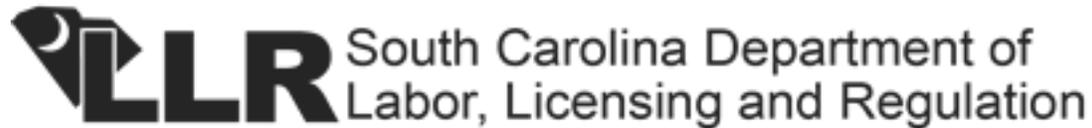


**FY 2013 Comprehensive
Federal Annual Monitoring and Evaluation (FAME) Report**

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



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I. Executive Summary

A. Summary of the Report

The purpose of the Federal Annual Monitoring Evaluation (FAME) is to provide an assessment of the South Carolina Department of Labor, Licensing, and Regulations – Division of Occupational Safety and Health Program’s (SCOSH) for progress towards achieving their performance goals established in the Fiscal Year (FY) 2013 Strategic Management Plan. This comprehensive report is focused on the overall effectiveness of programmatic areas related to the SCOSH 23(g) program’s enforcement activities, program administration, and policies and procedures, as well as compliance assistance programs.

A six-person OSHA team was assembled to conduct the onsite evaluation in Columbia, South Carolina during the week of January 27 through January 31, 2014. Additional time was required for management and compliance staff interviews, which extended the full timeframe of the evaluation to February 4, 2014. The OSHA teams’ evaluation consisted of case file reviews, a review of the SCOSH performance statistics, training documentation, policies and procedures, as well as staff interviews. Care was taken to ensure this evaluation was based upon the SCOSH Field Operation Manual (FOM), establish policies and directive compliance, as well as electronic and hard copies of case file documentation. Upon completion of the onsite evaluation, a comparison of the FY 2011 FAME findings was performed. FY 2013 revealed improvement in the overall documentation of case files, moderate increases in penalty dollar amounts and a more organized approach to complaint processing. Coding and submittal of initial fatality letters was also viewed and found in compliance with their directive.

Two major improvement areas were identified during the FY 2013 evaluation. SCOSH has done a superb job of performing required sampling in accordance with standards and case file development and documentation. Of the files evaluated, there were no significant or problematic findings or observations identified. Documentation provided was properly coded, comprehensive and legally sufficient. The second area needing to be recognized was with the Whistleblower Program. FY 2011 legislation on June 14, 2011 relating to the 1976 Code of Laws addressing remedies for employees charging discrimination; was modified to provide a referral to USDOL. SCOSH did pass legislation on June 29, 2012 to ensure Whistleblower protection was again being provided by the state.

FY 2013 shows a working program in place able to address whistleblower activities for employees needing protection under the 11(c) program along with a timely referral process for all other whistleblower statutes to OSHA. Although the State has made impressive strides to ensure Whistleblower protection for their stakeholders, there still remains a concern with the State’s delay in approving their Whistleblower Field Operations Manual. The finalizing and adoption of the manual is critical in ensuring compliance officers performing 11(c) investigations comply with State Plan guidelines, procedures and processes. Even with this concern however, it was noted that the SCOSH

has implemented an interim process ensuring the protection of employees under the Whistleblower statutes.

As part of the evaluation process, the FY 2011 FAME and FY 2012 Abridged FAME Report were reviewed and corrective action verified. The FY 2011 FAME contained 15 findings. Of the 15 findings the State Plan took appropriate action to correct 12 of these items with two findings being identified as Corrective Action Completed (CAP) - awaiting verification. Only one finding from FY 2011 remained open and carried over during the FY 2012 Abridged FAME Report. This same finding was identified during this review. By the end of FY 2012 three of four findings identified during the FY 2012 Abridged FAME Report had been addressed and action completed.

The FY 2013 FAME identified eight new findings with one carried over from FY 2012 Abridged FAME Report. Detailed explanations of current findings and observations of the SCOSH performance evaluation will be found in the Assessment of State Performance, Section III of this report. The summary of current finding and observations noted as a result of the FY 2013 FAME are found in Appendix A, and Appendix B details four observations identified during this onsite review. An observation is an item that was not proven to impact the effectiveness of the State Plan but for which the Region wishes to continue monitoring.

B. State Plan 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. During this review period, Ms. Holly G. Pisarik served as the Director of LLR, the official designated to administer the State Program. Ms. Pisarik previously served as LLR's Chief Advice Counsel. 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 SCOSH program.

Since a reorganization of SCOSH 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 OSH 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 Office of Voluntary Protection (OVP).

A compliance manager supervises the Offices of Safety and Health Compliance, as well as the individuals responsible for complaint processing and inspection assignments. SCOSH 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 receive assignments, turn in reports, meet with supervisors, 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.

C. Data and Methodology

This report was prepared under the direction of Teresa A. Harrison, Acting Regional Administrator, Region IV, Atlanta, Georgia, and covers the period of October 1, 2012 through September 30, 2013. The SCOSH Program is administered by the South Carolina LLR, Office of Occupational Safety and Health.

This is OSHA's report on the operation and performance of the SCOSH Program. It was compiled using information gained from South Carolina's SOAR for FY 2013, interviews with the South Carolina staff, data from the South Carolina's OSHA Express system and the Integrated Management Information System (IMIS) reports (SAMM and SIR reports) for FY 2013. In addition, information was collected during the formal review of case files. Information obtained during routine monitoring of the SCOSH Program by federal OSHA's Regional and Columbia Area Offices was also used as a basis for this evaluation.

For this evaluation, a total of 63 inspection case files and an additional 12 complaint investigation files were reviewed. Of the 63 inspection case files 17 of the 21 fatalities investigated were reviewed. The rest of the case files reviewed were made up of a random selection of files selected from the following categories: programmed general industry safety; programmed general industry health; programmed construction safety; referrals; and formalized complaint inspections. It was identified during the evaluation that the State does not perform programmed construction health inspections. Therefore assessment of this category was not possible. The cases reviewed were a small percentage of the 1,006 inspections conducted in FY 2013, but is believed to provide an accurate picture of the enforcement program throughout the state when coupled with interviews and review of procedures, directives and existing data.

