

Appendix A
FY 2009 South Carolina State Plan (SC OSHA) Enhanced FAME Report
prepared by Region IV
Summary of Findings and Recommendations

Italics = paraphrase

	Findings	Recommendations
1	<i>No narrative description of the accident or investigation details or explanation of multi-employer responsibilities.</i>	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. (p. 13)
2	<ul style="list-style-type: none"> ▪ <i>Case file documentation consists solely of checklists or fill in the blank forms with no or minimal narrative description of the hazardous condition.</i> ▪ <i>Employees not always interviewed; documentation inadequate or missing.</i> ▪ <i>Sampling forms lacked information on operations being sampled.</i> 	South Carolina should assure that each violation is documented adequately for employer knowledge, employee exposure, health sampling factors, and description of the hazardous condition. (p. 15)
3	<i>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.</i>	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. (p. 15-16)
4	<i>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 on abatement. Indication that as many as 34 violations not cited in one inspection</i>	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. (State Position: SC OSHA has indicated that they will review this policy and develop procedures for how the policy is applied and for documentation of the hazards. They believe this policy provides a necessary incentive for small employers to eliminate hazards immediately.) (p. 17)
5	<p><i>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)</i></p> <ul style="list-style-type: none"> ▪ <i>Check-off without employer abatement certification or documentation for abatement information when obtained at informal conference</i> ▪ <i>Abatement information reviewed for adequacy by duty officer, not CSHO or supervisor. Hazards not adequately addressed.</i> ▪ <i>Planned follow-up inspections never conducted</i> 	SC 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 reasons a follow-up is not needed is documented. (State Position: South Carolina has indicated that they believe they have adequate procedures in place to assure that abatement verification is received for each violation, and that the cases referenced in this report were isolated instances. They agree to review abatement verification procedures with supervisors and the informal conference officer.) (p. 18)
6	<ul style="list-style-type: none"> ▪ <i>Employer Penalty Option provides 60% (proposal to reduce to 50% in 2009) penalty reduction at informal conference, if safety and health improvements promised</i> ▪ <i>Policy used even in fatality cases (10 of 23 reviewed).</i> ▪ <i>Employers not required to take sufficient extra</i> 	South Carolina should revise their Employer Penalty Option 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. (p. 21)

	Findings	Recommendations
	<p><i>steps for a safe and healthful workplace, e.g., promise to request consultation visit.</i></p> <ul style="list-style-type: none"> ▪ <i>Change to 50% reduction never implemented; State impact analysis requested in 2008 not conducted.</i> 	
7	<p><i>Response to Federal Program Changes not timely. New FOM not yet submitted.</i></p>	<p>South Carolina should provide state plan changes, adoption documents, and state procedures for comparison purposes to federal OSHA on a timely basis. (p. 22)</p>
8	<p><i>CSHOs conduct all discrimination case investigations usually concurrently with workplace complaint investigations.</i></p>	<p>Discrimination Program Recommendations (p. 27)</p> <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 important that complaints be filed as promptly as possible. As noted in the Significant Findings section, the South Carolina Code of Regulations states that, “No particular form of complaint is required.”</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, where providing advance notice of an inspection is not an issue.</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 safety and health discrimination cases and consider adding criteria consistent with current federal OSHA guidelines.</p>
9	<p><i>The States VPP manual lacked details on several procedures.</i></p>	<p>The SCDLLR 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. While these procedures are actually used by SCDLLR, they should be documented in the policy manual to ensure consistency in the program. (p. 28)</p>
10	<p><i>SC OSHA does not have an internal evaluation program as required by the State Plan Policies and Procedures Manual.</i></p>	<p>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. (p. 30)</p>