

**ENHANCED FEDERAL ANNUAL MONITORING
EVALUATION (FAME)
REPORT OF 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, 2008 - September 30, 2009

**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**

TABLE OF CONTENTS

I. Executive Summary

II. Summary of Recommendation and State Actions from the FY 2008 FAME

III. Major New Issues

IV. Assessment of State Performance

A. Progress in Achieving Annual Performance Goals

B. Performance on Mandated and Other Related Activities

- **Enforcement**
- **Standards and Plan Changes**
- **Variations**
- **Discrimination Program**
- **Complaint About State Program Administration (CASPA)**
- **Voluntary Compliance Programs**
- **Program Administration**

Appendices:

Appendix A: Findings and Recommendations Table

Appendix B: Enforcement Comparison

Appendix C: South Carolina FY2009 State OSHA Annual Report (SOAR)

Appendix D: FY2009 State Activity Mandated Measures (SAMM) Report (EOY Run)

Appendix E: FY2009 State Indicator Report (SIR)

Region IV - FY 2009 Enhanced FAME Report For South Carolina

I. EXECUTIVE SUMMARY

A. Summary of the Report

This report assessed the South Carolina Department of Labor, Licensing, and Regulation (LLR), Occupational Safety and Health Office's (SC OSHA) progress towards achieving their performance goals established in their Federal Fiscal Year (FY) 2009 Annual Performance Plan and reviewed the effectiveness of programmatic areas related to enforcement activities during the period of October 1, 2008 to September 30, 2009.

The report documents the need for significant program modification to ensure the rigor of the State's enforcement program. Increased Federal oversight and technical assistance may be needed to improve South Carolina's performance.

The South Carolina program, which has final approval status, maintains sufficient allocated staff to meet its benchmarks (17 safety/12 health), although on-board staffing is at 15 safety/8 health. South Carolina has a long history of not being able to provide matching funding that would allow them to accept federal funding increases, deobligating unspent funds, and requesting funding reductions. Stakeholders interviewed for the report expressed concern that the program is not adequately resourced and that the program would be greatly enhanced with an increase in staffing and state financial support.

The report contains a detailed description of inadequate enforcement documentation and State policies that potentially render the program less effective than the Federal program. South Carolina indicated that they believe that some of these problematic policies are necessary as incentives for small employers to eliminate hazards immediately. These problems include:

- Case file documentation is largely absent. The State relies on checklists and fill-in-the-blank forms without any supporting detail. Fatality cases have minimal if any narrative descriptions. Employee interviews are not documented and sometimes not conducted when language is a barrier.
- Victims' families receive an initial letter from the State, but there is no further follow-up, including information about citations, unless the family first initiates contact.
- High severity serious violations are misclassified as low.
- Although 70% of the State's violations are serious, this is misleading due to its policy established in 1995 to not cite other-than-serious violations when abated at time of inspection.
- Employer abatement verification is not required for cases settled at informal conference.

- Penalty policies result in multiple reductions which lead to very low average penalties for serious violations. These policies include:
 - 15% penalty reduction for abatement of serious violations during inspection, even if only interim abatement measures are taken.
 - 60% reduction under the “Employer Penalty Option” (EPO) policy, even in fatality cases, in return for promise of general safety and health actions. (The report recommends re-evaluation of the policy; a request for revocation might be appropriate.)
 - 60% standard penalty reduction for small employers (81% of inspections are small employers.)
- Discrimination complaints are not handled properly in that:
 - Complaints received by phone are not accepted for docketing until a written complaint is submitted. This may make it impossible to meet the filing deadline.
 - Respondents are not notified in writing that a complaint has been filed.
 - Complainants are not required to submit/sign written statements.
 - CSHOs conduct discrimination and workplace complaint investigations concurrently. There is minimal documentation on investigations and few Final Investigative Reports are prepared. There are no written records on the results of decision conferences with General Counsel.
 - There are no formal policies on settlements.

This report provides an assessment of the state’s performance following a comprehensive monitoring review. During this process a total of ten recommendations were made to South Carolina, which included the following:

- Procedures to improve communications with the next-of-kin in fatality cases;
- Procedures to improve case file documentation;
- Procedures to assure appropriate violation classification;
- A revision of the Employment Penalty Option (EPO) procedure;
- Revocation of the policy on not citing immediately abated other-than-serious violations;
- Procedures to enhance the state’s discrimination complaint program; and
- The development of an effective internal self-evaluation system.

This report also contains two recommendations which were addressed in the fiscal year 2008 FAME report. These recommendations concerned the state’s policies and procedures regarding its formal Alliance Program and the EPO procedure.

Stakeholder interviews were conducted by telephone with several representatives from industry groups, labor unions, and professional organizations. Overall, the stakeholders indicated that they were satisfied with the State program. However, they also indicated that the program is not adequately resourced.

B. Program Background

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. Adrienne Youmans serves in that position. LLR is divided into divisions for 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.

C Special Study Methodology and Other Monitoring

This report was prepared under the direction of Cindy A. Coe, Regional Administrator, Region IV, Atlanta, Georgia, and covers the period of October 1, 2008 through September 30, 2009. The South Carolina Department of Labor, Licensing and Regulation (LLR), Office of Occupational Safety and Health (SC OSHA) administers the program under the direction of Adrienne Youmans, of Labor, and Dottie Ison, Administrator of the Office of Occupational Safety and Health. The report is based on the results of an onsite monitoring visit, SC OSHA's Annual Report (SOAR) for FY 2009, as well as the State Activity Mandated Measures (SAMM) Report and State Indicator Report (SIR) reports ending September 30, 2009. Onsite monitoring for this evaluation included case file reviews, and interviews of SC OSHA staff. Interviews of stakeholders were also conducted. Information obtained during routine monitoring of the South Carolina program by federal OSHA's Regional and Columbia Area Offices were also used as a basis for this evaluation.

D. Recommendations

Recommendation 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.

Recommendation 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.

Recommendation 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.

Recommendation 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. (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.)

Recommendation 5: 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.)

Recommendation 6: 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.

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

(Recommendations 8A through 8E relate to the state's discrimination protection program)

Recommendation 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 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."

Recommendation 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, where providing advance notice of an inspection is not an issue.

Recommendation 8C: South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.

Recommendation 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 8E: South Carolina should review its settlement policy for safety and health discrimination cases and consider adding criteria consistent with current federal OSHA guidelines.

Recommendation 9: 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.

Recommendation 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.

II. Summary of Recommendations and State Actions from the FY 2008 FAME

2008 FAME Recommendation 1: SC OSHA should finalize a formal policy or procedure regarding the development and implementation of alliance agreements.

Note that the recommendation did not include partnerships because South Carolina did not have any partnerships and had indicated that they did not plan to have any partnerships in the future. In response to the recommendation, the State finalized written policies for alliances and partnerships, and provided them to OSHA. In April, 2010, South Carolina entered into their first partnership agreement, which is related to a large construction project. During this evaluation, a review of partnership and alliance policies was conducted.

2008 FAME Recommendation 2: SC OSHA should implement a formal study to assess its Employer Penalty Option (EPO) procedure. Upon completion of this study a written report of the State's determination should be provided to Federal OSHA.

South Carolina notified federal OSHA on November 19, 2009, of their revised EPO policy. They stated, in part, that reducing penalties by means of the EPO agreement will be on a case by case basis and may be up to a 50% reduction. The amount of the reduction will be based on the company's history and willingness to take affirmative action on safety and health issues.

III. Major New Issues

As a result of a budget impact analysis of the South Carolina program conducted in fiscal year 2005, due to state funding issues, a recommendation was made that the state initiate immediate action to provide the compliance officers with computers, software, and internet access to enable them to readily access OSHA directives and other guidance documents to improve the overall quality of inspections. The State responded that they would not provide this capability until federal OSHA had completed the project to replace the IMIS system.

