017, no full-shift personal noise samples or full-shift personal samples for exposures to air contaminants were taken.	In addition to training health CSHOs, Wyoming OSHA should research, develop, and implement an EP to specifically identify and assess health hazards.	FY 2016-3 FY 2015-6
FY 2017-3	It was determined that prior to the issuance of citations, Wyoming OSHA does not sufficiently review case file documentation related to: the identification of all apparent violations, necessary evidence to support violations, accurate hazard classification, and the proper justification of severity and probability. This deficiency at the review level impacts Wyoming OSHA’s ability to make appropriate changes during the informal conference and settlement process.	Wyoming OSHA should ensure those individuals who are reviewing case files and holding informal conferences receive additional training to better understand the elements of a legally sufficient case, as well as the proper justifications for citation modification.	FY 2016-2 FY 2015-5 FY 2016-OB-4 FY 2015-OB-6
FY 2017-4	In 12 of 32 whistleblower cases, there were deficiencies involving the receipt, processing, and case disposition.	Wyoming OSHA should improve program oversight, as well as ensure the sufficient training of managers and investigators.	FY 2016-6 FY 2015-9

## Appendix A – New and Continued Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB-# or FY 2016-#	Observation	Federal Monitoring Plan	Current Status
FY 2017-OB-1		When potentially willful conditions are observed, Wyoming OSHA does not thoroughly document why a willful citation is unable to be substantiated.	The OSHA Regional Office will continue to effectively monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2018.	New
FY 2017-OB-2		Wyoming OSHA was significantly below the FRL for SAMM 6, the percent of inspections conducted in state and local government workplaces. At 2.58%, Wyoming OSHA was outside the FRL range of 12.21% to 13.50%.	The OSHA Regional Office will continue to effectively monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2018.	New
	FY 2016-OB-1 FY 2015-OB-2	Wyoming OSHA does not consistently request, evaluate, or enter OSHA-300 information as part of their inspection process.		Closed
	FY 2016-OB-2 FY 2015-OB-4	Wyoming OSHA does not conduct follow-up inspections to obtain abatement. In cases where abatement was not obtained (27 out of 35 cases reviewed), Wyoming OSHA did not verify that the violative condition had been corrected.		Closed
	FY 2016-OB-3 FY 2015-OB-5	Wyoming OSHA does not ensure policies and procedures are followed with respect to inspections that involve worksites with union representation. Only two cases involved a union, and in one of those cases, a fatality, the union was not involved in the walkaround or the closing conference.		Closed
Observation # FY 2017-OB-#	Observation# FY 2016-OB-# or FY 2016-#	Observation	Federal Monitoring Plan	Current Status
	FY 2016-OB-4 FY-2015-OB-6	Wyoming OSHA did not consistently document why modifications were made to citations during the informal conference. Documentation was not		Converted to Finding

**Appendix B – Observations Subject to New and Continued Monitoring**  
 FY 2017 WYOMING OSHA Comprehensive FAME Report

		provided for 11 of the 25 cases where modifications were made during the informal conference.		
	FY 2016-OB-5 FY-2015-OB-7	Wyoming OSHA does not consistently use a case file diary sheet. It was observed that 45 case files did not include a diary sheet. The diary sheet provides organization and helpful information on the progress and disposition of the case.		Closed

## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2016-1	Wyoming OSHA has not developed an effective system to account for the collection of penalties.	Wyoming OSHA should implement a debt collection system to ensure employers are held accountable for paying penalties associated with any citations they receive.	In September 2016, Wyoming Workers' Compensation signed a contract with Collection Center, Inc., and Wyoming OSHA was included in this contract for the collection of penalties. As of March 9, 2017, there have been 53 case files sent to Collection Center.	September 14, 2016	Completed

## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-2	<p>Wyoming OSHA does not consistently review case files to ensure legal sufficiency. Information to legally support citations (e.g. employer knowledge, measurements, worker interviews, and worker exposure data) were missing from 30 of the 60 case files reviewed.</p>	<p>Wyoming OSHA should provide in-depth training specific to the case file review process to the management staff.</p>	<p>Wyoming OSHA has placed a higher level of emphasis on the mandatory training required for Wyoming OSHA personnel. CSHOs completed OTI Course 1410, Inspection Techniques and Legal Aspects in September 2016. A new lead CSHO was appointed in October 2016 to assist the compliance manager in addressing the case file issues. During the August 2016 and March 2017 Semi-Annual Meetings, the compliance manager and the lead CSHO readdressed legal sufficiency to ensure CSHOs were staying the course.</p> <p>However, Wyoming OSHA still does not sufficiently review case file documentation related to: the identification of all apparent violations, necessary evidence to support violations, accurate hazard classification, and the proper justification of severity and probability. This deficiency at the review level impacts Wyoming OSHA's ability to make appropriate changes during the informal conference and settlement process. In FY 2017, it was determined that in 16% (9 of 55) of cases, there were apparent violations that were not cited; in 33% (16 of 48) of cases, there was inadequate evidence to support citations; in 25% (12 of 48) of cases, the hazards were incorrectly classified; and in 25% (12 of 48) of cases, the severity and probability were not properly justified. In at least 11 of the 29 cases with informal conferences, the informal conference notes referenced that the violation should not have been cited as serious.</p>	Not Applicable	Open
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## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-3	<p>Wyoming OSHA does not consistently address health hazards. During FY 2015, no noise samples were taken during inspection activity, and no overexposures to air contaminants were captured. Industrial hygiene sampling equipment is not maintained, calibrated, nor capable of being used in the field.</p>	<p>Wyoming OSHA should focus management and worker training on recognizing and addressing health-related hazards.</p>	<p>Wyoming OSHA sent CSHOs to OTI Course 1080, Health Hazard Awareness, in March 2016 and Course 1250, Introduction to Health Standards, in April 2016. The management team has conducted meetings with CSHOs in order to increase awareness of health hazards. A calibration and maintenance log for industrial hygiene sampling equipment had been developed by the operations manager as of January 2015. However, the calibration equipment log was not fully operational until October 2016 when sufficient resources became available. Once calibrated, CSHOs will maintain their equipment to ensure it is ready for inspection activity in the field. The State Plan has taken corrective action with respect to training; however, addressing health hazards through personal sampling is still an area that needs to be addressed. The Deputy Administrator is working with the Department of Workforce Services Human Resources and the Deputy Director on a job content questionnaire to get authorization for industrial hygienists and other professionals with occupational health credentials and experience.</p>	Not Applicable	Open
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## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-4	The lapse time for safety inspections in FY 2016, 75.06 days, is significantly above the reference standard of +/- 20% of 45.16 days.	Wyoming OSHA should reduce lapse time by ensuring inspections are completed and citations issued in a timely manner.	Wyoming OSHA has provided additional direction to their compliance staff to reinforce the importance of prompt citation issuance and case closure. The compliance manager and lead CSHO have also taken on a greater responsibility to ensure cases are processed in a timely manner. The safety lapse time in FY 2017 was 52.68 days, which is within the acceptable range of 36.23 days to 54.35 days.	September 30, 2017	Completed
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## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-5	<p>Wyoming OSHA does not promptly obtain abatement from employers post-contest. Of the 35 cases reviewed which required abatement, 27 of them lacked adequate verification or evidence of abatement.</p>	<p>Wyoming OSHA should implement a system to ensure informal conferences are held timely so abatement is promptly obtained.</p>	<p>Wyoming OSHA has implemented the requirement that CSHOs collect abatement for their case files. The lead CSHO and the compliance manager are responsible for obtaining abatement during informal conferences and for managing open abatement on a weekly basis. A greater emphasis has been placed on scheduling informal conferences within 30 days of citation issuance. During the August 2016 and March 2017 Semi-Annual Meetings, the compliance manager and lead CSHO readdressed abatement sufficiency to ensure CSHOs were staying the course. Management reviews OIS reports weekly, and CSHOs are alerted to close their open case files as quickly as possible.</p> <p>It was determined in FY 2017 that Wyoming OSHA was able to verify adequate evidence of abatement for 35 of the 41 (85%) case files that were reviewed and required abatement.</p>	<p>March 13, 2017</p>	<p>Completed</p>
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## Appendix C - Status of FY 2016 Findings and Recommendations

