

Appendix B
South Carolina State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region IV
Status of Findings, Recommendations, and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	No narrative description of the accident or investigation details of multi-employer responsibilities	South Carolina should assure that fatality investigation case files and inspection case files directly related to a fatality include a narrative that thoroughly describes the accident and its causes.	<ol style="list-style-type: none"> 1. Provide documentation of training content to ensure it meets the intent of the recommendation. Federal OSHA will review and determine if additional action is necessary. 2. State needs to implement processes to assure that fatality files are reviewed thoroughly for compliance with procedures (in addition to verbal discussions with compliance officer.) 3. Hire a new Assistant Compliance Manager. This position will assist the Compliance Manager in reviewing fatality files and work to ensure all case files are documented thoroughly. 	This recommendation was fully implemented by the State. On July 12, 2010, and December 13, 2010, the State conducted training sessions with members of the compliance staff. During these training sessions the FY 2009 EFAME findings were reviewed. Staff members were also provided additional instruction regarding various aspects of case file documentation: employer knowledge; employee exposure; health sampling; detailing hazardous conditions; as well as properly classifying hazard severity and probability. The item will be verified in the FY 2011 EFAME process.	Complete
09-2	Case file documentation consists of checklists of fill in the blank forms with no or minimal narrative description of the hazardous condition. Employees not always interviewed; documentation inadequate or missing; sampling forms lacked information on operations being sampled.	South Carolina should assure that each violation is documented adequately for employer knowledge, employee exposure, health sampling factors, and description of the hazardous condition.	<ol style="list-style-type: none"> 1. Hire a new Assistant Compliance Manager. This position will assist the Compliance Manager in reviewing fatality files and work to ensure all case files are documented thoroughly. 2. Provide documentation of training content to ensure it meets the intent of the recommendation. Federal OSHA will review and determine if additional action is necessary. 	This recommendation was fully implemented by the State. As stated above, on July 12, 2010, and December 13, 2010, the State conducted training sessions with members of the compliance staff. The training sessions were focused on several aspects of case file development and documentation: employer knowledge; employee exposure; health sampling; detailing hazardous conditions; as well as properly classifying hazard severity and probability. Additionally, the	Complete

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				State remains committed to the hiring of an assistant compliance manager in an effort to effect positive change in this area. The item will be verified in the FY 2011 EFAME process.	
09-3	Violations (mostly electrical) misclassified as low severity rather than medium or high. For most other-than-serious violations, no description of the injury, just the notation: "less than serious physical harm or death." Violations incorrectly rated as low probability rather than high probability.	South Carolina should assure that each violation is classified accurately for severity and probability. Guidelines for rating the severity of the injury or illness being prevented should be revisited to assure that they are consistent with the definitions of high, medium, and low severity in SC OSHA's procedures.	Provide documentation of training content to ensure it meets the intent of the recommendation. Federal OSHA will review and determine if additional action is necessary.	This recommendation was fully implemented by the State. As previously stated, the training session conducted on July 12, 2010, by SC OSHA focused on properly classifying hazard severity and probability. Participants in this meeting included all compliance staff members. The item will be verified in the FY 2011 EFAME process.	Complete
09-4	1995 policy memo provides that other-than-serious violations that are corrected during the inspection are not cited. No documentation on violations not cited, nor abatement. Indication that as many as 34-violations were not cited on one inspection	South Carolina should revoke their policy, contained in their memorandum dated June 23, 1995, of not citing other-than-serious violations that are immediately abated.	Revised IAPR policy has been finalized and a copy of was received in the Regional Office on 11/29/2010.	This recommendation was fully implemented by the State. On August 6, 2010, SC OSHA issued a revised Immediate Abatement Penalty Reduction (IAPR) policy and on August 30, 2010, a training session was conducted with the enforcement staff regarding the document. The revised IAPR policy no longer instructions members of the compliance staff to delete "other-than-serious" violations that are corrected on-the-spot by employers. Case file reviews will be necessary to fully assess the State's action regarding this matter. The item will be verified in the FY 2011 EFAME process.	Complete

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09-5	Inadequate abatement accepted under “Immediately Abated Penalty Reduction” policy (15% for serious violations corrected during inspection, similar to quick-fix). Policy used more frequently with greater penalty reduction (based on gravity-based penalty not adjusted penalty. Check-off without employer abatement certification or documentation for abatement information when obtained at informal conference. Abatement information reviewed for adequacy by informal conference officer, not CSHO or supervisor. Hazards not adequately addressed. Planned follow-up inspections never conducted.	South Carolina OSHA should conduct training and implement management controls to assure that adequate abatement certification or documentation is received for each violation, and that the abatement information is maintained in the case file. When follow-up inspections have been recommended or when citations meet the State’s criteria for follow-up inspections, follow-up inspections should be conducted unless the reason a follow-up is not needed is documented.	1. Update Informal Conference Policy 2. Provide documentation of training content to ensure it meets the intent of the recommendation. Federal OSHA will review and determine if additional action is necessary	This recommendation was fully implemented by the State. As stated above, on August 6, 2010, SC OSHA issued a revised Immediate Abatement Penalty Reduction (IAPR) policy and provided training to its staff on August 30, 2010, regarding the new policy. This new policy specifically states that it may not be applied to the following conditions: willful, repeat and failure-to-abate violations; regulatory violations; and violations with temporary abatement solutions. The policy also provides guidance regarding the adequacy of abatement actions and the thorough documentation of the employer’s corrective actions. Case file reviews will be necessary to fully assess the State’s action regarding this matter. The item will be verified in the FY 2011 EFAME process.	Complete
09-6	Employer penalty option provides 60% (proposal to reduce to 50% in 2009) penalty reduction at informal conference, if safety and health improvements promised. Policy used even in fatality cases. Employers not required to take sufficient extra steps for a safe and healthful workplace. Change to 50% reduction never implemented and State impact and analysis promised in 2008 never conducted.	South Carolina should revise their Employer Penalty Option (EPO) procedure, to assure that employer size, history, and the nature of the current violations are considered when any penalty reductions are offered; and, South Carolina should assure that the employer is making significant commitments to implement or improve their workplace safety and health program in exchange for penalty	1. Revise the EPO procedure. 2. Provide documentation of training content to ensure it meets the intent of the recommendation. Federal OSHA will review and determine if additional action is necessary.	According to South Carolina changes have been made to the EPO procedure, based on the FY 2009 EFAME. During this period, the state will reviewed the frequency with which individual employers used the EPO procedure, as well as the guidelines for negotiating workplace safety and health enhancements under the program. This new policy	Complete