Late in fiscal year 2009, South Carolina engaged the services of a consultant to develop an information management system to replace the NCR computer UNIX-based IMIS system used by federal OSHA and most state plans. The new system for managing compliance activities integrates forms, data, letters, and all additional documentation related to each case file. All inspection information is available electronically so that it can function as a paperless system. An advantage is that case file information can be accessed by several users at the same time. SC OSHA trained all the staff in the use of this system, which they call SCORE (South Carolina OSHA Redesign and Enhancement), and at the time of the onsite evaluation, it was functioning well. All State data continues to be transmitted to IMIS via the NCR, as required.

IV. Assessment of State Performance

A. Assessment of State Progress in Achieving Annual Performance Goals

The previous five-year strategic plan ended in fiscal year 2008. For fiscal year 2009 South Carolina chose to continue those goals for one more year. For several years, the State had considered revising their strategic plan to update baselines and so that the goals more closely relate to hazard elimination. The fiscal year 2010 plan contains some changes to goals, as described below. The status of annual performance goals was discussed during routine quarterly meetings between the State and federal OSHA, and was provided to federal OSHA in a written quarterly report. South Carolina met all but one of their annual performance goals for 2009, and the most recent data for injury and illness rates for the state indicates that they have decreased.

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.

The baseline rate for this goal was 5.7 and the annual goal for 2009 was 5.0. The State uses a combination of enforcement and consultation activity to attain this goal. Each year, South Carolina develops high hazard inspection planning guides, which identifies industries in the manufacturing sector (based on their SIC and NAICS codes) that have injury and illness rates greater than the statewide lost workday case rate. In 2009, seven manufacturing industries were ranked and listed and establishments in those industries were scheduled for programmed inspections. 170 inspections were conducted in the identified High Hazard NAICS industries in

2009. They conducted 491 programmed inspections in manufacturing in 2009.

South Carolina identifies high hazard manufacturing industries for the Office of Voluntary Visits to solicit consultative services, and in 2009 there were 41 consultation visits in the high hazard manufacturing industries.

According to Bureau of Labor Statistics (BLS) data for 2008, the total case rate for manufacturing in South Carolina was 4.0, which is significantly below their goal, and a reduction of the previous year's rate of 4.1. For 2010, the baseline for this goal has been changed to 4.2, which was the total case rate for manufacturing in 2007.

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.

SC OSHA conducted all 17 fatality investigations within one day of the notification of the fatality. South Carolina has had procedures in place for years to assure that fatality investigations are assigned and conducted as soon as possible. Maintenance of this goal can be assured through routine effective management systems. This goal was removed from the 2010 strategic plan.

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

The baseline rate for this goal was 4.6 and the goal for 2009 was 4.0. To achieve this goal, SC OSHA conducts a high percentage of inspections in the construction sector. Periodically, the state focuses construction inspection resources in a specified geographic area in order to increase awareness among construction companies. In 2009, 1036 inspections, about 65% of all inspections, were conducted in the construction sector. IMIS reports indicated that 999 safety and 14 health programmed inspections were conducted in construction. Additional inspections were the result of accidents, complaints and referrals. South Carolina construction inspectors focus on the four leading causes of construction fatalities, and the state has experienced a decline in construction fatalities due to falls. 2008 BLS data indicates a total case rate for construction in South Carolina of 2.6, which is below the annual goal, and a 35% decrease from the previous year. For 2010, the baseline rate for this goal has been changed to 4.0, from the 2007 BLS survey.

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.

In 2009, four consultation visits for health hazards were conducted by the Office of Voluntary Programs on construction sites. These were done in response to referrals from safety consultants.

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.

In 2009, 91% of companies which received a consultative visit implemented or improved their safety and health program. Federal OSHA has discussed with South Carolina that this goal should be revised or eliminated. Each consultative visit should result in improvements to the employer's safety and health program. These results should be monitored routinely by the consultation manager as well as regular federal monitoring of the 21(d) program. For 2010, this goal has been revised from 50% to 90%.

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.

SC OSHA has an Office of Informal Conferences which conducts all informal conferences with employers, in order to maintain consistency in the informal conference process. They have a procedure, known as the Employer Penalty Option (EPO), of providing a specified percentage of reduction in penalty in exchange for the employer's commitment to improve their safety and health program in a manner specific for that company. This goal measures the percentage of employers in high hazard industries who sign an EPO agreement. (See additional discussion about this policy in Mandated Activities section below.)

In 2009, all 52 high hazard employers who contacted the state about an informal conference agreed to take specified actions to address safety and health issues in return for a significant penalty reduction. In the 2010 strategic plan, the goal has been revised from 50% to 75% of high hazard employers accepting the EPO. In their discussion of this goal, a statement was included that, "The informal conference policy on penalty reduction will be reviewed to identify potential changes that will promote a deterrent effect."

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.

The 2009 goal for health citations was 40.08 days; the 2009 goal for safety was 19.55 days. When this goal was extended by one year, the annual goal was not changed. These goals were not met for fiscal year 2009. Citation lapse time data is found in measure 7 of the State Activity Mandated Measure (SAMM) report. The average citation lapse time for health compliance officers in 2009 was 49.65 days, which was a decrease from the average in 2008 of 68.88 days. The lapse time for safety compliance officers in 2009 was 30.03 days, slightly higher than the average lapse time in 2008 of 29.29 days. While these average lapse times are higher than the goals, they are lower than national data. South Carolina indicates that citation lapse times are a reflection of the experience of their compliance staff, and have increased with high staff turnover. For 2010, this goal was revised slightly to state that lapse times will be reduced annually, and that a new baseline will be developed using 2008 data.

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.

This goal is related to SAMM measure 3. According to the SAMM report, complainants were notified of inspection results within 20 work days of citation issuance or case closure 96.21% of the time.

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

According to South Carolina's data, all formal complaint inspections conducted were opened within 7 workdays. Measure 1 of the SAMM report indicates that 130 complaint inspections were conducted with an average time to open complaint inspections of 5.40 days.

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

The SAMM report indicates that there were 10 denials of entry where entry was not obtained. South Carolina's tracking system for denied entry cases indicates that there were nine cases of denied entry, and in three of those cases, warrants were not pursued. For 2010, this goal has been removed from the strategic plan.

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.

Consultation received a customer satisfaction rating of 99.4%, and the training division received a rating of 5 out of 5.

B. Assessment of State Performance of Mandated Activities

Enforcement Program

The evaluation of South Carolina's enforcement program included case file reviews, interviews of staff, data analysis, and review of procedures. A total of 105 inspection case files, plus twenty nonformal complaint investigation files, were reviewed. All fatality investigation files for fiscal year 2009 were reviewed. In addition, a random selection of files was selected from the following categories: programmed general industry safety, programmed general industry health, programmed construction safety, programmed construction health, and complaint inspections and nonformal complaint investigations. Data associated with the case files reviewed was found to be comparable to data for all inspections. A comparison of IMIS data for fiscal years 2006 through 2009 did not indicate any notable variations.

Complaints

South Carolina's procedures for handling complaints are similar to those of federal OSHA, and are contained in Chapter III of their Field Operations Manual. SC OSHA handles complaints differently than federal OSHA in some ways. They did not adopt OSHA's phone and fax procedures, and handle all nonformal complaints by mailing a letter to the company. Complaints that do not meet the formality requirements are handled by letter, with few exceptions. Federal OSHA procedures allow the Area Director greater flexibility to choose to conduct an inspection in response to a nonformal complaint in some circumstances. Also, 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.

Data related to FY 2009 complaints indicates that 124 complaint inspections were conducted, and 164 nonformal complaints received. IMIS is updated routinely to show the status of complaints and the dates of correspondence related to complaints. South Carolina also has their own tracking mechanisms, and has made an effort in recent years to assure that complaints are processed timely and effectively. Review of complaint inspection files and nonformal complaint files did not find any problems related to complaint procedures.