### FY 2017 WYOMING OSHA Comprehensive FAME Report

FY 2016-6	Throughout 2015, the whistleblower program had significant programmatic deficiencies involving the receipt, processing, and disposition of whistleblower complaints.	Wyoming OSHA should ensure that the program has proper management oversight and appropriate training for managers and investigators.	The lead CSHO, operations manager, compliance manager, and lead compliance specialist all completed OTI whistleblower courses between June 2016 and June 2017. The lead CSHO also spent a week at the Regional Office to gain a better understanding of whistleblower requirements. Data is now being entered into IMIS, and all cases are being tracked. Also, this has become part of the annual performance management indicator goals for the operations manager and the assigned whistleblowers. However, the whistleblower program continues to have the same deficiencies.	Not Applicable	Open
FY 2016-7	The lapse time for health inspections in FY 2016, 80.69 days, is significantly above the reference standard of +/- 20% of 57.28 days.	Wyoming OSHA should reduce lapse time by ensuring inspections are completed and citations issued in a timely manner.	Wyoming OSHA has directed their CSHOs to submit their health-related inspections for review within 45 days of the opening conference unless the complexity of the case (e.g., a fatality) warrants a longer investigation period. The compliance manager took on a new lead CSHO who has been working to reduce the lapse time since Oct 1, 2016. The health lapse time in FY 2017 was 66.52 days, which is within the acceptable range of 44.82 days to 67.24 days.	September 30, 2017	Completed

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 WYOMING OSHA Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Wyoming – WYOMING OSHA			FY 2017	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	4.32	16	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	3.09	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	5.35	1	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	4.37	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
<b>4</b>	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

### FY 2017 WYOMING OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 2.65	+/- 20% of SWRU: 1.83	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.20 for SWRU and from 0.79 to 1.19 for OTS.
		Other: 0.70	+/- 20% of Other: 0.99	
<b>6</b>	Percent of total inspections in state and local government workplaces	2.58%	+/- 5% of 12.86%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 12.21% to 13.50%.
<b>7</b>	Planned v. actual inspections – safety/health	S: 213	+/- 5% of S: 184	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 174.80 to 193.20 for safety and from 24.70 to 27.30 for health.
		H: 20	+/- 5% of H: 26	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,989.87	+/- 25% of \$2,516.80	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,887.60 to \$3,146.00.
	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$1,840.44	+/- 25% of \$1,706.10	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,279.58 to \$2,132.63.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$1,593.19	+/- 25% of \$2,867.94	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,150.96 to \$3,584.93.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$2,795.00	+/- 25% of \$3,952.26	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,964.20 to \$4,940.33.

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

### FY 2017 WYOMING OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,560.65	+/- 25% of \$5,063.48	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,797.61 to \$6,329.35.
9	Percent in compliance	S: 23.00%	+/- 20% of S: 29.53%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 23.62% to 35.44% for safety and from 28.62% to 42.94% for health.
		H: 36.84%	+/- 20% of H: 35.78%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 52.68	+/- 20% of S: 45.29	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and from 44.82 to 67.24 for health.
		H: 66.52	+/- 20% of H: 56.03	
12	Percent penalty retained	49.56%	+/- 15% of 67.44%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 57.32% to 77.56%.
13	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	0%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	20%	+/- 20% of 25%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 20% to 30%.
16	Average number of calendar days to complete an 11(c) investigation	726	90	The further review level is fixed for all State Plans.

## Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 WYOMING OSHA Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
17	Percent of enforcement presence	1.37%	+/- 25% of 1.26%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.95% to 1.58%.



**State of Wyoming  
Office of Standards and Compliance  
OSHA Division**

**FY 2017 Annual Report  
State Operations Annual Report  
(SOAR)**



**Prepared by: Daniel S. Bulkley**

**Submitted: December 15, 2017**

**Daniel Bulkley  
Deputy Administrator**

**Christian Graham  
Compliance Program Manager**

**Mission:**

**We bridge human and economic development for Wyoming's future.**

**Vision:**

**We envision a Wyoming with a well-prepared, economically self-sufficient workforce that empowers employees and employers to enjoy an improved quality of life.**

**Values:**

**Customer Service |  
Professional Development &  
Empowerment  
Collaboration |  
Communication | Trust &  
Honesty | Respect**

## Appendix E - FY 2017 State OSHA Annual Report (SOAR)

### Executive Summary

The Wyoming State Plan is a joint Compliance/Consultation effort to provide a safe and healthy workplace for every worker in the State of Wyoming through either the enforcement of the WY OSHA standards by Compliance and/or the assistance to employers through Compliance Assistance/ Consultation.

Wyoming operates a state plan occupational safety and health program under Section 18 of the federal Occupational Safety and Health Act of 1970 (the Act). The State plan began in 1973, received initial approval May 3, 1974 and final approval on June 27, 1985. Wyoming state plan currently operates under Department of Workforce Services (DWS) through the State of Wyoming. Funding for this program is provided in accordance with Section 21 of the Act and includes both federal funds and state funds from the Wyoming Industrial Accident Fund under Workers' Compensation. Establishment and enforcement of state occupational safety and health standards form the primary goal of this program. Wyoming provides a compliance program in accordance with 29 CFR 1908 and the Field Operations Manual (CPL 02-00-160). This program is also designed to operate within the requirements established in Section 21 of the Act and in accordance with the Wyoming Occupational Health and Safety Act and Rules of Practice and Procedures.

The Compliance Project's main office is located in the West Wing, Cheyenne Business Center, 1510 East Pershing Boulevard, Cheyenne, Wyoming 82002. For 2017 the program had a total of three field offices located in Casper, Jackson and Rock Springs, the program closed the office in Jackson in May 2017 due to staffing issues. Over Federal Fiscal Year (FY) 2017, the Compliance Program has continued to undergo changes at the staffing level, positions and staff duties.

WY OSHA is still working under its developed 5-year Strategic Performance Plan that will be in effect from FY 2015 through FY 2020. This five-year Strategic Performance Plan was developed on the basis that occupational safety and health in Wyoming is an integrated process with Compliance and Consultation working together to accomplish a common goal.

This report is a performance report of WY OSHA Compliance activities accomplished for the fulfillment of requirements within the FY 2017 23(g) Cooperative Agreement and included in the Strategic Plan (FY 2015 - 2020).

### Annual Performance Goals and Results

**Goal 1: Fatality Reduction.** The **first strategic goal** is to "Reduce fatalities by minimizing occupational hazards, promoting safety and health cultures, and maximizing Workers' Compensation Division (WCD) effectiveness and efficiency."

## Appendix E - FY 2017 State OSHA Annual Report (SOAR)

Annual Performance Goal #1, “Reduce fatalities by inspecting workplaces identified through WCD data, Wyoming fatality data, and Bureau of Labor Statistics (BLS) data and by fielding complaints/referrals and conducting compliance inspections.

