

**U.S. EPA Region 4
State Review Program Framework – Pilot Phase FY 2004
Review of South Carolina’s FY2003 Enforcement and Compliance Programs**

EXECUTIVE SUMMARY

Overall Picture

This report presents the key findings of the Environmental Protection Agency (EPA) Region 4’s review of the South Carolina Department of Health and Environmental Control (SCDHEC) environmental enforcement program. The evaluation included the federally delegated Air (CAA-Stationary Source), Water (CWA-NPDES) and Hazardous Waste (RCRA-Subtitle C) enforcement programs.

EPA Region 4’s review of the South Carolina enforcement program has determined that the SCDHEC has a thorough understanding of these programs and does an excellent job implementing the delegated enforcement programs.

Information Sources Included in Review

Air: The S.C. Compliance Assurance Agreement, S.C. 105 Grant Agreement, and the S.C. enforcement files. In addition the Air program maintains data that is not required to be submitted to AFS to track and document periodic monitoring. This database was made available to and reviewed with the EPA Region 4 staff who conducted the Air file review.

Water: The FY 2004 EPA Mid-Year Review of SCDHEC, the S.C. Enforcement Management Strategy, the EPA/S.C. MOA, the S.C. State Program Profile, the 2003 S.C. NPDES Management Report, the S.C. 106 Work Plan, the S.C. enforcement files, the S.C. Inspection Plan, S.C. Enforcement Strategy, EMS penalty Assessment Guide, EMS Civil Penalty Calculation, EMS T&A Procedure Document, EMS Enforcement Escalation, EMS Administrative Process.

Waste: S.C. Draft HW Grant Agreement, S.C. FY-03 End-of-Year Report, the S.C. enforcement files, the Enforcement Response Policy (ERP), and S.C. MOA.

Successes, Initiatives, Major Cases

SC has a vigorous 112(r) program that includes inspection of subject industrial facilities every three years.

Any Overarching Issues among the Enforcement Programs Reviewed

South Carolina has and typically uses an acceptable penalty policy that considers gravity and economic benefit. However, once the penalties are assessed and paid, the files are purged of

supporting documentation on how the penalty was calculated. EPA's guidance recommends including in the case file, all supporting documentation as to how penalties and economic benefit were calculated. Although SCDHEC's enforcement files were generally complete, they were missing copies of the penalty calculations, associated economic benefit or ability to pay reports used to assess a civil penalty. SCDHEC is reviewing their position on penalty documentation and is considering the implementation of a policy that would include all penalty support documentation in the case file.

South Carolina does not utilize supplemental environmental projects (SEPs). South Carolina's State Pollution Control Act specifies exactly how penalty money is distributed (half goes directly to the county in which the violation occurs.) SCDHEC currently has a legal opinion that to reduce a penalty to allow SEPs would be in violation of this Act. SCDHEC is supportive of the SEP concept and is working toward resolving this issue.

Inspection Implementation

- **CAA** — SCDHEC exceeded their inspection commitments, provided good documentation in their inspection files and had their reports noting violations finalized in a timely manner. There is a legacy data coding discrepancy for the majority of synthetic minors, coding them as majors. SCDHEC has committed to update data base to reflect current criteria.
- **CWA** — SCDHEC has consistently met their inspection commitments. The evaluation, identification of violations and development and distribution of inspection reports were all performed in a timely manner.
- **RCRA** — SCDHEC has consistently met their inspection commitments in a timely manner.

Enforcement Activity

- **CAA** — SCDHEC uses its inspections as a tool to make recommendations to facilities on methods that will assist in maintaining continuous compliance. In most cases, the facility returns to compliance prior to an enforcement conference or the issuance of a consent order/agreement.

In FY 2003 SCDHEC addressed 34 of 39 HPVs, (87% addressment rate) carrying over 5 HPVs to FY 2004. In FY 2004, SCDHEC addressed 49 of 57 HPVs, (86% addressment rate) transferring three to EPA and carrying over 5 HPVs, with none of the five remaining on the watch list.

SCDHEC possessed a penalty guidance in 2003; however, it could not be determined whether the guidance was followed. The files that were reviewed during this audit did not contain any information on whether the penalty guidance was used, how the penalty

was assessed or if a gravity or economic benefit calculation for the violation was included in the penalty. Based on the compliance files reviewed for this audit, although the penalty calculations were not available, the penalties appear to be adequate for the violation. Additionally, for FY2004, SCDHEC collected the highest single penalty assessment of any state within Region 4 with an amount of \$681,425.

SCDHEC has a consent order penalty collection rate of 85%. For the universe of sources contained in AFS, of the 107 consent orders issued in FY03, 99 consent orders had penalties assessed. This increases the penalty collection rate to 92.5% Based on the total number of consent orders issued, 85% is an acceptable rate for using penalties as an incentive for maintaining continuous compliance in formal enforcement actions.

- **CWA** — SCDHEC enters all effluent data into PCS in a timely manner.

Penalty calculation worksheets reviewed only took into consideration gravity, not economic benefit as part of the settlement action. When data is available to support an economic benefit calculation, economic benefit is taken into consideration.

- **RCRA** — SNCs and SVs are being properly reported and have been determined to be appropriate and timely.

Commitments in Annual Agreements

- **CAA** — SCDHEC has consistently met or exceeded all of the enforcement requirements of their 105 Grant.
- **CWA** — SCDHEC has consistently met or exceeded all the enforcement requirements of their 106 Grant, Work Plan and EMS.
- **RCRA** — SCDHEC has consistently met or exceeded all requirements of the RCRA Grant with regard to enforcement activities.