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. In fiscal year 2009, South Carolina investigated 17 workplace fatalities, a reduction from the previous year. During this evaluation, 23 case files related to fatality investigations were reviewed. In some cases, more than one employer was inspected related to the fatality. It was found that for about one-third of the files, there was no narrative describing the accident and providing the investigation details as outlined in Chapter III of SC OSHA's Field Operations Manual. This issue had been brought to the State's attention as a result of a CASPA investigation that was completed in August, 2009. (A similar recommendation had also been made as a result of a 2007 CASPA investigation.) In the state's response to CASPA recommendations, provided in October, 2009, SC OSHA indicated they had provided additional training to compliance officers regarding improved documentation in fatality investigation files. At least seven of the fatality investigation files had been completed and reviewed by a supervisor after this training had been provided. A suggestion was made to the State in the CASPA response that the quality of fatality investigation files should be the subject of an internal audit, to identify areas where changes in procedures or additional training was needed.

It was also noted that for inspections that were related to fatalities, such as on multi-employer work sites, there was no information in the case file narrative that explained why the inspection was conducted, or how the other company inspected was related to the accident investigation. In some of these cases, the company was directly involved in the cause of the accident, such as operating the heavy equipment that backed over a worker. There was also no information in the case file for the employer of the deceased worker that explained the involvement of other companies. As a result, the state's investigation files did not provide a complete picture of how the accident had occurred. This concern was brought to the State's attention, and they indicated that the files were cross-referenced to related activity by means of coding on the inspection form.

South Carolina inspectors cited a variety of standards on fatality investigations, and used the general duty clause as appropriate to cite serious hazards not covered by a standard.

The review of fatality investigation files also found that letters were being sent to the next of kin, but copies of the letters were not placed in the investigation files. A letter is sent soon after the start of the investigation and the copy is maintained at a central location. If the next of kin has responded to the first letter, they are provided with a copy of any citations and some documents from the file at the conclusion of the investigation. This letter was being maintained in a different office. When this was discussed with the SC OSHA Administrator, she indicated that they were now supposed to be keeping copies of these letters in the investigation files. An internal procedure was put in place effective September 2009 requiring that the initial letter to the next of kin be placed in the case file. She also explained that families of victims do not have to specifically request to be notified of the investigation results in order for the state to send the information to them. However, they do need to respond in some way to the initial letter, so that the State will know they have the correct contact information prior to mailing investigation information.

Recommendation 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.

Targeting/ Inspections

In fiscal year 2009, South Carolina conducted 1,565 inspections, 1,357 of which were safety and 208 were health inspections. 65.8%, of all inspections were conducted in the construction sector. According to the State Indicator Report (SIR), 86.9% of safety inspections and 55.5% of health inspections were programmed. According to the State Activity Mandated Measures (SAMM) report, 67% of safety programmed inspections and 46% of health programmed inspections resulted in serious, willful and repeat violations.

SC OSHA did not adopt OSHA's site-specific targeting (SST) procedures, and the OSHA Data Initiative survey is not conducted in the State. No site-specific injury and illness data is available for inspection targeting. Each fiscal year, a safety high hazard planning guide is developed of manufacturing industries that have rates greater than the statewide lost workday rate. These

inspections are related to their strategic goal 1.1A. A health high hazard planning guide is also developed each year, using the industry history of health violations. SC OSHA inspectors review and collect OSHA 300 logs, but prior to the use of the SCORE system, injury and illness data was not entered into IMIS.

Construction work is also considered high hazard and inspection sites are targeted using several procedures, based on specified criteria. SC OSHA procedures also permit inspectors to stop and conduct limited scope inspections when they observe a serious hazard at a construction site. For several years, in order to make a larger impact on construction hazards, the State routinely concentrates their inspection resources on a selected high-construction activity area.

Measures have been taken to address health hazards through both consultation and enforcement. Strategic goal 1.1D was established to assure that at least four consultation interventions were conducted for health hazards in construction each year. In the enforcement area, the health compliance supervisor has conducted training for all the compliance staff in recognition of health hazards, so that safety inspectors can recognize and make referrals for common health hazards. In 2009, 29 referral inspections were conducted by health inspectors. The health supervisor indicated that the practice is for possible health hazards to be discussed with him or the compliance manager before a referral form is entered into the system to assure that the possible referral is valid since the health supervisor does not make the assignments to his team. One safety case file reviewed indicated that operations included welding on stainless steel. However, the potential hazard for exposure to hexavalent chromium was not discussed with the health supervisor and no referral was made. This was brought to the state's attention and they agreed that safety supervisors and compliance officers would be reminded of training they had received on this hazard. South Carolina is tracking sampling and violations related to hexavalent chromium.

Employee and Union Involvement

South Carolina's procedures for employee and union involvement are identical to those of federal OSHA. Case files reviewed disclosed that employees were included during fatality investigations and other inspections. A small percentage of companies in South Carolina have union representation.

Citations and penalties

In fiscal year 2009, the 1,565 inspections conducted resulted in an average of 2.8 violations per inspection, with 72% of safety and 48% of health violations classified as serious. The average initial penalty per serious violation for private sector inspections was \$531, compared to an average of \$1335 for national data. South Carolina's efforts to maintain low citation lapse times are reflected in strategic goal 3.1A. In 2009, the average lapse time from opening conference to citation issuance was 30 days for safety inspections and 49.3 days for health inspections. The national lapse time rates were 43.8 days for safety and 57.4 days for health.

Five willful violations and two repeat violations were issued 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. Inspection data shows that about 2% of inspections conducted were follow ups, and no failure-to-abate violations were issued.

Case file reviews indicated several areas where case file documentation was found to be lacking. The case file documentation primarily consisted of checklists or fill in the blank forms completed by the inspector. For example, the inspector could circle one of several choices to record the source of employer knowledge or employee exposure. There was minimal or no narrative description of the hazardous condition. Most case files did not include contact information for employees interviewed, or anything more than a few words to document the inspector's conversations with the employees. In addition, some files indicated that employees were not available to be interviewed, or that employees could not be interviewed because they did not speak English. In some cases, however, it was noted that a translator was used for employee interviews. These deficiencies were also noted in the Report of Budget Impact Analysis issued in January of 2005, and a recommendation was made that expresses these concerns. A translation service is now available when inspectors believe it is needed for case file documentation. South Carolina also has Spanish-speaking inspectors.

It was noted that where sampling was conducted for health inspections, some sampling forms did not include adequate information about factors related to the operations being sampled.

Recommendation 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.

South Carolina's procedures for determining the classification of violations are the same as those of federal OSHA. To maintain consistency between inspectors, SC OSHA developed guidelines for classifying electrical, fall, and amputation hazards as low, medium, or high severity. These guidelines appear to be applied consistently throughout the program. During case file reviews it was noted that about 16% of the case files reviewed had violations classified as low severity that would have been classified as medium or high severity by federal OSHA. The majority of these were electrical violations on safety inspections.

Penalty calculation procedures are the same as for federal OSHA, with severity and probability being used to determine the gravity of the violation, prior to applying adjustment factors for size, good faith, and history. The violation worksheets did include the factors used to determine severity and probability. However, for most other-than-serious violations, the notation, "less than serious physical harm or death," was included instead of a description of the injury. Some violations were rated as low probability that would have been rated high probability by federal OSHA, particularly for construction fall hazards.

Recommendation 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.

The difference between the average initial serious penalty between South Carolina and federal OSHA is largely due to the lower severity and lower probability assigned to similar violations, and the additional 15% reduction for serious violations abated during the inspection, described in the violation abatement section of this report. SC OSHA officials have pointed out that they have a larger percentage of small employers, who are given a 60% reduction in penalties. Inspection data indicates that 81% of inspections conducted by South Carolina in the private sector were of companies having 25 or fewer employees. (Nationwide, 70% of federal OSHA private sector inspections were conducted in companies having 25 or fewer employees.) Many of the serious violations have the minimum penalty of \$100 assessed, after applying over 100% in penalty reduction adjustments. The average current penalty (after changes due to settlement agreements) for serious violations in South Carolina is about \$280.00, a reduction of 59%, compared to an average current penalty of \$970 for federal OSHA, a reduction of 43.7%. This is the penalty that remains after reductions due to informal settlement agreements or formal contest procedures. This issue is addressed in the review procedures section of this report.

