

**ENHANCED FEDERAL ANNUAL MONITORING
EVALUATION (FAME) FOLLOW-UP REPORT**

**FOR THE
SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

DESIGNATED STATE AGENCY:

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION,
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**

PERIOD COVERED BY THIS REPORT:

October 1, 2009 - September 30, 2010

**SOUTH CAROLINA STATE PLAN APPROVED NOVEMBER 30, 1972
FINAL APPROVAL DECEMBER 15, 1987**

REPORT PREPARED BY:

**U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
REGION IV, ATLANTA**

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South Carolina

FY 2010 EFAME Follow-up Report – a Follow-up to the FY 2009 EFAME

1. Executive Summary

This report assessed the South Carolina Department of Labor, Licensing, and Regulation (LLR), Division of Occupational Safety and Health's progress towards achieving the performance goals established in their Federal Fiscal (FY) Year 2010 Annual Performance Plan and the recommendations given in the FY 2009 Enhanced FAME during the period of October 1, 2009 to September 30, 2010.

a. Introduction

The South Carolina Occupational Safety and Health Plan was one of the first programs approved by the U. S. Department of Labor in accordance with the guidelines of the Occupational Safety and Health Act of 1970. This was accomplished on November 30, 1972, and final approval was granted in 1987. In 1994, the South Carolina Department of Labor was eliminated as part of the reorganization of state government and the Department of Labor, Licensing, and Regulation (LLR) was created. The Director of LLR is the official designated to administer the state plan, and Ms. Catherine Templeton serves in that position. Ms. Templeton has prior experience with the agency, having served as an advisor to the department on labor issues for three years, during a previous administration. She is also an attorney and her legal experience was focused on labor and employment law. LLR is divided into three divisions: Labor; Fire and Life Safety; and Professional and Occupational Licensing. The Office of OSHA within the Division of Labor is responsible for management and operation of the state plan. Ms. Dottie Ison remains in the position as Administrator for the South Carolina OSHA program.

Since a reorganization of SC OSHA in 2006, the OSHA Administrator has been over the Office of Voluntary Programs (OVP), as well as Training, Safety and Health Compliance, Technical Support and Standards, Integrated Management Information System (IMIS), and the SC Bureau of Labor Statistics. South Carolina's Office of Technical Support and Standards provides information and assistance to the public to assist them in complying with their standards. That office also supports the compliance program with enforcement by providing guidance for internal and external use. In addition, the office reviews new federal OSHA standards and directives to determine whether they should be adopted by South Carolina. An Informal Conference Hearing Officer reports directly to the OSHA Administrator. In South Carolina, public sector agencies and employees are afforded the same rights, responsibilities, and coverage as the private sector, and these activities are handled by the same staff as for the private sector. Private sector onsite consultative services are provided through a 21(d) Grant administered by the OVP. Worker protection from discrimination resulting from health

and safety activity is overseen by LLR's Office of General Counsel, with discrimination investigations being conducted by the SC OSHA compliance officers.

A Compliance Manager supervises the Offices of Safety and Health Compliance, as well as the individuals responsible for complaint processing and inspection assignments. SC OSHA categorizes inspectors as safety-construction, safety-general industry, and health, and has one supervisor over each of the three teams of inspectors. South Carolina's inspectors all work out of their homes and routinely come in to the office on Mondays and Fridays to turn in reports and conduct research. The three compliance supervisors also work out of their homes, with one of them being on duty in the office each week. Assignments to inspectors are centralized, with one individual in the office making all inspection assignments, with input from the supervisors and inspectors if needed. Since 1986, South Carolina has maintained a benchmark of 17 safety and 12 health compliance officer positions.

b. Summary of the Report

The FY 2010 EFAME Follow-up report is not a comprehensive FAME report. This report is focused on the State's progress in achieving their Corrective Action Plan (CAP) in response to the FY 2009 EFAME report. In addition, this report is also based on the results of quarterly onsite monitoring visit, the South Carolina OSH Program's State Office Annual Report (SOAR) for FY 2010, as well as the State Activity Mandated Measures (SAMM) and the State Indicator Report (SIR) reports ending September 30, 2010. This report also includes a review of the state's activity under its current performance plan.

A review of the SAMM and SIR for FY 2010 indicated SC OSHA generally met the federal activity results. The reports show that hazards were identified during 62.6% of programmed safety inspections (Federal data 69.1%); average initial penalty per serious was \$463.47 (Federal data \$1,360); Percent of complaints where complainants were notified on time was 92.77% (goal 100%); SC OSHA only vacated 3.1% of violations (Federal data 4.7) and reclassified 0.4 % (Federal data 4.0). Penalties were retained on 64.0% of violations issued (Federal data 63.0%).

The FY 2009 Enhanced FAME report contained 10 findings and recommendations. Region IV and SC OSHA reached agreement on corrective action for all but three of the recommendations, which remain unresolved. During this evaluation period no new recommendations were established. The specific recommendations are as follows:

Finding 10-1 (09-7): Response to Federal Program Changes not timely; response to New FOM not yet submitted.