Data associated with the case files reviewed was representative of data for all inspections. Additional data referenced in this report was obtained from the State Activity Mandated Measures (SAMMs); FY 2013 23(g) grant; Complaints About State Program

Administration (CASPA's); SCOSH Express reports; Integrated Management Information System (IMIS) reports; interviews and discussions with State Plan staff including management, enforcement (health and safety), consultative and administrative personnel. Of the 10 State Plan employees, three were supervisors, one compliance coordinator, one hearing officer, a complaint technician, and four enforcement officers.

D. Findings and Recommendations

The FY 2012 Abridged FAME Report contained four findings and recommendations which included one new finding. During the fiscal year, three of those finding were properly addressed by the State Plan. One of the findings however, remained open and has been carried over to be addressed in FY 2013. The summary of all findings and recommendations noted as a result of OSHA's study are found in Appendix A, "FY 2013 Summary of Findings and Recommendations." Appendix B details the observations identified during the FY 2013 evaluation.

Status of FY 2012 Findings and Recommendations

Finding 12-01 (formerly finding 11-08): Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.

Recommendation: SCOSH should provide additional training to both CSHOs and supervisory staff on Chapter IV, Section B of the SC Field Operations Manual (FOM) to ensure compliance with current guidelines and continuity of classification.

Status – Open: This item is now Finding 13-02.

Finding 12-02 (formerly finding 11-09): Acceptable abatement documentation is not consistent. Some files had documentation (programs, invoices, etc.), while other files only included a certification sheet. There is no follow-up on abatement documentation that states the item(s) will be completed at a future.

Recommendation 12-02 (formerly 11-09): SCOSH should conduct additional 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. Supervisors should ensure that case files are reviewed more carefully to ensure this is being done.

Status - Closed

Finding 12-03 (Formerly 11-15): The current FY2011 SOAR merely provides a narrative overview of the State's activities and does not fully address the Strategic Performance Plan.

Recommendation: SCOSH should implement a procedure to ensure future SOAR reports effectively address the following areas: summarize of the annual performance plan; track strategic plan accomplishments; address special accomplishments; and review the mandated activities.

Status - Closed

Finding 12-04: SC allows oral whistleblower complaints in practice, however, the State's Field Operation Manual (FOM) says that discrimination complaints received by telephone must be written and submitted within 30 days of the alleged incident.

Recommendation: SCOSH needs to update the FOM to reflect current practices by revising the written policies and procedures to state that workers are permitted to submit workplace discrimination complaints both orally and in writing.

Status - Closed: South Carolina has established and implemented a written policy allowing oral whistleblower complaints.

New Findings

Finding 13-01: South Carolina did not conduct programmed health inspections in the construction industry.

Recommendation: Evaluate and establish a formal, written policy for targeting health-related hazards in the construction industry.

Finding 13-02 (formerly Finding 12-01): Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.

Recommendation: SCOSH should provide additional training to both CSHOs and supervisory staff on Chapter IV, Section B of the SC Field Operations Manual (FOM) to ensure compliance with current guidelines and continuity of classification.

Finding 13-03: Case files reviewed did not comply with SCOSH's Operational Policy, Immediate Abatement Penalty Reduction (IAPR), Section C, dated April 30, 2013, which requires verification through documentation, such as photographs or file narratives, that permanent hazard abatement was obtained and/or observed at the time of the inspection.

Recommendation: Instruct and emphasize to both enforcement officers and supervisors SCOSH's policy on IAPR documentation requirements and acceptable means of permanent abatement.

Finding 13-04: The State Plan did not ensure that good-faith penalty reductions conformed to the criteria established in the SC FOM, Chapter 6.

Recommendation: Recommend SCOSH review the established guidelines to determine how to affect adherence to the established criteria.

Finding 13-05: The State Plan did not comply with SCOSH Operational Policy: OP-002-10 by maintaining all supportive facts in each case file.

Recommendation: All supportive documentation/facts used to justify actions taken to render a settlement agreement are to be maintained in the appropriate case file.

Finding 13-06: SCOSH has not established a written policy setting guidelines and criteria for the automatic 50% reduction in penalty afforded to employers telephonically requesting a penalty reduction only.

Recommendation: Revise the current SCOSH informal conference policy to include the guidelines and criteria to be used to qualify companies and authorizing a 50% reduction

in penalty without an informal conference.

Finding 13-07: The State Plan's Whistleblower Investigation Manual has not been approved.

Recommendation: Finalize and implement the manual.

Finding 13-08: Compliance manager or enforcement officers designated to perform discriminating investigations have not received training on the basic Whistleblower Statutes.

Recommendation: Recommend the State Plan develop and implement a formal training program to which manager(s) and enforcement officers, delegated to perform 11(c) investigations attend.

Finding 13-09: The Palmetto Star policies and procedures manual did not address enforcement activities at the VPP sites.

Recommendation: Recommend that CSP-03-01-003 (VPP Policies and Procedures Manual), chapter VIII or similar language be incorporated into the South Carolina Palmetto Star Policies and Procedures Manual.

Observations:

FY13-OB-1 Several of the fatality case files reviewed did not provide evidence that a final NOK letter was sent to the families at the completion of the investigation and/or settlement process.

FY13-OB-2 SCOSH standards and enforcement program for fall protection in residential construction is not identical to OSHA's policy and requires additional monitoring and review.

FY13-OB-3 The VPP incentive program evaluations conducted during onsite visits were not properly documented in the VPP reports.

FY13-OB-4: The State Plan has not established a written policy which clearly addresses the policies and procedures regarding both the initial and technical training of its compliance staff, as outlined in the OSHA's TED-01-00-018.

II. Major New Issues

During this evaluation period, SCOSH did not experience any new or significant issues to report.

III. Assessment of State Plan Performance

The State Plan's latest injury and illness rate for all industries, including state and local

government, decreased from a total care rate (TCR) of 3.6 to 3.2. Private industry observed a decrease in its TCR from 3.3 to 3.0. The Public sector TCR rate decreased from 5.0 to 4.4, a significant reduction. South Carolina is still able to boast a TCR rate below the national average. SCOSH has also achieved a reduction in the workplace fatality rate.

