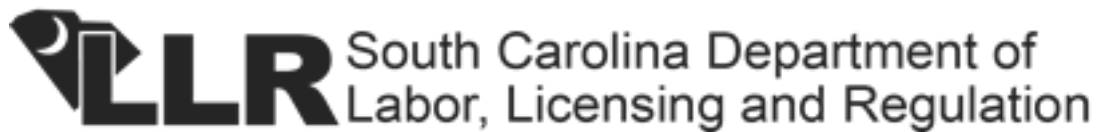


**FY 2021 Comprehensive
Federal Annual Monitoring Evaluation (FAME) Report**

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



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Contents

I. EXECUTIVE SUMMARY	3
II. STATE PLAN BACKGROUND	4
A. BACKGROUND	4
B. NEW ISSUES.....	5
III. ASSESSMENT OF STATE PLAN PROGRESS AND PERFORMANCE	5
A. DATA AND METHODOLOGY	5
B. REVIEW OF STATE PLAN PERFORMANCE	6
1. Program Administration	6
2. Enforcement	8
3. Review procedures	14
4. Standards and Federal Program Change (FPC) Adoption.....	14
5. Variances.....	19
6. State And Local Government Worker Program	19
7. Whistleblower Program.....	19
8. Complaint About State Program Administration (CASPA).....	20
9. Voluntary Compliance Program.....	20
10. State And Local Government 23(g) On-site Consultation Program	21

Appendices

Appendix A – New and Continued Findings and Recommendations.....	A-1
Appendix B – Observations Subject to New and Continued Monitoring.....	B-1
Appendix C – Status of FY 2020 Findings and Recommendations.....	C-1
Appendix D – FY 2021 State Activity Mandated Measures (SAMM) Report.....	D-1

I. Executive Summary

The fiscal year (FY) 2021 South Carolina Federal Annual Monitoring Evaluation (FAME) resulted in a comprehensive FAME report that assesses the South Carolina Department of Labor, Licensing, and Regulations (SCDLLR) – Division of Occupational Safety and Health Program (SC OSHA) progress toward achieving its performance goals established in the FY 2021 Strategic Management Plan. This report assesses the State Plan’s progress in resolving outstanding findings from its previous FAME report. This report also reviews the effectiveness of programmatic areas related to enforcement activities, including a summary of an onsite evaluation.

The South Carolina Occupational Safety and Health Strategic Management Plan for FY 2017 to FY 2021, established two strategic goals: Goal 1: Ensure and improve workplace safety and health and Goal 2: Promote a culture of safety and health. The FY 2021 Performance Plan provided the framework for accomplishing the goals of the SC OSHA Strategic Management Plan by establishing specific performance goals for FY 2021. FY 2021 was a productive year for SC OSHA, despite the effects from the COVID-19 pandemic. Further division restructuring allowed for a more formalized team approach, which made collaboration easier and facilitated success in reaching most of the State Plan’s strategic goals. In addition, SC OSHA made strides in accomplishing internal goals, such as a further improved website, revising operational documents, amending internal policies for uniformity, and developing and implementing virtual training programs and videos.

A six-person OSHA team was assembled to conduct the onsite evaluation in Columbia, South Carolina. The OSHA teams’ evaluation consisted of the following: the review of case files; the review of the SC OSHA performance statistics; the review of training documentation; the review of policies and procedures; and staff interviews. Care was taken to ensure this evaluation was based upon SC OSHA’s Field Operation Manual (FOM), compliance with established policies and directives, and electronic and hard copies of case file documentation. Upon completion of the onsite evaluation, a comparison of the FY 2020 FAME findings was performed.

A total of two findings were identified; one was a new finding, and one was continued from the previous FAME. This report also includes a total of three observations, two continued and one new. SC OSHA made progress in addressing the previous findings and observations from the FY 2020 Follow-up FAME Report. The FY 2020 Follow-up FAME Report contains four open findings and six observations. In FY 2021, two findings were completed, and four observations were closed. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of all FY 2020 recommendations in detail.

The State’s total recordable case (TRC) rate for Calendar Year (CY) 2020 was 2.4. This rate is 17.2% lower than the national average. The State’s days away, restricted or transferred (DART) rate for CY 2020 was 1.5. This rate is 16.7% lower than the national average. This data was released by the Bureau of Labor Statistics (BLS) in November 2021, and it is the most current data available.

II. State Plan Background

A. Background

The South Carolina Occupational Safety and Health State Plan was one of the first programs approved by the U.S. Department of Labor, per 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 the state government, and the South Carolina Department of Labor, Licensing and Regulation (SCDLLR) was created. During this review period, Emily H. Farr was the Director of SCDLLR, and Kristina Baker was the Deputy Director. SCDLLR is divided into the following three divisions: Labor; Fire and Life Safety; and Professional and Occupational Licensing. The South Carolina Occupational Safety and Health (SC OSH) Program, within the Division of Labor, is responsible for the management and operation of the State Plan.

It is important to note that SC OSHA is organized into four main areas: Administration, Compliance, Legal and Outreach and Education. The Deputy Director Kristina Baker oversees the program and has four strong area leads that manage the day to day running of the program.

During the review period, Gwen Thomas was the State Plan Manager for the SC OSHA Program and responsible for the area of Administration. This includes leading the following departments: training; technical support and standards; the Web Integrated Management Information System; and the South Carolina Bureau of Labor Statistics. The Office of Technical Support and Standards (OTSS) provides information to assist the public in complying with standards. The office also supports the enforcement program with compliance guidance by providing guidance for internal and external use. In addition, OTSS reviews new OSHA standards and directives to determine whether SC OSHA should adopt them.

The Compliance Manager, Anthony Wilks, manages the Compliance area, including leading the safety and health compliance teams consisting of supervisors, compliance safety and health officers (CSHOs), and administrative staff.

The Chief OSHA Counsel, Deidre Laws, manages the Legal area, which includes Whistleblower 11 (c), informal conferences, contested cases and FOIAs.

The SC OSHA Consultation Manager, Sharon Dumit oversees the Office of Outreach and Education (O&E), which includes the safety and health training, compliance assistance, the South Carolina Palmetto Star Program, the Youth Training Program, and On-site Consultative Services. The Palmetto Star Program is the equivalent to the OSHA Voluntary Protection program. The On-site Consultative Services are provided free of charge to private sector employers, through OSHA's 21(d) grant program.

In South Carolina, state and local government agencies and workers are afforded the same rights, responsibilities, and coverage as those in the private sector.

The table below shows OSHNC’s funding levels from FY 2017 through FY 2021.