Recommendation 10-1 (09- 7): South Carolina should provide state plan changes, adoption documents, and state procedures for comparison purposes to federal OSHA on a timely basis.

Finding 10-2 (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.

Recommendation 10-2a (09-8a): 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.

Recommendation 10-2b (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.

Recommendation 10-2c (09-8c): South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.

Recommendation 10-2d (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.

Recommendation 10-2e (09-8e): South Carolina should review its settlement policy for discrimination cases and consider adding criteria consistent with federal OSHA guidelines.

Finding 10-3 (9-10): South Carolina OSHA does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual.

Recommendation 10-3 (09-10): 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.

c. Monitoring Methodology

This report was prepared under the direction of Cindy A. Coe, Regional Administrator, in the Atlanta Regional Office. This report covers the period from October 1, 2009 through September 30, 2010. The South Carolina Occupational Safety and Health Program is administered by the South Carolina Department of Labor, Licensing, and Regulation (LLR), Division of Occupational Safety and Health.

2. Major New Issues

The State did not experience any significant new issues during this fiscal year.

3. Assessment of State Actions and Performance Improvements in Response to Recommendations from the FY 2009 EFAME

Finding 09-1: No narrative description of the accident or investigation details of multi-employer responsibilities

Recommendation 09-1: 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.

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 effectiveness of the State's action in this area will be verified during the FY 2011 EFAME process.

Finding 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.

Recommendation 09- 2: South Carolina should assure that each violation is documented adequately for employer knowledge, employee exposure, health sampling factors, and description of the hazardous condition.

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 State remains committed to the hiring of an assistant compliance manager in an effort to effect positive change in this area. The effectiveness of the State's action in this area will be verified during the FY 2011 EFAME process.

Finding 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.

Recommendation 09- 3: 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.

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 Regional Office will verify the effectiveness of the State’s action during the FY 2011 EFAME.

Finding 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

Recommendation 09-4: 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.

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 instructs 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. Therefore, the Regional Office will verify the effectiveness of the State’s action during the FY 2011 EFAME.

Finding 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.

Recommendation 09-5: 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.

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. Therefore, the Regional Office will verify the effectiveness of the State's action during the FY 2011 EFAME.

Finding 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.

Recommendation 09- 6: 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 reductions.

According to South Carolina changes have been made to the EPO procedure, based on the FY 2009 EFAME. During this period, the State 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 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.

South Carolina has also established an Informal Settlement Agreement template, which ensures that employer's safety and health commitments and responsibilities under the program are well documented. If an employer experiences a second inspection within this timeframe the reduction is capped at 25 percent. A third inspection would likely result in no reduction for the employer. If an employer does not comply with the requirements of the program they will be tracked and designed ineligible to participate in the program for a two-year period. Case file reviews will be necessary to fully assess the State's action regarding this matter. Therefore, the Regional Office will verify the effectiveness of the State's action during the FY 2011 EFAME.

Finding 10-1 (09-7): Response to Federal Program Changes not timely; response to New FOM not yet submitted.

Recommendation 10-1 (09-7): South Carolina should 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.

Finding 10-2 (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.

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 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. Therefore, the Regional Office will once again assess the State's performance in this area during the FY 2011 EFAME process.

This item is a carry-over recommendation and will be examined in greater detail in the FY 2011 EFAME Report.

Recommendation 10-2a (09-8a): 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.

The State responded that it accepts discrimination complaints in any form. However, if a complainant contacts SC OSHA verbally and alleges discrimination, then the employee is asked to submit the complaint in writing. The State believes that this policy is appropriate and ensure that a rapid handling of complaints.

Recommendation 10-2b (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.

SC OSHA management previously explained that because discrimination investigations are always conducted in conjunction with a safety or health complaint inspection, they do not notify the Respondent in writing because this would constitute advance notice of the inspection, which is prohibited. The State indicated that it does not plan to revise the current policy regarding this matter.

Recommendation 10-2c (09-8c): South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.

SC OSHA management indicated that when the complainant sends in the written complaint, there is sufficient information about the circumstances related to the alleged discrimination, and that an additional interview statement is not needed. Therefore, the State indicated that it does not plan to revise the current policy.

Recommendation 10-2d (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 facia case, a case activity log, documentation of discussions related to the case, and documentation of the closing conference with the complainant.

As stated above, the State provided retraining to the staff members responsible for conducting discrimination investigations. Additionally, SC OSHA decided to restrict the task of conducting discrimination investigations to its senior and most experienced compliance officers. However, case file reviews will be necessary to fully assess the State's action regarding this matter. Therefore, the Regional Office will verify the effectiveness of the State's action during the FY 2011 EFAME.

Recommendation 10-2e (09-8e): South Carolina should review its settlement policy for discrimination cases and consider adding criteria consistent with federal OSHA guidelines.