Data Integrity

- **CAA** — Based on the file review, SCDHEC is meeting all data requirements, submitting timely and accurate information. All minimum data elements are properly tracked and entered into the appropriate data bases.
- **CWA** — Based on the file review, SCDHEC is meeting all data requirements, submitting timely and accurate information. All minimum data elements are properly tracked and entered into the appropriate data bases.
- **RCRA** — Based on the file review, SCDHEC is meeting all data requirements, submitting timely and accurate information. All minimum data elements are properly

tracked and entered into the appropriate data bases. SCDHEC has excellent data maintenance

Any Additional Program Elements or Activities Reviewed

SCDHEC is committed to and supports compliance assistance and innovative projects. This is demonstrated by their organizational structure as well as the specific accomplishments detailed further in this report. SCDHEC's Environmental Quality Control (EQC) regulatory responsibilities are carried out through four bureaus: Air Quality; Water; Land and Waste Management; and Environmental Services. The Bureaus of Air Quality, Water, and Land and Waste Management each have responsibilities that include compliance monitoring, compliance assurance, and compliance assistance. Compliance assistance is also provided through EQC's twelve district offices under the Bureau of Environmental Services.

Support to the bureaus is provided through the EQC Administration. In January 2003, the EQC Administration was reorganized, in part, to strengthen the links between compliance assistance and enforcement and to better coordinate compliance assistance activities throughout the organization. This reorganization also brought into the compliance assistance effort the Center for Waste Minimization, the agency's non-regulatory, pollution prevention technical assistance office. Subsequent to the reorganization, a Compliance Committee was created. This committee meets on a monthly basis, and is comprised of staff from all four bureaus.

Common to all three media reviews

Information Source Review

In preparation for the Framework review of the SCDHEC's enforcement program, Region 4 staff reviewed documents and existing State reviews from each media program that are reflective of SCDHEC's enforcement procedures, implementation and commitments. The documents reviewed and analyzed are identified in the Executive Summary and within each of the media specific write-up under the heading "Information Sources Included in Review." This effort was undertaken to identify any areas where Region 4 commitments and/or agreements with SCDHEC may have been different from national requirements, hence, defining a more or less stringent "bench mark" in evaluating SCDHEC's enforcement program. The analysis did not identify any areas of deviation from national guidance, recommendations or requirements.

Data Metrics Analysis

Upon receipt of the initial OECA provided data metrics state review package, Region 4 and SCDHEC studied the data metric selection criteria for concurrence. Region 4 answered numerous questions from SCDHEC's CAA, CWA, and RCRA staff. Each program had unique questions, but they all expressed one common concern: many of the data metric ratios were based upon a universe of sources that EPA had incorrectly assumed to be a fixed number of sources for the review period, based upon current data; where in fact, the number of sources is always changing. All of the following data metrics are affected by this issue: the CAA FCE coverage, the CWA NPDES inspection coverage, and the RCRA LQG annual inspection coverage.

In order to assure consistent results in duplicating the OECA provided data and to ensure a common understanding of the data pull criteria, Region 4 participated in a face to face meeting with the State to discuss the review process. Specific to the data metrics, we reviewed the selection criteria, and discussed how the state could duplicate the data pulls supporting the measures.

In September, the Region re-ran the data pulls on all of the data metrics in order to have the most recent data just prior to the file reviews. The Region also shared these new retrievals with the State and again discussed and responded to any questions regarding the data. Although much of the information, as expected, did not change from the initial retrievals, these new retrievals helped to minimize any state concerns regarding the "live" nature of the data. All of the data metrics fell within OECA recommended cut points as depicted in the Framework Metrics Selection Criteria, Guidance Requirement or Goal, therefore the file selection process followed the basic protocol outlined in the Framework documentation.

Region 4 continued working to address data related concerns emanating from Region 4 staff conducting the file reviews. For example, as result of the Air review a legacy data coding

discrepancy for the majority of synthetic minors, coding them as majors, was identified. This resulted in the OECA data metrics, pulled from AFS, significantly overstating the number of major sources while understating the number of synthetic minor sources. As a result, Region 4 utilized data generated by SCDHEC that reflected the appropriate source universe for the CAA data metrics. SCDHEC has committed to update data base to reflect current criteria.

In the process of completing the State Review Discussion Guide documents, the Region identified additional data elements that were required but were not part of or necessary for the data metrics. While the Region was capable of ascertaining these other data elements, the Region was concerned that they were not part of the data metric and therefore, no selection criteria was provided. Without such uniform data retrieval guidance for these additional data elements, different parties could inconsistently compile these data elements resulting in improper evaluations across states, regions, and the nation. These elements are the “Identification and Evaluation Information” at the top of each metric. Even the “file review only” metrics have these types of data elements. Some of the elements are gathered during the data metrics review but several are not, e.g., the Clean Air count of Partial Compliance Evaluations.

corrections will continue to be made to the legacy data base in AFS to insure the proper designation of major and synthetic minor sources.

SCDHEC has a grant commitment to perform FCEs at 50% of its active major sources and 20% of its active synthetic minor sources each fiscal year. FCEs are made up of a Title V Annual Compliance Certification (TVACC) review, a facility inspection, a review of any required periodic monitoring, and a review of any source testing that is conducted within the reporting period. SCDHEC has reported that there were 351 major sources and 463 synthetic minor (SM) sources in 2002 and 328 major sources and 482 SM sources in 2003. This information is in conflict with AFS, which is reporting that there are 838 active major sources and 23 active synthetic minor sources in the state. This discrepancy is due to a change by EPA that required the modification of legacy data in the AFS data base as detailed above. However, in using the more realistic numbers received from SCDHEC and basing the calculation on the two year period of 2002 to 2003, the following calculation is used to determine if SCDHEC is meeting its inspection commitment:

FCE commitment calculation:

$$((351 + 328) \text{ majors} \times .50) + ((463 + 482) \text{ SMs} \times .20) = 528.5/\text{biennially}$$

Therefore, over a 2 year tracking period, SCDHEC is committed to conducting 528.5 FCEs for 2002 to 2003.