This year the FY 2017 performance goal when compared to the average annual number of fatalities for the ten-year period from FY 2007 through FY 2016 showed a significant decrease. The baseline fatalities indicates an average of eight point nine (8.9) fatalities per year.

Wyoming Compliance investigated four (4) OSHA workplace fatalities in FY 2017. This number is four point nine (4.9) fatalities lower than the ten-year average. Wyoming continues to rarely have enough OSHA-related workplace fatalities in any one year to reach statistically valid conclusions. For this reason, ten-year average fatality data is still being used to detect trends and determine the progress of this organization's preventative efforts.

<b>Fatality Data</b>			
		<b># of Fatalities</b>	<b>Change</b>
<i>Baseline</i>	<i>FY 2007 - FY 2016</i>	<b>8.9 (10-year avg.)</b>	<b>From Base</b>
<b>FY2017</b>	<i>Oct. 1, 2016 - September 30, 2017</i>	4	<b>-4.9</b>

This Fatality Data Chart reflects raw numbers of OSHA fatalities in Wyoming, and shows a decrease of four point nine (4.9) between the baseline and FY 2017. The fatalities varied within multiple industries to include Construction and General Industry. The Oil and Gas industry usually contributes to these stats but for FY 2017 they showed significant progress (this could have been contributed to the oil and gas industry slowing down).

During multiple informal conferences with the employers, Compliance has required employers to attend specific training and receive services provided by the WY OSHA Consultation Program, Workers’ Compensation Safety Specialist and Workers’ Compensation Safety & Risk (WCSR). WY OSHA also required employers to work with the OSHA Training Institute Education Center, Rocky Mountain Education Center to help their staff with better knowledge as it pertains to OSHA issues. Consent Agreement items also included visit requirements and services from Risk Management to examine and analyze the employer’s injury and illness data and for employers to submit and qualify for WY Workers’ Compensation Discount Programs. The combination of company specific data analysis and inspection data assists employers to identify problem areas and trends. Through requiring these concessions in the consent agreement, and promoting

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Consultation's and WCSR services, it is believed this has helped company's better understand safety and health hazards their employees experience and reduce injuries, illness and fatalities after inspections.

**Goal 2: Workers' Compensation Claims Reduction.** The second strategic goal is to "Improve workplace safety and health for all Wyoming workers as evidence by fewer hazards, reduced exposures, and fewer injuries, illnesses".

Annual Performance Goal #2, "Reduce injuries and illnesses at employers receiving comprehensive compliance inspections by focusing on workplaces identified through Workers' Compensation data, by direct observations, and fielding complaints and referrals".

Compliance conducted numerous inspections during FY 2017 from using the Workers' Compensation data, imminent dangers inspections, local construction emphasis program along with the OSHA reporting requirements (amputations and hospitalizations). The average # of health violations – 1.4 and # of safety violations 1.77 for an average total of 1.74 violations per inspections. (See I. WY OSHA Compliance Performance Summary for compliance/compliance assistance and inspection summary by program).

Because the Compliance and Compliance Assistance (CA) Program has access to company specific workers' compensation data and history, this data is used to determine the impact following a Compliance/CA visit. The Experience Modification Rating (EMR) is the variable used to compare pre and post visit data. The EMR is the numeric representation of a business's claims history and safety record, compared to other business in the same industry. For measurement purposes, companies that have received visits multiple years have their EMRs compared pre and post visit. These numbers are then calculated, added and averaged to determine the percent reduction for the FY 2017.

### **FY 16 (October 1, 2015 - October 1, 2016)**

- 8,239 accepted claims filed
- 17,523 total employers who reported payroll or reported a claim
- 14,361 employers who reported payroll with no claim's filed
- 3,162 employers who reported payroll and had at least 1 claim
- 18% of all eligible employers filed a claim
- \$121,853,462.12 total expenses of accepted claim filed
- \$14,789.84 average cost per accepted claim filed
- 10,122,044,162.78 total payroll reported (exposure)

### **FY 17 (October 1, 2016 - October 1, 2017)**

- 7,651 Accepted claims filed
- 17,209 Total employers who reported payroll or reported a claim
- 14,137 Employers who reported payroll with no claim's filed
- 3,072 Employers who reported payroll and had at least 1 claim
- 17.9 % of all eligible employers filed a claim
- \$112,925,425.05 total expenses of accepted claim filed
- \$14,759.56 average cost per accepted claim filed

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- \$9,834,590,138.14 total payroll reported (exposure)

**\*Note all reporting data for FY 2017 shows a reduction from the previous FY 2016.**

However, FY 2017 showed an average EMR decrease of less than one percent, which does not meet the annual goal of 2%. There was no significant changes with most stat's with the exception of total expenses of accepted claims that was approximately 7.5% less for FY 2017. This shows the types/costs of injuries was reduced which is a positive sign.

It is important to note Compliance/CA staff and management are still involved in the presentation of loss run data to Wyoming companies. Through the presentation of loss run data, the employer is shown their number of claims reported to Wyoming Workers' Compensation, the body part injured and the cost of these claims to assist them in identifying and addressing potential areas for improvement.

In addition, all staff share information on various topics, such as construction, general industry and oil and gas safety to employers working within Wyoming. Through these efforts, the Division reaches all levels of the workforce, from corporate officers and owners to the personnel that perform the work.

**Goal 3: Consultation, Cooperative.** The **third strategic goal** is to "Increase marketing for participation in the VPP and SHARP Recognition Programs by ten percent by developing relationships with companies applying safety and health best practices" This Annual Performance Goal is to develop relationships with companies, and increase participation in prestige programs. The Division has worked diligently to increase new participation utilizing Compliance Assistance, maintain and increase participation in cooperative programs, and maintain involvement with health and safety alliances and coalitions within the state.

Ways in which the Division strives to increase participation in Compliance Assistance involve the Health and Safety Consultation Employer Discount Program, Prestige Programs (VPP, SHARP and EVTAP), Alliance/Coalition and Association involvement, the National 2017 Fall Protection Stand Down, Safe & Sound Week and 2017 Wyoming Safety Summit.

This FY 2017, marketing continued through promotion of the Health and Safety Consultation Employer Discount Program, which encourages employers to request visits or enroll into an exemption program (VPP, SHARP or EVTAP). Information packets were distributed on visits conducted and information posted on the Wyoming OSHA website. In addition, information was shared and presented by management and staff at Alliance and Coalition meetings and presentations. An online application is still also being used to assist employers in participating in this program. Through participation in the Department of Workforce Services, Workers' Compensation, Health and Safety Consultation Employer Discount Program, employers may receive a premium base rate Workers' Compensation Insurance discount. Applications to participate in the program may be submitted to the OSHA Division or Workers' Compensation Safety Specialist (WCSS) at any time and upon approval, premium base rate discounts are implemented in the subsequent calendar quarter. For FY 2017, seventy-eight (78) new employers qualified for this discount program on top of the previous year's sixty-eight which equates to one

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hundred and forty-six (146). This is approximately a 53% increase from employers enrolled FY 2015 and FY 2016. Please see Discount Programs for more information.

The Consultation Program experienced an increase of nine SHARP and seventeen EVTAP participants in FY 2017. There were fourteen (14) EVTAP and twenty-three (23) SHARP renewals during FY 2017. Compliance Assistance lost a VPP client due to a corporation buy out for FY 2017.