The FY 2009 EFAME stated in part, "SC OSHA does not have a formal policy or procedures with respect to settlements, and the SC FOM does not include any guidance on settlements." However, the State's response indicates that its settlement practice is consistent with the laws and regulations of South Carolina. The State's response also indicated that no additional action is planned regarding this matter.

Finding 09-9: The state's VPP manual lacked details on several routine operational procedures.

Recommendation 09-9: 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 alternative rate calculation; and tracking of abatement for hazards noted during an evaluation.

During this period, the South Carolina Palmetto Star VPP policies and procedures manual was revised. The revised document now 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.

Finding 10-3 (9-10): South Carolina OSHA does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual.

Recommendation 10-3 (09-10): 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.

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. Therefore, the Regional Office will once again assess the State's performance in this area during the FY 2011 EFAME process.

This item is a carry-over recommendation and will be examined in greater detail in the FY 2011 EFAME Report.

4. FY 2010 State Enforcement

a. Complaints

In general, South Carolina's procedures for handling complaints are similar to those of federal OSHA with just a few differences. Chapter III of the State's Field Operations Manual contains detailed instructions for the handling of complaints. South Carolina did not adopt OSHA's phone and fax procedures, and handle all nonformal complaints by mailing a letter to the company, with few exceptions. By comparison, federal OSHA procedures allow the Area Director greater flexibility to choose to conduct an inspection in response to a nonformal complaint in some circumstances. Additionally, South Carolina does not investigate oral complaints. Complainants of nonformal complaints are notified in writing of the employer's response and whether the State finds the response satisfactory. There is no formal right of review for nonformal complaints but if they call

or write and disagree with the findings, the state will review the complaint and reply to the complainant.

All complaints are initially handled by a single individual with SC OSHA, who prepares the correspondence or sends the complaint for inspection assignment. If there are any questions about the handling of a complaint, the Compliance Manager or a supervisor are consulted. The compliance supervisor on duty reviews the response to nonformal complaints.

Inspection data indicates that South Carolina handled 176 complaints in FY 2010, compared with 443 in FY 2009. Approximately half of the 53 percent of the complaint inspections resulted in an incompliance finding. According to the SAMM report, South Carolina responds timely to complaints. Complaint investigations were initiated within an average of 0.33 days from the time of receipt, compared to 1.93 in 2009, and complaint inspections were initiated within an average of 4.79 days from the time of receipt, compared to 5.40 in 2009.

b. Fatalities

SC OSHA has processes to assure that each fatality is responded to within one day of the report of the accident, and tracks this by means of a performance goal. Prior to issuance of citations or closing the case as in compliance, the Compliance Manager discusses the findings with the inspector. Chapter III of SC OSHA's Field Operations Manual provides detailed instructions for the investigation of workplace fatalities. The number of workplace fatalities investigated by SC OSHA has trended downward for two consecutive years. In fiscal year 2010, South Carolina investigated 15 workplace fatalities, compared to 17 in FY 2009.

c. Targeting Inspections

In fiscal year 2010, South Carolina conducted 1,905 inspections compared to 1,565 inspections in FY 2009. In FY 2010, the total numbers of safety and health inspections were 1,732 and 173, respectively. Overall these numbers compare favorably to the state's performance in FY 2009, which resulted in the accomplishment of 1,357 safety inspections and 208 health inspections. 72%, of all inspections were conducted in the construction sector. According to the SIR, 62.4% of safety inspections and 30.6% of health inspections were programmed. According to the SAMM report, 58% of safety programmed inspections and 25.86% of health programmed inspections resulted in serious, willful and repeat violations.

According to the State Indicator Report, 69.1% of the programmed safety inspections and 55.4% of programmed health inspections had violations compared to 65.8% (safety) and 51.7% (health) in 2009. Only 28% of the programmed construction inspections and 23.0% of the programmed general industry inspections, conducted in FY 2010 were in-compliance. South Carolina cited 2.2 violations per inspection, compared to 3.2 cited by

federal OSHA. During FY 2010 South Carolina achieved a rate of 58% (safety) and 25% (health) programmed inspections with violations (classified as Serious/Willful/Repeat), compared to 67.13%-safety and 46.67%–health in FY 2009.

d. Citations and Penalties

In FY 2010, the State conducted 1,905 inspections, which resulted in an average of 2.2 violations per inspection. This compares to 1,565 inspections and an average of 2.8 violations per inspection, in FY 2009. The average initial penalty per serious violation for private sector inspections was \$292 in FY 2010, compared to \$531 in FY 2009. Although, the average initial penalty for federal OSHA also trended downward over the same period, the federal OSHA are significantly above the State's numbers. The federal OSHA average for initial penalties was \$1,068 in FY 2010, and \$1335 in FY 2009. However, South Carolina performance regarding the lapse time in the issuance of citations has remained consistently low. In FY 2010, the average lapse time from opening conference to citation issuance was 30.5 days for safety inspections and 52.1 days for health inspections. In FY 2009, the average lapse time from opening conference to citation issuance was 30 days for safety inspections and 49.3 days for health inspections. In FY 2010, the national lapse time rates were 37.9 days for safety and 50.9 days for health.