Since SCDHEC has reported that they conducted a total of 756 FCEs in 2003 and averages about 1,200 to 1,400 FCEs biennially, they are performing well over their FCE grant commitment.

Based on the data from AFS, SCDHEC has reviewed 301 self certifications out of a total of 304 certifications that were received. This is a self certification review rate of 99.01% which is deemed to closely satisfy the 100% commitment. However, SCDHEC has stated that all, i.e., 100%, of self certifications are reviewed and that the agency will make all efforts to insure that the reviews are properly coded and credited within the system.

The Data Metrics identified fifty eight (58) facilities that had an unknown status code in AFS for 2003. SCDHEC has stated that they are currently looking into identifying these facilities. A current review of AFS indicated that there are 23 facilities left in the system with an unknown status code for 2004. SCDHEC has committed to correcting any facility codes that are incorrect. However, for some facilities, an unknown status could mean that it is still under construction and not operating or a permit was just issued and a FCE is not due yet.

SCDHEC inspects 75% of its Title V and total SM sources annually, even though the agency's commitment is to inspect its Title V sources biennially. SCDHEC management has stated that, in order to maintain a strong field presence with its sources, a detailed inspection is performed biennially and a less detailed "visit" to the facility is performed in the years in between the

detailed inspection. SCDHEC is to be commended for this effort since this was deemed to exceed their biennial inspection commitment to EPA.

Recommendation(s):

- SCDHEC has committed to update the legacy data base in AFS.
- SCDHEC has committed to review all remaining facilities with an “unknown status code” and correct the data base as appropriate.

Element 2 Degree to which inspection/evaluations reports document inspection findings, including accurate identification of violations.

In order to discuss the review findings of the SCDHEC inspection reports, the findings of the Compliance Monitoring Report (CMR) must be discussed. First, there was some confusion in defining the CMR. The CMR was viewed as a report that would satisfy a full compliance evaluation (FCE) of the source. However, as described in the memorandum from Michael Stahl, dated April 25, 2001, entitled "Issuance of the Clean Air Act Stationary Source Compliance Monitoring Strategy," a FCE includes "[a] review of all required reports, and to the extent necessary, the underlying records." "It also includes a review of Title V self-certifications, semi-annual monitoring and periodic monitoring reports, and any other reports required by permit." Therefore, the challenge was in determining whether the auditor should focus on just the inspection report in addressing the audit questions for the CMR or to look at the complete source file to determine if each of the reviewed elements were present. Likewise, the problem facing the inspection report review was whether all of the audit elements presented in File Review Metric 2.A. (i.e. inventory/description of regulated units, enforcement history, etc.) were required to be in the actual inspection report or contained in the source compliance file.

The auditors found that all but one of the inspection reports reviewed did adequately document the inspectors findings of compliance or noncompliance. There was one inspection report where the inspector, looking at the inspection report as the CMR, noted that the report did not include an inventory/description of all of the source's regulated units. For all of the inspection reports, it was consistent that the enforcement history was not documented. However, the enforcement history was properly documented through correspondence in the facility's compliance file. The auditors agreed that most, if not all, states do not include an enforcement history in their inspection reports. Therefore, this was not viewed as a significant problem which would affect a favorable overall finding.

Recommendation(s): None

Element 3 Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

Since the inspection reports are entered into an electronic reporting system, the reports contain the date the inspection was performed but did not indicate the date the inspection report was

finalized. However, since the inspection report was always sent to the facility, it could be inferred that the date the report was transmitted was the latest date that the report could have been finalized. Additionally, SCDHEC also indicated that it is their internal policy to have the inspection report finalized and electronically sent to the state office within 7 days of the inspection if a violation is found and within 20 days of the inspection if there were no violations found. Therefore, basing the review on the date of the transmission of the report to the facility, SCDHEC is satisfying the policy of having reports noting violations finalized within 90 days of discovering the violation.

Recommendation(s): None

III. Enforcement

Element 4 Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely accurate manner.

Since SCDHEC has coded its synthetic minor sources as majors, the auditors could not readily separate the number of FCEs conducted at majors sources from the number of FCEs conducted at synthetic minor sources. Therefore, the HPV discovery rate as a percentage of FCEs at only major sources could not be determined.

There were 39 HPVs identified for FY 2003. Therefore, the “no activity” indicator is not applicable to SCDHEC.

SCDHEC is required to maintain a field that designates “Day 0” of the violation. “Day 0” sets the date that SCDHEC determines that a violation has occurred. There is also a data field that identifies the date the violation is identified to EPA. This date can be the date of an enforcement conference call, where the violator is identified to EPA, or even the date that SCDHEC enters the information into AFS. Presently, SCDHEC is inputting “Day 0” into both of these fields. As a result, the auditors were unable to determine if SCDHEC is reporting violations within the required 45 day period following SCDHEC’s determination that a violation has occurred.

Recommendation(s): EPA is investigating making the date that the violation was identified to EPA a required field.

Element 5 Degree to which state enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.