South Carolina also saw significant, across the board budget cuts to all state agencies during FY 2013. Fortunately, SCOSH was authorized to use “other funds,” through a special provision, which afforded it the needed funds to maintain resources and personnel necessary to perform its mission and responsibility to stakeholders.

1. ENFORCEMENT

a) Complaints

In general, SCOSH’s procedures for handling complaints are similar to those of OSHA with just a few differences. Chapter III of the State Plan’s Field Operations Manual (FOM) contains detailed instructions for the handling of complaints. SCOSH did not adopt OSHA’s phone and fax procedures, and handles all non-formal complaints by mailing a letter to the company, with few exceptions. By comparison, OSHA procedures allow the area director greater flexibility to choose to conduct an inspection in response to a non-formal complaint in some circumstances. Additionally, SCOSH does not investigate complaints received orally. Complainants of non-formal complaints are notified in writing of the employer’s response and whether the State Plan finds the response satisfactory. There is no formal right of appeal for non-formal complaints; however if they call or write and disagree with the findings, the State Plan will review the complaint and respond to the complainant with their determination.

All complaints are initially handled by a single individual within SCOSH, who prepares the correspondence or sends the complaint for assignment. If there are any questions about the handling of a complaint, the compliance manager, or compliance supervisor, is consulted. The compliance supervisor on duty reviews the responses to non-formal complaints. Inspection data indicates that SCOSH handled 358 complaints in FY 2013, compared with 156 in FY 2012. Approximately 37.5% of complaint inspections were found to be in-compliance. According to the SAMM report, complaint investigations were initiated within an average of 6.41 days from the time of the receipt, which is below the negotiated standard of 7 days; and complaint inspections were initiated within an average of .07 days, which is far below the negotiated standard of seven days.

b) Fatalities

In FY 2013, SCOSH investigated 21 workplace fatalities, compared with 25 workplace fatalities in FY 2012. During this period, the State Plan issued the following citations in response to the 21 fatal accidents. As stated previously, SCOSH has also achieved a reduction in the workplace fatality rate.

Violations of Fatality Investigations	SCOSHA
Willful	0
Repeat	0
Serious	71
Other-Than-Serious	21

FY13-OB-1 Several of the fatality case files reviewed did not provide evidence that a final NOK letter was sent to the families at the completion of the investigation and/or settlement process.

c) Targeting and Programmed Inspections

According to inspection statistics reviewed, SCOSH conducted 1,006 inspections for FY 2013, of which 961 were programmed. According to the SAMM, 83.59% of these were programmed safety inspections and 31.58% programmed health inspections which resulted in violations being issued. Additional data indicates that an average of 2.1 violations were cited per programmed inspections, a respective increase from FY 2012 statistics; and that 37.16% of them issued were safety violations and 30.16% were health violations classified as serious, repeat or willful.

SCOSH did not adopt OSHA’s site specific targeting (SST) procedures, and the OSHA Data Initiative (ODI) survey is not conducted in this state. No site-specific injury and illness data is available for inspection targeting. Each fiscal year, a State High Hazard Planning Guide is developed for industries that have rates greater than the State Bureau of Labor Statistics (BLS) injury and illness data. SCOSH inspectors review and collect all OSHA log information of State High Hazard investigations and/or inspections.

Construction work is also considered high hazard and inspection sites are targeted using National Emphasis Programs (NEPs) and the High Hazard Industry Inspection Planning Guide for the State. SCOSH procedures also permit inspectors to stop and conduct limited scope inspections when they observe serious hazards on construction sites. For several years, in order to make a larger impact on construction hazards, the State routinely concentrated their inspection resources on selected, high-construction activity issues.

This fiscal year, with the large number of health compliance officer vacancies currently being experience in SCOSH, no targeting was performed on high-hazard health issues in construction such as silica, lead, hearing conservation or asbestos. This fails to protect construction trade workers from potential dangers and hazards associated with chemicals

and other health-related hazards. Reasons given for the elimination of health inspections in construction were due in part to the shortage of industrial hygienist compliance officers and realized difficulty for quick assignment to construction referrals. These along with the temporary nature and short term exposure to health hazards of employees in the construction industry were factors used to determine best use of available resources. As identified during this visit and review of the last three years, high turnover of health compliance staff is and has been a constant challenge for the State. Currently there are two health vacancies in SCOSH. The above noted factors, along with the increasing demand for health-related inspections in both public and private industries has resulted in SCOSH's continued struggle to maintain qualified and experienced health compliance officers.

SCOSH participates in several National Emphasis Programs (NEP) and Regional Emphasis Programs (REP) such as lead, process safety management (PSM), Nursing and Residential Care Facilities and health hazards in scrape metal, all related to the increased demand and concentration in general industry.

Finding 13-01: South Carolina did not conduct programmed health inspections in the construction industry.

Recommendation: Evaluate and establish a formal, written policy for targeting health-related hazards in the construction industry.

d) Citations and Penalties

In FY 2013, the 1,006 inspections conducted resulted in an average of 2.62 violations per inspection, with 37.16% of safety violations and 30.11% of health violations classified as serious. The average lapse time from opening conference to citation issuance is identified below:

Average Lapse Time	SCOSH	OSHA
Safety	49.72	41
Health	70.86	54
Total Average	54	43

No willful violation and 7 repeat violations were issued in FY 2013. SCOSH's procedures for classifying violations as repeat differs from that of OSHA, in that South Carolina requires the previous violation to have been issued within two years and federal OSHA allows five years of history to be considered. Inspection data shows that about 5.2% of inspections conducted were follow-ups, and no failure-to-abate violations were issued.

In FY 2013, the average current penalty per serious, repeat, and willful violations for private sector inspections was as follows:

Classification	SCOSH	OSHA
Willful	\$0	\$39,455

Repeat	\$843.00	\$6,473
Serious	\$394.00	\$1,897

Although South Carolina classifies a lower percentage of violations serious, an increase in serious classification was identified during this evaluation. However, the average penalty per serious shows that approximately 46% of initial penalties is reduced at the final settlement stage of the inspection. Other penalty adjustment factors used to determine the initial penalty issues, (e.g., history and safety and health evaluation) play a major part in the lower penalties issued. This results in the penalty rate remaining lower than the federal average. Serious violations are categorized as high, medium or low severity serious, for penalty calculation purposes. It was noted that some violations that would most likely have been classified as serious by OSHA were classified as other-than-serious (OTS) by the State Plan, and severity and probability ratings were inconsistent with the associated hazards. Examples of such hazards include lacerations, amputations, electrical shock and noise.