In FY 2010, South Carolina issued one willful violation and one repeat violation, compared to five willful violations and two repeat violations in 2009. SC OSHA's procedures for classifying violations as repeated differs from that of federal OSHA, in that South Carolina requires the previous violation to have been issued within two years and federal OSHA allows three years of history to be considered.

e. Abatement

As previously indicated in the FY 2009 EFAME, South Carolina formerly had a policy of not citing other-than-serious violations that are immediately abated. Under this policy South Carolina also reduced the penalty for serious violations by 15% if the violation is corrected during the inspection. Both of these practices resulted from the Immediately Abated Penalty Reduction (IAPR), which was established in a July 23, 1995, memorandum. According to the State, this policy has been significantly revised to address all of the concerns raised during the last onsite monitoring visit.

According to the SIR in FY 2010, the State's abatement period for violation above 30 days was 11.5 for safety and the abatement period for violation above 60 days was 9.3 for health. The federal OSHA rates were 17.2 for safety and 8.5 for health.

f. Enforcement Program Management

As stated in the FY 2009 EFAME, the South Carolina OSHA Redesign and Enhancement (SCORE) project was implemented in November 6, 2009. The transition to OSHA

Express was a major undertaking from the technology standpoint, and required a cultural change for much of the staff. The system is capable of effectively and seamlessly transmitting data to federal OSHA. The Compliance Manager is currently using the SCORE system to run reports and to verify the status of activities. He also uses the auditing capability of the system, whereby a percentage of inspection files are selected for his comprehensive review. SC OSHA management reviews each inspector's compliance data regularly, which they use for performance reviews.

g. Review Procedures

South Carolina has regulations for assuring that employers have the right to contest citations and penalties. South Carolina continues to enjoy a very low contest rate. In FY 2010, 1.4 citations were contested compared to 0.6% in 2009. In South Carolina contested cases are handled by the South Carolina Administrative Law Court. Formerly, cases were heard by the SC OSHA Review Board. The Department of LLR had requested the change. Perhaps the most serious concerns related to this aspect of the State's program involved the Employer Penalty Option (EPO) procedure. This element of the State's program will be addressed in detail during the FY 2011 EFAME process through case file reviews and interviews with the staff.

h. BLS Rates

As stated in the FY 2009 EFAME, BLS injury and illness rates for South Carolina have shown a steady improvement and are among the lowest in the nation. The 2008 total case rate for the private sector was 3.1, an 18 % reduction over the 2006 rate. However, the State recently experienced a slight increase in its rate to 3.2. However, South Carolina remains one of the few States with a rate below the national average.

5. Other

a. Discrimination Program

As stated earlier, SC OSHA has taken limited action to implement the changes recommended by the FY 2009 EFAME in this area. Refer to finding 10-2 (09-8) for additional details regarding the State's discrimination program. The State's performance in this area will be addressed in greater detail during the FY 2011 EFAME process.

b. Standard Adoption and Federal Program Changes

In accordance with 29 CFR 1902, States are required to adopt standards and federal program changes within a 6-month time frame. States that do not adopt identical standards and procedures must establish guidelines which are "at least as effective as" the federal rules. States also have the option to promulgate standards covering hazards not addressed by federal standards. During the period addressed by this evaluation report

OSHA initiated the following standards and federal directives, which required action by the State:

Federal Standards

Standards Requiring Action	Federal Register Date	Adopted Identical	Date Promulgated
Updated OSHA Standards Based on National Consensus Standard, Personal Protection Equipment (PPE)	September 21, 2009	Yes	Pending
Acetylene – Direct Final Rule	November 9, 2009	Yes	11/27/09
Hexavalent Chromium - Direct Final Rule	May 14, 2010	Yes	06/28/10
Safety Standards for Steel Erection – Technical Amendment	May 17, 2010	Yes	06/28/10
Cranes and Derricks in Construction – Direct Final Rule	August 9, 2010	Yes	01/28/11

Federal Program Changes (excluding Standards)

Federal Program Changes Requiring Action	Federal Directive Number	Date of Directive	Adopted Identical	Date Adopted
Field Operations Manual	CPL 02-00-148 2009 332	03/26/2009	No	N/A
Site-Specific Targeting 2009 (SST-09)	CPL 02 (08-07) Update	07/20/2009	No	N/A
NEP -- PSM Covered Chemical Facilities	CPL-02 (09-06) 2009 334	07/27/2009	Yes	10/16/09

During this evaluation period, the State responded in an untimely manner to several established due dates. An example includes the promulgation date for the “Updated OSHA Standards Based on National Consensus Standards, PPE,” which is pending from the State. Another example is the submission of the side-by-side comparison of the Field Operation Manual (FOM), which the State decided not to adopt. The purpose of the side-by-side comparison is to verify that the state’s existing procedures and policy are as effective as federal OSHA’s. South Carolina has now provided the Regional Office with its side-by-side comparison; however, it was not accomplished until the current fiscal year.

c. Variances

South Carolina rarely receives requests for variances. The most recent variance adopted was in 2006. They are in the process of making all variances available on their website. No issues were identified related to South Carolina variances.

d. Complaint About State Plan Administration (CASPA)

Two CASPA's were filed during this evaluation period. The first CASPA involved an appeal of the State's determination and finding, following the investigation of a discrimination complaint. The second CASPA concerned a workplace safety and health complaint file with SC OSHA. During this process the South Carolina Occupational Safety and Health Program was cooperative and very responsive to the Federal OSHA area office. In summary, OSHA found issues related to the state's overall performance in both cases and both resulted in recommendations to South Carolina.