Of the 20 enforcement/compliance files that were reviewed, only one facility was subject to a compliance schedule that required the installation of additional controls. All other facilities that were found to be in violation in 2003 returned to compliance prior to entering into a consent order with SCDHEC. Therefore, a compliance schedule was not required. In the case of the one

facility required to have a compliance schedule, the violation involved a dispute over whether one of the two production lines at this pharmaceutical facility was subject to the National Emission Standard for Hazardous Air Pollutant (NESHAP) regulation, Subpart GGG, which requires the installation of the Maximum Achievable Control Technology (MACT) [Pharmaceutical MACT]. Since the facility did not believe that they were subject to the regulation but wanted to install the controls without admitting guilt, SCDHEC used a Compliance Agreement, rather than a Consent Order, to bind the facility to a schedule for compliance. This agreement helped to achieve the goal of bringing the facility into compliance while awaiting a final determination from EPA on whether the production line was subject to the Pharmaceutical MACT.

SCDHEC uses its inspections as a tool to make recommendations to facilities on methods that will assist in maintaining continuous compliance. However, if a violation is found, the NOV will clearly state the problems that were noted and set up an enforcement conference with the source to discuss the problem and possible solutions to assist in the return to compliance. In most cases, the facility returns to compliance prior to the enforcement conference or the issuance of a consent order/agreement.

Recommendation(s): None

Element 6 Degree to which a state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.

At the time of the data retrieval for this report (September 1, 2004), AFS reported that there were 11 current HPVs for FY 2004. However, as of October 11, 2004, only 5 HPVs remained for FY 2004. In reviewing SCDHEC's efforts, there were 57 active HPVs being tracked in FY 2004. Of the 57 active HPVs, 49 were addressed by SCDHEC and 3 were transferred to EPA for action, leaving the 5 HPVs that are being reported as carryovers. This is an HPV addressment rate of (49 addressed HPVs / 57 total HPVs) 85% for FY 2004. Of the 5 HPVs being carried over, 0 remained on the watch list.

Based on the October 11, 2004, AFS data retrieval, 25 HPVs that had not been addressed by day 270. This means that the percentage of addressing actions for HPVs taken under 270 days was (24 HPVs addressed before day 270 / 49 total HPVs addressed) 51%. However, since SCDHEC is only carrying over 5 HPVs to the current fiscal year, the resolution rate has greatly improved.

Based on the October 11, 2004, AFS data retrieval, 18 of the 23 HPVs tracked in FY 2004 that were addressed after day 270 carried over for longer than one year (back to FY 2003). This delay in resolving HPVs was a reflection of staff turnover within SCDHEC. However, of the 5 HPVs that are currently listed as being carried over from FY 2004, none are on the watch list. This is a significant improvement in SCDHEC's addressing timing and HPV carry-over rate.

Recommendation(s): None

Element 7 Degree to which a state includes both gravity and economic benefit

calculations for all penalties, using the BEN model or similar state model (where in use and consistent with national policy).

SCDHEC possessed a penalty guidance in 2003; however, it could not be determined whether the guidance was followed. The files that were reviewed during this audit did not contain any information on whether the penalty guidance was used, how the penalty was assessed or if a gravity or economic benefit calculation for the violation was included in the penalty. In 2004, SCDHEC implemented a new guidance document that they are going to adhere to as a matter of standard practice in order to promote consistency in their penalty assessments. However, due to the State of South Carolina's open records laws, the penalty calculations will still be missing from the compliance files. Hence, future audits will still not be able to determine if a penalty appropriately incorporates a calculated gravity and economic benefit component.

Recommendation(s): Region 4 has discussed this issue with SCDHEC and as a result of that discussion SCDHEC has committed to reviewing their position on penalty documentation and considering the implementation of a policy that would include all penalty support documentation in the case file, consistent with EPA guidance.

Element 8 Degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty.

The data metrics indicate that SCDHEC includes penalties in their enforcement actions at a rate that is almost 15% greater than the national average, assessing over \$2,000,000 in penalties. Based on the 20 compliance files reviewed during the audit, there were 4 facilities that did not have a violation during 2003, there was one 1 facility that had a violation which was not considered a HPV, and there were 15 facilities that had HPVs documented for 2003. Of the 15 HPV facilities, 1 was resolved using a “no penalty” compliance agreement, 5 were resolved with a consent order and an associated penalty, and 9 were either returned to compliance prior to any other action following an NOV or resolved with a “no further action” letter from SCDHEC. Of the 16 NOVs issued for the reviewed facilities, 6 of them resulted in consent orders with penalties. This is a penalty collection rate of 37.5% for issued NOVs. Of the 7 consent orders issued, 6 resulted in a collection of penalties. This is a consent order penalty collection rate of 85%. Based on the total number of consent orders issued, 85% is an acceptable rate for using penalties as an incentive for maintaining continuous compliance in formal enforcement actions.

For the universe of sources contained in AFS, of the 107 consent orders issued in FY03, 99 consent orders had penalties assessed by SCDHEC. This increases the penalty collection rate to 92.5%

Based on the compliance files reviewed for this audit, although the penalty calculations were not available, the penalties appear to be adequate for the violation. Additionally, for FY2004, SCDHEC collected the highest penalty assessment of any state within Region 4 with an amount of \$681,425.

SCDHEC has implemented a new penalty guidance document for 2004 that will be used to provide more consistency in their penalty assessments.

Recommendation(s): None

IV. Agreements

Element 9 Degree to which enforcement commitments in the PPA/PPG/ categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed.

The grant commitment is negotiated with SCDHEC each year and follows EPA headquarters' (HQ) guidance on the level of FCEs and the compliance commitments necessary for a state/local compliance program. EPA finds that the level of FCEs and the compliance commitments achieved by SCDHEC satisfies its grant requirements.

