

**FY 2018
Follow-up 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) 2018 and its progress in resolving outstanding findings from previous Federal Annual Monitoring Evaluation (FAME) Reports.

As in previous years, Wyoming OSHA experienced a fair amount of turnover with respect to the compliance safety and health officer (CSHO) positions. During the course of the evaluation period, both of the health compliance officers left Wyoming OSHA. The departure of the program's health compliance officers and the fairly limited experience of their safety compliance officers had an impact on the ability of the State Plan to reach their initial inspection goals that were set at the beginning of the fiscal year.

Even though Wyoming OSHA had difficulty maintaining their staffing levels, they were still able to perform well with regard to mandated measures assessing average penalty amounts, lapse time, the involvement of workers in the walk around and interview process, and timely response to complaints that warranted inspection.

The State Plan made progress in addressing the findings and observations from the FY 2017 Comprehensive FAME Report. Wyoming OSHA put substantial effort toward resolving their previous findings by developing new policies and procedures to assist CSHOs, conducting in-house training for compliance staff, sending field and management-level personnel to formal training, and hiring a new investigator to handle whistleblower cases.

This FY 2018 Follow-Up FAME Report has four continued findings related to: complaints, health hazards, the review and settlement of cases, and the whistleblower program. There are also two continued observations. Due to the lack of an on-site case file review during the follow-up FAME cycle, the Region was unable to close those findings and observations that require the review of case files to verify completion.

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 Acting Administrator of the Office of Workforce Standards and Compliance. Karen Godman is the Deputy Administrator of Wyoming OSHA and has been in this position since December 2018. The Compliance Project's main office is located in Cheyenne, Wyoming. Wyoming OSHA also has field offices located in Casper, Gillette, 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 special operations related to well sites. The State Plan also has unique regulatory standards for anchor testing and special servicing that address well site operations, including wireline operations, mobile pumping, and fracking, as well as drill-stem testing.

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 compliance assistance specialist, and three administrative personnel. In total, Wyoming OSHA has 14 workers on staff. All compliance assistance work, including the Voluntary Protection Program and whistleblower investigations, are funded through the 23(g) grant.

The following table shows the federal award levels, State Plan matching funds, and one-time funds received from FY 2016 through FY 2018.

Fiscal Year	Federal Award	State Plan Match	100% State Funds	Total Funding	% of State Plan Contribution	One-time Money
2018	\$531,200	\$531,200	\$1,746,533	\$2,277,733	77%	\$32,767
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

A highlight of the Wyoming OSHA program is the continued incorporation of concessions in the informal conference and case settlement process. A vast majority of Wyoming OSHA’s consent agreements require employers to provide specific safety and health training to their workers, provide documentation of safety and health program improvements, or complete enhanced abatement in order to receive penalty reductions or modifications to citations. This process has been in place for several years and has proven to be a useful tool in encouraging employers to improve their overall safety and health programs and management systems.

New Issues

None

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA has established a two-year cycle for the FAME process. This is the follow-up year, and as such, OSHA did not perform an on-site case file review associated with a Comprehensive FAME Report. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent Comprehensive FAME Report. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- FY 2018 State Activity Mandated Measures (SAMM) Report (Appendix D)
- FY 2018 State OSHA Annual Report (Appendix E)
- FY 2018 State Plan Annual Performance Plan
- FY 2018 State Plan Grant Application
- FY 2018 quarterly monitoring meetings between OSHA and the State Plan

B. Findings and Observations

The State Plan made some progress in addressing the previous four findings and two observations from the FY 2017 Comprehensive FAME Report. However, due to the lack of a case file review, this Follow-up FAME Report contains four findings, all continued, as well as two continued observations from the FY 2017 Comprehensive FAME Report. Appendix A describes the 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.

FINDINGS (STATUS OF PREVIOUS AND NEW ITEMS)

Continued FY 2017 Findings

Finding 2018-01 (previously FY 2017-01): 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.

Status: While the State Plan has developed a standard operating procedure for complaints and referrals and provided their staff with training, a case file review is necessary to gather the facts needed to evaluate progress on the finding. This finding will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME and remains open.

Finding 2018-02 (previously FY 2017-02, FY 2016-03, and FY 2015-06): Wyoming OSHA does not consistently address health hazards. During FY 2018, no full-shift personal noise samples or full-shift personal samples for exposures to air contaminants were taken.

Status: For the fourth consecutive year, Wyoming OSHA did not collect any full-shift personal noise samples or full-shift personal samples for exposures to air contaminants. The State Plan has worked to develop in-house training to improve the ability of the staff to conduct health sampling. Wyoming OSHA will also send the compliance manager and health CSHOs to formal training to assist with performing health-related inspections. This finding remains open.

Finding 2018-03 (previously FY 2017-03, FY 2016-02, FY 2015-05, FY 2016-OB-04, and FY 2015-OB-06): 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.

Status: In April and July of 2018, the State Plan sent CSHOs and management-level personnel to the OSHA Training Institute to complete the following courses: Legal Aspects, Advanced Legal Aspects, and Initial Compliance. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME and remains open.

Finding 2018-04 (previously FY 2017-04, FY 2016-06, and FY 2015-09): In FY 2017, in 12 of 32 whistleblower cases, there were deficiencies involving the receipt, processing, and case disposition.

Status: Wyoming OSHA hired a new whistleblower investigator who has law enforcement and investigative experience at the end of FY 2018. However, a case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME and remains open.

OBSERVATIONS

Continued FY 2017 Observations

Observation FY 2018-OB-01 (previously FY 2017-OB-01): When potentially willful conditions are observed, Wyoming OSHA does not thoroughly document why a willful citation is unable to be substantiated.

Status: It is worth noting that Wyoming OSHA did issue three willful citations in FY 2018, which demonstrates a readiness to address such matters. However, a case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME and will be continued.

Observation FY 2018-OB-02 (previously FY 2017-OB-02): Wyoming OSHA was significantly below the further review level (FRL), or the acceptable range, for SAMM 6, which measures the percent of inspections conducted in state and local government workplaces. At 2.81%, Wyoming OSHA was outside the FRL range of 17.81% to 19.69%.

Status: Wyoming OSHA has been below the FRL for SAMM 6 in consecutive years. In FY 2017, the State Plan conducted 2.58% of their inspections in state and local government workplaces while the acceptable range was 12.21% to 13.50%. During FY 2018, the State Plan's limited resources were focused on high priority cases, such as imminent danger, fatalities, and accidents. As their staff becomes more experienced, more time will be devoted to the state and local government workplaces. This observation will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME and will be continued.