In 1995, South Carolina established a policy whereby other-than-serious violations that are corrected during the inspection are not cited. There are no exceptions as to the type of inspection or number of violations for which it may be used. Many of the case files reviewed had a notation indicating that some violations had been found and not cited, but only one file had a list of the violations that had been discovered. Some of the forms noted the number of other than serious violations found and not cited, with some indicating that up to 34 violations had been found and not cited. In most files, the number of violations found and not cited was not noted. On two complaint inspections, the other-than-serious violations that were abated and not cited had been complaint allegations.

There are a number of concerns related to this policy. Having the opportunity to avoid citations by correcting violations during the inspection may reduce the incentive for employers to maintain safe work places. Also, this policy relies on inspectors to make decisions at the worksite as to which violations are classified as other-than-serious. There has been a high turnover in compliance officers, and this policy relies on inexperienced compliance officers to classify violations and make decisions as to the adequacy of abatement in the field. In addition, this policy has an impact on the percent of serious violations, due to the small number of other-than-serious violations that are cited, and also decreases the number of possible repeat violations. Finally, the State's incompliance rate may also be inflated.

When OSHA's concerns about this policy were raised during this evaluation, SC OSHA management stated that paperwork and citation lapse times were not considerations for the establishment of the policy. They stated it was implemented to encourage rapid abatement and to promote cooperation between OSHA and their stakeholders. SC OSHA management also stated that there was supposed to be a list of such violations in the file, so that inspectors would be aware of it during future inspections.

Recommendation 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. (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.)

Violation Abatement

In addition to the policy of not citing other-than-serious violations that are immediately abated, South Carolina has a procedure for reducing the penalty for serious violations by 15% if the violation is corrected during the inspection. Both of these policies were established in the same memorandum, dated July 23, 1995. This is known as the “Immediately Abated Penalty Reduction (IAPR)” and is similar to federal OSHA’s “Quick-Fix” procedure. However, South Carolina makes much more widespread use of this policy. South Carolina makes the 15% reduction from the gravity-based penalty, instead of the adjusted penalty so that it results in a larger reduction. A review of case files revealed that in some cases, the immediate corrective action taken would not permanently correct that hazard, or were steps that could easily have been taken prior to the inspection. For example, machinery was tagged out of service in response to an unguarded machinery violation; and employees who were working on a roof without fall arrest systems were brought down from the roof. In other cases, companies printed off sample hazard communication programs to comply with the requirement to implement a hazard communication program. While the companies were correct to take this immediate action to protect employees, we question whether giving the employer a 15% penalty reduction provides enough deterrent effect to encourage permanent and complete abatement of the hazard cited as well as for future similar hazards.

South Carolina has regulations that address requirements for abatement verification. During case file reviews, abatement information sent in by the employer was found to be adequate in most cases, and included the employer’s certification. However, it was noted that when abatement information was provided during an informal conference, the informal conference officer checked off that each violation had been abated, but did not include any information as to what had been done to satisfy abatement. Some of these violations were health overexposures, where the file included a recommendation for a follow up inspection. The case files did not contain abatement certification or documentation.

Abatement information is not reviewed by the compliance officer who conducted the inspection and often not by their supervisor. The supervisor on duty for the week reviews all the abatement information that comes into the office that week. It was noted that in a few cases violations for health overexposures were reviewed by safety supervisors and abatement information was accepted that did not adequately address the hazards cited. For example, a case file lacked adequate abatement information related to an overexposure of 12 times the permissible exposure limit for silica. The employer provided a brief statement that a fan had been provided and that the hours each employee was exposed during dry-cutting were being reduced. The employer’s abatement letter had been reviewed by the construction supervisor and determined to be

adequate. This case was brought to the State's attention during the onsite evaluation and a follow-up inspection was assigned. According to the SC OSHA Administrator, the policy is to conduct follow up inspections for violations of overexposures to health hazards.

On a related note, many case files included recommendations that follow-up inspections be conducted, but follow-ups were not conducted, and there was no explanation in the file. As a result of this evaluation the following recommendation is made:

Recommendation 5: 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 reason 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.)

Enforcement Program Management

Prior to implementing the South Carolina OSHA Redesign and Enhancement project (SCORE), South Carolina had a centralized data entry procedure. All inspection data was input by one person, and compliance officers, supervisors and managers did not use the system. All the compliance staff has now been provided with lap top computers and they do their own data entry. 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.

Compliance Supervisors indicated that until recently they had not used the NCR computer, entered IMIS data, or run inspection management reports. They were not aware that standard IMIS reports were available and had created their own means of tracking their team's inspection activity. The centralized data entry served to maintain consistency and accuracy of data. A review of standard IMIS reports indicated that inspection and complaint activity was being entered.

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.

Debt Collection

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 SC OSHA so they do not remain open for an extended amount of time.

BLS Rates

Bureau of Labor Statistics (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. The national total case rate in 2008 was 3.9. The 2008 Days Away Restricted and Transferred (DART) rate for the private sector in South Carolina was 1.6, a 20 % reduction over the 2006 rate. The national DART rate for 2008 was 2. South Carolina uses injury and illness rates for manufacturing and construction to measure the results for two of their strategic goals.

Review Procedures

South Carolina has regulations for assuring that employers have the right to contest citations and penalties. A very small percentage of citations are contested, just 0.6% in 2009. In January, 2009, the South Carolina Administrative Law Court began handling contested cases. Formerly, cases were heard by the SC OSHA Review Board. The Department of LLR had requested the change. SC OSHA management stated that they have noticed that the Administrative Law Court lacks familiarity with OSHA requirements and procedures and greater effort is needed to prepare for hearings. They also indicated that the Department of LLR attorneys who represent SC OSHA cases are very knowledgeable of the program and provide effective representation.

SC OSHA also has procedures in place for informal review of citations issued, and possible informal settlement to resolve employers' concerns without filing a formal notice of contest. In 2008, it was pointed out that informal conference information (whether an informal conference was held) was not being entered into IMIS. This data was entered in fiscal year 2009, and indicates that 304 informal conferences were conducted in 2009.

Informal reviews are handled by the Informal Conference Review Officer, who reports directly to the SC OSHA Administrator. Informal conferences are handled in this manner to promote consistency and objectivity in settlement of citations. Supervisors or the Compliance Manager become involved when the informal conference officer needs clarification about a violation, or suggestions for appropriate measures the company can take in exchange for a penalty reduction. The SC OSHA Administrator must approve vacated violations. When employers want to discuss the substance of the violation, or when the violation is a failure-to-abate, repeat, or willful, an informal conference is scheduled. If the employer's only concern is the penalty, the citations are normally resolved by means of the Employer Penalty Option (EPO) procedure. This is always done by telephone, with the paperwork faxed to the employer.

The EPO procedure provides a penalty reduction of 60% in exchange for the employer's agreement to take specified action to improve safe working conditions at their workplace. The

employer is required to submit documentation that they have taken these steps and the information provided is reviewed by the supervisor on duty for that week. If the company does not provide the information or it is not deemed adequate, the company is placed on an “ineligibility list”. Employers on this list are not eligible for an EPO for two years.