<i>EVTAP and SHARP Data</i>		<i>VPP Data</i>	
	<b># EVTAP</b>	<b># SHARP</b>	<b># VPP</b>
<i>FY 2015</i>	15	32	4
<i>FY 2016</i>	14	34	4
<i>FY 2017</i>	27	31	3
<i>Change From FY 2016</i>	<b>+13</b>	<b>-3</b>	<b>-1</b>

Alliance, Coalition and Association participation is another venue used by OSHA CA to promote a safety and health culture in Wyoming. CA works to empower Alliances to address health and safety within their industry and supplies services as requested. Currently, CA and Consultation participates with seven existing alliances/coalitions. They include Wyoming Oil & Gas Industry Safety Alliance (WOGISA), Wyoming Refinery Safety Alliance (WRSA) and Wyoming Construction Safety Alliance (WCSA), Transportation Safety Coalition (TSC), Cheyenne Roofing Alliance (CRA), Wyoming Construction Coalition (WCC) and Wyoming Contractor's Association (WCA). WY OSHA primarily is involved in the groups listed below and participates with the others on an as need basis.

### I. WY OSHA Compliance Performance Summary

The WY OSHA program mirrors the federal program as closely as possible while still

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recognizing the autonomy and unique characteristics of the state of Wyoming.

For FY 2017, the Compliance Program projected 210 total compliance inspections and the Compliance Assistance Program projected 41 total public sector CA visits. The Compliance Program conducted a total of 233 inspections, 227 private sector and 6 public sector inspections, which exceeded the goal. The CA Program conducted 33 public sector visits which did not meet the goal, this was primarily due to CA turnover. CA did in addition to visits during FY 2017 attend, present and provide training to thirty (30) alliances/employers.

WY OSHA, in line with its strategic and performance plans, emphasized the prevention of fatalities and the reduction of the Wyoming fatality rate along with the prevention and reduction of accidents and injuries for industries under WY OSHA's jurisdiction. WY OSHA also made a continued concerted effort to reduce the Wyoming Annual Recordable Case Rate in Oil & Gas through continued participation in Wyoming Oil & Gas Industry Safety Alliance (WOGISA). WY OSHA also has continued to promote a safety and health culture through participation in alliances, coalitions, and associations and through compliance interventions, presentations and through the states Safety Health Achievement Recognition Program (SHARP), Voluntary Protection Program (VPP) and Employer Voluntary Technical Assistance Program (EVTAP).

### Compliance / Compliance Assistance

<b>Inspections</b>	
Health	18
Safety	209
Public Sector – Inspections Safety	4
Public Sector – Inspections Health	2
<b>Total Inspections</b>	<b>233</b>
<b>Fatality Cases</b>	
Fatality Inspections Investigated	<b>4</b>
<b>Accident Cases</b>	
Health	0
Safety	1
<b>Total Accident Cases</b>	<b>1</b>
<b>Complaints Inspected</b>	
Health	18
Safety	39
<b>Total Complaints Inspected</b>	<b>57</b>
Investigations (Phone/Fax) accomplished	77
<b>Referrals Inspected</b>	
Health	<b>0</b>
Safety	12

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<b>Total Referral Cases</b>	<b>12</b>
<b>Construction</b>	
Health	5
Safety	161
<b>Total Construction</b>	<b>166</b>
<b>General Industry</b>	
Health	13
Safety	48
<b>Total General Industry</b>	<b>61</b>
<b>Public Sector CA</b>	
Health	5
Safety	1
Both	65
<b>Total Public Sector Compliance Assistance</b>	<b>19</b>
<b>Whistleblower Complaints</b>	
Whistleblower Complaints Received	21
Whistleblower Cases Pending	10
Total Investigations completed in FY 2017	3
Investigations Opened in FY 2017 and Not Completed	7
Merit Determinations in FY2017	0
Non-Merit Determinations in FY 2017	3
Cases settled	1
Whistleblower Cases Withdrawn	3
Screened Out - Administratively closed	33
<b>VPP Activities</b>	
Total Participants	3
Applications received	0
Presentations accomplished	2
Pre-audits accomplished	1
Recertification audits accomplished	1
<b>Compliance Outreach</b>	
Wyoming Safety and Workforce Summit Attendees = 275	1
Agriculture	6
Ergonomics	0
Fall Prevention in Construction	25
Fall Prevention in Residential Construction	18
Fall Prevention Stand Down	2
Hazard Communication	13
Healthcare	1
Heat	0
Oil & Gas	13
Recordkeeping & Reporting	13
Safety & health Management Systems	3
Other	35
<b>Total Task Topics Covered</b>	<b>130</b>



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Employer	183
Latino/Hispanic	15
Small Business	278
Union	0
Worker	346
Youth	0
<b>Audience Total</b>	<b>822</b>
Cooperative Program VPP's	2
Cooperative Program Alliance's	25
<b>Total Cooperative Programs Reached</b>	<b>27</b>
<b>Total Outreach Activities Accomplished</b>	<b>54</b>
<b>Total Number Attended</b>	<b>1,475</b>
<b>Total Affected</b>	<b>19,365</b>

### Inspection Summary by Program

#### Inspection by Emphasis Program - NEP

Region/RID/CSHO		08	Total
<b>AMPUTATE</b>	Health	0	0
	Safety	2	2
	<b>Total</b>	<b>2</b>	<b>2</b>
<b>CTARGET</b>	Health	0	0
	Safety	34	34
	<b>Total</b>	<b>34</b>	<b>34</b>
<b>SILICA</b>	Health	3	3
	Safety	0	0
	<b>Total</b>	<b>3</b>	<b>3</b>
<b>TRENCH</b>	Health	0	0
	Safety	11	11
	<b>Total</b>	<b>11</b>	<b>11</b>
<b>All NEP</b>	Health	3	3
	Safety	47	47
	<b>Total</b>	<b>50</b>	<b>50</b>

Inspection by Emphasis Program – SEP			
Region/RID/CSHO		08	Total
<b>4200</b>	Health	0	0

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	Safety	1	1
	Total	1	1
<b>CONSTR</b>	Health	8	8
	Safety	141	141
	Total	149	149
<b>OILDRILL</b>	Health	0	0
	Safety	1	1
	Total	1	1
<b>OILSERV</b>	Health	0	0
	Safety	1	1
	Total	1	1
<b>WC</b>	Health	0	0
	Safety	19	19
	Total	19	19
<b>All SEP</b>	Health	8	8
	Safety	163	163
	Total	171	171

<b>Inspection by Emphasis Program - Primary Emphasis Program</b>			
<b>Region/RID/CSHO</b>		<b>08</b>	<b>Total</b>
<b>CONSTR</b>	Health	0	0
	Safety	39	39
	Total	39	39
<b>CTARGET</b>	Health	0	0
	Safety	5	5
	Total	5	5
<b>TRENCH</b>	Health	0	0
	Safety	6	6
	Total	6	6
<b>WC</b>	Health	0	0
	Safety	8	8
	Total	8	8
<b>All Prim Emphasis Plan</b>		Health	0
		Safety	0
		Total	0

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	<b>Safety</b>	<b>58</b>	<b>58</b>
	<b>Total</b>	<b>58</b>	<b>58</b>