Examples of misclassified violations are as follows:

- Electrical violations were classified as low lesser serious when the hazard could result in electrocution.
- Several case files reviewed identified amputation hazards. Unguarded horizontal bandsaw blade violations were issued as low serious violation when the employee was exposed to “severe lacerations” and potential amputations.
- Several case files reviewed identified hearing conservation violations that were issued as other-than-serious. Employees were exposed to noise in excess of 90 dBA. One measurement identified an employee exposed to noise at 100.1 dBA.

Percent of Violations Cited Serious/Other-Than-Serious

	SCOSH	OSHA
Serious	69.8%	75%
OTS	29.9%	20.4%

The difference between the average initial serious penalty between SCOSH and OSHA is largely due to the lower severity and lower probability assigned to similar violations and the inconsistent use of the good faith reduction described in the programmed and targeting section of this report.

Case files reviewed showed no consistency in good-faith penalty reductions. There was little or no documentation justifying the penalty reduction rationale by the compliance officers. Reductions of 10% to 25% were inconsistently given based only upon the assessment of verbal and limited information reviewed by the inspecting compliance officer. Assessment of documentation reviewed shows little or no understanding by many compliance officers and supervisors as to what is considered appropriate and required factors to classify a program as effective.

The OSHA 1a, "Evaluation of Employer's Overall Safety and Health Program" section of the form identifies the five elements needed for an effective safety and health program. This section also affords the compliance officer space to write a brief narrative for each element's assessment. The five elements are broken down into 34 easy, specific questions to guide the compliance officer in the assessment process. A "ratings" legend on the form is also provided to assist in identifying the effectiveness of the company's program. In the majority of the case files reviewed "N/A" was most commonly filled in indicating the element was not evaluated. Also identified in most construction files, good-faith is being given to small employers not having established a written or documented safety and health program. This is in direct violation of SCOSH's current policy. The use of the word "verbally" is prominently used on the majority of these files and documentation limited in one or two areas of the form. In the majority of these cases reductions of 10% and 15% were noted. Discussion with management revealed that SCOSH verbally adopted the policy of allowing small, construction-related employers penalty reductions without a documented program. Reason for this modification in policy given was that a written company or site program would be cost prohibitive to small employers.

Lack of understanding by compliance officers as to what constitutes an effective safety and health program was also noted. Where documentation of case files showed that compliance officers were not properly assessing/evaluating all elements of the programs, interviews with both compliance officers and supervisors confirmed limited knowledge of what constitutes an effective safety and health program. It was also noted that there was limited and general training provided on safety and health programs. However, there was no guideline or policy established by the State as to how and/or what was to be considered "minimum requirements" to determine the appropriate percentage of reduction to be awarded.

South Carolina has effective debt collection procedures. After administrative efforts to obtain payment of the penalty, the case is turned over to the state's Governmental Enterprises Accounts Receivable (GEAR) collection program. During this collection process, employers have a right to a hearing. Under the GEAR program, the state can collect payment of OSHA penalties through income tax authority. Cases in debt collection can be administratively closed by SCOSH so they do not remain open for an extended amount of time.

Finding 13-02 (formerly Finding 12-01): Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.

Recommendation: SCOSH should provide additional training to both CSHOs and supervisory staff on Chapter IV, Section B of the SC Field Operations Manual (FOM) to ensure compliance with current guidelines and continuity of classification.

Finding 13-4: The State Plan did not ensure that good-faith penalty reductions conformed to the criteria established in the SC FOM, Chapter 6.

Recommendation: Recommend SCOSH review the established process to determine

how to affect adherence to the established criteria.

e) Abatement

SCOSH has regulations that address requirements for abatement verification. During case file reviews, abatement information sent in by the employer was not always found in the case files reviewed. Case files found having required documentation was adequate in most cases, and often times included the employer's certification. State policy mandates that either certification or documentation of abatement be maintained in the appropriate case file. Additionally, there was no documentation of abatement being reviewed/accepted at or prior to settlement agreements, nor prior to the closing of the file. No information showing abatement being accepted was found in the case file activity logs. SCOSH should review current policy and implement control measures to assure that abatement certification or documentation is properly cataloged and maintained in appropriate case files.

Finding 13-03: Case files reviewed did not comply with SCOSH's Operational Policy, Immediate Abatement Penalty Reduction (IAPR), Section C, dated April 30, 2013, which requires verification through documentation, such as photographs or file narratives, that permanent hazard abatement was obtained and/or observed at the time of the inspection.

Recommendation: Instruct and emphasize to both enforcement officers and supervisors SCOSH's policy on IAPR documentation requirements and acceptable means of permanent abatement.

f) Worker and Union Involvement

South Carolina's procedures for employee and union involvement are identical to those of OSHA. Case files reviewed disclosed that employees were included during fatality investigations. No other files reviewed showed union involvement.

2. REVIEW PROCEDURES

a) Informal Conferences

According to the State Indicator Report, 29.11% of violations were vacated and 11.39% of violations were reclassified as a result of informal settlement agreements. The penalty retention rate was 64.46%. Documentation found in files relating to either penalty reductions or modification of citation categories provided little to no justification for reclassification of citations or penalty reductions. It was observed that for penalty reductions alone, no notes or justification was provided.

SCOSH has an Office of Informal Conferences which conducts informal conferences with employers, in order to maintain consistency in the informal conference process. SCOSH has established policy, SCOSH Operational Policy, OP-002-10, which provides authority and guidance for conducting informal conferences. The penalty reduction

policy states penalties may be reduced up to 50% through an Informal Settlement Agreement for qualified employers wanting to be proactive with regards to worker safety and health. Qualification for reductions is based on company inspection history. Although the policy does not require a review and/or reasons for modifications given during the informal conference, it does require all information provided by the employer at the time of the informal conference be kept as a hard copy in the case file.