C. State Activity Mandated Measures Highlights

Each SAMM has an agreed upon FRL, which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. As stated earlier, Appendix D presents the State Plan's FY 2018 State SAMM Report and includes the FRLs for each measure. The State Plan was outside the FRL on the following SAMMs:

SAMM 1a – Average number of days to initiate complaint inspections

Discussion of State Plan data and FRL: The FRL for this measure is negotiated between OSHA and the State Plan at 16 days. During the review period, Wyoming OSHA was able to initiate complaint inspections in an average of 4.38 days. As a comparison, in FY 2017, the State Plan had an average response time of 4.32 days.

Explanation: In each of the last two review periods, Wyoming OSHA has performed very well with respect to this metric by making quick response to complaint inspections a high priority. The State Plan also has CSHOs housed in three different locations throughout the state, which helps reduce response time.

SAMM 2a – Average number of work days to initiate complaint investigations

Discussion of State Plan data and FRL: The FRL for this measure is negotiated between OSHA and the State Plan at one day. During FY 2018, Wyoming OSHA averaged 2.35 days to initiate a complaint investigation. As a comparison, in FY 2017, the State Plan averaged 5.35 days to initiate a complaint investigation.

Explanation: While the State Plan is still lagging in comparison to the FRL, it did significantly reduce the average number of days to initiate a complaint investigation compared to FY 2017. Individual and staff training on a newly developed internal procedure has helped to improve this metric. This measure is addressed as part of Finding FY 2018-01 and will be closely reviewed during the FY 2019 Comprehensive FAME.

SAMM 3 – Percent of complaints and referrals responded to within one workday (imminent danger)

Discussion of State Plan data and FRL: The FRL for this measure is fixed at 100%, and in FY 2018, Wyoming OSHA responded to 97.96% of their imminent danger complaints and referrals within one workday. In FY 2017, the State Plan responded to all of their imminent danger complaints and referrals within one workday.

Explanation: After discussing the SAMM with Wyoming OSHA, it was determined that one inspection involved an employer who initially refused to allow Wyoming OSHA to conduct a construction-related inspection. The data for the inspection was entered into the OSHA

Information System and reflected an entry day that was different from the day when the employer refused entry. The State Plan was outside the FRL for this measure, which warranted further evaluation, but based on the circumstances, no additional action is necessary.

SAMM 7 – Planned vs. actual inspections – safety/health

Discussion of State Plan data and FRL: For FY 2018, the FRL range for the number of safety inspections was 198.5 to 219.4, and the State Plan conducted 159 safety-related inspections. With respect to health inspections, the FRL range was 29.45 to 32.55, and Wyoming OSHA conducted 19 health-related inspections. The State Plan did not meet the FRL for either safety or health inspections in FY 2018. In FY 2017, the State Plan was above the FRL range for safety inspections (213 inspections with an FRL range of 174.8 to 193.2) but below the FRL range for health inspections (20 inspections with an FRL range of 24.7 to 27.30).

Explanation: The performance with respect to this measure is mostly attributed to turnover and the limited amount of field experience at the CSHO level. Both of Wyoming OSHA's health CSHOs left the program during the review period, and the safety CSHOs average fewer than two years of field experience with Wyoming OSHA.

SAMM 8 – Average current serious penalty in private sector

Discussion of State Plan data and FRL: The State Plan performed very well compared to the FRL. Wyoming OSHA was within or above the FRL for each of the five categories based on employer size. In FY 2018, the average current serious penalty in the private sector (1 - 250+ workers) was \$3,169, which was well within the FRL range of \$1,952 to \$3,254. In FY 2017, Wyoming OSHA was also within the FRL range of \$1,887 to \$3,146, with an average current serious penalty amount of \$1,989.

Explanation: 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.

SAMM 11 – Average lapse time

Discussion of State Plan data and FRL: For FY 2018, the FRL range for the average lapse time for safety cases was 36.96 to 55.44 days. The FRL range for the average lapse time for health cases was 45.25 to 67.87 days. Wyoming OSHA met the safety FRL with a lapse time of 39.24 days and was impressively outside the health lapse time at 33.36 days. As a comparison, the lapse times for safety and health cases in FY 2017 were 52.68 days and 66.52 days, respectively.

Explanation: Both of these measures show a consistent effort on behalf of the State Plan to promptly close cases. The lapse time for the health-related cases is excellent and will take a

considerable amount of work to maintain as Wyoming OSHA looks to increase the number of inspections with personal sampling.

SAMM 12 – Percent penalty retained

Discussion of State Plan data and FRL: For FY 2018, the FRL range for percent penalty retained was 56.79% to 76.83%. The State Plan's percent penalty retained was just slightly below the FRL range at 54.28%. As a comparison, the percent penalty retained for FY 2017 was 49.56%, with an FRL range of 57.32% to 77.56%.

Explanation: The State Plan was below the FRL for SAMM 12; however, this is a reflection of the penalty reductions they enact as part of their settlement agreements. The State Plan typically requires employers to meet several requirements in order to receive reductions in penalties. Due to their high initial penalties and the concessions agreed to in the informal conference, larger penalty reductions may be offered. On the other hand, the improvement in this SAMM may be attributed to fewer penalty reductions based on the deletion of citations at the informal conference.

SAMM 13 – Percent of initial inspections with worker walk around representation or worker interview

Discussion of State Plan data and FRL: The FRL for percent of initial inspections with worker walk around representation or worker interview is fixed at 100%. In FY 2018, the State Plan had one inspection where worker interviews did not take place. As a result, 99.44% of their inspection activity included worker interviews. In FY 2017, Wyoming OSHA conducted worker interviews on 100% of their inspections.

Explanation: After discussing the SAMM with Wyoming OSHA, it was determined that one inspection involved an employer who refused to make his workers available for interview. When Wyoming OSHA attempted to open the construction-related inspection, the employer sent his workers off the site and did not require their return. The State Plan was outside the FRL for this measure, which warranted further evaluation, but based on the circumstances, no additional action is necessary.

SAMM 14 – Percent of 11(c) investigations completed within 90 days

Discussion of State Plan data and FRL: The FRL for the percent of 11(c) investigations completed within 90 days is fixed at 100%. In FY 2018, Wyoming OSHA did not complete any of their whistleblower cases within the 90-day timeframe. This was also the case for FY 2017.

Explanation: Over the last several years, Wyoming OSHA has experienced turnover with the whistleblower investigator position. The State Plan did hire a new whistleblower investigator with law enforcement and investigative experience at the end of FY 2018. Stabilizing the investigator position will likely help to improve the overall performance of the Whistleblower Program.

SAMM 15 – Percent of 11(c) complaints that are meritorious

Discussion of State Plan data and FRL: For FY 2018, seven percent of Wyoming OSHA's complaints were meritorious while the FRL range was 19.20% to 28.80%. In FY 2017, the State Plan was within the FRL with 20% of their cases being meritorious.

Explanation: As previously stated, the State Plan has experienced turnover with the whistleblower investigator position in recent years. At the end of FY 2018, the State Plan did hire a new whistleblower investigator who has both law enforcement experience and investigative experience. Stabilizing the investigator position will likely help to improve the overall performance of the Whistleblower Program.