<b>Inspection by Strat Plan</b>			
<b>Region/RID/CSHO</b>		<b>08</b>	<b>Total</b>
<b>AMPUTATIONS</b>	<b>Health</b>	1	1
	<b>Safety</b>	0	0
	<b>Total</b>	1	1
<b>COMMERCIAL CONSTR</b>	<b>Health</b>	1	1
	<b>Safety</b>	12	12
	<b>Total</b>	13	13
<b>ELECTRICAL</b>	<b>Health</b>	1	1
	<b>Safety</b>	0	0
	<b>Total</b>	1	1
<b>ERGONOMICS</b>	<b>Health</b>	1	1
	<b>Safety</b>	0	0
	<b>Total</b>	1	1
<b>FALL FROM HEIGHT</b>	<b>Health</b>	1	1
	<b>Safety</b>	18	18
	<b>Total</b>	19	19
<b>HISPANIC</b>	<b>Health</b>	1	1
	<b>Safety</b>	10	10
	<b>Total</b>	11	11
<b>NOISE</b>	<b>Health</b>	1	1
	<b>Safety</b>	0	0
	<b>Total</b>	1	1
<b>POWERED IND VEHICLE</b>	<b>Health</b>	1	1
	<b>Safety</b>	3	3
	<b>Total</b>	4	4
<b>RESIDENTIAL CONSTR</b>	<b>Health</b>	0	0
	<b>Safety</b>	7	7
	<b>Total</b>	7	7
<b>STRUCK-BY</b>	<b>Health</b>	1	1

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	Safety	2	2
	Total	3	3
TEMPWORKERS	Health	1	1
	Safety	0	0
	Total	1	1
TRENCHING	Health	0	0
	Safety	2	2
	Total	2	2
All Strat Plan	Health	10	10
	Safety	54	54
	Total	64	64

Inspection by Construction Type			
Region/RID/CSHO		08	Total
Commercial Construction	Health	4	4
	Safety	57	57
	Total	61	61
Residential Construction	Health	0	0
	Safety	72	72
	Total	72	72
All Construction Type	Health	4	4
	Safety	135	135
	Total	139	139

## II. Mandated Activities

Name	Data	Reference/Standard
Average # of work days to initiate complaint inspections	4.32	Negotiated to 16 days
Average # of work days to initiate complaint investigations	5.35 days	1 day

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<b>% of complaints &amp; referrals responded to within 1 work day (imminent danger)</b>	<b>100%</b>	<b>100%</b>
<b># of denials where entry not obtained</b>	<b>0</b>	<b>0</b>
<b>Average # of violations per inspection with violations by violation type</b>	<b>2.65</b>	<b>1.79</b>
<b>Average # of violations per inspection with violations by violation type OTS</b>	<b>.70</b>	<b>0.99</b>
<b>% of total inspections in the public sector</b>	<b>2.58%</b>	<b>Negotiated to 5%</b>
<b>Actual inspections – safety/health</b>	<b>213/20</b>	<b>184/26</b>
<b>% of fatalities responded to in 1 work day</b>	<b>100 %</b>	<b>100%</b>
<b>Average lapse time – Safety</b>	<b>52.68</b>	<b>45.365 +/- 20%</b>
<b>Average lapse time – Health</b>	<b>66.52</b>	<b>54.839 +/- 20%</b>
<b>% penalty retained</b>	<b>49.56%</b>	<b>67.92% +/- 20%</b>
<b>% of initial inspections with employee walk around representation or employee interview</b>	<b>100%</b>	<b>100%</b>

### III. Compliance Outreach

#### WY Safety Summit

Wyoming held its fifth “Wyoming Safety and Workforce Summit” which was held June 21, 2017 and a Safety training day on June 22, 2017 in Cheyenne, Wyoming. The CA and Consultation Program helped to select topics, subject matter experts to present and scheduled both internal and external speakers. In addition, the OSHA Award nominations were reviewed, compared and selected for presentation at the lunch by DWS Director, John Cox and DWS Deputy Director, John Ysebaert along with the Governor of Wyoming, Matt Mead. In addition, a booth promoting CA and Consultation Services was available at the Summit, passing out free OSHA information and

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answering questions presented by attendees. Approximately 275 people attended the one-day conference and an awards lunch, 33 safety breakout training seminars, with 33 exhibitor booths and 3 training half day session were held at the Laramie County Community College. The 2<sup>nd</sup> day training was scheduled and managed by Compliance Assistance. The keynote speaker, Mr. Chad Hymas, presented “Reaching a Culture of Zero: Are you in or are you out”

Several workplace safety topics were covered to include:

- Electrical Safety Do’ and Don’ts
- Trenching and Excavating
- Top 10 Reasons Employers are Out of Compliance
- The High Cost of Pain in the Workplace
- How to Handle a High Experience Modification Rating (EMR)
- A Review of Health Effects and NIOSH Evaluations of Select Hazards in the Oil and Gas Construction Industries
- The Difference Between Consultation, Compliance and Workers’ Compensation Safety and Risk
- So You’re a Company Safety Guy, Now What?
- Employer Services Update: Changes to Workers’ Compensation
- Identifying and Prevent Oil and Gas Fatalities in Wyoming and U.S.
- Workers Compensation Safety and Risk: Who We Are and What We Do
- What Businesses Need to Know – An Overview of Safety and Compliance
- Construction’s Fatal Four: Common Sense Solutions for Prevention
- Multi-Gas Meters and Protecting the Air Around You
- Public Health Emergency Preparedness in Wyoming
- Stop Work Authority: Implementing a Winning Program
- My Employee was Hurt...Now What?
- The Problem of Cybersecurity for Employers
- Silica Hazard Awareness and Exposure Control: A Training Program for Construction Workers
- Health Monitoring: Why it Matters and Practical Application
- Current Oil Rig-Anchor Testing Regulations
- What will OSHA Say When They Show up
- How Registered Apprentice Can Help Make Quality Management Your Culture
- Workers’ Compensation Fraud
- Department of Workforce Service Labor Standards Review and Update

All of the presentations emphasized the importance of leadership, teamwork, safety and training. The Summit also offered two (2) OSHA safety awards for FY 2017. Awards were presented featuring both Governor, Matt Mead and the Director of Workforce Services, John Cox. The OSHA Consultation awards went to two employers with outstanding safety and health programs. W.B.I. and Automation & Electronics Inc. received the OSHA Prestige Programs Awards, which were both SHARP Program members. In addition, the Wyoming Oil and Gas Industry Safety Alliance (WOGISA) presented an award for Stop Work Authority (SWA) Award, which

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recognizes employees who have stopped work due to an unsafe act or work condition that could have resulted in workers being injured or killed.

Alliance, Coalition and Association participation is another venue used by OSHA CA/Consultation to promote a safety and health culture in Wyoming. CA and Consultation works to empower Alliances to address health and safety within their industry and supplies services as requested. Currently, CA and Consultation take turns participating with seven existing alliances/coalitions. They include Wyoming Oil & Gas Industry Safety Alliance (WOGISA), Wyoming Refinery Safety Alliance (WRSA) and Wyoming Construction Safety Alliance (WCSA), Transportation Safety Coalition (TSC), Cheyenne Roofing Alliance (CRA), Wyoming Construction Coalition (WCC) and Wyoming Contractor's Association (WCA). WY OSHA primarily is involved in the groups listed below and participates with the others on an as need basis.

### Alliances

WOGISA - Wyoming Oil & Gas Industry Safety Alliance. The goal of this Alliance is to promote, communicate, educate, and train employees and employers to ultimately reduce the fatality and injury rate in the Oil & Gas Industry. WOGISA general membership has approximately nine hundred (900) members, to include producers, drilling contractors, servicing contractors and industry support employers. Alliance members meet quarterly, while board members meet on a monthly basis. This Alliance is a joint venture between industry and the consultation program. The Deputy Administrator, Consultation Manager and/or Compliance Assistance Specialist for Wyoming OSHA are involved in their meetings. The consultation and compliance assistance programs take an active role in providing assistance, training and guidance during their monthly meetings. This Alliance and OSHA Division work cooperatively to provide valuable communication to industry and update Wyoming's Oil and Gas Rules and Standards. Training opportunities offered through other industry groups and community colleges were shared with the alliance for member consideration throughout the year to include the Rocky Mountain Education Center – OSHA Training Institute Education Center.