It was also identified that if a company requests/attends an informal conference requesting only penalty reductions, authorization is based upon the evidence provided during the informal conference. If the issue is penalty only and no previous inspection history is revealed, a 50% reduction is given. If history was identified (within one year for construction companies and two years for general industry companies), a 25% reduction in penalty is awarded. Other factors such as placement on the State's ineligibility log and DCAT list may also influence or impact penalty reductions.

Finding 13-05: The State Plan did not comply with SCOSH Operations Policy, OP-002-10, by maintaining all supportive facts in each case file.

Recommendation: All supportive documentation/facts used to justify actions taken to render a settlement agreement are to be maintained in the appropriate case file.

Finding 13-06: SCOSH has not established a written policy setting guidelines and criteria for the automatic 50% reduction in penalty provided when employers telephonically request a penalty reduction only.

Recommendation: Revise the current SCOSH informal conference policy to include the guidelines and criteria to be used when authorizing a 50% reduction in penalty without an informal conference.

b) Formal Review of Citations

In South Carolina contested cases are handled by the South Carolina Administrative Law Court. LLR requested this be changed from the SC OSHA Review Board. South Carolina has regulations for assuring that employers have the right to contest citations and penalties. South Carolina continues to maintain a very low contest rate. In FY 2013, 1.6% inspections were contested compared to 2% in 2012.

3. STANDARDS AND FEDERAL PROGRAM CHANGES (FPC) ADOPTION

a) Standards Adoption

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 this period, South Carolina provides notice of intent on adoption of federal standards and procedures in a timely manner.

Documentation of the adoption of new or revised standards was also routinely provided in a timely manner.

During this period, the OSHA National Office directed the issuance of a letters of inquiries to all State Plans that did not adopt the Compliance Guidance for Residential Construction (STD 03-11-002). This letter required that the State provide the OSHA National Office a detailed analysis comparing the State's fall protection standards and enforcement policies that apply to residential construction with OSHA's guidance.

FY13-OB-2 SCOSH standards and enforcement program for fall protection in residential construction is not identical to OSHA's policy and requires additional monitoring and review.

The tables below provide a complete list of the federal directives and standards which required action during this period:

Standards Adoption

Standards Requiring Action	Federal Register Date	Adopted Identical	Date Promulgated
Updated OSHA Standards Based on National Consensus Standards; Head Protection	11/16/2012	Yes	04/26/2013
Direct Final Rule - Cranes and Derricks in Construction: Underground Construction and Demolition	04/25/2013	Yes	08/1/2013

Federal Program/State-Initiated Changes

Federal Program Changes Requiring Action and Federal Directive Number	Date of Directive	Adopted Identical	Date Adoption Date
Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification	09/30/2013	Yes	02/14/2014
[CPL 02-00-155] Federal Program Change Memo	09/6/2013	Yes	11/04/2013
[CPL 03-00-017] - National Emphasis Program Occupational Exposure to Isocyanates	06/20/2013	Yes	8/20/2013
Site-Specific Targeting 2012 (SST-12)	01/04/2013	No	N/A
Inspection and Citation Guidance for Roadway and Highway Construction Work Zones	10/16/2012	Yes	11/8/2012

4. VARIANCES

South Carolina has 68 permanent variances, none of which are multi-state variances approved by OSHA and there are no temporary variances. The most recent variance adopted was in 2006. SCOSH is in the process of making all variances available on their website. The State Plan did not issue any variances in FY 2013.

5. PUBLIC EMPLOYEE PROGRAM

SCOSH's Public Employee Program operates identically as the private sector. As with the private sector, public sector employers can be cited with monetary penalties. The penalty structure for both sectors is the same. SCOSH conducted 19 public sector inspections in FY 2013, or less than 2% of all inspections. Case file reviews documented the same concerns noted in the private sector inspections regarding documentation, citations and penalties.

6. DISCRIMINATION PROGRAM

The South Carolina Occupational Safety and Health Act, Section 41-15-210 et. Seq., Code of Laws of South Carolina, 1976, is a State statute of general application designed to regulate employment conditions relating to occupational safety and health and aims to achieve safer and healthier workplaces throughout the State. A complaint filed under this statute is commonly referred to as an 11(c) complaint which is a reference to the OSH Act. Enforcement of this statute in South Carolina falls under the South Carolina Department of Labor, Licensing and Regulations (SCLLR). Investigations are performed by compliance officers and they are overseen by a compliance manager.

This evaluation included a thorough review of South Carolina's discrimination program to determine whether its own policy and procedures are at least as effective as OSHA's procedures for handling section 11(c). The discrimination program is supervised by the office compliance manager. Currently, SCLLR is utilizing six of its compliance officers to perform discrimination investigations. There is also an informational officer who is responsible for IMIS data entry and maintaining closed case files.

SCLLR does not currently have a whistleblower investigations manual. However, a draft manual has been submitted to their legal office for review and is expected to be finalized at any time. The whistleblower investigations manual should provide the State Plan's discrimination investigation staff with effective guidance in the following areas:

- Whistleblower findings should be accurate and based on the evidence contained in each case file. They should also include a Report of Investigation, which summarizes the investigation, discusses evidence as it relates to the elements, and

provides the rationale for the determination.

- Each Whistleblower case file should contain a case activity/telephone log, which lists the date, time, and activity of telephone calls, interviews, onsite visits, etc.
- All files should be organized and tabbed with a detailed Table of Contents, which identifies the following sections: Complainant Statement; Complainant’s Rebuttal; Respondent Position Statement; Investigator Notes; Memorandum of Interview; OSHA Inspection; and Report of Investigation.
- All Respondent should be asked to provide information concerning similar situated employees. When this information is not provided by the Respondent, the investigator should document the case to reflect their efforts to obtain this information.

During FY 2013 SCLLR closed a total of 35 cases (8 of which were administrative closures). Approximately, 20 out of the 35 (57%) whistleblower cases were completed within 90 days in FY 2013 (national rate was 31%).