Recommendation(s): A review of the FY-1997 Compliance Assurance Agreement identified areas that need to be revisited. Some language in this document is inconsistent with current definitions and is in need of updating. In the years that this agreement has been in place however, it has been implemented in a manner that is consistent with national guidance and policies. This concern has been discussed with SCDHEC.

V. Data Integrity

Element 10. Degree to which the minimum data requirements are timely.

Based on the auditors' review of the selected compliance files, SCDHEC is determining whether a facility is a HPV in a timely manner and under current EPA guidance, the minimum data requirements are being entered in a timely fashion by SCDHEC.

Recommendation(s): None

Element 11 Degree to which the minimum data requirements are accurate.

SCDHEC is responding to all reported errors in a timely manner and based on the file review, the minimum data requirements are being entered into AFS and they are accurate to the actions and correspondence located in the enforcement/compliance files for each facility.

Recommendation(s): None

Element 12 Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.

There are currently (FY2004) 23 facilities with an unknown CMS status in AFS. SCDHEC believes that the number of unknown CMS status sources is due to a AFS data problem and is not related to the work that SCDHEC is performing. EPA has received an explanation for the unknown status of some of the 23 sources and SCDHEC will continue to resolve any unknown status codes and will continue to discuss the Title V universe of facilities with SCDHEC during its periodic conference calls and in correspondence.

Recommendation(s): None

Date of Review: October 12-14, 2004

Program Evaluated: Clean Water Act (CWA)

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Information Sources Included in Review:

The FY 2004 EPA Mid-Year Review of South Carolina Department of Health and Environmental Control (SCDHEC), the S.C. Enforcement Management Strategy, the EPA/S.C. Memorandum of Agreement (MOA), the S.C. State Program Profile, the 2003 S.C. NPDES Management Report, the S.C. §106 Work Plan, the S.C. Enforcement Files, the S.C. Inspection Plan, the S.C. Enforcement Strategy, Enforcement Management System (EMS) Penalty Assessment Guide, EMS Civil Penalty Calculation, EMS Timely and Appropriate Procedure Document, EMS Enforcement Escalation, EMS Administrative Process.

I. Introduction

The SCDHEC administers the NPDES program in South Carolina. SCDHEC's Office on Environmental Quality Control (OEQC) includes the Bureau of Water which provides program leadership. However, support services such as laboratory and facility inspections are provided by the Bureau of Environmental Services which consists of twelve field (district) offices as well as regional laboratories. Legal support for the program comes from the Office of General Counsel, which reports to SCDHEC's Commissioner.

The State identifies and addressed all violations using EPA criteria in program delegation documents and the MOA. The State maintains a current EMS that describes how and when the State will take action on violations. The EMS also addressed the level of enforcement that should be taken, including consideration of several factors (such as environmental and health impacts) related to violations.

The CWA portion of the evaluation involved the review of seventeen inspection/enforcement case files, primarily from federal fiscal year 2003. The files were selected randomly using the protocol outlined in the State Review Framework. EPA CWA enforcement staff, state program input, and PCS, were among the sources used in determining file selection. A proposed list of files for review was provided to SCDHEC for concurrence regarding appropriate representation of the CWA/NPDES program, and then utilized as the basis for the file review. The evaluation utilized EPA Headquarters' data pulls to provide national average and state specific information.

The information from the file reviews and data pulls were used to answer specific questions covering the twelve elements.

EPA Region 4 selected eleven major and six minor facilities for review. The selected files consisted of eight enforcement files and nine inspection only files.

II. Review of State Inspection Implementation

Element 1 Degree to which state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).

South Carolina conducts inspections in accordance with the Water Grant Commitment workplan (prepared under CWA §106), which incorporates the majors/minors/storm water strategy that allows trade-offs between major and minor facilities.

South Carolina has consistently performed well in meeting their inspection commitments in a timely manner. The §106 workplan states that SCDHEC is committed to conduct 75% of major municipal facilities, 50% of major industrial facilities, 15% of general permitted facilities, 15% of two industrial storm water sectors, and 50% of the construction general permit universe.

South Carolina has an acceptable alternative inspection strategy. According to the EPA HQ FY 2003 data metric, the SCDHEC CWA NPDES program has an above average record (91.4%), when compared to the national average (67%), for their inspection coverages for both major and minor facilities. The State inspected 90% of its major facilities in FY2003, which exceeds the national average of 69%. During FY2003, 68% of the inspections conducted by the State were at minor facilities, as compared with a national average of 77%.

South Carolina commits to a “facility evaluation” inspection for 25% of major municipals and 50% of the major industrial facilities. The state’s facility evaluation inspections have been considered the equivalent of EPA’s reconnaissance inspection; reconnaissance inspections are not considered “countable” inspections by headquarters. With respect to minor municipals and industrials, South Carolina has committed to inspecting (with compliance evaluation inspections (CEI) or compliance sampling inspections (CSI) all minors.)

Recommendation(s): None

Element 2 Degree to which inspection reports and compliance reviews document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.

The inspection reports varied in quality depending on the inspector, regarding detail of review and documentation. Most reports were comprehensive, including facility information and permit requirements. Approximately 95% of inspection reports reviewed were accurately documented

in the files. Two inspection reports reviewed, provided ratings to areas not evaluated by the SCDHEC inspector during the time of the inspection. Also, areas not evaluated during previous inspections should be a priority for review in the following inspection.

Recommendation(s): It is recommended that areas not evaluated during the inspection should not be rated in the inspection report. Areas not evaluated during previous inspections should be evaluated in the following inspection.