During FY 2017, the Wyoming Oil & Gas Safety Alliance members and the OSHA Division met five (5) times to discuss and assist in developing updated Drilling, Servicing, Special Servicing and Simultaneous Operations rules. Oil & Gas Rules, which were not finalized due to getting 1910 and 1926 rules, updated first. The Oil & Gas Rules were placed on hold until 1910, and 1926 Wyoming statutes are updated which should now occur in FY 2018. At that time, all four Oil & Gas Rules will be combined into one rule set with different chapters for type of Oil and Gas well activity along with a Simops (multiple oil and gas trades working at the same time at the same location, i.e. drilling and servicing) along with an anchor chapter. A review is being done to identify similar rules for each well activity. The similar rules will be combined into one general rule chapter that applies to all activities. 1910 General Industry and 1926 Construction rules are being deleted from the Oil and Gas rules and multiple appendices are being added to provide general guidance on the applicable 1910 General Industry and 1926 Construction rules. Where a rule is unique to a particular well activity it will be in its own chapter relating to that well activity.

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WRSA - Wyoming Refinery Safety Alliance. The goal of this Alliance is to promote, communicate, educate, and train employees and employers to ultimately reduce the fatality and injury rate within the Refining Industry. WRSA general membership now consists of four refineries operating in Wyoming, one closed. This Alliance is a joint venture between industry and the consultation/compliance assistance program. The Deputy Administrator for Wyoming OSHA is involved in their meetings upon WRSA request. During FY 2017, the Deputy Administrator on behalf of CA and consultation met with WRSA members once and discussed rule updates and answered questions regarding the OSHA program.

WCSA - Wyoming Construction Safety Alliance. The goal of this Alliance is to promote, communicate, educate, and train employees and employers to ultimately reduce the fatality and injury rate within the Construction Industry. WCSA general membership consists of ten (10) construction companies operating in Wyoming. The combination of downturn in economy, changes in board of directors and direction have created challenges and reduced membership. This Alliance is a joint venture between industry and the CA and consultation programs. The Consultation Manager and/or Deputy Administrator for Wyoming OSHA are typically involved in their monthly board meetings. CA also participated with monthly meetings, as needed.

TSC – Transportation Safety Coalition. The mission of the Transportation Safety Coalition is to reduce work related transportation fatalities through education, training and working relationships with entities charged with overseeing transportation in Wyoming. A proactive organization working to develop processes which will aid in reducing transportation fatalities on Wyoming's roadways. The coalition has spent time reviewing fatal crash data, identifying specific roadways in Wyoming, identifying the causes and contributing factors to those crashes and implementing initial low-cost, high-yield efforts for crash mitigation efforts, while making recommendations for long-term solutions. Currently, this coalition consists of approximately 50 members. The Consultation Manager and/or Deputy Administrator for Wyoming OSHA are typically involved in their monthly board meetings. CA is also actively involved with meetings and takes an active role in providing assistance and guidance as requested.

### **Safety & Stand Down Events**

There was also a cooperative effort to promote and participate in many safety events, to include Construction Safety Week (May 1-5, 2017), National Fall Protection Stand Down (May 8-12, 2017), Safe & Sound Week (June 12-18, 2017); Information was shared with Alliances and other organizations and companies regarding participating in these events. The Consultation Program Manager presented at an event hosted by the General Contractor at the Capitol Renovation Project on May 4, 2017, which also aired on television. Consultants supported and attended two separate stand-down events during the week. Both the Deputy Administrator and Consultation Manager presented at the Cheyenne Roofing Alliance (CRA) Fall Protection Stand Down conducted at the Wyoming Montana Safety Council on May 12, 2017. This effort supported and contributed to the OSHA Region VIII statistics of 11,748 workers covered by 185 stand down events in 2017.

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

WY OSHA continues to promote VPP through presentations with the assistance of existing VPP



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members and employees. WY OSHA also continues to increase awareness through the Compliance and Consultation staff to assist in identifying potential candidates. Other means available to promote VPP in Wyoming are the Department of Workforce Services website, the Workers' Compensation Quarterly Connection newsletter, participation at conferences and through other professional associations. WY OSHA has continued the agreement with federal OSHA to utilize the use of Federal "Special Government Employees" (SGEs) to assist the compliance assistance in VPP audits in bordering states and Wyoming during 2017.

### Voluntary Protection Participants Table

	Company Name	Since	Status
1	MillerCoors Brewing Co., Worland Elevator	November 28, 2007	Star
2	Phillips 66 Transportation LLC	March 29, 2012	Star
3	Phillips 66 Transportation LLC	April 28, 2015	Star

## VII. Local Emphasis Programs

WY OSHA had three (3) Local Emphasis Programs for 2017. The Local Emphasis Program elements for the past year were workers' compensation companies with positive experience modification rating (EMR); construction, and the oil & gas industry under the following NAICs; oil and gas well drilling (213111); oil and gas well servicing (213112).

**Workers' Compensation:** Companies and public sector employers with a positive EMR are the target under this LEP. The potential for serious accidents, injuries, and worksite fatalities has been identified for employers registered under the Workers' Compensation Program. An EMR that is positive shows that an employer accounted for a far greater percentage of workplace injuries and costs in Wyoming than would be compared to other employers with a neutral or negative EMR.

Inspection data suggests that the leading causes of accidents, injuries, and even death with employers with positive EMR's include slips/trips/falls, struck-by, caught-in, and caught between, lifting, explosions, fires, and electrocutions.

WY OSHA Compliance Section will conduct comprehensive random inspections from a scrubbed Workers' Compensation list of all employers registered with Workers' Compensation that have a positive EMR.

**During FY 2017, nineteen (19) inspections were completed for this LEP.** WY OSHA Compliance Section was to conduct twenty-seven (27) comprehensive random inspections from a scrubbed Workers' Compensation list of all employers register with Workers' Compensation

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that have a positive EMR. During FY 2017, WY OSHA did not meet this goal.

**Oil and Gas Well Drilling (1381 SIC) / Oil and Gas Well Servicing/Special Servicing (1389 SIC):** The purpose of this notice is to establish an enforcement initiative and efforts of cooperative programs to reduce fatalities and catastrophic events in the Oil and Gas Well Drilling and Servicing Industry.

**During FY 2017, two (2) inspections were completed for this LEP.** In FY 2017, the WY OSHA Compliance Section was to conduct approximately five (5) comprehensive random inspections. Part of the reason for the low number of inspections for this LEP was still the downturn in the oil and gas industry and the approximate number of rigs operating within the state for FY 2017. During FY 2017, WY OSHA did not meet this goal.

### VIII. Federal Guidance Adopted

The WY OSHA Commission in FY 2017 adopted the following directives. Due to a staffing change, some directives listed below may have been previously adopted but records were not available to positively confirm adoption. Wyoming OSHA has implemented processes and procedures to ensure federal directive adoption is closely tracked in the future to ensure directives are evaluated for possible adoption.