In 2008, federal OSHA conducted a review of South Carolina’s penalty procedures and the changes that were made during informal settlements. South Carolina indicated that they were conducting a review of this procedure to ensure that it was having a positive impact on safety and health. At that time, South Carolina was also extensively using grouping of violations to reduce penalties, before the 60% EPO reduction was applied. It was pointed out that initial and current penalty data was not accurate due to the manner in which grouping for the purpose of settlement was reflected in the IMIS system. The use of grouping for settlement purposes has been greatly reduced, although this practice was still seen in some case files reviewed, in conjunction with the EPO. This was discussed at length in the FAME report covering fiscal year 2008, and a recommendation was made to South Carolina that, “...due to the significance of this issue, SC OSHA implement a formal study to assess this matter. Upon completion of this study a written report of the State’s determination should be provided to federal OSHA.”

A response to the FAME recommendation was provided to OSHA in a memorandum dated November 19, 2009. The response explained the reasons for the policy and stated that, “Reducing penalties offered in the EPO agreement will be on a case by case basis and may be up to a 50% reduction. The amount of the reduction will be based on the company’s history and willingness to take affirmative action on safety and health.”

Concerns about the EPO policy, particularly as it relates to settlement of fatality cases, were also included in the CASPA response letter sent to South Carolina on August 31, 2009.

During this evaluation, through case file reviews and interviews, it was evident that SC OSHA had not made any changes in the implementation of their EPO policy. Penalty reductions of 60% were still being offered to any employer who was not on the ineligibility list, including citations related to fatality investigations. Of the 23 fatality case files reviewed, 10 had EPO’s for fatality-related violations. In return for the 60% penalty reduction, it was found that employers were not required to take steps above what was normally required for employers to maintain a minimum safe and healthful work place. For example, in the case of a fatality related to an electrocution, an employer agreed to guard exposed wiring at other locations in the work area. In other cases, employers agreed to provide employee training related to the cited hazards. In addition some employers agreed to request consultative services and to provide the compliance section with a copy of the results of the consultation visit. When the citations involve the focused hazards, it is policy for the EPO to include the use of the State’s consultative services. This practice has raised the issue of whether this contradicts the voluntary nature of consultative services and the separation of consultation and compliance.

Concerns over the Employer Penalty Option policy were discussed with SC OSHA management again during this evaluation. It was evident that a formal analysis of the policy’s impact on safety and health has not been conducted. And, it was clear that any plans to change the policy

had not been implemented, or communicated to the Informal Conference Hearings Officer. Accordingly, the following recommendation is made:

Recommendation 6: 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.

Standard Adoption and Federal Program Changes

In accordance with 29 CFR 1902, States are required to adopt standards and federal program changes within 6 months. States must set job safety and health standards that are "at least as effective as" comparable federal standards. (Most States adopt standards identical to federal ones.) States have the option to promulgate standards covering hazards not addressed by federal standards. During the evaluation period OSHA initiated the following standards and federal directives, which required action by the State:

Federal Standards

Standard requiring Action	Federal Register Date	Adopted Identical	Date Promulgated
Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee	December 12, 2008	Yes	02/26/2009
Longshoring and Marine Terminals; Vertical Tandem Lifts; Final Rule	December 10, 2008	Yes	02/26/2009

Federal Program Changes (excluding Standards)

Federal Program Changes Requiring Action	Federal Directive Number	Date of Directive	Adopted Identical	Date Adopted
Voluntary Protection Programs (VPP) Policies and Procedures Manual	CSP 03-01-003 2008 314	April 18, 2008	No	N/A
Site-Specific Targeting 2008 (SST-08)	CPL 02 (08-07) Update	May 19, 2008	No	N/A
Training Program for OSHA Compliance Personnel	TED 01-00-018	August 8, 2008	No	N/A
National Emphasis Program – Lead	CPL 03-00-0009	August 14, 2008	No	N/A
Tree Care and Tree Removal	CPL 02-01-045	August 21, 2008	Yes	11/17/2008

The South Carolina Occupational Safety and Health Program adopted both of the standards listed above within the 6-month time frame. The State adopted as identical one of the five Federal Program Changes initiated during this period, Tree Care and Tree Removal. The Federal Program Changes that were not adopted as identical during this period included the Site-Specific Targeting 2008 (SST-08), the National Emphasis Program for Lead, Training Program for OSHA Compliance Personnel, as well as the Federal Voluntary Protection Programs (VPP) Policies and Procedures Manual. The South Carolina Occupational Safety and Health Program indicated that its targeting system for industries followed guidelines developed through the consultation division and it was based on federal guidelines. The State also decided to make appropriate changes to the Palmetto Star Program Manual, rather than adopting the Federal Voluntary Protection Programs (VPP) Policies and Procedures Manual. During this period the State also elected to implement a local emphasis program for lead. Additionally, during this period South Carolina also revised its local training procedures to ensure they were as effective as the Federal guidelines. In the future effort should be undertaken to ensure policies and procedures implemented by the State which are not identical to Federal guidelines are equivalent.

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 is also provided routinely. However, documentation of the adoption of federal directives and other program changes that are not standards is not being provided. This has been discussed during routine monitoring and the state was provided examples of acceptable documentation.

The federal Field Operations Manual (FOM), CPL 02-00-148, was sent to the states on April 2, 2009, and South Carolina indicated that they did not intend to adopt the federal FOM. All states were instructed to adopt a revised manual by October 1, 2009, and to provide a comparison document identifying any differences from the federal FOM. South Carolina was granted an extension to October 30, 2009. At the time of this report, a revised South Carolina Field Operations Manual and a comparison document have not been provided to OSHA. They are in the process of reviewing their existing manual and making revisions as needed.

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

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.

Complaint About State Plan Administration (CASPA)

During this period there was one CASPA filed in South Carolina. The CASPA involved an appeal of the State's determination and finding, following the investigation of a fatal workplace accident. 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 quality of South Carolina’s investigation case file, however, it did not reveal any additional violations that should have been cited. In fact, South Carolina used the general duty clause to issue a serious violation against the employer since a specific OSHA standard did not exist to address the conditions that caused the fatal accidents. Three recommendations were made to the State regarding its handling of this case. In the future, CASPA’s in South Carolina will be addressed in accordance with the new CASPA guidelines, expressed in the Memorandum dated January 27, 2010, from Assistant Secretary Michaels.

South Carolina CASPAs in FY 2009

CASPA Number	Final Notification to Complainant	Recommendations	State Response Letter
CASPA 82-FY09	August 31, 2009	Yes	10/19/09

Discrimination program

Overview of program

This evaluation included a thorough review of South Carolina’s discrimination program to determine whether the state is following its own policy and procedures, and whether SC OSHA is effectively providing employees with protection from discrimination. Section 41-15-510 of South Carolina regulations covers requirements related to OSHA discrimination protection. The Compliance Manager has oversight responsibility for the discrimination investigations. The General Counsel for the Department of LLR provides technical and legal assistance for discrimination complaints and makes decisions as to the docketing of a complaint for investigation and the final disposition of the case. Complainants who are dissatisfied with the outcome of their complaint may appeal to the Director of the Dept. of LLR.

SC OSHA’s discrimination protection program is integrated with their compliance program to a greater degree than that of federal OSHA. The same staff of inspectors conducts discrimination investigations and compliance inspections, and the investigations/inspections are usually conducted during the same onsite visit. The individual who handles the intake and processing of safety and health complaints also receives the discrimination complaints. There is no separate discrimination investigation manual. The procedures are included in a section of Chapter III of SC’s Field Operations Manual. SC OSHA management explained that they do not receive discrimination complaints that are not filed in conjunction with safety and health complaints.

During FY 2009 (October 1, 2008 – September 30, 2009) SC OSHA docketed 21 discrimination complaints. As of March 16, 2010, all but 2 of the 21 cases had been completed. 14 were dismissed, 3 settled, 2 referred to other agencies for investigation, and 0 withdrawn. No cases were referred for litigation. The average completion time, excluding 2 pending cases, is 48.94

days. If the pending cases are factored in the average processing time rises to 63.38 (as of March 16, 2010). The OSHA timely completion goal for all cases is 90 days. 4 cases exceeded the 90 day goal. According to the State Activity Mandated Measures report, 90% of the discrimination cases with a disposition date in fiscal year 2009 were timely.