SAMM 16 – Average number of calendar days to complete an 11(c) investigation

Discussion of State Plan data and FRL: The FRL for the average number of calendar days to complete an 11(c) investigation is fixed at 90. In FY 2018, Wyoming OSHA took an average of 429 calendar days to complete an investigation. In FY 2017, the State Plan took an average of 726 days to complete an 11(c) investigation.

Explanation: Again, Wyoming OSHA has experienced turnover with the whistleblower investigator position over the last several years. In August 2018, the State Plan hired a new whistleblower investigator who has law enforcement experience, as well as investigative experience. Stabilizing the investigator position will likely help to improve the overall performance of the Whistleblower Program. In addition, the national average for the number of days to complete an 11(c) investigation was well over 90 at 277.

Appendix A – New and Continued Findings and Recommendations

FY 2018 Wyoming OSHA Follow-up FAME Report

FY 2018-#	Finding	Recommendation	FY 2017-# or FY 2017-OB-#
FY 2018-01	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. Corrective action completed; awaiting verification.	FY 2017-01
FY 2018-02	Wyoming OSHA does not consistently address health hazards. During FY 2018, 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 Emphasis Program to specifically identify and assess health hazards.	FY 2017-02 FY 2016-03 FY 2015-06
FY 2018-03	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. Corrective action completed; awaiting verification.	FY 2017-03 FY 2016-02 FY 2015-05 FY 2016-OB-04 FY 2015-OB-06
FY 2018-04	In FY 2017, 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 2017-04 FY 2016-06 FY 2015-09

Appendix B – Observations Subject to Continued Monitoring

FY 2018 Wyoming OSHA Follow-up FAME Report

Observation # FY 2018-OB-#	Observation# FY 2017-OB-# <i>or</i> FY 2017-#	Observation	Federal Monitoring Plan	Current Status
FY 2018-OB-01	FY 2017-OB-01	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 2019.	Continued
FY 2018-OB-02	FY 2017-OB-02	Wyoming OSHA was significantly below the FRL for SAMM 6, which measures the percent of inspections conducted in state and local government workplaces. At 2.81%, Wyoming OSHA was outside the FRL range of 17.81% to 19.69%.	The OSHA Regional Office will continue to effectively monitor the State Plan’s performance in this area during quarterly meetings throughout FY 2019.	Continued

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Wyoming OSHA Follow-up FAME Report

FY 2017-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2017-01	<p>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.</p>	<p>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.</p>	<p>The State Plan provided training on complaint processing to managers and CSHOs in August 2018. Wyoming OSHA also developed a standard operating procedure (SOP) for handling complaints; CSHOs began implementing the SOP by mid-August 2018. Management now reviews complaint files on a quarterly basis.</p>	<p style="text-align: center;">August 2018</p>	<p style="text-align: center;">Awaiting verification, February 12, 2019</p>

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Wyoming OSHA Follow-up FAME Report

FY 2017-02	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 Emphasis Program to specifically identify and assess health hazards.	Wyoming OSHA will send the compliance manager, as well as the health CSHOs, to formal training specific to identifying and assessing health hazards. The State Plan has decided to not pursue a health-related Local Emphasis Program at this time. Health CSHOs will receive internal training for basic health monitoring and possibly shadow industrial hygienists in other programs to gain field experience. No full-shift sampling took place for noise or chemical exposures during FY 2018.	Not Applicable	Open, February 12, 2019
FY 2017-03	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	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.	Management and CSHOs completed Legal Aspects and Advanced Legal Aspects in April 2018, as well as Initial Compliance in July 2018 in order to better understand the elements of a legally sufficient case. Since completing the courses, managers have reviewed information received and applied that knowledge to current cases to ensure the elements of a legally sufficient case have been established, as well as the proper justifications when reviewing case files and holding informal	July 2018	Awaiting verification, February 12, 2019

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Wyoming OSHA Follow-up FAME Report

	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.		conferences. Management has also provided a worksheet to CSHOs to assist during on-site inspections. Training for use of the worksheet was completed in August 2018.		
FY 2017-04	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.	In early August 2018, the newly hired investigator resigned in order to take a higher paying position. On August 20, 2018, Wyoming OSHA filled this vacancy by hiring an experienced investigator who has a background in law enforcement investigations and labor standards discrimination investigations. The new investigator will attend OSHA Training Institute whistleblower courses in May of 2019. The State Plan will also coordinate with Region VIII to have the investigator shadow their investigators as practical.	Not Applicable	Open February 12, 2019

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Wyoming OSHA Follow-up FAME Report

			The program was outside the FRL for each of the three SAMMs that address the Whistleblower Program.		
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Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report
 FY 2018 Wyoming OSHA Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Wyoming - WYOMING OSHA			FY 2018	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	4.38	16	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	3.37	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	2.35	1	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	1.87	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	97.96%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report

FY 2018 Wyoming OSHA Follow-up FAME Report

5	Average number of violations per inspection with violations by violation type	SWRU: 1.75	+/- 20% of SWRU: 1.82	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.18 for SWRU and from 0.78 to 1.18 for OTS.
		Other: 1.08	+/- 20% of Other: 0.98	
6	Percent of total inspections in state and local government workplaces	2.81%	+/- 5% of 18.75%	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 17.81% to 19.69%.
7	Planned v. actual inspections – safety/health	S: 159	+/- 5% of S: 209	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 198.55 to 219.45 for safety and from 29.45 to 32.55 for health.
		H: 19	+/- 5% of H: 31	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$3,169.28	+/- 25% of \$2,603.32	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,952.49 to \$3,254.15.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,193.90	+/- 25% of \$1,765.19	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,323.89 to \$2,206.49.
	b. Average current serious penalty in private sector (26-100 workers)	\$3,907.29	+/- 25% of \$3,005.17	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,253.88 to \$3,756.46.
	c. Average current serious penalty in private sector (101-250 workers)	\$5,747.13	+/- 25% of \$4,203.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,152.55 to \$5,254.25.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$6,921.71	+/- 25% of \$5,272.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,954.30 to \$6,590.50.

Appendix D – FY 2018 State Activity Mandated Measures (SAMM) Report

FY 2018 Wyoming OSHA Follow-up FAME Report

9	Percent in compliance	S: 35.33%	+/- 20% of S: 29.90%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 23.92% to 35.88% for safety and from 28.88% to 43.32% for health.
		H: 17.65%	+/- 20% of H: 36.10%	
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: 39.24	+/- 20% of S: 46.20	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 36.96 to 55.44 for safety and from 45.25 to 67.87 for health.
		H: 33.36	+/- 20% of H: 56.56	
12	Percent penalty retained	54.28%	+/- 15% of 66.81%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.79% to 76.83%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.44%	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	7%	+/- 20% of 24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 19.20% to 28.80%.
16	Average number of calendar days to complete an 11(c) investigation	429	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.05%	+/- 25% of 1.24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.93% to 1.55%.