FY 2016-2020 Funding History					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2021	\$2,349,000	\$2,349,000	-	4,698,000	50%
2020	\$2,299,700	\$2,299,700	-	4,599,400	50%
2019	2,095,200	2,095,200	-	4,190,400	50%
2018	2,054,700	2,054,700	-	4,109,400	50%
2017	2,054,700	2,054,700	-	4,109,400	50%

B. New Issues

The COVID-19 pandemic had significant impact in FY 2021. The 2021 South Carolina Safety Summit, which was conducted on April 21, 2021, was held virtually. Additionally, the Youth Safety Training Program, which is conducted in collaboration with the Palmetto Star program, was suspended. Additionally, in FY 2021 the SCDLLR worked cooperatively with the SC Department of Health and Environmental Control; the SC Department of Commerce; and the SC Department of Social Services to provide appropriate information and guidance to the employers.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2021 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A six-person OSHA team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted at the South Carolina State Plan office during the timeframe of January 24-28, 2022. A total of 115 safety, health, and whistleblower case files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct 1, 2020, through September 30, 2021). The selected population included:

- Twenty-one (21) fatality case files
- Ten (10) COVID related case files
- Twenty-five (25) complaint and referral investigation files
- Thirty-nine (39) Construction/General Industry safety and health case files
- Fifteen (15) closed whistleblower case files
- Five (5) Public Sector Consultation files

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (Appendix D)
- State Information Report

- Mandated Activities Report for Consultation
- State OSHA Annual Report
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Full case file review

Each State Activity Mandated Measures (SAMM) Report has an agreed-upon Further Review Level (FRL), which can be either a single number, or a range of numbers, usually above and below the three-year national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2021 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

SCDLLR continues to operate a training program that is very similar to the OSHA Training Directive (TED 01-00-019). The State Plan's training directive is designated (TD- 003-019), and it ensures that compliance officers progress through an established training path. A Training and Development Director, who monitors the progression and development of the trainees in conjunction with the employee's supervisor, administers SC OSHA's training program. Each trainee is also assigned a mentor (senior compliance officer), who primarily supports the on-the-job training (OJT) aspect of the trainee's development. The employee and the Training and Development Director use the SCOSH Training Guide for CSHOs form, and the Compliance Safety and Health Officer Core Training form, respectively, to track formal training. The latter form reflects the various career paths for occupational safety and health professionals, as they are presented in the OSHA Training Directive. The Training and Development Director also maintains an Excel spreadsheet, which tracks the employee's participation in webinar and career development courses, as well as formal training courses. Their supervisor and mentor, using the Progress Report on New Field Personnel form, assess the career progression and development of each employee. The first page of the two-page form, addresses the OSHA inspection process, and the second page addresses the OSHA report writing process.

Due to the COVID-19 pandemic, the level of outreach training conducted by the SC OSHA Outreach and Education (O&E) training division was significantly reduced. During FY 2021, SC DLLR provided outreach safety and health training to 2,165 employers and employees. Some of the groups South Carolina OSHA O &E collaborated with include:

SC Association of Counties, SC Manufactures Alliance, NC State OTI Outreach Center, SC Department of Transportation, Horry Georgetown Technical College, SC Dietary Managers Association, SC Metal Finishers Association, Low Country and Piedmont ASSE, Professional Construction Estimators Association, SC Masonry Contractors Association, SC Asphalt Association, and the Home Builders Association.

Statistical Training Information FY 2021

	FY 2021
Private sector employers trained	302
Private sector employees trained	605
State and local government employers trained	267
State and local government employees trained	991
Total number of employers and workers that received training	2,165

b) OSHA Information System

The South Carolina OSHA Information System, also known as “The South Carolina OSHA Redesign and Enhancement” (SCORE) is into its twelfth year of operation and continues to provide a significant cost avoidance through the reduction of paper files. During FY 2021, SCORE obviated the need to keep and maintain paper inspection reports for 391 inspections and 386 consultation visits. Those inspections and consultation visits generated 777 inspection and consultation reports, citations, etc. South Carolina OIS not only provides an efficient means of data entry and secure storage, but it also allows South Carolina OSHA to retrieve and analyze that data instantaneously. The development of a system-to-system interface between SC OSHA OIS and the federal OIS system allows SC OSHA to conduct its own data management, while providing the required data to OSHA daily.

c) State Internal Evaluation Program Report

SC OSHA has conducted all, or most of their internal audit topics informally, as they have navigated COVID-19, but their focus was shifted because of the need presented by the pandemic. They are currently reviewing those informal notes and are slated to formally audit case file documentation procedures, within the compliance area beginning March 1, 2022, and the updated auditing schedule is quarterly and will continue to address all four areas of the department.

d) Staffing

During this period, SC OSHA’s staffing levels were below the established benchmarks for the program. The State Plan remains committed to staffing its program at the appropriate level, within the current budgetary constraints.

		FY 2017	FY 2018	FY2019	FY2020	FY2021
Safety	Benchmark	17	17	17	17	17
	Positions Allocated	17	17	17	17	17
	Positions Filled	15	15	15	15	15
	Vacancies	2	2	2	2	2
	Percent of Benchmarks Filled	88%	88%	88%	88%	88%
Health	Benchmark	12*	12*	12*	12*	12*
	Positions Allocated	12*	12*	12*	12*	12*
	Positions Filled	5	5	5	5	5

Vacancies	5	5	5	5	5
Percent of Benchmarks Filled	50%	50%	50%	50%	50%

* The benchmarks and positions allocated for health have been agreed upon and recognized by OSHA to be 10, since FY 07. This information has not yet been published in the federal register.

2. ENFORCEMENT

a) Complaints

During FY 2021, SC OSHA received a total of 694 complaints, of which 598 were formal and 96 were non-formal. SC OSHA was outside the state formula FRL for inspections (7 days) and investigations (5 days), but below the negotiated federal formula for inspections, and at the negotiated level for investigations. SAMM 1a and 2a calculate the number of days between complaint receipt date and the first action. Under this formula, longer response times may be caused by incomplete complaints. SAMM 1b is for informational purposes only, and it is not a mandated measure, but it calculates the number of days between the date the office deems the complaint to be valid and the first action date. Under SAMM 1b, SC OSHA had an average of 5.07 days for complaint inspections, and SAMM 2b was 5.42 days for complaint investigations.