Directive	Title
TED-01-00-015	OSHA Technical Manual - Section V, Chapter 4, Fall Protection in Construction
CPL 02-01-058	Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence
CPL 03-00-021 CHEMREF FINAL	PSM Covered Chemical Facilities National Emphasis Program

### IX. Staff Training Activity

Compliance inspectors received the following training this year:

#### OTI Webinars:

0114 – OSHA is on Twitter

0116 – Anti-Retaliation Provisions of Injury and Illness Tracking Rule

0117 – New Walking-Working Surfaces and PPE (Fall Protection) Rule

0118 – PSM RAGAGEP Enforcement & Revised ChemNEP

0120 – IDPs for Supervisors

0121 – Workplace Violence Directive

0122 – OSHA's Training Programs

0123 – Lockout Tagout – Minor Servicing Alternates

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0124 – Active Personal Fall Arrest Systems

0125 – Respirable Crystalline Silica Final Rule

0129 – OSHA Enforcement Guidance for Upstream Oil and Gas

### **OTI Training:**

1000 – Initial Compliance (CSHO Bruntmyer & Young)

1050 – Introduction to Safety Standards for Safety Officers (CSHO Young)

1080 – Health Hazard Awareness for Safety Officers (CSHO Bruntmyer, Murdock, Young, Ripplinger, & CA Gaunt)

1250 – Introduction to Health Standards for Industrial Hygienists (CA Gaunt)

1420 – Whistleblower Investigation Fundamentals (Operations Manager Masters & Compliance Lead Westby)

1530 – State Plan Monitoring (Deputy Administrator Bulkley & Compliance Lead Westby)

2220 – Respiratory Protection (CSHO Bruntmyer, Doughty, Murdock, Ripplinger, Young, CA Gaunt, Compliance Lead Westby, & Compliance Manager Graham)

2720 – Whistleblower Complaint Resolution (CSHO Murdock & Compliance Lead Westby)

3010 – Excavation, Trenching and Soil Mechanics (CSHO Bruntmyer, Doughty, Young, Murdock, Ripplinger, & CA Gaunt)

3090 – Electrical Standards (CSHO Ripplinger)

3158 – Tower Safety (CSHO Bruntmyer)

3280 – Industrial Hygiene Chemistry (CSHO Young)

## **X. Staff Training Cost Saving**

Although training is a significant expense for the agency, WY OSHA recognizes the importance of providing training to staff. WY OSHA's goal this last year was to continue to follow the TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel and get all CSHOs caught up based on their time with the agency. WY OSHA will continue to send all CSHOs to OTI so they are meeting TED 01-00-019. Proper training contributes to the CSHOs' ability to represent WY OSHA with a high degree of professional expertise in the field of occupational safety and health. WY OSHA has implemented efforts to obtain training courses onsite and has utilized training centers within Wyoming to further educate CSHOs to help expand their knowledge of safety and health. During FY 2017, OTI provided three (3) courses in Wyoming: 2200 - Respiratory Protection, 3010 - Trenching, Excavation and Soil Mechanics and 1080 – Health Hazard Awareness for Safety Officers.

CSHOs have also traveled out-of-state to attend training courses provided by the Federal OSHA Training Institute (OTI) Education Centers (Utah & Colorado). In addition to these out-of-state training opportunities, training has been provided to staff at the local level through in-house training, webinars, OSHAcademy courses and courses taken locally.

WY OSHA's Whistleblower Investigator participated in whistleblower investigation training (2720 – Whistleblower Complaint Resolution & Settlement) held at the OTI as well as the Compliance Lead (1420 - Whistleblower Investigation Fundamentals & 2720 - Whistleblower Complaint Resolution & Settlement) and Compliance Manager (1420 - Whistleblower

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Investigation Fundamentals).

WY OSHA utilizes the expertise of its own experienced CSHOs, Compliance Assistance and Consultants to provide training to staff members during semi-annual meetings.

### **XI. General Organizational Information**

During FY 2017, Compliance's total staffing levels remained unchanged from the benchmark eight (8) plus one, nine (9) however; there continues to be significant staffing changes that affect the continuity of the program. During FY 2017, there were three (3) staff changes. One (1) staff member was a new hire (replacing employee that left) along with two vacancy's that occurred that are presently open.

### **XII. Compensation Level and Recruitment Challenges**

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

Infrequent and limited pay increases, due to limited funding, result in trained and experienced employees leaving WY OSHA and going into the private sector for better pay and benefits after the state has invested significant funds in training for those individuals.

The Division is still working reclassifications to get compliance personnel in the correct classification, which would make pay more equitable to similar state positions, the private sector and continue to increase the retention and continuity. The Deputy Administrator was also working on the submission at the end of FY 2017 for a Job Content Questionnaire (JCQ) for Industrial Hygienist to try to get higher wages so the division could hire personnel with a health background. Current continuity for the compliance program is less than 1 year when you add the vacancies, which is significantly lower than other state plans and federal OSHA. Based on current economic forecasts within the state, WY OSHA does not expect this situation to improve in the near future.

### **XIII. State Internal Evaluation Program (SIEP) = Internal Quality Assurance Plan:**

The purpose of this Internal Quality Assurance Program (IQAP) is to provide reasonable assurance that the organizational and contractual objectives of the Wyoming OSHA Division – Compliance Program are being achieved.

Requirements:

- Orientation for New Compliance Officers

- Formal Training for all Compliance Officers

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- On-The-Job Evaluations
- Review of Work Products
- Communicating To Employers
  - Employers Obligations
- Hazards Identification / Abatement Verification
  - Identification of Hazards
  - Correction Advice
  - Abatement Verification
- Program Management
  - Written Policies
  - Program Management
  - Individual Accountability
  - Communication / Staff Meetings
  - Marketing
  - Client Surveys

The intent of the IQAP is to outline the processes to be followed by employees to ensure that the Wyoming OSHA Division – The Compliance Program is responsible for maintaining program requirements and assurances within the Cooperative Agreement.

**Safety and/or Health Compliance Officers:** Responsible for all aspects of the compliance process.

**Lead CSHO:** Responsible for assisting Program Manager and filling in during Program Manager absence.

**Compliance Program Manager (Program Manager):** Responsible for direct supervision of Compliance Officers to ensure satisfactory completion of work in accordance with established procedures.

**OSHA Division Deputy Administrator:** Responsible for the overall management of the Wyoming OSHA Division – Compliance Program.

### **On-The-Job Evaluations:**

It is the goal of the Wyoming OSHA Division – Compliance Program to provide on-the-job evaluations for Safety and Health Compliance Officers at least one time per year to ensure competency and consistency within the program. The Program Manager and/or Lead CSHO or Deputy Administrator will conduct the on-the-job accompanied visits. The objective of the on-the-job evaluation is to assure that the Safety and/or Health Compliance Officer conducts a hazard survey consisting of an opening conference, an examination of those aspects of the employer's safety and health program that relate to the scope of the enforcement inspection, a walk-through of the workplace, and a closing conference within the guidelines of the FOM. During FY 2017, not all CSHOs received on the job field evaluations. Either the Compliance Manager or the Lead CSHO will accomplish this in FY 2018.

In addition to the on-the-job evaluations, all employees are subject to annual performance appraisals (PMI's) conducted by the Program Manager. The appraisals are conducted and documented in

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accordance with current State of Wyoming policies. During FY 2017, all CSHOs received annual performance evaluations which cover their OSHA responsibilities.

### **Review of Work Products:**

It is the goal of the Wyoming OSHA Division – Compliance Program to encourage consistency, eliminate errors, and provide professional quality reports.