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

**FY 2018 Annual Report
State Operations Annual Report
(SOAR)**



Prepared by: Karen J. Godman, CSP, CPM

Submitted: January 15, 2019

**Karen J. Godman, CSP, CPM
Deputy Administrator**

**Christian Graham, CPM
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

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 of the Cheyenne Business Center, 1510 East Pershing Boulevard, Cheyenne, Wyoming 82002. For Federal Fiscal Year (FY) 2018 the program had a total of three (3) field offices which were located in Casper, Gillette and Rock Springs. Over FY 2018, 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 2018 23(g) Cooperative Agreement and which include 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.”

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.

Wyoming OSHA met this performance goal for FY 2018. The average annual number of fatalities for the ten-year period from FY 2007 through FY 2016 has a baseline of eight point nine (8.9) fatalities per year.

Wyoming Compliance investigated six (6) OSHA workplace fatalities in FY 2018. This number is two point nine (2.9) 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 attempt to detect trends and determine the progress of this organization's preventative efforts. Note: During the next Strategic Performance Plan for Wyoming the program will be considering an increase from a ten-year average to a twenty-year average to show better statistical data to possibly better detect trends and to continue to work towards better preventative efforts.

Fatality Data			
		# of Fatalities	Change
Baseline	FY 2007 – FY 2016	8.9 (10-year avg.)	From Base
FY2018	Oct. 1, 2017 – September 30, 2018	6	-2.9

The fatalities continue to vary within multiple industries to include Agriculture, Construction and General Industry. The Oil and Gas industry usually contributes to these stats but for FY 2018 they continued to show significant progress in the reduction of fatalities.

During multiple informal conferences with the employers, Compliance has continued to require employers to attend specific training and receive services provided by the WY OSHA Consultation or CA Program, Workers' Compensation Safety Specialist and Workers' Compensation Safety & Risk (WCSR). During FY 2018 WY OSHA continued to require employers to work with the OSHA Training Institute Education Center, Rocky Mountain Education Center & WY MT Safety Council to attend OSHA Courses (OSHA #510 – Occupational Safety and Health Standards for Construction, OSHA #511 – Occupational Safety and Health Standards for General Industry, OSHA #2264 – Permit-Required Confined Space Entry, OSHA #3015 – Excavation, Trenching and Soil Mechanics, OSHA #3115 – Fall Protection, OSHA #7405 – Fall Hazard Awareness for the Construction Industry, RMEC 110 – OSHA 10-Hour Construction Safety and Health, RMEC 120 – OSHA 10-Hour General Industry Safety and Health, RMEC 130 – OSHA 30-Hour Course in Construction Safety, RMEC 140 – OSHA 30-Hour Course in General Industry, or RMEC 318 – Supervisor Safety Course) to help their staff with better knowledge as it pertains to OSHA issues. The 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 (Safety Discount Program, Drug Free Workplace Discount Program, Health and Safety Consultation Employer Discount Program and the Workplace Safety Contract Program). 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 Consultation/CA's and WCSR services, it is believed this has continued in FY 2018 to help company's better understand safety and health hazards their employees experience and reduce injuries, illness and prevent 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".

Wyoming OSHA met this performance goal for FY 2018. Compliance conducted numerous inspections during FY 2018 from using the Workers' Compensation data, imminent dangers inspections, local construction and oil & gas emphasis programs along with the OSHA reporting requirements (amputations, inpatient hospitalizations or losses of an eye). The average # of health violations – 3.5 and # of safety violations 2.67 for an average total of 3.1 violations per inspection. (See I. WY OSHA Compliance Performance Summary for compliance/compliance assistance and inspection summary by program).

Because the Compliance/CA and Consultation Programs has access to company specific Workers' Compensation data and history, this data is used to determine the impact following a Compliance/CA and Consultation 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 2018.

FY 17 (October 1, 2016 – September 30, 2017)

- Total Employers with at least 1 claim regardless of payroll: 133
- Total Claims Reported this period: 1,127
- Total employer count where payroll or claim was reported: 218
- Total employer count where payroll reported and No Claims: 85
- Total employer count where both payroll and claim was reported: 133
- Percentage of employers that reported claims: 58.1
- Total Expected Claims Cost: \$16,234,645.78
- Average Cost Per Reported Claim: \$12,726.02
- Total Payroll Reported: \$964,352,191.19

FY 18 (October 1, 2017 – September 30, 2018)

- Total Employers with at least 1 claim regardless of payroll: 123
- Total Claims Reported this period: 1,114

- Total employer count where payroll or claim was reported: 220
- Total employer count where payroll reported and No Claims: 97
- Total employer count where both payroll and claim was reported: 122
- Percentage of employers that reported claims: 53.85
- Total Expected Claims Cost: \$12,460,153.52
- Average Cost Per Reported Claim: \$11,860.00
- Total Payroll Reported: \$959,664,102.90

***Note, reporting data for FY 2018 shows multiple reductions from the previous FY 2017.**

However, FY 2018 showed multiple average decreases of more than one percent, which reduces the employers EMR that meets the annual goal of 2%. The percentage of employers reporting injuries were reduced 4.25% and \$866.02 per claim less than FY 2017. This shows the costs of injuries was reduced which was positive.

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 and trends.

In addition, all staff continue to share information on various topics, such as construction, general industry and oil and gas safety to employers working within Wyoming during compliance inspections and CA visits. CA also works with the Wyoming alliances and coalitions to share health and safety information and services offered. Most meet monthly either in person or via teleconference. Through these continued 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 continued to work 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.

Wyoming OSHA met this performance goal for FY 2018 through increased SHARP participation. Ways in which the Division increased participation in Compliance Assistance involved participating in industry annual events, educating employers on the benefits of Workers' Compensation Discount Programs, Prestige Programs (VPP and SHARP), Alliance/Coalition and Association involvement, the National 2018 Fall Protection Stand Down, Safe & Sound Week, and 2018 Wyoming Safety Summit. The CA also solicited and worked with three (3) employers during FY 2018 in working towards VPP.

This FY 2018, 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 and SHARP). Information packets were distributed during industry events, 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 various other presentations. An online application is still also being used along with hard copies in all field offices 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 2018, there were two hundred and twenty-three (223) new employer policies activated for this discount program on top of the previous year's one hundred and fifty-three (153) which equates to three hundred and seventy-six (376) total employers enrolled. This is approximately a 146% increase from employers enrolled from FY 2017.

The Consultation Program experienced an increase of twelve SHARP participants in FY 2018.