SC OSHA has its own complaint process specified in its own administrative instruction. It outlines the policies and procedures for processing formal and non-formal complaints. SC OSHA's complaint process for formal complaints is similar to the federal process. SC OSHA considers electronic complaints obtained through the federal complaint system as a formal complaint. After the receipt of an electronic complaint, a follow-up call to the complainant is usually made to clarify the complaint items. In some instances, the complainant may elect to process the complaint non-formally to address the issue. Following complaint inspections, complainants are mailed a letter informing them of the inspection and indicating whether citations were issued.

Referrals and employer-reported referrals are notices of alleged hazards or violations of the OSH Act, which are typically received from other federal, state, or local agencies, the media, as well as CSHO referrals. Referrals are handled like complaints. SC OSHA follows the same procedures as OSHA for employer-reported referrals. In FY 2021, 238 employer-reported referrals were processed by letters mailed to employers. However, several severe injury reports should have been considered for inspection, but the decision was made not to conduct an inspection, due to the circumstances surrounding COVID-19. This issue does not yet rise to the level of an observation; however, it will be a topic of discussion during future quarterly meetings.

b) Fatalities

A total of 36 fatalities were reported to SC OSHA in FY 2021, which were eight more than reported in FY 2020. SAMM measure 10 reported that 100% fatality investigations were responded to within one day. Fatality figures for FY 2021 reflect 10 construction fatalities, which was four more than the same period last year. Falls from elevation continue to be the leading cause of fatalities in the construction industry. Over the last year, SC OSHA has continued to identify and reduce the number of worker injuries, illnesses, and fatalities in

construction by focusing attention and resources on the most prevalent types of workplace injuries and illnesses (e. g., falls, electrocutions, struck-by equipment, and crushed by/caught between equipment hazards) through construction focused inspections.

SC OSHA also placed an emphasis on trenching and excavation hazards. SC OSHA followed the national initiative on trenching and excavation hazards. In FY 2021, there were no fatalities reported involving trenching and excavation work.

The SC State Plan experienced seven work-related deaths in FY 2021 in the manufacturing, and five in the agriculture industries, respectively. The number of state and local government fatalities rose from two in FY 2020 to seven in FY 2021. The tables below detail the industries, where fatalities occurred in FY 2020 and FY 2021.

Fatalities By Industry	FY 2020	FY 2021
Construction	6	10
Manufacturing	6	7
Transportation & Public Utilities	4	1
Wholesale Trade	2	0
Retail Trade	2	0
Services	6	5
Agriculture, Forestry, Fishing	0	5
Government	2	7
Finance: Insurance & Real Est.	0	1
Other	0	0
Total Fatalities	28	36

During the case file review, it was identified that the State Plan does not send a final next-of-kin (NOK) letter to the family to inform them of the inspection results, which is in accordance with the State Plan’s policy. However, the initial letter to Next-of-Kin (NOK) was sent on all investigations. The initial letter states that the NOK may request the results of the inspection, including copies of the citations, the result of an informal conference, notice of employer protests, and any other actions taken toward the resolution of the matter. In addition, the Deputy Director maintains continued correspondence, during the investigation. Fatality information is recorded in SC OSHA’s information system. All fatalities are also entered into the Fatality Tracker for review. A supervisor, who determines if the fatality falls within SC OSHA’s jurisdiction, reviews each entry.

In six of 21 fatality investigations reviewed, the case files contained evidence of hazardous conditions that may have violated SC OSHA standards and could have resulted in a citation. Two cases did not include evidence to explain why additional lockout-related violations were not proposed for requirements, such as training, periodic evaluations, and documented procedures. In another case, the employer’s respiratory protection program did not detail worksite specific procedures, such as medical evaluations, fit testing (except to perform a seal check), and for maintaining respirators.

Observation FY 2021-OB-01 (previously FY 2020-OB-03): Six of 21 (29%) fatality investigations reviewed lacked documentation to ascertain why a SC OSHA standard was not cited.

Federal Monitoring Plan: During next year’s FAME, a limited scope review will determine if this reflects the data trend.

c) Targeting and Programmed Inspections

SC OSHA reviews the annual high hazard planning guide for targeting hazards in specific industries. As a result of this practice, the State Plan has seen a reduction in the number of injuries and illnesses in these high hazard industries. SC OSHA participated in several National Emphasis Programs (NEPs), such as Amputations, Silica, Lead in General Industry and Construction, Process Safety Management, and Trenching. In FY 21, two inspections were conducted under the Process Safety Management (PSM) Covered Chemical Facilities and the Hexavalent Chromium emphases programs. Sixteen (16) inspections were conducted for the presence of Crystalline Silica. In addition, SC OSHA conducted three trenching inspections with 19 citations issued, of which 16 are currently abated. SC OSHA also participated in the following OSHA outreach and education initiatives in FY 2021: National Fall Safety Stand- Down; Heat Illness Prevention Campaign; National Safety Month; and Safe and Sound Week. Many South Carolina employers and employees participated in these awareness campaigns at various events, throughout the State.

According to inspection statistics reviewed, SC OSHA conducted 389 inspections in FY 2021, of which 169 were programmed. According to SC OSHA’s SIR data, 85.62% of private sector programmed safety inspections and 100% of private sector programmed health inspections had violations issued [SIR Measure 2b].

FY 2021 The following table outlines the total number of violations for programmed activity:

All General Industry Programmed Inspections	SC OSHA	All Construction Programmed Inspections	SC OSHA
Average Number of Violations/Inspection	1.89	Average Number of Violations/Inspection	1.47
% Violations Classified as Serious, Repeat and Willful	73.6	% Violations Classified as Serious, Repeat and Willful	84.1

[Reference: SC OSHA Express System]

Percent of enforcement presence (SAMM 17) describes the number of safety and health inspections conducted, as compared to the number of employer establishments in the State. The State Plan had a percent enforcement presence of 0.43%, which was lower than the FRL range of 0.74% to 1.24%. The lower enforcement presence indicates that the State Plan is not reaching as many employers with enforcement activity than the national average.

d) Citations and Penalties

In FY 2021, the 389 inspections conducted in SC resulted in an average of 1.77 serious, willful, repeat (SWR) violations per inspection, and 0.66 other-than-serious violations per inspection. SC OSHA was within the range of the FRL for SWR, which was 1.42 to 2.14 (SAMM 5a) and was slightly under the FRL for other-than-serious violations, which was 0.73 to 1.09. Serious violations are categorized as high, medium, or low severity serious, for penalty calculation purposes. In FY 21, SC OSHA issued 639 violations. SC OSHA conducted 308 safety and 81 health inspections, which exceeded the planned inspection goal of 305 inspections.