8 cases from the above 21 cases were selected for review. All 3 of the settlements were reviewed. Pertinent information was obtained from the Compliance Manager, the Administrative Assistant, and inspectors who have conducted discrimination investigations. The SC FOM was reviewed to determine how SC OSHA policy and procedures differ from those of federal OSHA. Standardized documents utilized by SC OSHA, such as complaint forms, opening and closing letters, etc., were examined. No CASPAs were filed with related to discrimination investigations during period of FY 2007 to FY 2009. The investigation of a CASPA filed in FY 2010 related to a discrimination complaint has not been completed.

Findings

Section 41-15-520 of the Act requires that all discrimination complaints be filed within 30 days of the alleged adverse action. SC OSHA policy and procedures on screening and docketing are detailed in Chapter III of the FOM, Paragraph a.11. The intake process appears to be efficient and well-organized. When a potential complainant initially contacts them, they are informed of what information he or she should provide in the complaint letter, and advised that the complaint must be submitted within 30 days of the alleged discrimination. The administrative staff responsible for receiving all complaints indicated that discrimination complaints are required to be in writing. If the received written complaint does not provide sufficient detail, the administrative assistant contacts the potential complainant to obtain additional information. After receipt of the written complaint and all necessary information, the complaint is sent to the General Counsel for SC OSHA who reviews it and determines whether the complaint should be docketed. If the General Counsel decides that the complaint should not be docketed, the complainant is notified in writing of the decision.

SC OSHA's requirement for discrimination complaints to be filed in writing differs from federal OSHA requirements, which allow oral filing of complaints. Also, SC OSHA'S procedures are not consistent with their regulations. Section 71-1015 (B), Chapter 71, Article 1 of the South Carolina Code of Regulations states that, "No particular form of complaint is required." SC FOM, Paragraph A.11.c, "Receipt of Complaint", states that, "If the complaint is received by telephone, the complainant shall be advised that the complaint must be written and submitted within 30 days of the alleged incident". This makes it more difficult for the complainant to file timely. Federal OSHA considers the date that the complainant first visits, e-mails, faxes, or telephones a USDOL official with information establishing a *prima facie* discrimination complaint to be the date of filing. When this concern was discussed with SC OSHA management, they indicated that our understanding was not correct, and that they do not require discrimination complaints to be filed in writing. The SC OSHA Administrator explained that although discrimination complaints are not required to be in writing, safety and health complaints are required to be written, and in their experience they have never received a discrimination complaint that was not filed at the same time as a safety and health complaint.

South Carolina FOM indicates that after a discrimination complaint is docketed and assigned to an inspector, the complainant is notified in writing that his or her complaint may constitute protected activity and that an investigation will be conducted. South Carolina procedures and practices do not require that the company the complaint is filed against (the Respondent) be notified in writing of the complaint and requested to provide a written response to the allegations. The cases selected for review did not contain copies of Respondent complaint notification letters. Inspectors advised that they typically make an unannounced visit to the company at which time they inform the Respondent of the complaint and its details. The allegations of the complaint are conveyed verbally. OSHA requires that a complaint notification letter be sent to the Respondent informing them of the complaint and requesting a written position statement in response to the complaint allegations. SC OSHA management 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.

Paragraph A.11.f. (1) of Chapter III of the SC FOM indicates that a statement is to be taken from the complainant. Review of the selected case files disclosed that written statements are not taken from complainants. In several instances the case files contained questionnaires that inspectors had completed during complainant interviews. In two cases there was no record of any interview with the complainant. Paragraph A.11.f. (2) of Chapter III, SC FOM states that the inspector is to contact the employer and arrange employee interviews. Employee interviews are typically conducted at the location where employees are working, and are normally conducted on the date that the Respondent is notified of the complaint. Discrimination investigation procedures do not indicate whether employee interviews can be conducted in the presence of management representatives, or an attorney representing management. The matter of witness confidentiality is also not addressed. Inspectors advised, however, that in practice they do not interview witnesses in the presence of management representatives. 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. They further explained that Chapter II of the SC FOM includes a section on employee interviews and this applies to discrimination investigations as well as to compliance inspections. Section E. 4, covers employee interviews on inspections, and paragraph e (2) of that section states that employees shall be afforded a reasonable opportunity to consult the CO/IH in private.

Review of the selected case files revealed that South Carolina discrimination files in general included limited information about the investigation, and that some of the documentation pertinent to the discrimination case is maintained only in the related compliance inspection file. Inspectors do not maintain a case activity/telephone log or case diary. SC OSHA management indicated that this information would probably be maintained in the compliance file, which is required to contain a record of the inspector's hours spent on the case. When asked about keeping a notation of dates of telephone calls and similar activities, SC OSHA management stated that it would be unusual for inspectors to make telephone calls related to an investigation since all investigations are conducted on site. Of the 8 case files reviewed, only one contained a

Final Investigative Report (FIR), and this FIR which was one page in length did not present sufficient information in support of the findings, which was a dismissal. OSHA requires that in all cases, including settlements, an FIR must be prepared that presents the evidence obtained during the investigation and addresses the elements of a *prima facie* case. The SC FOM does not mention preparation of a written summary of the findings. The SC FOM indicates that the inspector is to gather information concerning the claimed protected activity, the alleged retaliation, causation, and damages. Once the investigation is completed, a conference is held between the inspector and the General Counsel where the facts, interviews, and witness statements are reviewed. The General Counsel then recommends what action should be taken next, such as dismissal or further investigation. No record is kept of this conference or of the closing conferences held with the complainant. OSHA requires investigators to provide and obtain certain information during the closing conference and to record this information in the FIR.

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. During FY 2009, SC OSHA settled three cases. The case files do not contain any record of the settlement negotiation or information indicating that standard criteria was followed to ensure that the settlements were fair, adequate, reasonable, and in the public interest. For example, none of the South Carolina cases included an FIR addressing all elements of the *prima facie* allegation, what the make whole remedy for the complainant was, and, if the settlement did not provide this remedy, what the justification was for accepting a less than make whole remedy. All three settlements involved complainants who had been discharged. The investigators did not address reinstatement, or the possibility of front pay in lieu of reinstatement. In one case, the evidence supported merit findings; but there is no indication in the case file that a make whole remedy was sought. The settlement did provide for five weeks of back pay. However, the settlement indicated that the complainant had received one week of unemployment benefits at the time of the settlement, and this amount was deducted. Federal OSHA policy does not permit unemployment benefits to be considered as a back pay offset. There is no indication in the file that reinstatement was addressed. The file indicates that after his discharge, complainant found part-time employment working half the hours he had worked for Respondent, at half the pay. There also was no documentation indicating whether or not the complainant was satisfied with the settlement. Federal OSHA procedures require a thorough investigation and documentation of factors related to settlement negotiations.

The General Counsel conducts an annual training session with all inspectors on discrimination investigations, and also occasionally provides informational handouts. The presentation used for the training does not include procedures for conducting the investigation, such as interviewing or obtaining evidence. Inspectors are primarily trained to conduct discrimination investigations by accompanying an experienced inspector or their supervisor to observe how an investigation is conducted. They are also assigned some limited reading. SC OSHA maintains a website that provides information to the general public concerning its various programs and services. The website (<http://www.scosha.llronline.com>) does not provide any information concerning protection available to employees who engage in protected activities under the Act.

South Carolina's discrimination protection program would benefit from having procedures specific for this program. The quality of the discrimination case files would be improved with the addition of a detailed summary of the findings, such as a FIR, a telephone log or diary, and interview statements from the complainant, Respondent, and witnesses. The one investigation file reviewed where the discrimination investigation was conducted separately from a compliance inspection was found to have much better documentation. The investigation would be more thorough and possibly result in more merit cases, if a written position was obtained from the Respondent, and then the complainant was interviewed.