Element 3 Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

The evaluation, identification of violations and development and distribution of inspection reports were all performed in a timely manner. Inspection reports for both major and minor facilities were reviewed. 100% of inspection reports reviewed with findings documented were completed in a timely manner.

Recommendation(s): None

III. Enforcement

Element 4 Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely and accurate manner.

South Carolina accomplished enforcement through a division of work between the compliance section and the enforcement section. The compliance section refers violators to the enforcement section for formal enforcement action, as necessary. The State's Enforcement Referral Procedures Document (part of the EMS) includes guidelines for the triggers and timeliness of enforcement referrals. The guidance states that NPDES facilities meeting the definition of significant noncompliance are always referred for formal enforcement action; there are numerous other criteria for referral of other violators. When a violator is referred for enforcement, the enforcement project manager adheres to the written Enforcement Action Time Line and Procedure Document (part of the EMS) for guidance in appropriate next steps and time frames for accomplishing each step.

The Management Report, based on PCS data as of June 12, 2004, indicates 86 formal enforcement action were taken against facilities in FY2003 (from October 1, 2002, through September 30, 2003). South Carolina provided information that a total of \$679,440.19 was collected in penalties. The State issued 102 orders with \$1,190,050 in penalties assessed, from October 1, 2003, through July 9, 2004. South Carolina's percentage of instances of significant noncompliance that have returned to compliance without formal enforcement action is 76% for FY2003, compared with the national average of 71%.

EPA's trend data indicate that the State of South Carolina's percentage of major facilities in

significant noncompliance is below the national average of 21%, and has increased from 9% in FY2002 to 10% as of July 8, 2004. South Carolina is commended for this low rate of significant noncompliance. The EPA Management Report indicated that South Carolina's average of significant noncompliance addressed by formal enforcement action is 18%, compared with the national average of 14%.

South Carolina enters all effluent data in a timely manner. PCS automatically flags SNC based upon the Discharge Monitoring Reports and other reports.

Recommendation(s): None

Element 5 Degree to which state enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.

As a result of a noncompliance determination from an inspection, no follow up enforcement action examples were available for review. Injunctive relief has been used to require the permittee to submit a summary of corrective action taken to return the facility back into compliance. No other enforcement action (either formal or informal) was pursued due to documented violations at the time of an inspection.

As a result of effluent violation determination, injunctive relief has been used to require the permittee to submit a summary of corrective actions taken to return the facility back into compliance within a specified period of time, to pay a civil penalty, submit progress reports, submit requests for expansions, etc.

SC utilizes informal enforcement actions (letter of violations) and meetings with the permittee as alternate methods for returning sources to compliance. SC sends a copy of the inspection report to the permittee which outlines deficiencies and areas of noncompliance, if applicable. The permittee is requested to respond within a certain stated time frame addressing the deficiencies and violations with any corrective actions performed or planned. Sometimes this may be enough to determine and ensure compliance. Letters of Violation (LOVs) have been used as an informal enforcement action in returning a facility back to compliance. In the event that the permittee is a chronic violator or when LOVs have not proven to be effective, formal enforcement action has been pursued in the form of an Administrative Consent Order (ACO).

All enforcement files reviewed contained a reasonable compliance schedule of required actions or activities designed to return the source to compliance (either injunctive relief or other complying actions). Approximately 75% of informal enforcement responses reviewed returned the sources to compliance.

Recommendation(s): None

Element 6 Degree to which state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.

If the result of a facility inspection is determined to be “unsatisfactory” due to numerous deficiencies or instances of noncompliance with the pre-treatment regulations, and a response to the inspection report is received outlining the corrective actions taken, an inspector conducts a technical assistance visit to evaluate improvements made. A checklist is used to document this follow up visit and is kept in the pre-treatment files. Pre-treatment files were not reviewed at the time of the on-site file review.

An overall “noncompliance” rating for an inspection may or may not warrant a follow up inspection depending on the response from the permittee.

Guidance calls for enforcement action before two quarters of QNCR effluent violations at the same pipe, for the same parameter. The number of facilities without timely action should not exceed 2% of the active major universe throughout the fiscal year, South Carolina is at 3.5% (using the Watchlist to measure this).

Recommendation(s): South Carolina is encouraged to continue to utilize the Watchlist as an enforcement tool and to address violations with timely and appropriate actions.

Element 7 Degree to which a state includes both gravity and economic benefit calculations for all penalties, using the BEN model or similar state model (where in use and consistent with national policy).

South Carolina’s Penalty Assessment Guide (part of the EMS) includes a detailed description of civil penalty calculations. The Penalty Assessment Guide notes that the economic benefit calculation can only be done using reasonable capital and operational cost estimated assuming that any of the following would have allowed the responsible party to achieve compliance with the applicable regulations:

1. Installation/proper maintenance/licensing of the required equipment or personnel
2. Proper installation/construction
3. Appropriate sampling
4. Site remediation/protection/registration

Based on these written criteria, EPA Region 4 estimated that 1% or less of the South Carolina cases include an economic benefit calculation. This was reflected during the onsite file review. Penalty calculation worksheets evaluated during the on-site file review only took into consideration the gravity component, not economic benefit, as part of the settlement action. The gravity component for each violation uses the state “Penalty Assessment Guide” and “Penalty Matrix.” South Carolina explained that when data is available to support an economic benefit calculation, economic benefit is taken into consideration.