SC OSHA was also within the FRL average lapse time from opening conference to citation issuance date (SAMM 11) as referenced below:

Average Lapse Time	SC OSHA	FRL
Safety	57.05 days	41.94 – 62.90
Health	77.82 days	52.88 – 79.32

The total in-compliance rate for all safety inspections in FY 2021 was 21.43%, and 62.71% for health inspections (SAMM 9). The FRL was +/-20% of the three-year national average of 31.65%, which equals a range of 25.32% to 37.98% for safety, and 40.64%, which equals a range of 32.51% to 48.77% for health inspections. Over the last two years, SC OSHA has demonstrated significant improvement for their in-compliance rate for safety inspections. However, for health inspections the acceptable data not requiring further review was between 32.51% to 48.77%.

The case file review found that six of 50 (12%) case files identified missed violations related to personal protective equipment, hazard communication and OSHA 300 logs. There was also evidence in a casefile indicating that three employers were not enforcing employees' use of face masks during the COIVD-19 pandemic. OSHA/CDC guidance was for employees to wear face masks; therefore, a recommendation letter should have been proposed.

SC OSHA’s average current penalty per serious violation in the private sector (SAMM 8: 1 - 250+ workers) was \$1,592.07 in FY 21. The further review level (FRL) is ±25% of the three-year national average (\$3,100.37). The FRL ranges from \$2,325.28 to \$3,875.46. Therefore, SC OSHA’s current penalty per serious violation in the private sector (1-250+ workers) was below the lowest acceptable FRL.

SC OSHA’s average current penalty for serious violations in the private sector (SAMM 8: greater than 250 workers) was \$3,360.79 in FY 21. The further review level (FRL) is ±25% of the three-year national average (\$6,575.70). The FRL ranges from \$4,931.78 to \$8,219.63. SC OSHA’s current penalty per serious violation in the private sector (greater than 250+ workers) was lower than the lowest acceptable FRL.

Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies, and procedures that are “at least as effective” (ALAE), as those contained in

OSHA’s Field Operations Manual (FOM). OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

According to the SC Field Operations Manual (SC FOM), for Serious violations, Gravity Base Penalty (GBP) shall be assigned based on the following scale:

Severity	Probability	Gravity Based Penalty
High	Greater	\$5,000
Medium	Greater	\$3,500
Low	Greater	\$2,500
High	Lesser	\$2,500
Medium	Lesser	\$2,000
Low	Lesser	\$1,500

The highest gravity classification (high severity and greater probability) shall normally be reserved for the most serious violative conditions, such as those situations involving danger of death or extremely serious injury. If the administrator determines that it is appropriate to achieve the necessary deterrent effect, a GBP of \$7,000 may be proposed.

Consideration should have been given to increase the fatality related penalties to \$7,000 for deterrent effect, and per the SC Special Emphasis Program on High Potential Hazards (HPH). The SC FOM also states the following: When a small business has one or more serious violations of high gravity, or a number of serious violations of moderate gravity, indicating a lack of concern for employee safety and health, the compliance manager may determine that only a partial reduction in penalty shall be permitted for size (of business).

Ten (10) out of 50 (20%) cases reviewed should have considered a proposed GBP of \$7,000. For example, an accident-related high gravity, greater probability, General Duty Clause violation for heavy equipment roll-over was proposed with a GBP of \$5000 with an adjusted penalty of \$1500. A penalty near \$7000 was warranted, based on HPH Policy and application of partial size reduction, per the SC FOM. When a small business has one or more serious violations of high gravity, or a number of serious violations of moderate gravity, indicating a lack of concern for employee safety and health, the compliance manager may determine that only a partial reduction in penalty shall be permitted for size.

The unadjusted GBP for a second fatality-related violation was \$2,500, based on a lesser probability assessment. Consideration should have been given to increase the fatality-related penalty to \$7,000 for deterrent effect, and per the SC Special Emphasis Program (SEP) on High Potential Hazards.

Penalty for a High Lesser Fall hazard violation was \$1,000. SC FOM and HPH guidance allows for violation to be classified as HG with only a partial penalty reduction for size, which would have resulted in a penalty near \$7,000.

Finding FY 2021-01 (previous Findings FY 2020-02, FY 2019-02): The percentage of health (62.71%) inspections that were in-compliance was higher than the FRL of 32.51% to 48.77%.

Recommendation: Ensure inspection resources are spent in workplaces that are exposing workers to hazards by implementing corrective actions in the most hazardous worksites. Efforts should be focused on creating targeting lists and gaining entry to sites with the most hazards to best protect employees. Training should continue to address hazard recognition skills with health compliance staff.

Observation FY 2021-OB-02 (previous FY 2020-OB-01, FY 2019-OB-01): In FY 2021, missed violations or lack of a recommendation letter was noted in six out of 50 (12%) case files reviewed. Several examples include, personal protective equipment, hazard communication, OSHA 300 logs and face masks during the COVID-19 pandemic.

Federal Monitoring Plan: During next year's FAME, a limited scope review will determine if this reflects the data trend.

Observation FY 2021-OB-03: In 10 out of 50 (12%) investigations, it was identified that using the Gravity Base Penalty (GBP) of \$7,000 was appropriate to achieve the necessary deterrent effect.

Federal Monitoring Plan: During next year's FAME, a limited scope review will determine if this reflects the data trend.

a) Abatement

SC OSHA has regulations that address requirements for abatement verification. During case file reviews, abatement information sent in by the employer was found to be consistent, which also included obtaining the employer's certification. Supervisors assigned follow-up inspections to CSHOs, based on the criteria listed in the FOM. Follow-up inspections accounted for 5.6% of the total inspections in South Carolina for FY 2021. Follow-up inspections are useful to ensure abatement if there is a problem with abatement verification. According to the SIR for FY 2021, the number of private sector inspections that had unabated violations more than 60 calendar days past issuance date for safety was 22, and 90 calendar days past the issuance date for health was three (3). In addition, there were 32 valid unprogrammed activities handled as inspections, which had been open more than 60 days, and 261 valid complaints handled as a phone/fax, which had been open more than 30 days. SC OSHA should ensure that the number of complaints open remains low, so that hazards are quickly eliminated.

Most case files reviewed contained written documentation, photos, work orders, or employer's certification of abatement. Petitions for Modification of Abatement (PMAs) were appropriately provided, when the employer requested an extension for their corrective action timeframe, and interim protection information was provided in the case file.

b) Worker and Union Involvement

The State Plan's procedures for employee and union involvement are identical to OSHA's. Case file review disclosed that employees were included during 100% of fatality investigations and other inspections. This determination was supported by SAMM 13, Percent of initial inspections with worker walk-around representation or worker interview, which was 100%.