Complaint About State Plan Administration (CASPA) Number	Final Notification to Complainant	Recommendation(s)	State Response Letter
CASPA 83-FY10	Closed	Yes	07/21/10
CASPA 84-FY10	Closed	Yes	05/28/10

e. Cooperative Programs

Voluntary Protection Programs (VPP)

The South Carolina Voluntary Protection Programs (VPP), called Palmetto Star, is administered by the South Carolina Department of Labor, Licensing and Regulations, (SCDLLR). VPP eligibility requirements for Palmetto Star are more stringent than the federal program as employers are required to maintain injury and illness rates at least 50% below the rate for that industry in South Carolina. There are currently 46 active sites in the Palmetto Star Program. Following a detailed review of the program during the FY 2009 EFAME positive action was taken by South Carolina to effectively address the concerns raised by federal OSHA. A detail update on the state action is provided above under finding and recommendation 09-9.

Partnerships

During this period, the State developed and implemented the first Partnership. The agreement covers a major construction project, initiated under a joint venture, for a larger manufacturing plant in Charleston, South Carolina. The agreement was implemented on April 16, 2010. The Partnership case file will be reviewed during the FY 2011 EFAME, to ensure that the agreement conforms to the State's Partnership policies and procedures.

Alliances

The SCDLLR still has only one Alliance. The Alliance policy document and the Alliance itself meet the requirements established under the federal Alliance directive. The

Alliance addresses the Overhead Powerline industry in South Carolina and has exhibited very positive results with numerous training opportunities for industry employees and a CD developed by the Alliance partners which has seen widespread distribution throughout the State.

f. Program Administration

Ability to Meet Compliance Staffing Benchmarks

South Carolina is committed to maintaining its compliance staffing at the benchmarks levels of 17 safety and 12 health compliance officers. However, in the past some supervisory positions have been eliminated due to reductions in State funding, as well as program reorganization. South Carolina currently has 6 health and 13 safety compliance officers on staff. The State is currently working to fill numerous vacancies including the following: standards officer; health supervisor; assistant compliance manager; as well as several safety and health compliance officers. They have plans to fill these vacancies, but SC OSHA officials have expressed concern about state funding for their upcoming state fiscal year.

Impact of State funding and other fiscal Issues

In accordance with U.S. Department of Labor (USDOL), OSHA Directive FIN 02-00-003 – Financial and Administrative Monitoring of OSHA Grants and Cooperative Agreements, the USDOL/OSHA has conducted an on-site monitoring visit. The most recent financial monitoring visit conducted with the SCDLLR encompassed both financial and administrative aspects of the FY 2009 23(g) Grant. The results of that visit are listed below:

- Total 23(g) Grant authorized funding was \$3,468,400 (federal funds amounted to \$1,734,200 and non-federal funds equaled \$1,734,200). Actual federal expenditures recorded on the September 30, 2009 Financial Status Report (SF-269) was \$1,709,790.66, and the amount drawn down from the Health and Human Services Payment Management System (HHSPMS) was \$1,721,800.00.
- Our review of the 23(g) Grant revealed an expenditure of 99.28% of authorized funds.
- SCDLLR was granted an additional two months from December 30, 2009 to February 28, 2010 to closeout their grant agreement. The final Financial Status Report was due by February 28, 2010. OSHA noted the final Financial Status Report (SF-269) was certified by SCDLLR on June 16, 2010. Furthermore, \$12,400 was drawn from the 23(g) award after the authorized award period. Specifically, the final SF-269 and Health and Human Services Payment

Management System draw-downs demonstrated unauthorized fund withdrawal activity transpired beyond the authorized award period.

- According to records available for review, South Carolina Department of Labor, Licensing and Regulation overstated expenditures on their final SF-269 by drawing an additional \$12,400 for 23(g) on June 14, 2010. The draw was done after the authorized award period. The discrepancy was discussed with the Administrator and Accounting Manager within the Division of Administration. Officials confirmed funds had been drawn past authorized award period.
- Authority: OMB Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Subpart C, Post-Award Requirements, 23-Period of availability of funds states the following:
- “(b) Liquidation of obligations. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in the program regulation) to coincide with the submission of the annual Financial Status Report (SF-269). The Federal agency may extend this deadline at the request of the grantee.”