As a result of the review of South Carolina's discrimination program, the following recommendations are being made:

Recommendation 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 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."

Recommendation 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, where providing advance notice of an inspection is not an issue.

Recommendation 8C: South Carolina should assure that a signed and dated statement is obtained from the discrimination complainant when he or she is interviewed.

Recommendation 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 8E: South Carolina should review its settlement policy for safety and health discrimination cases and consider adding criteria consistent with current federal OSHA guidelines.

Voluntary compliance program

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. A review of evaluations conducted by SCDLLR during fiscal year 2009 revealed a very small employer that experienced one recordable over a three year period which caused the injury and illness rate to exceed the 50% limit used by South Carolina. The company's rate was still well below the industry average. The federal VPP policy allows for rate reduction plans where an employer may remain in VPP while implementing a plan to reduce the injury and illness rate. The federal policy also allows for an alternative rate calculation for small employers, using any three of the previous four years to calculate the injury and illness rate. SCDLLR used the alternative rate calculation for this employer, but it is not addressed in the Palmetto Star policy.

The review of the SCDLLR Palmetto Star policy also revealed that no provision is documented for tracking the abatement of hazards identified during a VPP evaluation. While the hazards are documented and tracked in actuality, this should be specified as a requirement in the program's policy.

Recommendation 9: 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.

Partnerships

Partnerships have only recently been added to the cooperative programs offered by SCDLLR and no partnerships are currently in place.

Alliances

The SCDLLR has one Alliance that was active during fiscal year 2009. 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.

Training

The SCDLLR elected to maintain its own training program, rather than adopting the federal OSHA Training directive. Due to recurring budget constraints, South Carolina provides the majority of employee training through the use of SCDLLR trainers, OSHA OTI Education Centers and third party vendors. This allows them to have most training courses locally and minimize costs. OTI has provided state programs with course material from several training courses and SCDLLR trainers use these materials for training conducted within the department.

All SCDLLR trainees attend OTI for the standards course, while the other required core courses for trainees are conducted by the SCDLLR training staff. Compliance Officers also attend OTI for selected courses which they do not offer in-house. These include the Combustible Dust course and the Process Safety Management courses, among others. All employees receive at least one training course annually. SCDLLR utilizes the Employee Performance Management System in lieu of the federal Individual Development Plan to discuss training needs with employees and determine the training the employee will receive in the upcoming year.

The SCDLLR also operates an outreach training section, providing safety and health training to employers and employees throughout the state. During FY 2009, 535 training courses were conducted for 1,320 private sector employers, 3,452 private sector employees, 1,478 public sector employers and 2,881 public sector employees. The most frequent training topics were fall protection, trenching and excavation, electrical hazards and bloodborne pathogens.

Program administration

Ability to Meet Compliance Staffing Benchmarks

South Carolina has been able to meet their compliance staffing benchmarks of 17 safety and 12 health compliance officers. Some other positions have been eliminated in the past several years due to state funding and program reorganization. South Carolina has requested that the health benchmark be reduced to 10, which based on their analysis will adequately meet the State's needs, and will enable them to use those positions elsewhere in the program. The State currently has 8 health and 15 safety 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), Occupational Safety and Health Administration (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 monitoring visit encompassed the financial and administrative aspects of the Fiscal Year (FY) 2008 for the 23(g) Grant for South Carolina Department of Labor, Licensing and Regulation. Following are the results of the on-site monitoring visit.

Total 23(g) Grant authorized funding was \$3,530,000 (federal funds amounted to \$1,765,000 and non-federal funds equaled \$1,765,000). In May, 2008 a 23(g) Grant amendment was processed to reduce the FY08 federal amount by \$30,800 and the non-federal funds by \$30,800. The adjusted federal and non-federal funds for each share amounted to \$1,734,200. Actual federal expenditures recorded on the submitted final Financial Status Report (SF-269), and amounts drawn down from the Health and Human Services Payment Management System (HHSPMS) equaled \$1,734,200. Our review of the 23(g) Grant revealed they expended 100% of authorized funds and submitted the final Financial Status Report (SF-269) to the Regional Office to close the grant in a timely manner.

Federal funds were properly disclosed in the financial system and comparisons of actual outlays, with budget amounts for each award, were properly listed.

The grant award amount was accurately recorded and accurately amended when funds were reduced in FY 08. Proper cost categories were noted on financial reports for cost analysis. In addition, the report differentiated between direct and indirect cost categories for reporting purposes in accordance with OMB Circular A-102 *Grants and Cooperative Agreements with State and Local Governments*.

Cash Management procedures were discussed and proper personnel were interviewed. Proper cash management practices were noted for the awards in accordance with the Cash Management Improvement Act as verified through record reviews and discussions with appropriate personnel.

Per the U.S Department of Labor Occupational Safety and Health Administration Directive FIN 02-00-003 – Financial and Administrative Monitoring of OSHA Grants and Cooperative Agreement Appendix B “Financial Monitoring Guidelines – Grants and Cooperative Agreements,” we have reviewed the above award and found no issues to report.

State Internal Evaluation Program

SC OSHA does not have an internal self-evaluation program that meets the criteria outlined in the State Plan Policies and Procedures Manual. Although the Compliance Manager has procedures for routine management of the compliance program, the program could benefit from periodic in-depth audits that focus on key issues, program areas, or areas of concern to the State. Federal OSHA has suggested or recommended that South Carolina conduct such a review of their fatality investigation documentation, Employer Penalty Option policy, and the policy of not citing other-than-serious violations that are corrected during the inspection. Having an internal self-evaluation program in place would have facilitated these reviews. Federal OSHA is available to assist South Carolina with the development of an internal self-evaluation procedure. Therefore, the following recommendation is being made:

Recommendation 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.

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 Department of Labor, Licensing, and Regulation is using revenue from their other divisions to supplement appropriated funds. South Carolina Department of LLR 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.

Summary of Stakeholder Interviews

During this monitoring effort an attempt was made to contact a wide range of stakeholders within the State to obtain their feedback regarding the program. Stakeholders contacted in connection with this effort included representatives from the Carolinas Chapter of the Associated General Contractors (AGC); the South Carolina - American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); the South Carolina Chamber of Commerce; and the South Carolina Manufacturer's Alliance. Telephone messages were also left with the Municipal Association of South Carolina, two consultation firms and a major VPP participant. However, we were not able to formally interview representatives with these organizations or employers.

The stakeholder interviews were all conducted by telephone. Following an introduction, the stakeholders were provided a brief explanation for the call and asked one simple question at the outset, "How would you assess the South Carolina Occupational Safety and Health Program?" Overall the stakeholders indicated that they were satisfied with the State program. The interviewees indicated that the State was responsive and the Office of Voluntary Programs (OVP) was described as very effective. However, they also indicated that the program is not adequately resourced. Interviewees indicated that the State program could be significantly enhanced with an increase in staffing and additional financial support from the state government.