3. REVIEW PROCEDURES

a) Informal Conferences

SC OSHA's administrator or their designated representative may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notification of "failure to correct violation" or missed abatement date. Many of these issues can be resolved at the informal conference level, thereby expediting abatement, and avoiding unnecessary litigation. The Informal Conference Office provides an avenue for employers to settle cases and reach a better understanding of the citations received, after an inspection. This office also maintains inspection files and handles Freedom of Information Act (FOIA) requests for SC OSHA records. In the past year, 101 informal conferences were held, with 18, approximately 18%, moving forward to formal contest.

According to SC OSHA's informal conference policy, detailed documentation will be entered into the database system, and all information provided by the employer to justify actions taken will be maintained in the case file. During the case file review, case files provided documentation of the rationale to support or explain the reason changes were made to the violations and penalties during informal conferences.

The FRL for percent penalty retained is +/- 15% of a three-year national average of 69.08%, which equals a range of 58.72% to 79.44% (SAMM 12). SC OSHA's percent for penalty retained is 82.98%, which exceeded the FRL.

b) Formal Review of Citations

In South Carolina, contested cases are handled by the South Carolina Administrative Law Court. SC OSHA has regulations for ensuring that employers have the right to contest citations and penalties. South Carolina continues to maintain a very low contest rate. In FY 2021, 3.5% cases were contested. During FY 2021, SC OSHA vacated 11 out of 28 violations of private sector violations, after a contest had been filed. SC OSHA also reclassified 10 out of 17 violations, after a contest had been filed. Regarding penalties, SC OSHA retained 84.49%, while OSHA retained 61.70% after a contest had been filed. This data was obtained from the SIR for FY 2021.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

In accordance with 29 CFR 1902, State Plans are required to adopt standards and federal program changes, within a 6-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines, which are at least as effective (ALAE) as the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. During this period, with a few exceptions, SC OSHA adopted all the federal directives and OSHA-initiated standards, which required action in a timely manner. The State Plan initially declined to adopt the Emergency Temporary Standard (ETS) for COVID-19, expressing a desire to develop and implement a permanent infectious disease standard. However, the State Plan finally adopted the ETS on October 29, 2021, after a series of letters from OSHA, which indicated that failure to adopt the ETS on July 21, 2021, would result in a determination that the State Plan was not ALAE as OSHA. Federal OSHA will continue to work with the State Plans on adopting any future emergency standards required by 29 CFR 1953.5(b). Additionally, the adoption of SC

OSHA's Maximum Penalty Increase is still pending, due to the State's Legislature. The tables below provide a complete list of the federal directives and standards, which required action during this period:

Table A
Status of FY 2021 Federal Standards Adoption

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
<i>Adoption Required</i>						
*Final Rule on the Implementation of the 2020 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1903 (1/15/2020)	3/15/2020	2/13/2020	NO	NO	7/15/2020	N/A
Final Rule on the Beryllium Standard for General Industry 29 CFR 1910 (7/14/2020)	9/14/2020	10/28/2020	YES	YES	1/14/2021	10/28/2020
Final Rule on the Beryllium Standard for Construction and Shipyards 29 CFR 1915, 1926 (8/31/2020)	10/30/2020	10/28/2020	YES	YES	2/27/2021	10/28/2020
Final Rule on the Implementation of the 2021 Annual Adjustment to Civil Penalties for Inflation (1/15/2021)	3/16/2021	3/16/2021	Pending	Pending	7/14/2021	N/A
Occupational Exposure to COVID-19; Healthcare Emergency Temporary Standard 29 CFR 1910 (6/21/2021)	7/6/2021	7/9/2021	YES	YES	7/21/2021	10/29/2021
<i>Adoption Encouraged</i>						
Final Rule on the Rules for Agency Practice and Procedures Concerning OSHA Access to Employee Medical	9/28/2020	10/14/2020	NO	NO	1/26/2021	N/A

Standard	Response Due Date	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
Records 29 CFR 1913 (7/30/2020)						
Final Rule on Cranes and Derricks in Construction: Railroad Roadway Work 29 CFR 1926 (9/15/2020)	11/14/2020	10/28/2020	YES	YES	3/14/2021	10/28/2020

**Table B
Status of FY 2021 Federal Program Change (FPC) Adoption**

<i>Adoption Required</i>						
Amputations in Manufacturing Industries NEP CPL 03-00-022 (12/10/2019)	2/10/2020	2/10/2020	YES	YES	6/10/2020	2/13/2020
Respirable Crystalline Silica NEP CPL 03-00-023 (2/4/2020)	4/4/2020	2/14/2020	YES	YES	8/4/2020	2/14/2020
<i>Equivalency Required</i>						
Field Operations Manual CPL 02-00-164 (4/14/2020)	6/13/2020	7/16/21	YES	NO	10/14/2020	10/14/2020
Inspection Procedures for the Respirable Crystalline Silica Standards CPL 02-02-080 (6/25/2020)	8/24/2020	8/24/2020	YES	YES	12/25/2020	8/24/2020
Site-Specific Targeting (SST) CPL 02-01-062 (12/14/2020)	2/14/2021	2/14/2021	NO	NO	6/12/2021	NA
Consultation Policies and Procedures Manual CSP 02-00-004 (3/19/2021)	5/19/2021	5/19/2021	YES	YES	9/19/2021	7/16/2021
Inspection Procedures for the COVID-19	7/6/2021	7/9/2021	YES	NO	7/21/2021	10/29/2021

Emergency Temporary Standard CPL DIR 2021-02 (CPL 02) (6/28/2021)						
Compliance Directive for the Excavation Standard 29 CFR 1926, Subpart P CPL 02-00-165 (7/1/2021)	8/30/2021	8/30/2021	YES	YES	11/01/2021	12/10/2021
Revised National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-03 (CPL 03) (7/7/2021)	7/22/2021	7/22/2021	NO	NO	NA	NA
<i>Adoption Encouraged</i>						
Voluntary Protection Programs Policies and Procedures Manual CSP 03-01-005 (1/30/2020)	3/30/2020	2/18/2020	YES	YES	NA	2/18/2020
Electronic Case File System Procedures for the Whistleblower Protection Program CPL 02-03-009 (6/18/2020)	8/18/2020	7/16/2020	NO	NA	N/A	7/16/2020
National Emphasis Program - Coronavirus Disease 2019 (COVID-19) CPL DIR 2021-01 (CPL-03) (3/12/2021)	5/12/2021	5/18/2021	NO	NO	N/A	5/18/2021
Communicating OSHA Fatality Inspection Procedures to a Victim's Family CPL 02-00-166 (7/7/2021)	9/7/2021	8/10/2021	YES	NO	N/A	8/31/2021

***Adoption of Maximum and Minimum Penalty Increases**

In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 on November 2, 2015, OSHA published a rule on July 1, 2016, raising its maximum and minimum penalties. See [81 FR 43429](#). As required by law, OSHA then increased penalties annually, most recently on

January 14, 2022, according to the Consumer Price Index (CPI). See 2022 Annual Adjustments to OSHA Civil Penalties, available at <https://www.osha.gov/memos/2022-01-13/2022-annual-adjustments-osh-civil-penalties>; 87 FR 2328 (Jan. 14, 2022).