Furloughs, Office Closures or Other Changes in Services

There have been concerns about the funding provided to the SC OSHA program by the state in the past. The SCDLLR is using revenue from their other divisions to supplement appropriated funds. SCDLLR does not anticipate any changes in the level of services provided by the state or its current operations. During this period, the OSH Division has not furloughed employees or closed/consolidated offices due to the State’s fiscal hardship.

6. Assessment of State Progress in Achieving Annual Performance Goals

The previous five-year strategic plan ended in fiscal year 2008. Since FY 2009 South Carolina has elected to continue the goals featured in its previous strategic plan for an additional year. However, following the FY 2009 EFAME the decision was made to revise the annual performance goals, in an effort to enhance the program’s effectiveness. The State’s old performance goals and the new performance goals are listed below. The status of these revised annual performance goals will be addressed in detail during the FY 2011 EFAME process.

Old Performance Goals

Strategic Goal 1: Improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities

Annual Performance Goal 1.1A: Reduce the overall injury and illness total case rate in manufacturing by 2% each year.

Annual Performance Goal 1.1B: Initiate inspection of fatalities and catastrophes within one working day of notification for 95 percent of occurrences to prevent further injuries and death.

Annual Performance Goal 1.1C: Reduce injury and illness total case rate in construction by 2% each year.

Annual Performance Goal 1.1D: Conduct at least four direct health interventions on construction sites. Establish a referral system from construction consultants to the industrial hygiene (IH) staff.

Strategic Goal 2: Increase employer and worker awareness of, commitment to, and involvement in safety and health

Annual Performance Goal 2.1A: 50% of employers who receive a 21(d) visit have either implemented an effective safety and health program or improved their existing program.

Annual Performance Goal 2.1B: 50% of high hazard employers who receive an informal conference will develop and implement systems to address specific safety and health issues.

Strategic Goal 3: Effectively and efficiently meet the needs of customers

Annual Performance Goal 3.1A: Reduce citation lapse time by three percent to ensure that workplace hazards are abated promptly.

Annual Performance Goal 3.1B: Provide timely responses to formal complainants by reducing the notification time to 20 workdays for 95 percent of formal complaints that are inspected.

Annual Performance Goal 3.1C: Initiate investigation of 98 percent of formal complaints within seven workdays.

Annual Performance Goal 3.1D: Ensure worker protection by obtaining 95% of warrants in a timely manner (within 10 workdays of refusal).

Annual Performance Goal 3.1E: The Office of OVP, Training and Consultation Services, will obtain an overall 95% satisfaction rate based on the OVP customer survey.

New Performance Goals

Goal 1: Improve and ensure workplace safety and health.

To accomplish this goal, SC OSHA took the following actions:

- Determined which Industries, based on BLS data, would be included in the “high hazard list”. This list is divided between the Enforcement or Consultation group for general scheduled inspections or solicitations.
- Construction focus continued in the Enforcement group for specific hazards such as falls, trenching and excavation, tree trimming, electrical.
- Conducted National Emphasis Program inspections in recordkeeping.
- Conducted National Emphasis Program inspections in lead.

Goal 2: Promote a culture of safety and health.

To accomplish this goal, SC OSHA performed the following steps:

- Continued the construction Partnership with the joint venture site. The Consultation group conducted several on-site evaluations to identify safety and health hazards.
- SC OSHA trainers participated in the training classes at the construction site with the contractors. This provided an opportunity to reach out to so many employees that will later go on to work on other sites within the state and take safety and health knowledge with them.
- SC OSHA actively participated in the first “Southeastern Workforce Safety and Health Conference” in Columbia. This two day conference provided a variety of programs covering a wide range of safety and health topics. SC OSHA will work with the other participants to improve and enhance the conference for next year. SC OSHA continues to work with associations, employers and other groups in promoting SC OSHA Consultation and Training services.
- SC OSHA began sponsoring quarterly meetings with stakeholders to solicit questions and/or concerns that SC employers have on safety and health standards and directives subject to state adoption. SC OSHA will share changes in rules and requirements with stakeholders. When new policies are created or significant changes are made, a summary will be shared on the SC OSHA website and will be sent directly to SC OSHA stakeholders.
- Training programs on new hazards and standards were developed and conducted for OSHA staff.

Appendix A
South Carolina State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region IV
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY09 Rec #
10-1	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.	09-7
10-2	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.	<p>A: 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.</p> <p>B: 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>C: South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.</p> <p>D: 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>E: South Carolina should review its settlement policy for discrimination cases and consider adding criteria consistent with federal OSHA guidelines.</p>	09-8
10-3	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.	09-10

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	Complete

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
				exposure; health sampling; detailing hazardous conditions; as well as properly classifying hazard severity and probability. Additionally, the 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	Complete

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
				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.	
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	Complete

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
				matter. The item will be verified in the FY 2011 EFAME process.	
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 reductions.	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 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.	Complete
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	Open

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
				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.	
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.	<p>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.</p> <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</p>	<p>1. New South Carolina discrimination procedures can be implemented in conjunction with their response to the new federal whistleblower manual.</p> <p>2. A specific response to each recommendation related to the discrimination program is required.</p> <p>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).</p>	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 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	Open