SHARP & VPP FY Comparison Data

FY	# SHARP	# VPP
FY 2016	34	4
FY 2017	31	3
FY 2018	40	3
Change from FY 2017	+9	0

Alliance, Coalition and Association participation is another venue used by OSHA CA/Consultation to promote a safety and health culture in Wyoming. CA/Consultation works to empower Alliances to address health and safety within their industry and supplies services as requested. Currently, CA and Consultation participates with six existing alliances/coalitions. They include Wyoming Oil & Gas Industry Safety Alliance (WOGISA), and Wyoming Construction Safety Alliance (WCSA), Transportation Safety Coalition (TSC), Cheyenne Roofing Alliance (CRA), Wyoming Construction Coalition (WCC) and Wyoming Contractor's Association (WCA).

I. WY OSHA Compliance Performance Summary

The WY OSHA program continues to mirror the federal program as closely as possible while still recognizing the autonomy and unique characteristics of the state of Wyoming.

For FY 2018, the Compliance Program initially projected 240 total compliance inspections and the Compliance Assistance Program projected 24 total public sector CA visits. Due to CSHO staffing changes and losses, the number of compliance projected goal was reduced to 158 total compliance inspections. The Compliance Program conducted a total of 181 inspections, 176 private sector and 5 public sector inspections, which exceeded the adjusted goal, but not the initial FY 2018 goal. The CA Program conducted 77 public sector visits which exceeded the CA

goal. CA did in addition to visits, presented and provided training to forty-eight (48) 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 other alliances, coalitions, and associations and through compliance interventions, presentations and through the states Safety Health Achievement Recognition Program (SHARP) and Voluntary Protection Program (VPP).

Compliance / Compliance Assistance

Total Inspections		Total
Total Inspections	Health	19
	Safety	162
	Total	181
Unprogrammed Inspections		Total
Complaint	Health	14
	Safety	62
	Total	76
Fatality/Catastrophe	Health	0
	Safety	6
	Total	6
Referral	Health	1
	Safety	28
	Total	29
Referral-Employer Reported	Health	0
	Safety	12
	Total	12

Unprogrammed Other	Health	1
	Safety	22
	Total	23
Unprogrammed Related	Health	0
	Safety	9
	Total	9
All Unprogrammed Inspections	Health	16
	Safety	138
	Total	154
Programmed Inspections		Total
Programmed Other	Health	1

	Safety	3
	Total	4
Programmed Related	Health	0
	Safety	2
	Total	2
Program Planned	Health	2
	Safety	19
	Total	21
All Program Inspections	Health	3
	Safety	24
	Total	27
Inspection by Ownership		Total
Local Government	Health	1
	Safety	0
	Total	1
Private Sector	Health	17
	Safety	159
	Total	176
State Government	Health	1
	Safety	3
	Total	4
All Insp by Ownership	Health	19
	Safety	162
	Total	181
Programmed Public	Health	0
	Safety	0
	Total	0
Programmed Private	Health	3
	Safety	24
	Total	27

Construction/Manufacturing/Other Inspections (NAICS Inspected)		Total
Construction Inspections	Health	2
	Safety	95
	Total	97
Construction Programmed Inspections	Health	1
	Safety	5
	Total	6
Construction Unprogrammed Inspections	Health	1
	Safety	90
	Total	91
Manufacturing Inspections	Health	2
	Safety	5
	Total	7
Manufacturing Programmed Inspections	Health	

	Safety	
	Total	
Manufacturing Unprogrammed Inspections	Health	2
	Safety	5
	Total	7
Other NAICS Inspections	Health	15
	Safety	62
	Total	77
Other NAICS Programmed Inspections	Health	2
	Safety	19
	Total	21
Other NAICS Unprogrammed Inspections	Health	13
	Safety	43
	Total	56
Percent of Inspections that are Follow-up as Initiating or Secondary Inspection Type		Total
Percent Follow-up as Initiating or Secondary Inspection Type	Health	
	Safety	1.2%
	Total	1.1%
Inspections with Violations		Total
Not In Compliance Inspections	Health	14
	Safety	97
	Total	111
Inspections with SWRU Violations	Health Count	7
	Health Percent	50%
	Safety Count	85
	Safety Percent	87.6%
	Total Count	92
	Total Percent	82.9%
Inspections with Serious Violations	Health Count	6
	Health Percent	42.9%
	Safety Count	76
	Safety Percent	78.4%
	Total Count	82
	Total Percent	73.9%
Inspections with Willful Violations	Health Count	0
	Health Percent	0%

	Safety Count	3
	Safety Percent	3.1%
	Total Count	3
	Total Percent	2.7%
Inspections with Repeat Violations	Health Count	0
	Health Percent	0%
	Safety Count	5
	Safety Percent	5.2%
	Total Count	5
	Total Percent	4.5%
Inspections with Unclassified Violations	Health Count	1
	Health Percent	7.1%
	Safety Count	6
	Safety Percent	6.2%
	Total Count	7
	Total Percent	6.3%
Not In Compliance Inspections With Only Other-Than-Serious Violations Cited	Health Count	7
	Health Percent	50%
	Safety Count	12
	Safety Percent	12.4%
	Total Count	19
	Total Percent	17.1%
Open Inspections Without Violations	Health Count	2
	Safety Count	12
	Total Count	14
In-Compliance Rate	Health	17.6%
	Safety	35.3%
	Total	33.5%
Inspections with a SWRU Violation Rate	Health	41.2%

	Safety	56.7%
	Total	55.1%
Average Violations per Initial Inspection (Opening Conference)	Health	3.07
	Safety	2.88
	Total	2.9
Total Penalties for Violations Issued in the Period		Total
Total Initial Penalty	Health	\$75,887
	Safety	\$1,146,977
	Total	\$1,222,864
Total Current Penalty	Health	\$33,547
	Safety	\$713,153
	Total	\$746,700
Current Penalties by Violation Type		Total
Serious	Health	\$31,142
	Safety	\$523,348
	Total	\$554,490
Willful	Health	\$0
	Safety	\$73,164
	Total	\$73,164
Repeat	Health	\$0
	Safety	\$39,896
	Total	\$39,896
Section 17 (Unclassified)	Health	\$0
	Safety	\$55,329
	Total	\$55,329
SWRU	Health	\$31,142
	Safety	\$691,737
	Total	\$722,879
Other than Serious	Health	\$2,405
	Safety	\$21,416
	Total	\$23,821
ALL	Health	\$33,547
	Safety	\$713,153
	Total	\$746,700
Average Serious Penalty - Private Sector		Total
Average Initial Penalty for Serious Violations	Health	\$4,721
	Safety	\$4,630
	Total	\$4,637
Average Current Penalty for Serious Violations	Health	\$2,396
	Safety	\$3,421
	Total	\$3,340
Penalty Reductions with Final Order Date in the Period		Total
Penalty Reductions by Modification Type	Amt - ISAs	\$374,379
	% - ISAs	100%
	Amt - Post Contest	\$0
	% - Post Contest	0%
	Amt Total	\$374,379
	Total Percent	100%