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		reductions.		specifically states the following: 50 percent is now the maximum allowable reduction, employers in the general industry are afforded this reduction once every two-years and employers in the construction are afforded this reduction once a year. The item will be verified in the FY 2011 EFAME process.	
09-7	Response to Federal Program Changes not timely; response to New FOM not yet submitted.	South Carolina should provide state plan changes, adoption documents, and state procedures for comparison purposes to federal OSHA on a timely basis.	Provide state plan changes, adoption documents, and state procedures for comparison purposes to Federal OSHA on a timely basis.	During this evaluation period, the State responded in an untimely manner to several established due dates. An example includes the submission of the side-by-side comparison of the Field Operation Manual (FOM), which the State decided not to adopt. This item is a carry-over recommendation and will be examined in greater detail in the FY 2011 EFAME Report.	Open
09-8	CSHOs conduct all discrimination case investigations usually concurrently with workplace complaint investigations. Discrimination program procedures are different from those of federal OSHA and do not assure that a quality investigation is conducted and documented.	09-8: South Carolina should eliminate their written procedures requiring discrimination complaints to be submitted in writing. Complaints should be docketed on the date that the complainant contacts SC OSHA and provides information establishing a prima facie case. Because there is a 30 day time-filing requirement, it is imperative that complaints be filed as promptly as possible.	<ol style="list-style-type: none"> 1. New South Carolina discrimination procedures can be implemented in conjunction with their response to the new federal whistleblower manual. 2. A specific response to each recommendation related to the discrimination program is required. 3. Federal OSHA to provide a response regarding South Carolina's request to have federal OSHA investigate any complaints that are mixed statutes (11c plus a federal-jurisdiction statute). 	During this period, the State provided retraining to the staff members responsible for conducting discrimination investigations. The retraining was conducted by the South Carolina LLR, Office of General Counsel, which oversees the State's discrimination program. Additionally, SC OSHA decided to restrict the task of conducting discrimination investigations to its senior and	Open

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		<p>09-8b: South Carolina should assure that complaint notification letters are sent to the Respondent informing them of the discrimination complaint and requesting a written position statement in response to the complaint.</p> <p>09-8c: South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.</p> <p>09-8d: South Carolina should assure that each discrimination investigation case includes a written report that presents all of the facts gathered during the investigation. The case file should include an analysis or evaluation of the facts as they relate to the four elements of a prima facie case, a case activity log, documentation of discussions related to the case, and documentation of the closing conference with the complainant.</p> <p>09-8e: South Carolina should review its settlement policy for discrimination cases and consider adding criteria consistent with federal OSHA guidelines.</p>		<p>most experienced compliance officers. However, no additional actions were taken regarding this group of recommendations by South Carolina. South Carolina reviewed each of the recommendations and determined that no additional action was warranted. This item is a carry-over recommendation and will be examined in greater detail in the FY 2011 EFAME Report.</p>	
09-9	The state's VPP manual lacked details on several routine operational procedures.	The South Carolina Palmetto Star VPP policy document should include procedures for placing an employer on a two-year rate reduction plan; the small employer	Submit updated policy by 12/15/2010. A copy of the revised VPP policy was received by the Regional Office on 12/1/2010.	During this period, the South Carolina Palmetto Star VPP policies and procedures manual was revised. The revised document now	Completed

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		alternative rate calculation; and tracking of abatement for hazards noted during an evaluation.		addresses two-year rate reduction plans; the alternative rate calculations for small employer; and hazard abatement tracking. The Regional Office will verify the effectiveness of the State's action during the FY 2011 EFAME.	
09-10	South Carolina OSHA does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual.	South Carolina should develop and implement a formal program for conducting periodic internal self-evaluations. The procedure should assure that internal self-evaluations possess integrity and independence. Reports resulting from internal self-evaluations will be made available to federal OSHA.	<ol style="list-style-type: none"> 1. South Carolina will develop and implement an Internal Audit Program and share with Federal OSHA for review. 2. Hire a new Assistant Compliance Manager. This position will assist the Compliance Manager in reviewing fatality files and work to ensure all case files are documented thoroughly. 	During this evaluation period, SC OSHA has worked to develop a comprehensive system to effectively monitor the program's performance. Their efforts have included working with the developer of the new SC OSHA database system and identifying key performance indicators. However, the State's efforts regarding the development and implementation of the internal self-evaluation program remains ongoing. This item is a carry-over recommendation and will be examined in greater detail in the FY 2011 EFAME Report.	Open