The status of these cases and the percentages of total cases they represent are presented below:

Status	Number of Cases	Percentage
Dismissed Non-Merit	*17	63%
Settlement/Merit	*4	15% (national rate was 31% for the same time period)
Administratively Closed	*8	--
Withdrawn	*6	22%
Prosecution by Attorney General	*0	8%

*This information provided by the State of South Carolina and not derived from the IMIS data base. Several cases were not entered/closed correctly in IMIS during FY 2013; however, the actual numbers reflected in IMIS for South Carolina in FY 2013 were not accurate. The informational officer received training during the onsite FAME review; therefore, in the future South Carolina’s 11(c) cases should be accurately reflected in IMIS.

Currently only two of the State’s compliance officers have attended the OSHA Training Institute (OTI) Course 1420, Basic Whistleblower Investigator Course. There is no official training program currently in place at the State to ensure compliance officers required to perform 11(c) investigations are properly educated and trained. At this time, there is no other means of obtaining the required information to perform a complete investigation, except at OTI.

Finding 13-07: The State Plan’s Whistleblower Investigation Manual has not been approved.

Recommendation: Finalize and implement the manual.

Finding 13-08: Compliance manager or enforcement officers designated to perform discriminating investigations have not received training on the basic Whistleblower Statutes.

Recommendation: Recommend the State Plan develop and implement a formal training program to which manager(s) and enforcement officers, delegated to perform 11(c) investigations attend.

7. SPECIAL STUDY – STATE PLAN TARGETING PROGRAMS

Construction work is also considered high hazard and inspection sites are targeted using National Emphasis Programs (NEPs) and the High Hazard Industry Inspection Planning Guide for the State. For several years, in order to make a larger impact on construction hazards, the State routinely concentrated their inspection resources on selected, high-construction activity areas. This is an annual process in which the Administrator, Compliance Manager and Program Coordinator identify and target areas of construction currently under way within the State. No legal review is provided.

This fiscal year, with the health compliance officer vacancies currently being experience in SCOSH, no targeting was performed on high-hazard health issues in construction such as silica, lead or asbestos.

Finding 13-01: South Carolina did not conduct programmed health inspections in the construction industry.

Recommendation: Evaluate and establish a formal, written policy for targeting health-related hazards in the construction industry.

8. CASPAs

One CASPA was filed during this evaluation period. The CASPA involved an allegation that the State Plan had not properly investigated a workplace accident. During this process the South Carolina Occupational Safety and Health Program was cooperative and responsive to the OSHA Area Office. In summary, OSHA found no evidence that the State had been notified of the accident by the employer, nor the family of the injured worker. Therefore, no recommendations were made to the State regarding this matter.

CASPA

State Plan CASPA Number	Date of Acknowledgement	Date of Final Report to State Plan	Corrective Action Required
2013-SC-20	3/8/2013	4/9/2013	N/A

9. VOLUNTARY COMPLIANCE PROGRAM

The South Carolina compliance program is administered by the South Carolina Department of Labor, Licensing and Regulations (SCDLLR). The Office of Voluntary Programs (OVP) includes the Voluntary Protection Programs (VPP), called Palmetto

Star, as well as Consultation, Alliances and Partnerships.

Alliances

SCDLLR did not have an active Alliance in 2013. The alliance policy documents the requirements established under the federal alliance directive.

Partnerships

The partnership policy document and the partnership itself met the requirements established under the federal partnership directive.

Voluntary Protection Programs (VPP)

Voluntary Protection Program eligibility requirements for Palmetto Star are more stringent than the federal program. Employers in North American Industrial Classification System (NAICS) codes 31-33 may apply. Employers are required to maintain injury and illness rates at least 50% below the rate for that industry in South Carolina. All participants are evaluated every three years. There are currently 39 active sites in the Palmetto Star Program as of January 2014.

A review of selected files revealed that evaluations are conducted in accordance with the South Carolina Palmetto Star Voluntary Protection Program's (VPP), policies and procedures. All required documentation was identified in the VPP files. It was also found that the program actively evaluates incentive programs; however, there was no documentation in the file to determine the outcome of the evaluation.

The review of the SCDLLR Palmetto Star policy also revealed that no provision was documented for addressing enforcement activities at the VPP sites. While there is an informal reporting system in place, this should be specified in the program policy.

Finding 13-09: The Palmetto Star Policies and Procedures Manual did not address enforcement activities at the VPP sites.

Recommendation: Recommend that CSP-03-01-003 (VPP Policies and Procedures Manual), Chapter VIII or similar language be incorporated into the South Carolina Palmetto Star Policies and Procedures Manual.

FY13-OB-3 The VPP incentive program evaluations conducted during onsite visits were not properly documented in the VPP reports.

10. PUBLIC SECTOR ON-SITE CONSULTATION PROGRAM

The consultative program continued to provide services to the employers and employees in both the private and public sectors during FY 2013. For public sector visits, the State

Plan had a goal to reach 20 establishments and exceeded that goal by conducting 24. The number of hazards abated during on-site consultation public sector visits is listed in the chart below:

Serious Hazards Confirmed Abated		Other Hazards Confirmed Abated	
Public Safety	20	Public Safety	15
Public Health	15	Public Health	5
Total Public	35	Total Public	20

11. STATE PLAN ADMINISTRATION

Training

SCDLLR elected and has maintained its own training program, rather than adopting the OSHA Training Directive. South Carolina provides the majority of employee training internally; however, 25% is conducted at the OSHA OTI Education Centers. Third party vendors are also utilized, which allowed SCDLLR to minimize training cost. SCDLLR produced a training guide that can be used to document the compliance officer training. This guide consists of milestones (OJT training, classroom training and supervisor reviews) that each compliance officer needs to attain in a 24 month period. All SCDLLR trainees attend OTI for the standards courses according to current training procedures (introduction to safety, health and construction standards). There is no written policy (other than the recommended training guide) that explains the implementation of the State’s training program. There is also no documentation showing the State has established a tracking mechanism for the training of compliance staff as outlined in the OSHA’s TED-01-00-018. In addition there is no consistent means of tracking personnel attendance at in-house training sessions (e.g., sign-in sheets or other documents). The department supervisors can monitor training by keeping track of training attended by their staff informally. The HR department also maintains “some” copies of training attended by the compliance officers but does not include non-formal training or in-house training.