The Compliance Manager reviews casefiles with the assistance of the Operations Manager and/or Lead CSHO. The Compliance Manager/Lead CSHO ensures that citations are correct, can be supported, meet FOM requirements, and citation packages/reports are submitted in a timely manner to the employer. During FY 2017 the Compliance Manager and Lead CSHO reviewed all casefiles to ensure consistency, eliminate errors, and provide professional quality reports. This is always time consuming and when folks do not have a background in compliance and OIS requirements, it creates a greater possibility for CSHO errors, which also increases casefile lapse time (which has been an ongoing issue but has been reduced from FY 2016).

## **XIV. Special Accomplishments**

### **OSHA Penalty Collection**

The Department of Workforce Services recognized the issue regarding the penalty collection issue with WY OSHA and other sections and started working a contract for collections in FY 2017. The contract was completed in FY 2016 and a vendor was selected. The vendor is in place and working collection of penalties currently.

### **OSHA Training Institute Field Advisory Committee (FAC) Representative**

This is the second year that the WY OSHA Consultation Program Manager (filling in typically as a compliance person) participated and represents one of two representatives for State Plans for the Field Advisory Committee. This position holds a three-year term with the Committee.

The Consultation Manager conducted an audit for the FAC for the OTI Course #2220: Respiratory Protection held June 27-29, 2017 in Cheyenne, Wyoming. The audit consists of an on-site evaluation of the course to determine if course content is in line with field expectations. This audit also includes document review of supplied materials and learning objectives. A written document to describe and link learning objectives to actual course content and workshops, rate training supplied and develop suggestions to improve course was submitted to the FAC following the course.

### **Development and Implementation of WY OSHA Training Manual**

WY OSHA created and implemented a New Hire Checklist and Training Manual for all new incoming CSHOs and Consultants. This manual was a collaboration between both Compliance and Consultation Program Managers to create a consistent, clear and process for new staff starting with WY OSHA. This document also incorporates TED 01-00-018 – Initial Training Program for OSHA Compliance Personnel and applicable Competency Models. The training manual is completed and is currently being implemented, in outlining what federal training



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requirements must be met for CSHOs. For the OSHA Compliance Program, this consists of the federal directive, TED 01-00-019 Mandatory Training Program for OSHA Compliance Personnel. Both of these are used for employee's growth and development within the program to meet required federal mandates but also develop a path for career development in the various specialty areas.

### Discount Program

This FY 2017, the OSHA Division continued working with Workers' Compensation employers to get them enrolled in the Health and Safety Consultation Employer Discount Program, which encourages employers to request compliance assistance visits or enroll into an exemption program (EVTAP, SHARP and VPP). The OSHA Division is assigned to reviewed third (3<sup>rd</sup>) party private consultant applications for approval. The 3<sup>rd</sup> party Safety Consultants started working with employers to get workers' compensation discounts.

There are four tiers in this program with possible discount rates of 3%, 5%, 7% and 10 %.

- **3 Percent Discount Tier I** -- Complete a full service, onsite survey and abate all hazards.
- **5 Percent Discount Tier II** -- Complete all requirements of the Tier I Health and Safety Program. The Tier II program includes (but may not be limited to) the full onsite survey and obtain a score of two (2) (zero to three scale) on each item on the HSC Tier II program requirements list.
- **7 Percent Discount Tier III** -- Complete all requirements of the Tier II Health and Safety Program. The Tier III program includes (but may not be limited to) the full onsite survey, a Workers' Compensation Experience Modification Rating (EMR) less than the Base Rate and obtain a score of two (2) (zero to three scale) on each item on the HSC Tier III program requirements list.
- **10 Percent Discount Tier IV** -- Complete all requirements of the Tier III Health and Safety Program. The Tier IV program includes (but may not be limited to) the full onsite survey, a Workers' Compensation Experience Modification Rating (EMR) less than the Base Rate and obtain a score of three (3) on 10 percent of the items on the Tier IV HSC program requirements list and a score of two (2) (zero to three scale) on the remainder of the items on the list.

For all four tiers, WY OSHA Compliance Assistance, WY OSHA Consultation, Wyoming State Mine Inspector's Office, Workers' Compensation Safety Specialist or a qualified third-party health and safety professional approved by the Wyoming Department of Workforce Services, must conduct the survey.

In addition to the tiered requirements above, an employer must meet the following requirements:

- Have at least one employee
- Establish and maintain certificates of good standing with Wyoming Workers' Compensation, Unemployment Insurance and the Wyoming Secretary of State.

For FY 2017, one hundred and forty-six (146) employers qualified for this discount program.

## XV. Adjustments or Other Issues

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### **Informals/Citations/Reviewing Casefiles**

Issues that continued to create major setbacks during FY 2017 for the Compliance Program were compliance not getting citations issued in a timely manner (typically a CSHO issue now, not a management problem reviewing the casefiles, getting citations issued and conducting informal conferences), abatement not getting completed in a timely manner (CSHO's not following up regularly with employers and documenting in casefiles and non-formal complaints not getting processed in one (1) day. The Lead CSHO is currently helping the Compliance Manager dig out and is helping to get CSHO's back on track as it pertains to these issues. Both the Deputy Administrator and Operations Manager have been assisting with casefiles to help allow the Compliance Manager and Lead CSHO get casefiles reviewed and citations issued. This problem continues with CSHO's due to lack of continuity and experience. This was supposed to be corrected in FY 2017 but has carried over and should be corrected and be back on track by the end of the 1<sup>st</sup> quarter of FY 2018. If CSHO's continue to not meet mandated requirements retraining will continue to be conducted and ultimately administrative action maybe be started the 2<sup>nd</sup> quarter of FY 2018 based on the individual circumstances.

### **Discrimination Issues**

Throughout 2017, the whistleblower program finally settled in with a CSHO being assigned most of his duties to address discrimination cases. FY 2017 he was relieved of all compliance duties other than discrimination with the exception of having to respond to imminent dangers if other CSHOs were not available. With the help of the Operations Manager, they were able to reduce the backlog and get most cases closed from FY 2015 and FY 2016. The investigator has been sent to OTI and has completed all discrimination-training classes. The Operations Manager worked with Region VIII Discrimination Monitor to get WebIMIS updated. Both the Operations Manager and Discrimination Investigator's goal for FY 2017 was to have all discrimination cases caught up and ensure that new cases be completed within 90 days. Due to the backlog this could not be accomplished and this goal has been modified FY 2018. The new goal is to match the national average time for cases and ultimately to try to get to the 90 days.

### **Staffing Changes**

For FY 2017 there were the Program Area Director (Deputy Administrator), Operations Assistant Area Director (Operations Manager), four and a half (4.5) Operation Support Staff, a Fiscal Person, Program Compliance Director (Compliance Program Manager), Compliance Supervisor (Compliance Lead), Discrimination Investigator & Safety CSHO, Compliance Assistance Specialist, one (1) Health CSHO, and three (3) Safety CSHOs. There were two vacancies at the end of FY 2017, one (1) for a Safety CSHO and (1) one for a Health CSHO. Both positions are advertised and awaiting additional applicants and interviews to consider filling those positions.

### **Funding**

Wyoming continued to provide excess funding to the program in the amount of \$1,486,190, which is 74% of the State's contribution, not the 50% / 50% agreed upon for compliance. Wyoming OSHA has not been provided funds equivalent to FY 2013, which had the state over matching \$692,357, which was only 69%. Wyoming OSHA should be funded at the 50% federal / 50% state so it can help pay staff more to help with retention, continuity, reduce FAME issues and decrease the states over match contributions.



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