Recommendation(s):

- Not all of the enforcement files reviewed had the penalty worksheet included. It is recommended that the penalty rationale be kept in the enforcement file and available for review at all times. The penalty worksheets should also be dated with appropriate ACO identifier to distinguish between final and draft penalty calculations, as well as multiple enforcement actions that may be in the same file.
- When South Carolina determines that an action does or does not warrant a penalty, documentation of the decision and rationale for the decision should be included in the case file.
- Region 4 has discussed this issue with SCDHEC and as a result of that discussion SCDHEC has committed to reviewing their position on penalty documentation and considering the implementation of a policy that would include all penalty support documentation in the case file, consistent with EPA guidance.

Element 8 Degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty.

Per the South Carolina Bureau of Water Penalty Assessment Guide, the Civil Penalty is calculated as follows:

Civil Penalty = Economic Benefit + Total Gravity Component + Recalcitrance/Multiple Factor + Violation Reoccurrence Factor + - additional adjustment factor (degree of cooperation, measures taken to prevent reoccurrence, ability to pay)

Approximately 60% of formal enforcement actions normally include penalties. No examples of economic benefit were observed in the file review being incorporated in enforcement settlements penalty calculations.

Recommendation(s): It is encouraged that, whenever possible, economic benefit be included as a key factor when determining penalty amounts as mentioned in the Assessment Guide calculation (above).

IV. Agreements

Element 9 Degree to which enforcement commitments in the PPA/PPG/categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed.

EPA does not have a PPA with South Carolina. SCDHEC has met or exceeded all the enforcement requirements of their §106 grant, workplan and Enforcement Management System.

Recommendation(s): None

V. Data Integrity

Element 10 Degree to which the minimum data requirements are timely.

South Carolina does not use PCS to manage its NPDES program. The State relies on a FoxPro system of its own design and is developing an Oracle-based system that will serve all the State's environmental programs. The design of the FoxPro system mirrors PCS in terms of tables and data elements named. Data from the FoxPro system is uploaded to PCS through a batch process twice weekly. Edit and update audit reports from PCS uploads are checked to verify acceptance of transferred data, and necessary corrections are made to the uploaded data or directly in PCS to ensure that the data in the two systems match.

South Carolina has consistently maintained good timeliness in data entry. All minimum data elements are properly tracked and entered in PCS. There were a couple of occasions where data in PCS did not match the state data base information on inspection and/or enforcement actions taken. Any and all discrepancies discovered during the file review have been reconciled.

Recommendation(s): None

Element 11 Degree to which the minimum data requirements are accurate.

South Carolina has consistently maintained high accuracy in data entry. All minimum data elements are properly tracked and entered in PCS.

Recommendation(s): None

Element 12 Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.

South Carolina has consistently maintained all the required data requirements. South Carolina has maintained a 100% DMR entry for both major and minor facilities.

Recommendation(s): None

Date of Review: 10/25-26/04

Program Evaluated: RCRA

File Selectors and Reviewers:

EPA Evaluator: Larry Lamberth

Phone: (404) 562-8590

State Contact: Cheryl Coleman

Phone: (803) 896-4135

Information Sources Included in the RCRA Review: S.C. Draft HW Grant Agreement, S.C. FY-03 End-of-Year Report, the S.C. enforcement files, the Enforcement Response Policy (ERP), and S.C. MOA.

I. Introduction

The RCRA portion of this report entailed a review of files identified and selected using the protocol from the State Review Framework for evaluation. The files were selected randomly, submitted to SCDHEC for concurrence regarding representativeness of the RCRA program, and then utilized as part of the RCRA program evaluation. The Region asked for SCDHEC concurrence to ensure that the files represented a fair snapshot of the RCRA program and SCDHEC concurred that the selected files were representative of the RCRA programs efforts, therefore the original list of files identified by the Region were reviewed and evaluated. The selection resulted in twelve (12) Significant Noncomplier (SNC) files where enforcement was taken and seven (7) Secondary Violator (SV) files.

II. Review of Inspection Implementation

Element 1 Degree to which state program has completed the universe of planned inspections/evaluations (covering core requirements and federal, state, and regional priorities).

SCDHEC has performed exceptionally well in completing their universe of planned inspections and evaluations in a timely manner, exceeding their commitments and exceeding the OECA provided national average data metrics across the board. The inspection files were complete and provided good documentation of the inspector's findings.

Recommendation(s): None

Element 2 Degree to which inspection reports and compliance reviews document inspection findings, including accurate descriptions of what was observed to sufficiently identify violations.

SCDHEC produces some of the most comprehensive reports in Region 4. The reports include a

detailed facility and process description as well as pertinent facility information, descriptions of regulated units, and applicable regulatory requirements. Of the eighteen inspection files reviewed, only one did not have an inspection report. This inspection was the result of a citizen complaint. The findings of the inspection were documented in a Notice of Violation.

SCDHEC inspection reports include photographs and other operating conditions, or attached documentation demonstrating non-compliance. In addition to the report, some of the inspection reports have an attached generator or TSD standard inspection checklist.

Recommendation(s): None

Element 3 Degree to which inspection reports are completed in a timely manner, including timely identification of violations.

The inspection reports reviewed were completed and mailed to the facility within 30 days of the inspection. Based on the file review, SCDHEC makes the proper regulatory determination prior to the issuance of the report. Those findings are documented in the inspection reports.

Of the inspection reports reviewed, 100% were completed and mailed to the facility within 30 days. SCDHEC should be commended on the timeliness of the completion and mailing of the inspection reports.

Recommendation(s): None

III. Enforcement

Element 4 Degree to which significant violations (e.g., significant noncompliance and high priority violations) and supporting information are accurately identified and reported to EPA national databases in a timely and accurate manner.