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

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>

Appendix B: South Carolina State Plan (SC OSHA) FY 2009 Enforcement Activity

	South Carolina	State Plan Total	Federal OSHA
Total Inspections	1,565	61,016	39,004
Safety	1,357	48,002	33,221
<i>% Safety</i>	87%	79%	85%
Health	208	13,014	5,783
<i>% Health</i>	13%	21%	15%
Construction	1,036	26,103	23,935
<i>% Construction</i>	66%	43%	61%
Public Sector	40	7,749	N/A
<i>% Public Sector</i>	3%	13%	N/A
Programmed	1,272	39,538	24,316
<i>% Programmed</i>	81%	65%	62%
Complaint	124	8,573	6,661
<i>% Complaint</i>	8%	14%	17%
Accident	29	3,098	836
Insp w/ Viols Cited	1,091	37,978	27,165
<i>% Insp w/ Viols Cited (NIC)</i>	70%	62%	70%
<i>% NIC w/ Serious Violations</i>	83%	62%	87%
Total Violations	2,795	129,363	87,663
Serious	1,946	55,309	67,668
<i>% Serious</i>	70%	43%	77%
Willful	5	171	401
Repeat	2	2,040	2,762
Serious/Willful/Repeat	1,953	57,520	70,831
<i>% S/W/R</i>	70%	44%	81%
Failure to Abate	-	494	207
Other than Serious	842	71,336	16,615
<i>% Other</i>	30%	55%	19%
Avg # Violations/ Initial Inspection	2.8	3.3	3.1
Total Penalties	\$ 588,103	\$ 60,556,670	\$ 96,254,766
Avg Current Penalty / Serious Violation	\$ 280.90	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 281.70	\$ 934.70	\$ 977.50
% Penalty Reduced	59.6%	51.9%	43.7%
% Insp w/ Contested Viols	0.4%	13.0%	7.0%
Avg Case Hrs/Insp- Safety	9.1	15.7	17.7
Avg Case Hrs/Insp- Health	28.8	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	21.8	31.6	34.3
Lapse Days Insp to Citation Issued- Health	35.6	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	39	2,010	2,234

Source: DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009. Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09

Appendix C: South Carolina FY 2009 State OSHA Annual Report (SOAR)

(Available Separately)

Appendix D: FY 2009 State Activity Mandated Measures (SAMM) Report

State: SOUTH CAROLINA

RID: 0454500

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	702 5.40 130	2 2.00 1	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	250 1.93 129	5 .83 6	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	127 96.21 132	2 100.00 2	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 0	0 0	100%
5. Number of Denials where entry not obtained	10	0	0
6. Percent of S/W/R Violations verified			
Private	1815 91.30 1988	92 77.97 118	100%
Public	30 100.00 30	1 100.00 1	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	29908 30.02 996	2153 39.87 54	2489573 43.8 56880
Health	5670 49.30 115	139 46.33 3	692926 57.4 12071

State: SOUTH CAROLINA

RID: 0454500

MEASURE	From: 10/01/2008 To: 09/30/2009	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations	768	41	92328
Safety	67.13 1144	77.36 53	58.6 157566
Health	49 46.67 105	2 100.00 2	11007 51.2 21510
9. Average Violations per Inspection with Vioations	2267	113	420601
S/W/R	2.04 1111	1.98 57	2.1 201241
Other	845 .76 1111	30 .52 57	243346 1.2 201241
10. Average Initial Penalty per Serious Violation (Private Sector Only)	1179500 531.06 2221	60050 545.90 110	492362261 1335.2 368756
11. Percent of Total Inspections in Public Sector	34 2.21 1539	2 15.38 13	155 3.3 4718
12. Average lapse time from receipt of Contest to first level decision	1353 193.28 7	0 0	4382038 246.1 17807
13. Percent of 11c Investigations Completed within 90 days	9 90.00 10	0 0	100%
14. Percent of 11c Complaints that are Meritorious	2 20.00 10	0 0	1466 20.8 7052
15. Percent of Meritorious 11c Complaints that are Settled	2 100.00 2	0 0	1263 86.2 1466

Appendix E: FY 2009 State Indicator Report (SIR)

091029

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
I N T E R I M S T A T E I N D I C A T O R R E P O R T (S I R)

PAGE 1

CURRENT MONTH = SEPTEMBER 2009

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	6212	293	11892	563	21855	1144	42572	2175
	67.3	88.5	67.5	87.3	66.8	86.9	65.2	83.8
	9230	331	17617	645	32713	1316	65304	2594
B. HEALTH	508	14	1004	46	1963	106	3678	179
	34.5	46.7	34.1	58.2	35.3	55.5	34.0	44.3
	1471	30	2946	79	5559	191	10829	404
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4645	217	8997	462	16745	894	32019	1739
	67.7	70.5	65.9	66.1	65.8	67.7	65.9	71.4
	6860	308	13654	699	25453	1320	48603	2436
B. HEALTH	368	14	746	38	1486	70	2884	130
	52.2	51.9	50.8	53.5	51.7	49.0	55.6	50.4
	705	27	1468	71	2873	143	5187	258
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	15510	396	29490	860	56535	1764	111717	3586
	81.8	67.2	81.1	68.5	80.0	72.3	79.4	75.9
	18952	589	36371	1255	70692	2441	140747	4727
B. HEALTH	2802	18	5343	71	10035	148	19393	298
	70.1	51.4	69.9	50.7	69.7	48.2	67.7	50.3
	4000	35	7645	140	14395	307	28659	592
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2938	51	5782	104	12109	214	25516	538
	15.9	11.5	16.2	10.9	17.6	10.7	18.7	12.8
	18492	443	35597	956	68607	1992	136812	4194
B. HEALTH PERCENT >60 DAYS	256	0	577	6	1452	13	3111	22
	6.3	.0	7.5	6.1	10.0	6.4	10.9	5.5
	4078	20	7720	99	14561	203	28488	403

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

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								
	280876	0	628826	0	1303857	700	2663433	2400
OTHER-THAN-SERIOUS	923.9	.0	998.1	.0	1030.7	350.0	1049.4	342.9
	304	0	630	0	1265	2	2538	7
B. HEALTH								
	83100	0	142950	0	294225	0	654830	350
OTHER-THAN-SERIOUS	799.0	.0	803.1	.0	855.3	.0	867.3	350.0
	104	0	178	0	344	0	755	1
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10459	372	19991	769	37160	1553	73338	3003
	6.1	7.8	5.7	7.8	5.5	8.3	5.3	8.3
	1722	48	3533	99	6727	187	13759	361
B. HEALTH								
	1764	40	3581	102	6701	242	12705	510
	1.8	1.8	1.7	2.2	1.6	2.5	1.5	2.4
	994	22	2112	46	4125	95	8503	216
7. VIOLATIONS VACATED %								
	1278	55	2561	135	5139	317	10097	871
	4.9	7.4	5.0	7.9	5.1	9.2	5.0	12.5
	26336	745	51387	1707	100187	3441	201495	6984
8. VIOLATIONS RECLASSIFIED %								
	1130	1	2440	1	4798	4	9539	14
	4.3	.1	4.7	.1	4.8	.1	4.7	.2
	26336	745	51387	1707	100187	3441	201495	6984
9. PENALTY RETENTION %								
	13523966	193265	27149245	337345	54889469	779458	111585445	2032258
	63.4	63.5	62.9	65.6	63.2	67.0	62.9	73.7
	21315664	304505	43130384	514400	86796382	1163905	177346966	2757500

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

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 %								
A. SAFETY	293	1	563	1	1144	5	2175	26
	88.5	25.0	87.3	11.1	86.9	18.5	83.8	34.7
	331	4	645	9	1316	27	2594	75
B. HEALTH	14	0	46	0	106	0	179	0
	46.7	.0	58.2	.0	55.5	.0	44.3	.0
	30	3	79	6	191	9	404	37
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	396	2	860	10	1764	36	3586	59
	67.2	100.0	68.5	76.9	72.3	75.0	75.9	57.3
	589	2	1255	13	2441	48	4727	103
B. HEALTH	18	1	71	1	148	1	298	9
	51.4	100.0	50.7	100.0	48.2	100.0	50.3	50.0
	35	1	140	1	307	1	592	18

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

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 %	446 22.8 1956	0 .0 4	875 24.2 3609	14 60.9 23	1756 23.4 7506	18 43.9 41	3749 24.1 15528	33 35.5 93
2. VIOLATIONS RECLASSIFIED %	282 14.4 1956	1 25.0 4	563 15.6 3609	2 8.7 23	1133 15.1 7506	3 7.3 41	2274 14.6 15528	7 7.5 93
3. PENALTY RETENTION %	2319074 54.1 4286744	13860 41.3 33525	4080249 51.5 7922126	14550 40.2 36150	10792902 58.5 18457526	27765 53.2 52200	20045599 55.9 35865959	44465 53.0 83950