OSHA-approved State Plans must have penalty levels that are at least as effective as OSHA's, per Section 18(c)(2) of the Occupational Safety and Health Act; 29 CFR 1902.37(b)(12). State Plans were required to adopt the initial maximum penalty level increase and the subsequent annual increases. State Plans were required to submit their initial intent to adopt by September 1, 2016. The first deadline for adoption of an annual increase was January 1, 2017.

The SC State Plan is required to adopt maximum and minimum penalty increases that are at least as effective as the Agency's most recent increase issued in January 2022, without further delay. OSHA recognizes that the State has needed to implement legislative changes before this adoption can be completed. A letter to the SC State Plan informing that failure to adopt these increases would very likely result in FAME finding and requesting that the State Plan respond with an action plan for completing the necessary legislative changes, was sent on September 2, 2021. SC State Plan responded on September 30, 2021.

This response included the following action plan, the South Carolina OSHA will continue to evaluate the State Plan's effectiveness and have conversations with members of the General Assembly, in consideration of introduction and passage of a bill that would match OSHA's penalty levels.

Finding- FY-2021-02: SC State Plan has failed to adopt OSHA's initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.

Recommendation: SC OSHA should work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA's maximum and minimum penalty levels.

5. VARIANCES

South Carolina has 73 permanent variances, none of which are multi-state variances approved by OSHA, and there are no temporary variances. The last variance (Just Aircraft, LLC) was adopted in 2019.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

In FY 2021, SC OSHA's state and local government employee program operates similarly to the private sector. As with the private sector, state and local government employers can be cited with monetary penalties. However, the penalty structure for state and local government agencies is different from the private sector. SC OSHA conducted 14 state and local government agency inspections in FY 2021, which accounted for over 1.75% of all inspections. There were only two that were programmed inspections. The following table outlines the total number of violations for programmed activity, as well as the in-compliance rate and the percentage SWR violations for state and local government agencies:

State and Local Government Agency	SC OSHA
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Inspections	
Average number of violations	2.33
In-Compliance Rate	57.14%
% Violations classified as Serious, Repeat, and Willful	42.86%

7. WHISTLEBLOWER PROGRAM –

The South Carolina Occupational Safety and Health Act, Section 41-15-210 et. Seq., Code of Laws of South Carolina, 1976, is the State statute of general application designed to regulate employment conditions relating to occupational safety and health. It aims to achieve safer and healthier workplaces throughout the State. A complaint filed under this statute is commonly referred to as an 11(c) complaint, which is a reference to Section 11(c) of the OSH Act. Enforcement of this statute in South Carolina falls under SCDLLR. Investigations were performed by investigators and currently reviewed by Labor Legal (e.g., SCOSH attorney), who oversees the program.

The SC OSHA Whistleblower Investigations Program has a dedicated Chief Counsel, who receives complaints and conducts the initial intake interview. If an investigation is warranted, the case is then assigned to one of the two full-time investigators or to the one part-time investigator on staff. Once the investigation is complete, the investigator makes recommendation for disposition to the Chief Counsel.

SC OSHA recently adopted a Whistleblower Investigations Manual (WIM), which was implemented in FY 2021. The WIM memorializes the policies, and procedures of the SC OSHA 11(c) Whistleblower Investigations Program, and closely reflects the guidance provided by OSHA’s WIM. SC OSHA policies and procedures, regarding whistleblower investigations were found to be ALAE as those of OSHA. SC OSHA’s WIM, however, is an internal document and is neither statutory, nor considered as regulatory.

A review of 15 case files established that the paper case files are organized in a logical sequence and are in compliance with the applicable policies. The use of a case tracking system to document incoming complaints and record final determinations is similar to that utilized by OSHA. SC OSH investigators have a working knowledge of the investigative process and the pertinent evidentiary burdens that are applicable to a retaliation allegation. Investigative findings are accurately documented in the case files and support the findings. All complaints appeared to have been investigated, at least as thoroughly as OSHA would have investigated.

Significant improvements were noted in the management of whistleblower case files and standardized documentation has been implemented. By standardizing documents (e.g., table of contents, case activity log, case assignment letter), SC OSHA case files align with minimum standards set forth in OSHA’s WIM.

Meritorious Complaints		Merit Cases Settled	
FY 2021	6%	FY 2021	100%
FY 2020	7%	FY 2020	100%
FY 2019	10%	FY 2019	100%
FY 2018	24%	FY 2018	85%

During FY 2021, data shows that SC OSHA received 80 complaints. Of the complaints received, 21 were docketed and 59 were administratively closed. According to the SAMM Report, 8% of the investigations were completed timely; that is, completed within 90 days, as compared to 4% in FY 2020. The average lapse time for retaliation cases was 545 days, as compared to 290 days in 2019. [Reference: SAMM 14, 15, 16].

Due to the current COVID-19 pandemic, this metric continued to be a challenge in FY 2021. SC OSHA has made efforts to mitigate this obstacle by hiring one additional full-time and one part-time investigator since the last review. Under the current circumstances, an observation is not warranted here. Both OSHA and SC OSHA will continue to discuss this metric at quarterly meetings.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

During this period, neither OSHA, nor SC OSHA received any CASPAs regarding the operation of the State Plan.

9. VOLUNTARY COMPLIANCE PROGRAM

The South Carolina Department of Labor, Licensing and Regulations (SCDLLR) administers the SC OSHA compliance program. The Office of Voluntary Programs (OVP) includes the Voluntary Protection Programs (VPP) called Palmetto Star, as well as Consultation, Alliances and Partnerships. During this period, SCDLLR also participated in the following OSHA outreach campaigns and initiatives: National Fall Stand-Down; Heat Illness Prevention; National Safety Month; as well as Safe and Sound. Numerous employees and employers in South Carolina supported each of these activities.