Contest Rate		Total
Not In Compliance (NIC) Inspections Contested	Contested	0
	NIC Inspection	133
	% Contested	0%
Violations Contested	Contested	0
	Total Violations	370
	% Contested	0%

Whistleblower Complaints	
Whistleblower Complaints Received	30
Whistleblower Cases Pending	12
Whistleblower Cases Completed in FY 2018	15
Non-Merit Determinations (Dismissed) in FY 2018	14
Merit Determinations in FY2018	1
Cases Settled	1
Whistleblower Cases Withdrawn	1
Screened Out-Administratively Closed	17
Public Sector Compliance Assistance	
Health	7
Safety	0
Both	70
Total Public Sector Compliance Assistance Visits	77
VPP Activities	
Total Participants	3
Applications received	0
Presentations accomplished	2
Pre-audits accomplished	1
Recertification audits accomplished	0
Compliance Outreach	
Wyoming Safety and Workforce Summit Attendees = 338	1
Agriculture	6
Construction	22
Emergency Preparedness & Response	3
Ergonomics	4
Fall Prevention in Construction	11
Fall Prevention in Residential Construction	11
Fall Prevention Stand Down	12
Grain Handling	3
Hazard Communication	83
Healthcare	6
Heat	1
Labor Rights Week	1
Oil & Gas	7
Recordkeeping & Reporting	7
Safe & Sound: Campaign for Safety & Health Programs	5
Safety & Health Management Systems	8
Silica	3

Temporary Workers	4
Trench Safety Stand-Down	2
Walking – Working Surfaces	82
Whistleblower Protection	2
Workers Memorial Day	2
Youth Workers	1
Other	99
Total Task Topics Covered	393
Employer	97
Latino/Hispanic	2
Public Sector	102
Small Business	20
Union	3
Worker	104
Youth	1
Audience Total	334
NEP	3
SEP	29
Emphasis Programs Total	32
Cooperative Program VPP's	2
Cooperative Program SHARP	7
Cooperative Program Alliance's	14
Total Cooperative Programs Reached	23
Total Outreach Activities Accomplished	129
Total Number Attended	2,105
Total Affected	46,949

Inspection Summary by Program

Inspection by Emphasis Program - NEP		
Region/RID/CSHO		Total
AMPUTATE	Health	0
	Safety	2
	Total	2
CTARGET	Health	0
	Safety	6
	Total	6
CHEMNEP	Health	1
	Safety	0
	Total	1
TRENCH	Health	0

	Safety	9
	Total	9
All NEP	Health	1
	Safety	17
	Total	18

Inspection by Emphasis Program – SEP		Total
CONSTR	Health	2
	Safety	77
	Total	79
OILDRILLSERV	Health	0
	Safety	14
	Total	14
WC	Health	2
	Safety	22
	Total	24
All SEP	Health	4
	Safety	113
	Total	117
Inspection by Emphasis Program – SEP		Total
Region/RID/CSHO		Total
CONSTR	Health	0
	Safety	2
	Total	2
WC	Health	2
	Safety	19
	Total	21
All Prim Emphasis Plan	Health	2
	Safety	21
	Total	23
Inspection by Construction Type		
Region/RID/CSHO		Total
Commercial Construction	Health	0

	Safety	42
	Total	42
Residential Construction	Health	1
	Safety	25
	Total	26
All Construction Type	Health	2
	Safety	73
	Total	75

Note: Inspection by Strat Data was not available due to OSHA no longer tracking this data in OIS.

II. Mandated Activities

Name	Data	Reference/Standard
Average # of work days to initiate complaint inspections	4.38	Negotiated to 16 days
Average # of work days to initiate complaint investigations	2.36 days	1 day
% of complaints & referrals responded to within 1 work day (imminent danger)	97.96%	100%
# of denials where entry not obtained	0	0
Average # of violations per inspection with violations by violation type	1.75	1.8096
Average # of violations per inspection with violations by violation type OTS	1.08	0.9589
% of total inspections in the public sector	2.81%	Negotiated to 5%
Actual inspections – safety/health	162/19	Projected 209/31 Initial 138/20 Revised

% of fatalities responded to in 1 work day	100 %	Goal 100% National Ave. 97.07%
Average lapse time – Safety	39.24	48.027 +/- 20%
Average lapse time – Health	33.36	57.626 +/- 20%
% penalty retained	54.28%	67.73% +/- 20%
% of initial inspections with employee walk around representation or employee interview	99.44%	Goal 100% National Ave. 98.21%

III. Compliance Outreach

WY Safety Summit

Wyoming held its sixth “Wyoming Safety and Workforce Summit” which was held June 20, 2018 and a Safety training day on June 21, 2018 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 Workers Compensation Compliance & Standards Administrator, Jason Wolfe 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 answering questions presented by attendees. Approximately 338 people attended the one-day conference and an awards lunch, 24 safety breakout training seminars, with 34 exhibitor booths. The keynote speaker, Mr. Josh Bleill, shared his experiences with his military career on how important perseverance, hope and safety are in the workplace. The 2nd day training was scheduled and managed by the Deputy Administrator, Consultation Manager and Compliance Assistance, there were three (3) OSHA training sessions held at the Wyoming – Montana Safety Council and the Safety Certification and Workers’ Compensation sessions were held at the Cheyenne Business Center.

Several workplace safety topics were covered to include:

- New Developments in Fall Protection
- Near Miss Reporting
- Risk Management: What They Can Do to Help You
- OSHA’s Respirable Crystalline Silica Standard: What You Need to Do to Ensure Compliance
- Wyoming OSHA Regulations & Standards Changes and Update
- Hazard Communication
- OSHA’s Training Requirements for Workplace Safety

- Introduction to Workers' Compensation Safety & Risk
- Alphabet Soup: Career Advancement with Certifications
- Labor Standards Review: Employer Rights and Responsibilities
- Electronic Logging Device Requirements and the Federal Motor Carrier Safety Administration
- How to Develop and Manage a Safety and Health Program for Your Company
- EH&S Survey Tools and Full Shift Compliance Monitors
- Examining the Hierarchy of Safety Controls
- Reducing ATV Risks On Farms and Ranches
- General Hazard Recognition in the Healthcare Environment
- Journey Management – How Does Your Program Stack Up?
- My Employee was Hurt... Now What?
- Confined Space Requirements
- Seatbelt Statistics
- Wyoming OSHA Standards Changes and Update

All of the presentations emphasized the importance of leadership, teamwork, safety and training. On the 2nd day there were 135 attendees that participated in three (3) OSHA Courses (7405 - Fall Hazard Awareness for the Construction Industry, 7500 – Introduction to Safety & Health Management and 7410 – Managing Excavation Hazards), a Safety Trained Supervisor (STS) Certification Course and Workers' Compensation Discount and Grant Workshop.