Interviews conducted with compliances officers show the majority of them satisfied with the training received and believe it is provided at appropriate times.

SCDLLR also conducted outreach training to the private industries, by providing safety and health training to employers and employees throughout the state. In FY-2013, 471 training courses were conducted for 1,575 private sector employers, 4,528 private sector employees, 1,753 public sector employers, and 4,748 public sector employees.

FY-OB-4: The State should establish a written policy which clearly addresses the policies and procedures regarding the initial training of its compliance staff as outlined in the OSHA’s TED-01-00-018.

Funding

The last financial audit of the State Plan was conducted in FY 2011, the total authorized award equaled \$3,468,400 (federal funds equaled \$1,734,200 and non-federal funds equaled \$1,734,200). A review of the 23(g) grant revealed that the grantee expended 99.98% of authorized federal funds for the period ending December 30, 2011. For the quarter ending December 30, 2011, the Certified Federal Financial Report (Closeout) actual federal expenditures and system draw downs in the Health and Human Services Payment Management System (HHSPMS) were \$1,733,900. No financial issues were identified during this audit.

Staffing

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 15 safety and 10 health compliance health officers on staff. The State Plan 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.

		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Safety	Benchmark	17	17	17	17	17	17
	Positions Allocated	17	17	17	17	17	17
	Positions Filled	13	14	15	16	15	15
	Vacancies	4	3	2	1	2	2
	Percent of Benchmarks Filled	76%	82%	88%	94%	88%	88%
Health	Benchmark	12	12	12	12	12*	12*
	Positions Allocated	12	12	12	12	12*	10*
	Positions Filled	7	7	8	8	8	8
	Vacancies	5	5	4	4	4	2
	Percent of Benchmarks Filled	58%	58%	66%	66%	66%	66%

Information Management

The Compliance Manager uses 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. SCOSH management reviews each inspector’s compliance data regularly, which they use for performance reviews. The SCORE, not only provides an efficient means of data entry and secure storage, it also allows South Carolina OSHA to retrieve and analyze that data instantaneously.

State Internal Evaluation Program

The purpose of the internal audit is to review the effectiveness of quality plans, ensure

adherence with policies and procedures, and assess customer satisfaction. The internal audit process, SCOSH Operational Policy, OP-001-12, is also consistent with OSHA's requirement for each State Plan to implement an internal evaluation program and conduct periodic audits. The OSH Administrator ensures that the personnel performing the audits are independent, technically qualified, and knowledgeable regarding the audit process. This operational policy is reviewed at least annually by the State Plan and appropriate revisions are made when required.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals

FY 2013 was the second year of the State Plan's current Five-Year Strategic Performance Plan. The State Plan closely tracks data related to each area of emphasis. However, the year continued to present manpower challenges in the enforcement division. SCOSH Enforcement ended the year with seven inspector vacancies in the safety and health divisions. The high demand for industrial hygienist and other health specialists within the State Plan's industries made the retention of these highly professional staff difficult. The State Plan's inability to maintain their authorized health positions was duly noted in their inability to cover health-related issues within the construction industry. In spite of these difficulties, during FY 2013 South Carolina met or exceeded many of its strategic and performance goals.

GOAL 1: Improve and Ensure Workplace Safety and Health

South Carolina continues to operate in accordance with its established policies and procedures. They review annual high-hazard planning guides to effectively target hazardous industries. This action has been modestly successful in reducing rates (e.g., worker injuries, illnesses and fatalities in construction) in many of these targeted areas. With the shifting of resources based on annual assessment and re-evaluation of targeting and tracking data, the State Plan continues to either meet or exceed their yearly goal. In FY 2013 SCOSH exceeded three out of five indicators with one meeting and one not meeting its target.

GOAL 2: Promote a Culture of Safety and Health:

Having talked to numerous employers in both the private and public sector of South Carolina, it has been repeatedly stated that the SCOSH consultative and training services are both highly respected and well-regarded as a training tool available for their use. Having worked with consultants working in this program on several occasions, OSHA has found a cooperative, motivated and professional staff ready to assist and aid wherever and whenever necessary. One such instance involved a small employer in the marine industry outside of Charleston, SC, who just received an OSHA inspection. Having never been inspected before, the employer was in need of much assistance and knowledge to call the OSHA consultation program he immediately reached out to them.

Per the employer, they were there within a couple of weeks, looking at the situation, discussing the hazards identified, and providing training and knowledge to the employer as well as his staff. So comfortable the employer was with the consultants, he continued to seek out assistance even after settling the case. The employer is now working with another maritime employer (who also received an inspection) to assist and mentor other small maritime employers in addressing and working on compliance with safety and health standards. It also needs to be stated that OSHA performed a follow-up inspection at the location which resulted in no failure-to-abate citations or other serious citations noted.

V. Other Special Measures of Effectiveness and Areas of Note

None observed.

Appendix A – New and Continued Findings and Recommendations
FY 2013 South Carolina State Plan Comprehensive FAME Report

FY- Rec #	Finding	Recommendation	FY 2012
13-01	South Carolina did not conduct programmed health inspections in the construction industry.	Evaluate and establish a formal, written policy for targeting health-related hazards in the construction industry.	
13-02	Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.	SCOSH should provide additional training to both CSHOs and supervisory staff on Chapter IV, Section B of the SC Field Operations Manual (FOM) to ensure compliance with current guidelines and continuity of classification.	12-01
13-03	Case files reviewed did not comply with SCOSH's Operational Policy, Immediate Abatement Penalty Reduction (IAPR), Section C, dated April 30, 2013 which requires verification through documentation, such as photographs or file narratives, that permanent hazard abatement was obtained and/or observed at the time of the inspection.	Instruct and emphasize to both enforcement officers and supervisors SCOSH's policy on IAPR documentation requirements and acceptable means of permanent abatement.	
13-04	The State did not ensure that good-faith penalty reductions conformed to the criteria established in the SC FOM, Chapter 6.	Recommend SCOSH review the established process to determine how to affect adherence to the established criteria.	
13-05	The State did not comply with the SC OSH Operational Policy: OP-002-10 by maintaining all supportive facts in each case file.	All supportive documentation/facts used to justify actions taken to render a settlement agreement are to be maintained in the appropriate case file.	
13-06	SCOSH has not established a written policy setting guidelines and criteria for the automatic 50% reduction in penalty provided when employers telephonically request a penalty reduction only.	Revise the current SCOSH informal conference policy to include the guidelines and criteria to be used when authorizing a 50% reduction in penalty without an informal conference.	
13-07	The State's Whistleblower Investigation Manual has not been approved.	Finalize and implement the manual.	
13-08	Compliance managers and/or enforcement officers designated to perform discriminating investigations have not received training on the basic Whistleblower Statutes.	Recommend the State develop and implement a formal training program to which manager(s) and enforcement officers, delegated to perform 11(c) investigations attend.	
13-09	The Palmetto Star Policies and Procedures Manual did not address enforcement activities at the VPP sites.	Recommend that CSP-03-01-003 (VPP Policies and Procedures Manual), Chapter VIII or similar language be incorporated into the South Carolina Palmetto Star Policies and Procedures Manual.	