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
		<p>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>		the FY 2011 EFAME Report.	
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 alternative rate calculation; and tracking of abatement for hazards noted during an evaluation.	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 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	Completed

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
				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

**Appendix C
South Carolina State Plan
FY 2010 Enforcement Activity**

	SC	State Plan Total	Federal OSHA
Total Inspections	1,905	57,124	40,993
Safety	1,732	45,023	34,337
<i>% Safety</i>	91%	79%	84%
Health	173	12,101	6,656
<i>% Health</i>	9%	21%	16%
Construction	1,379	22,993	24,430
<i>% Construction</i>	72%	40%	60%
Public Sector	86	8,031	N/A
<i>% Public Sector</i>	5%	14%	N/A
Programmed	1,534	35,085	24,759
<i>% Programmed</i>	81%	61%	60%
Complaint	176	8,986	8,027
<i>% Complaint</i>	9%	16%	20%
Accident	32	2,967	830
Insp w/ Viols Cited	1,259	34,109	29,136
<i>% Insp w/ Viols Cited (NIC)</i>	66%	60%	71%
<i>% NIC w/ Serious Violations</i>	76.6%	62.3%	88.2%
Total Violations	2,678	120,417	96,742
Serious	1,898	52,593	74,885
<i>% Serious</i>	71%	44%	77%
Willful	1	278	1,519
Repeat	1	2,054	2,758
Serious/Willful/Repeat	1,900	54,925	79,162
<i>% S/W/R</i>	71%	46%	82%
Failure to Abate	-	460	334
Other than Serious	778	65,031	17,244
<i>% Other</i>	29%	54%	18%
Avg # Violations/ Initial Inspection	2.2	3.4	3.2
Total Penalties	\$ 567,854	\$72,233,480	\$183,594,060
Avg Current Penalty / Serious Violation	\$ 289.80	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 292.00	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	61.0%	47.7%	40.9%
% Insp w/ Contested Viols	2.1%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	9.3	16.2	18.6
Avg Case Hrs/Insp- Health	28.4	26.1	33
Lapse Days Insp to Citation Issued- Safety	30.5	33.6	37.9
Lapse Days Insp to Citation Issued- Health	52.1	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	79	1,715	2,510

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.9.2010.

Appendix D
South Carolina State Plan
State Activity Mandated Measures (SAMM)

U. S. D E P A R T M E N T O F L A B O R
O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N
S T A T E A C T I V I T Y M A N D A T E D M E A S U R E S (S A M M s)

NOV 12, 2010
PAGE 1 OF 2

State: SOUTH CAROLINA

RID: 0454500

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	811 4.79 169	29 4.83 6	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	44 .33 130	22 2.44 9	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	154 92.77 166	9 100.00 9	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 .00 2	0 0 0	100%
5. Number of Denials where entry not obtained	2	0	0
6. Percent of S/W/R Violations verified			
Private	463 25.29 1831	41 3.21 1278	100%
Public	33 40.24 82	2 4.76 42	100%
7. Average number of calendar days from			

Opening Conference to Citation Issue	47054	7659	2624646	
Safety	41.64	42.55	47.3	National Data (1 year)
	1130	180	55472	
	5930	402	750805	
Health	70.59	57.42	61.9	National Data (1 year)
	84	7	12129	

*SC 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
 PAGE 2 OF 2

State: SOUTH CAROLINA

RID: 0454500

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	837	132	93201
Safety	58.00	64.08	58.4 National Data (3 years)
	1443	206	159705
	15	0	10916
Health	25.86	.00	50.9 National Data (3 years)
	58	2	21459
9. Average Violations per Inspection with Vioations			
	2010	269	428293
S/W/R	1.65	1.43	2.1 National Data (3 years)
	1214	187	201768
	764	145	240266
Other	.62	.77	1.2 National Data (3 years)
	1214	187	201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	888950	173475	509912690
	463.47	652.16	1360.4 National Data (3 years)
	1918	266	374823
11. Percent of Total Inspections in Public Sector	86	2	207
	4.51	1.23	4.1 Data for this State (3 years)
	1905	163	5047
12. Average lapse time from receipt of Contest to first level decision	6527	815	3826802
	326.35	163.00	217.8 National Data (3 years)
	20	5	17571
13. Percent of 11c Investigations Completed within 90 days	7	1	100%
	58.33	100.00	
	12	1	
14. Percent of 11c Complaints that are Meritorious	2	1	1461
	16.67	100.00	21.2 National Data (3 years)
	12	1	6902

15. Percent of Meritorious 11c
Complaints that are Settled

	2			1	
	100.00			100.00	
	2			1	
				1256	
				86.0	
				1461	

National Data (3 years)

*SC 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E South Carolina State Plan FY10 State Indicator Report (SIR)