The Summit also offered four (4) OSHA safety awards for FY 2018. Awards were presented featuring both Governor, Matt Mead and the Director of Workforce Services, John Cox. The OSHA Consultation awards went to four employers with outstanding safety and health programs. Redi Services LLC, Dale Weaver Inc., Automation & Electronics, Inc. and Great Basin Enterprises received the OSHA Prestige Programs Awards. In addition, the Wyoming Oil and Gas Industry Safety Alliance (WOGISA) presented an award for Stop Work Authority (SWA) Award, which 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 continues to be another venue used by Wyoming 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 six existing alliances/coalitions. They include Wyoming Oil & Gas Industry Safety Alliance (WOGISA), Wyoming Construction Safety Alliance (WCSA) and 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 one-thousand (1000) members, to include producers, drilling contractors, servicing contractors, anchor installers/testers 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/CA program. The Deputy Administrator, Consultation Manager and/or Compliance Assistance Specialist for WY 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 and to address issues of constituents. 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 in partnership with the Wyoming - Montana Safety Council.

The Oil & Gas Rules were placed on hold until 1910, and 1926 Wyoming statutes were updated which was in the final stages in FY 2018 (were signed by the Governor in November 2018). The Oil & Gas Rules are currently being 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 the anchor chapter. The review was still being done to identify similar rules for each well activity at the end of FY 2018. The similar rules will be combined into one general rule chapter that applies to all activities and the unique requirements will be covered in other chapters. 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 rule requirements. Where a rule is unique to a particular well activity it will be in its own chapter relating to that well activity.

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.

WRSA - Wyoming Refinery Safety Alliance. This Alliance was discontinued since they now meet as a regional group (this includes Wyoming and bordering states). Their goal is to continue to promote, communicate, educate, and train employees and employers to ultimately reduce the fatality and injury rate within the Refining Industry. Their general membership consists of the four Wyoming refineries operating in the state and those operating in bordering states. This Alliance is now just a joint venture between refineries.

Safety & Stand Down Events

There was also a cooperative effort to promote and participate in many safety events, to include Construction Safety / National Fall Protection Stand Down Week (May 7-11, 2018), which had two main events. One event addressed the following topics: Distractive driving, fire safety, fall protection. Approximately 140 employees participated in the fall protection stand down and approximately 350 employees participated in Safety Week. The second event addressed fall protection which resulted in approximately 90 employees getting CEU’s, 20 of those employees were trained in Spanish. Approximately 200 employers/employees participated in the event with 6 vendor/sponsor booths. Safe & Sound Week (August 13-19, 2018), had nine events at various locations around the state. Information was shared with Alliances and other organizations and companies regarding participating in these events.

ASSE Sponsored Event

WY OSHA co-sponsored a recordkeeping class with ASSE at the Laramie County Community College on January 10, 2108 where there were 15 attendees. The WY OSHA Consultation Manager was the trainer for this class.

VI. Voluntary Protection Participants & Current Status

WY OSHA continues to promote VPP through presentations with the assistance of existing VPP 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 2018.

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. State Emphasis Programs

WY OSHA had three (3) State Emphasis Programs for 2018. The State Emphasis Program elements for the past year were workers' compensation companies with positive experience modification rating (EMR); construction under the following NAIC's (236115 - 238990), 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 SEP. 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, material handling, 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 2018, twenty-four (24) inspections were completed for this SEP.

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 2018, fourteen (14) inspections were completed for this SEP.

VIII. Federal Guidance Adopted

During FY 2018, the WY OSHA Commission adopted no directives.

IX. Staff Training Activity

Compliance inspectors received the following training this year:

OTI Webinars:

0128 – OSHA's Role in Emergency Response

0132 – Noise Engineering Controls

0133 – Pressure Vessels and related Equipment Part 1
0134 – Documenting Trench Inspections
0135 – Evaluating Flammable Liquids and Gases
0136 – Scaffolding Erection and Dismantling
0137 – Air Sampling Strategies
0138 – Promoting SHPs Through The Safe and Sound Campaign
ANSI/ISEA 12-2018 Dropped Objects Prevention Standard – 9/27/2018
New Electronic Recordkeeping Role – 1/29/2018
New OSHA Compliance Training Guidance Confirmation – 2/13/2018
Excavator Quick Coupler – 0003 – 9/6/2018
The Control of Hazardous Energy – 0002 – 9/26/2018

OTI Training:

1310 – Investigating Interviewing Techniques (CSHO Doughty, Doak & Bruntmyer)
1412 – Advanced Legal Aspects for OSHA Managers (Manager Graham)
1900 – Recordkeeping for Compliance Officers (CSHO Bruntmyer, Murdock, Young, Nordin, & CA Zak and Operations Trujillo & Dey)
2720 – Whistleblower Complaint Resolution (Doak)
3080 – Principles of Scaffolding (CSHO Murdock, Doughty, Young, Nordin, Bruntmyer & Compliance Lead Westby and CA Zak)
3090 – Electrical Standards (CSHO Murdock, Doughty, Young, Nordin, Bruntmyer & Compliance Lead Westby)

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 is to continue to follow the TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel and get all CSHO's/CA trained by either following the number of trainings per CSHO per year or exceed those numbers to ensure CSHO's/CA have adequate knowledge to perform their inspections and for CA to provide consultation information to clients. Proper training contributes to the CSHO's/CA ability to represent WY OSHA with a high degree of professional expertise in the field of occupational safety and health. WY OSHA continues to implement efforts to obtain training courses onsite and has also utilized training centers within Wyoming to further educate CSHO's to help expand their knowledge of safety and health. During FY 2018, OTI provided three (3) courses in Wyoming: 1900 – Recordkeeping for Compliance Officers, 3080 – Principles of Scaffolding and 3090 – Electrical Standards.

CSHO's have also traveled out-of-state to attend training courses provided by the Federal OSHA Training Institute (OTI) Education Centers in 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 Safety & Workforce Summit 2018.

WY OSHA's had multiple changes with the Whistleblower Investigator position in FY 2018. An experience investigator was hired in April of 2018 only to leave in August of 2018. The investigator prior to departure completed the 1310 – Investigative Interviewing Techniques and 2720 Whistleblower Complaint Resolution courses. A replacement experienced investigator was hired that same month and continues to work as the Whistleblower Investigator. The latest Whistleblower Investigator is scheduled to attend in FY 19, the 1420 - Whistleblower Investigation Fundamentals and 2720 - Whistleblower Complaint Resolution & Settlement.

WY OSHA also utilizes the expertise of its own experienced CSHOs, CA and Consultants to provide training to staff members during in-house meeting/training sessions.