Appendix B – Observations Subject to New and Continued Monitoring
FY 2013 South Carolina State Plan Comprehensive FAME Report

Observation # [FY13-OB-1]	Observation# [FY12-OB-1]	Observation	Federal Monitoring Plan	Current Status
FY13-OB-1		Several of the fatality case files reviewed did not provide evidence that a final NOK letter was sent to the families at the completion of the investigation and/or settlement process.	The OSHA Area Office will continue to effectively monitor the State's performance in this area during quarterly meetings throughout FY 2014.	New
FY13-OB-2		SCOSH standards and enforcement program for fall protection in residential construction is not identical to OSHA's policy and requires additional monitoring and review.	The OSHA Area Office will continue to effectively monitor the State's performance in this area during quarterly meetings throughout FY 2014.	New
FY13-OB-3		The VPP incentive program evaluations conducted during onsite visits were not properly documented in the VPP reports.	The OSHA Area Office will continue to effectively monitor the State's performance in this area during quarterly meetings throughout FY 2014.	New
FY13-OB-4		The State should establish a written policy which clearly addresses the policies and procedures regarding the initial training of its compliance staff, as outlined in the OSHA's TED-01-00-018.	The OSHA Area Office will continue to effectively monitor the State's performance in this area during quarterly meetings throughout FY 2014.	New

**Appendix C - Status of FY 2012 Findings and Recommendations
FY 2013 South Carolina State Plan Comprehensive FAME Report**

FY 12- Rec #	Finding	Recommendation	State Plan Response/ Corrective Active	Completion Date	Current Status
12-01	Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.	SC OSHA should provide additional training to CSHOs to ensure each violation is classified accurately for severity and probability. Guidelines for rating the severity of the injury or illness being prevented should be reviewed and revised as needed to assure that they are consistent with the definitions of high, medium, and low severity in SC OSHA's procedures. Supervisors should ensure that case files are reviewed more carefully to ensure this is being done.			Open
12-02	Violations are often misclassified as low severity rather than medium or high severity. Violations are also incorrectly rated as low probability rather than greater probability.	SC OSHA should provide additional training to CSHOs to ensure each violation is classified accurately for severity and probability. Guidelines for rating the severity of the injury or illness being prevented should be reviewed and revised as needed to assure that they are consistent with the definitions of high, medium, and low severity in SC OSHA's procedures. Supervisors should ensure that case files are reviewed more carefully to ensure this is being done.			Closed
12-03	The current FY2011 SOAR merely provides a narrative overview of the State's activities and does not fully address the Strategic Performance Plan.	SC OSHA should implement a procedure to ensure future SOAR reports effectively address the following areas: summarize of the annual performance plan; track strategic plan accomplishments; address special accomplishments; and review the mandated activities.			Closed
12-04	SC allows oral whistleblower complaints in practice, however, the State's Field operation Manual (FOM) says that discrimination complaints received by telephone must be written and submitted within 30 days of the alleged incident.	SC OSHA needs to update the FOM to reflect current practices by revising the written policies and procedures to state that workers are permitted to submit workplace discrimination complaints both orally and in writing.			Closed

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 South Carolina State Plan Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: South Carolina			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	9.44	(Negotiated fixed number for each state) - 7	State data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	0.7	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	0%	100%	State data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	2	0	State data taken directly from SAMM report generated through IMIS.
9a	Average number of violations per inspection with violations by violation type	2	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually

**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 South Carolina State Plan Comprehensive FAME Report**

9b	Average number of violations per inspection with violations by violation type	0.89	Other: .88	calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
11	Percent of total inspections in the public sector	1.88	(Negotiated fixed number for each state) - 3%	State data taken directly from SAMM report generated through IMIS.
13	Percent of 11c Investigations completed within 90 calendar days	100	100%	State data taken directly from SAMM report generated through IMIS.
14	Percent of 11c complaints that are meritorious	100	24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
16	Average number of calendar days to complete an 11c investigation	20	90 Days	State data taken directly from SAMM report generated through IMIS.
17	Planned vs. actual inspections - safety/health	849/163	(Negotiated fixed number for each state) - 1568/155	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
18a	Average current serious penalty - 1 -25 Employees	a. 345.08	State data taken directly from SAMM report generated through IMIS; national data is not available.	
18b	Average current serious penalty - 26-100 Employees	b. 578.69		
18c	Average current serious penalty - 101-250 Employees	c. 1008.67		
18d	Average current serious penalty - 251+ Employees	d. 1336.02		
18e	Average current serious penalty - Total 1 - 250+ Employees	e. 651.27		

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 South Carolina State Plan Comprehensive FAME Report

19	Percent of enforcement presence	1.56%	National Average 1.5%	Data is pulled and manually calculated based on FY 2013 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	Safety - 32.51	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	Health - 42.86	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	80%	100%	State data is manually pulled directly from IMIS for FY 2013
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
23a	Average Lapse Time - Safety	46.29	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	62.07	57.05	

**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report
FY 2013 South Carolina State Plan Comprehensive FAME Report**

24	Percent penalty retained	76.03	66	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.