Although the program was suspended in FY 2021, the State Plan continues to provide South Carolina high school students attending vocational schools or career centers with OSHA 10-hour safety and health training for general industry workers. This program uses authorized trainers from the Palmetto Star Program sites to provide this training. This program assists the schools in fulfilling the South Carolina Department of Education requirement for SC OSHA awareness training, under the State's Career and Technology Education Manufacturing course standards.

Alliances

SCDLLR continues to maintain its Alliance Program; however, no alliances were implemented during this period.

Partnerships

The State Plan's Partnership Program is very similar to the OSHA Partnership Program (OSPP), including the guidance document and the annual evaluation report. However, due to the State Plan's limited resources, only a small number of employers are permitted to participate in the program at a given time. At the time of the FAME onsite visit, three employers were active participants in the State Plan's Partnership Program. The State Plan's Partnership is very similar to the OSHA Strategic Partnership Program (OSPP), with a few exceptions. SCDLLR conducts quarterly visits to its Partnership sites, and the sites are evaluated through non-enforcement verification visits.

Voluntary Protection Programs (VPP)

SCDLLR continues to operate the South Carolina Palmetto Star Program. Overall eligibility requirements for the Palmetto Star are more stringent than the requirements of OSHA's VPP. The Palmetto Star program is only open to employers in the North American Industrial Classification System (NAICS) codes 31-33, and employers are required to maintain injury and illness rates at least 50% below the rate for that industry in South Carolina. Participants are evaluated every three years, and the State Plan's report is documented on a form, which is identical to the VPP report used by OSHA. Additionally, the State continues to thoroughly evaluate Star sites that experience accidents, as well as incentive programs implemented by Palmetto Star participants. There are currently 36 active Palmetto Star sites. Since the last FAME visit, one new site was established; however, two sites withdrew from the program. During FY 2021, three (3) Star sites were also re-evaluated to determine their eligibility for continued participation in the program. During this on-site review, eight (8) Palmetto Star case files were reviewed to ensure compliance with the program's policies and procedures.

The State Plan is also continuing the Special Star Team Member (SPSTM) policy, which is like OSHA's Special Government Employee (SGE) program. Participants in this program must undergo specialized testing and training. Participants in the program serve a three-year appointment term, and they must undergo a one-day re-certification training session to renew their participation.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

In FY 2021, the consultation program projected two state and local government on-site consultation visits, one safety and one health; the State Plan exceeded the projected goal. Five state and local government visits were conducted, four health visits and one safety visit. One health visit was limited to indoor air quality issues at one specific agency, and another health visit was limited to lead and noise exposure at an ammunition range. One of the two full-service visits was focused on safety. The health full-service visit was deemed in compliance; however, the safety full-service visit documented several hazards, which were corrected in a timely manner. In fact, all case files were well documented and reflected appropriate corrective action.

Appendix A – New and Continued Findings and Recommendations

FY 2021 SC OSHA Comprehensive FAME Report

FY 2021-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
Finding FY 2021-01	The percentage of health inspections (62.71%) that were in-compliance was higher than the FRL of 32.51% to 48.77% for health.	Ensure inspection resources are spent in workplaces that are exposing workers to hazards by implementing corrective actions in the most hazardous worksites. Efforts should be focused on creating targeting lists and gaining entry to sites with the most hazards to best protect employees. Training should continue to address hazard recognition skills with health compliance staff.	Finding FY 2020-02 FY 2019-02
Finding FY 2021-02	SC State Plan has failed to adopt OSHA’s initial FY 2016 maximum and minimum penalty increase and subsequent annual penalty amount increases.	SC OSHA should work with their state authorities to complete the legislative changes necessary to enable it to adopt maximum and minimum penalty amounts that are at least as effective as OSHA’s maximum and minimum penalty levels.	

Appendix B – Observations Subject to New and Continued Monitoring

FY 2021 SC OSHA Comprehensive FAME Report

Observation # FY 2021-OB-#	Observation# FY 20XX-OB- # or FY 20XX- #	Observation	Federal Monitoring Plan	Current Status
<i>FY 2021-OB-01</i>	<i>FY 2020-OB-03</i>	In FY 2021, six of 21 fatality investigations reviewed lacked documentation to determine the reason(s) an OSHA standard was not cited.	During next year’s FAME, a limited scope review will be conducted to determine if observation is reflected in the data trend.	Continued
<i>FY 2021-OB-02</i>	<i>FY 2020-OB-01</i> <i>FY 2019-OB-01</i>	In FY 2021, missed violations or lack of a recommendation letter was noted in six out of 50 (12%) case files reviewed. Several examples include, personal protective equipment, hazard communication, OSHA 300 logs and face masks during the COVID pandemic.	During next year’s FAME, a limited scope review will be conducted to determine if this observation is reflected in the data trend.	Continued
<i>FY 2021-OB-03</i>		In 10 out of 50 (12%) investigations, it was identified that using the Gravity Base Penalty (GBP) of \$7,000 was appropriate to achieve the necessary deterrent effect.	During next year’s FAME, a limited scope review will be conducted to determine if this observation is reflected in the data trend.	New
	<i>FY 2020-OB-02</i> <i>FY 2019-OB-02</i>	In 11 out of 33 (33%) cases reviewed in FY 2019, decisions regarding on-site inspections were not appropriately based on the severity of hazards alleged and resources available.	During next year’s FAME, a limited scope review will be conducted to determine if this observation is reflected in the data trend.	Closed
	<i>FY 2019-OB-04</i> <i>FY 2020-OB-04</i>	In FY 2019, in six of 22 (27%) programmed comprehensive inspections that were reviewed, the inspections did not include the CSHOs physical review and the evaluation of the employer’s written safety and health program.	During next year’s FAME, a limited scope review will be reviewed to determine if this observation is reflected in the data trend.	Closed
	<i>FY 2019-OB-06</i> <i>FY 2020-OB-05</i>	SC OSHA conducted 104% of the planned safety inspections (297 of 285) and 61% of health inspections (52 of 85). Turnover rate and the loss of experienced	During next year’s FAME, a limited scope review will be reviewed to determine if this observation is reflected in the data end.	Closed

Appendix B – Observations Subject to New and Continued Monitoring

FY 2021 SC OSHA Comprehensive FAME Report

		CSHOs continue to contribute to the lower number of planned health inspections.		
	<i>FY 2019-OB-07</i> <i>FY 2020-OB-06</i>	In FY 2019, three case files reviewed did not include citations for willful violations, where the evidence in the case file indicated willful classification should have been considered.	During next year's FAME, a limited scope review will be conducted to determine if this observation is reflected in the data trend.	Closed