Q4 SIR45 101007 093306 PROBLEMS - CALL Yvonne Goodhall 202 693-1734

1101007

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 1

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = SOUTH CAROLINA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	360	11403	780	21912	1448	43788	2603
	62.4	86.3	63.8	89.0	65.1	88.2	65.9	87.6
	8493	417	17860	876	33647	1642	66434	2971
B. HEALTH	488	5	1094	12	2232	46	4202	157
	30.6	16.1	33.7	16.7	35.0	30.9	35.1	44.9
	1597	31	3249	72	6378	149	11960	350
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	286	9421	569	17649	1023	34350	1917
	72.7	68.1	71.2	64.0	69.1	62.6	67.1	64.8
	6413	420	13232	889	25525	1635	51214	2960
B. HEALTH	451	6	880	19	1756	38	3238	108
	57.8	50.0	53.9	48.7	55.4	43.7	53.4	47.0
	780	12	1632	39	3168	87	6066	230
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	448	33678	916	62211	1727	117447	3475
	81.6	74.5	81.5	73.3	81.0	73.3	80.1	72.6
	21261	601	41304	1249	76839	2356	146593	4784
B. HEALTH	3233	36	6183	46	11743	96	21554	236
	69.6	43.4	70.5	37.1	70.2	41.7	69.6	44.4

	4645	83	8776	124	16725	230	30947	532
4. ABATEMENT PERIOD FOR VIOLS								
	3054	50	6515	109	12732	211	25040	422
A. SAFETY PERCENT >30 DAYS	15.0	10.5	16.3	11.4	17.2	11.5	17.7	11.1
	20398	477	39855	957	74010	1827	141219	3804
	255	0	633	0	1406	10	2977	24
B. HEALTH PERCENT >60 DAYS	5.6	.0	7.3	.0	8.5	9.3	9.6	7.9
	4548	37	8681	50	16580	107	30862	303

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = SOUTH CAROLINA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	4850	1106734	7750	2038916	12450	3500911	13150
OTHER-THAN-SERIOUS	837.5	303.1	803.1	276.8	894.3	276.7	967.6	279.8
	701	16	1378	28	2280	45	3618	47
B. HEALTH								
	249175	400	434447	400	732953	400	1039303	400
OTHER-THAN-SERIOUS	817.0	400.0	801.6	400.0	835.8	400.0	842.2	400.0
	305	1	542	1	877	1	1234	1
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	456	20529	995	38849	1927	76136	3502
	5.8	7.7	5.7	8.2	5.5	8.0	5.5	8.2
	1679	59	3593	122	7112	241	13925	429
B. HEALTH								
	1864	37	3844	88	7547	200	14276	452
	2.1	1.6	2.0	1.9	1.9	2.2	1.8	2.4
	908	23	1940	47	3898	92	8070	187
7. VIOLATIONS VACATED %								
	1123	11	2474	21	5103	88	10425	411
	3.7	1.5	4.3	1.4	4.7	3.1	5.0	6.6
	29962	732	57441	1455	108213	2813	207527	6211
8. VIOLATIONS RECLASSIFIED %								
	844	1	1978	4	4276	12	9196	17
	2.8	.1	3.4	.3	4.0	.4	4.4	.3
	29962	732	57441	1455	108213	2813	207527	6211
9. PENALTY RETENTION %								
	15767907	126932	30073309	232647	57457651	574092	111052615	1384950
	64.5	68.4	63.9	65.4	63.0	64.3	62.8	65.7
	24439885	185600	47032897	355625	91194322	893195	176868726	2108525

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 3

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = SOUTH CAROLINA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
	360	6	780	9	1448	17	2603	28
A. SAFETY	86.3	33.3	89.0	36.0	88.2	33.3	87.6	32.2
	417	18	876	25	1642	51	2971	87
	5	0	12	0	46	1	157	1
B. HEALTH	16.1	.0	16.7	.0	30.9	5.0	44.9	3.4
	31	2	72	9	149	20	350	29
2. SERIOUS VIOLATIONS (%)								
	448	15	916	23	1727	74	3475	109
A. SAFETY	74.5	75.0	73.3	79.3	73.3	86.0	72.6	81.3
	601	20	1249	29	2356	86	4784	134
	36	0	46	0	96	9	236	10
B. HEALTH	43.4	.0	37.1	.0	41.7	100.0	44.4	100.0
	83	0	124	0	230	9	532	10

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = SOUTH CAROLINA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610 22.5 2709	4 44.4 9	1134 23.2 4888	9 23.1 39	2052 21.9 9366	29 34.5 84	3827 23.0 16668	78 39.6 197
2. VIOLATIONS RECLASSIFIED %	306 11.3 2709	5 55.6 9	585 12.0 4888	10 25.6 39	1100 11.7 9366	13 15.5 84	2217 13.3 16668	17 8.6 197
3. PENALTY RETENTION %	4940512 65.3 7563023	1925 49.7 3875	7526155 62.3 12074308	15825 86.5 18300	12856359 58.1 22143463	32060 81.7 39250	23378285 58.4 40052611	65945 60.4 109150

Appendix F
South Carolina State Plan
State OSHA Annual Report (SOAR)

SOAR Available Separately