XI. General Organizational Information

During FY 2018, Compliance's total staffing levels remained unchanged from the benchmark eight (8) plus one for CA, nine (9) however; there continued to be significant staffing changes that affect the continuity of the program. There were six (6) staff changes in Compliance in FY 2018. Two (2) new hires for Gillette and Casper (Compliance Officer switched to Consultation) vacancies. There was a change of duties from the Discrimination Investigator back to a Compliance Officer and their relocation to Rock Springs to better support the western part of the State Of Wyoming. The Compliance Officer vacancy in Cheyenne was converted to a Discrimination Investigator position and was hired. Shortly after the hiring, that person left which resulted in the advertising and hiring of that vacancy again. One of three Administrative Support Staff in Cheyenne resigned for a promotion within State Government. This Cheyenne Administrative Support position was filled immediately. At the end of FY 2018, Compliance had no vacancies.

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 reoccurring vacancies on an annual basis 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. WY OSHA has been discussing with Department of Workforce Services Human Resources the ability to possibly tack on a service commitment to CSHO's that attend OTI and other professional training. Currently the State does not have this type of program in place, so this may not be able to be implemented. If implemented this could possibly slow down staff leaving until their service commitment is completed.

The Division is continuing to work 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 submitted in FY 2018 Job Content Questionnaire (JCQ) for Industrial Hygienist and the Deputy Administrators position to try and create more depth and opportunities for WY OSHA personnel along with getting higher wages so the division can be competitive and get higher qualified health and safety professional's to work for WY OSHA. Current continuity for the compliance program is less than 1 year, which is significantly lower than other state plans and federal OSHA. Based on current attempts within the state, WY OSHA hopes to 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. The IQAP was update in June of 2018, which continues to cover the following requirements:

- Orientation for New Compliance Officers
- Formal Training for all Compliance Officers
- On-The-Job Evaluations
- Review of Work Products
- Communicating To Employers
- Employers Obligations
- Identification of Hazards
- Correction Advice
- Abatement Verification

- Written Policies
- Program Management
- Individual Accountability
- Communication / Staff Meetings
- Marketing
- Client Surveys

The intent of the IQAP is to continue 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, proper identification of hazards, and a closing conference within the guidelines of the FOM and Wyoming’s procedures. During FY 2018, not all CSHOs received on the job field evaluations due to some CSHO’s being new and not released to perform inspections on their own. Either the Compliance Manager or the Lead CSHO will accomplish this in FY 2019 once all new hires are released to perform inspections.

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 accordance with current State of Wyoming policies. During FY 2018, all eligible CSHO’s received annual performance evaluations that cover their OSHA responsibilities.

Review of Work Products:

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

The Lead CSHO and Compliance Manager review casefiles. The Compliance Manager/Lead CSHO ensures that citations are correct, can be supported, meet FOM and Wyoming’s requirements, and citation packages/reports are submitted in a timely manner to the employer. During FY 2018 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 in the past but is on schedule due to management and CSHO’s efforts).

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 has been working with a contract collections agency since FY 2017. The vendor is in place and is continuing to work the collection of penalties to recover penalties owed due to citations.

Occupational Safety & Health State Plan Association (OSHSPA) Board Representative

This is the second FY that the WY OSHA Deputy Administrator (DA) participated as an OSHSPA Board member. As a representative for State Plans, the DA met with fellow OSHSPA Board members and OSHA National Office Representatives quarterly to plan State Plan meetings. The DA and other OSHSPA Board members met with OSHA National & Regional Representatives and OSHSPA members quarterly during OSHSPA meetings to share ideas and provide State Plan comments and concerns regarding OSHA rules and Policies.

Continued Implementation of WY OSHA Training Manual

WY OSHA continues to implement the 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 continues to incorporate TED 01-00-018 – Initial Training Program for OSHA Compliance Personnel and applicable Competency Models. The training manual is continuing to be utilized, in outlining what federal training 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 2018, 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 (SHARP and VPP). The OSHA Division continues to review third (3rd) party private consultant applications for approval. The 3rd party Safety Consultants once approved work 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 3rd party Health & Safety Consultants professional approved by the Wyoming Department of Workforce Services – OSHA Division, 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 2018, three hundred and seventy-six (376) employers qualified for this discount program.

XV. Adjustments or Other Issues

Informals/Citations/Reviewing Casefiles

One of the FY 2016 & 2017 major issues associated with citation lapse time was corrected in FY 2018. A continuing major issue for FY 2018 is the projected number of public sector inspections to be completed. Issues that continued to create minor setbacks during FY 2018 for the Compliance Program were CSHO's not classifying hazard severity and probability properly, abatement not being completed in a timely manner (CSHO's not following up regularly with employers and documenting in casefiles and having to chase abatement from CSHO's that had left) and non-formal complaints not being processed in one (1) day. The Lead CSHO and the Compliance Manager had conducted formal and informal training with CSHO's during FY 2018 to try to correct this issue. This problem continues with CSHO's due to lack of continuity and experience. This was supposed to be corrected in FY 2017 but continues to be an issue; however, the OIS reports show that these issues have improved in FY 2018 and are on the right path. Compliance Manager and Lead CSHO are continuing to track these issues weekly with the assistance of the Deputy Administrator to ensure compliance. If Compliance Manager and Lead CSHO notice that this continues to be an issue, mandatory retraining will be conducted.

Discrimination Issues

Throughout 2018, the whistleblower program had major changes starting with the reassignment of the Investigator/CSHO and a new experienced Investigator (Ex-Labor Standards Director and past Deputy Administrator & Senior Investigator from Labor Standards) being hired. This again changed when that investigator took another state position for a promotion and higher wages. Finally, another experienced investigator (Senior Investigator from Labor Standards) was hired in FY 2018 and again most of these investigators duties are to address discrimination cases. For FY 2018 the policy was continued that the investigator was relieved of all compliance duties other than discrimination with the exception of having to take email or telephone complaints or referrals if other CSHOs were not available. There were a couple of instances where due to staffing the Investigator/CSHO responded to imminent danger inspections. With the help of the Operations

Manager, the Discrimination Investigators were all able to reduce the backlog and get cases closed from FY 2015, FY 2016 and all but one (1) from FY 2017. The Operations Manager can pull IMIS Oracle Report while the Region VIII Discrimination Monitor cannot see Wyoming's data in IMIS. The Region will have to work with the IMIS program support to get them access if they wish to have access to actual case data. Both the Operations Manager and past Discrimination Investigator's goal for FY 2018 was to have all discrimination cases caught up and to attempt to have new cases completed within 90 days. Due to the backlog and staffing changes this goal was not completely finished, but this goal is to finish the remaining FY 2017 (1) and FY 2018 (7) cases and stay on track going through FY 2019.

Note: Of the thirty (30) cases received for FY 2018, the average days open was ninety-one (91) as of this report. The continued goal is to at least match the national average time for discrimination cases and ultimately to get to the ninety (90) days benchmark.

Funding

Wyoming continued to provide excess funding to the program in the amount of \$1,081,557, which is 66% of the State's contribution, not the 50% / 50% agreed upon for compliance. Wyoming OSHA has not been provided funds equivalent to FY 2013. 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.