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 SC OSHA Comprehensive FAME Report

20XX-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
Finding FY 2020-01	In 21 of the 33 construction in-compliance case files reviewed, worker interviews were not performed and/or the interviews or contemporaneous notes were not documented in the case file.	SC OSHA should determine the cause for the lack of worker interviews conducted and implement corrective action to ensure that workers are interviewed during inspections and that the interviews and contemporaneous notes are documented.	SC OSHA conducted training with CSHOs regarding number, quality, and documentation of employee interviews. SC OSHA safety and health supervisors have been conducting periodic reviews to ensure worker interview documentation is present in the case files. SC OSHA is awaiting verification of corrective action through case file review during the FY 2021 comprehensive FAME.		Completed
Finding FY 2020-02 and FY 2019-02	The percentage of health inspections (62.71%) that were in-compliance was higher than the FRL of 32.51% to 48.77% for health.	Ensure inspection resources are spent in workplaces that are exposing workers to hazards by implementing corrective action in the most hazardous worksites.	The safety-in-compliance rate for FY 2020 was 28.29%. This is a significant improvement over the last several years and is well within the FRL. However, the health in-compliance rate was out of range. Inspections are conducted according to SC OSHA's high hazard planning guide and the number of programmed inspections received. SC OSHA will continue to review the NAICS that are assigned and determine which industries warrant enforcement based on industry incidence rates. SC OSHA will also continue to provide additional training to CSHOs to ensure that all potential violations are addressed. In-compliance health inspections will be a focus during the FY 2021 comprehensive FAME.		Continued for Health Inspections

Appendix C - Status of FY 2020 Findings and Recommendations

FY 2021 SC OSHA Comprehensive FAME Report

Finding FY 2020-03	Twenty case files had clearly supportable OTS violations that were not cited.	Ensure that hazards identified during inspections are addressed through citation, notification of violation or recommendation letter.	SC OSHA safety and health supervisors have been conducting periodic training to ensure that OTS are appropriately cited. OSHA will continue to work with SC OSHA to better assess how SC OSHA's unique policy affects the in-compliance rates. SC OSHA is awaiting verification of corrective action through case file review during the FY 2021 comprehensive FAME.		Completed
Finding FY 2019-04	Seven case files did not provide documentation of the rationale to support or explain the reason changes were made to the violations and penalties during informal conferences.	SC OSHA should ensure that informal conference notes document changes made to the citations, and/or penalties are legible, organized, and include justification in the case file and ensure documentation is received.	SC OSHA hired and trained a new Informal Settlement staff member on its informal conference policy. This individual was trained to document changes to citations, penalties, and justification of the results of the conference, which are typed and inserted into the file in a logical, organized, and uniformed format. SC OSHA hired and trained a new Informal Settlement staff member on the informal conference policy. This individual was trained to document changes to citations, penalties, and justification of the results of the conference, which are typed and inserted into the file in a logical, organized, and uniformed format.		Completed

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 South Carolina Comprehensive FAME Report

U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: SAMM Number	State Plan: SAMM Name	State Plan: Data	FY 2021 Further Review Level	FY 2021 Notes
1a	Average number of workdays to initiate complaint inspections (state formula)	13.57	7	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of workdays to initiate complaint inspections (federal formula)	5.07	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	35.99	5	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	5.42	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	N/A – The State Plan did not receive any imminent danger complaints or referrals in FY 2021. The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5a	Average number of violations per inspection with violations by violation type (SWRU)	1.77	+/- 20% of 1.78	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.42 to 2.14 for SWRU.
5b	Average number of violations per inspection with violations by violation type (other)	0.66	+/- 20% of 0.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.73 to 1.09 for OTS.
6	Percent of total	3.34%	+/- 5% of	The further review level is

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 South Carolina Comprehensive FAME Report

U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: SAMM Number	State Plan: SAMM Name	State Plan: Data	FY 2021 Further Review Level	FY 2021 Notes
	inspections in state and local government workplaces		4.92%	based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 4.67% to 5.16%.
7a	Planned v. actual inspections (safety)	308	+/- 5% of 250	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 237.50 to 262.50 for safety.
7b	Planned v. actual inspections (health)	81	+/- 5% of 55	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 52.25 to 57.75 for health.
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,592.07	+/- 25% of \$3,100.37	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,325.28 to \$3,875.46.
	a. Average current serious penalty in private sector (1-25 workers)	\$975.00	+/- 25% of \$2,030.66	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,523.00 to \$2,538.33.
	b. Average current serious penalty in private sector (26-100 workers)	\$1,341.88	+/- 25% of \$3,632.26	The further review level is based on a three-year national average. The range of acceptable data not requiring

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 South Carolina Comprehensive FAME Report

U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: SAMM Number	State Plan: SAMM Name	State Plan: Data	FY 2021 Further Review Level	FY 2021 Notes
				further review is from \$2,724.20 to \$4,540.33.
	c. Average current serious penalty in private sector (101-250 workers)	\$2,524.72	+/- 25% of \$5,320.16	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,990.12 to \$6,650.20.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$3,360.79	+/- 25% of \$6,575.70	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,931.78 to \$8,219.63.
9a	Percent in compliance (safety)	21.43%	+/- 20% of 31.65%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 25.32% to 37.98% for safety.
9b	Percent in compliance (health)	62.71%	+/- 20% of 40.64%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 32.51% to 48.77% for health.
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11a	Average lapse time (safety)	57.07	+/- 20% of 52.42	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 41.94 to 62.90 for safety.
11b	Average lapse time (health)	77.82	+/- 20% of 66.10	The further review level is based on a three-year national average. The range of

Appendix D - FY 2021 State Activity Mandated Measures (SAMM) Report

FY 2021 South Carolina Comprehensive FAME Report

U.S. Department of Labor

Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)

State Plan: SAMM Number	State Plan: SAMM Name	State Plan: Data	FY 2021 Further Review Level	FY 2021 Notes
				acceptable data not requiring further review is from 52.88 to 79.32 for health.
12	Percent penalty retained	82.98%	+/- 15% of 69.08%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 58.72% to 79.44%.
13	Percent of initial inspections with worker walk-around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	8%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	6%	+/- 20% of 20%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 16% to 24%.
16	Average number of calendar days to complete an 11(c) investigation	545	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	0.43%	+/- 25% of 0.99%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.74% to 1.24%.