The State does not submit significant violators to EPA. However, EPA tracks all SNCs identified in the state. Monthly conference calls are conducted with the state to discuss the status of each SNC case. EPA uses these calls, in addition to RCRA Info., to assure that the state is performing timely and appropriate enforcement. Based on the file review conducted, the state is properly and accurately reporting significant violations to EPA through the RCRA Info database.

Recommendation(s): None

Element 5 Degree to which state enforcement actions include required injunctive relief (corrective or complying actions) that will return facilities to compliance in a specific time frame.

It was determined from a review of the data metrics and the selected RCRA files that SCDHEC enforcement actions contain an adequate penalty and steps to return source to compliance. The

State uses NOVs for minor violations and conducts a follow-up on-site visit to confirm compliance. SCDHEC uses EPA's RCRA Enforcement Policy (ERP) to differentiate SV and SNC violators. SCDHEC uses follow-up inspections, within 45 days, to confirm that a facility has returned to compliance. For a SNC, where a formal enforcement has occurred, SCHEC uses a certification by the company in the complaint to return the facility to compliance within the said time-frame.

Recommendation(s): None

Element 6 Degree to which a state takes timely and appropriate enforcement actions, in accordance with policy relating to specific media.

The state follows the time-lines established EPA's RCRA Enforcement Response Policy (ERP). Based on the file review conducted, and the results of the monthly enforcement conference calls, SCDHEC takes timely and appropriate enforcement actions against those facilities identified as SNCs. For the files reviewed, SCDHEC took timely and appropriate enforcement actions 92% of the time. SCDHEC properly resolved 100% of the SVs and SNCs identified during the file review.

The enforcement actions initiated by SCDHEC appeared appropriate. However, SCDHEC does not keep penalty calculations. Therefore a complete analysis for determining the appropriateness of the penalty could not be conducted. During FY2003, the State issued 28 Administrative Orders, Consent Orders, Corrective Action Orders, and Administrative Law Judge Orders assessing \$241,200 in civil penalties. In this same period, the State collected \$220,082.

Recommendation(s): None

Element 7 Degree to which a state includes both gravity and economic benefit calculations for all penalties, using the BEN model or similar state model (where in use and consistent with national policy).

The State does not keep records of the penalty calculations in the file once the case is settled. They do consider economic benefit.

Presently, consistency among the staff in applying the penalty policy is achieved through staff meetings to discuss each enforcement action, the violations cited, and the appropriate penalty which should be assessed for each violation. Region 4 supports the State's efforts to achieve consistent penalty assessments through the use of staff meetings.

In certain instances, the State suspends all or defers payment of a portion of the penalty in the interest of applying a particular facility's limited funds towards necessary remediation, which will bring the facility back into compliance. Region 4 recognizes that the penalties achieved in the RCRA orders are a final product of negotiation, whereas the initial assessed penalties may have been higher before all the facts of the case were known.

Recommendation(s): Region 4 has discussed this issue with SCDHEC and as a result of that discussion SCDHEC has committed to reviewing their position on penalty documentation and considering the implementation of a policy that would include all penalty support documentation in the case file, consistent with EPA guidance.

Element 8 Degree to which final enforcement actions (settlements or judicial results) collect appropriate (i.e., litigation risk, ability to pay, SEPs, injunctive relief) economic benefit and gravity portions of a penalty.

Based on the files reviewed, it appears that the state is collecting the appropriate penalties. During EPA's previous annual review, all of the state's enforcement cases are reviewed for the appropriateness of penalties. A review of the data metrics indicated that SCDHEC included penalties in formal enforcement actions 89% of the time, almost twice the national average.

The State declares that it adheres to the RCRA Penalty Policy as prescribed in the MOA, and Region 4 generally agrees that the State is implementing the Civil Penalty Policy in a consistent and appropriate manner. The State has shared penalty calculations with EPA verbally upon request.

Although documentation is not maintained, the State does take into consideration economic benefit and ability to pay. The state does use EPA's Ben model, but BEN calculation documentation is not maintained. The State is currently considering maintaining such documentation.

Recommendation(s): None

IV. Agreements

Element 9 Degree to which enforcement commitments in the PPA/PPG/ categorical grants (written agreements to deliver a product/project at a specified time) are met and any products or projects are completed.

The RCRA Grant requires inspections and enforcement commitments. SCDHEC has consistently met these requirements. EPA reviews inspection and enforcement data annually. In addition, EPA and SCDHEC have monthly conference calls to discuss ongoing cases.

Recommendation(s): None

V. Data Integrity

Element 10 Degree to which the minimum data requirements are timely.

SCDHEC has excellent data maintenance and consistently maintains one of the highest quality RCRA Info. data bases in the region.

Recommendation(s): None

Element 11 Degree to which the minimum data requirements are accurate.

Region 4 and SCDHEC have diligently worked to ensure that all violations are properly closed in RCRAInfo as evidenced by the OECA data metrics indicating zero for facilities in violation greater than three years.

Recommendation(s): None

Element 12 Degree to which the minimum data requirements are complete, unless otherwise negotiated by the region and state or prescribed by a national initiative.

Penalty data is not maintained (economic benefit and penalty calculations) in files once the SCDHEC completes the settlement of a penalty. The state has agreed to review its policy, their intent being to modify their policy to be consistent with EPA's policy.

Recommendation(s): None

III. Element 13 – Compliance Assistance and Innovative Projects for SCDHEC

Introduction

Element 13 of the Enforcement and Compliance Review Framework is an optional reporting component for a state's compliance assistance and innovations activities. South Carolina has elected to complete Element 13 to highlight specific program activities and to generally describe the efforts being made to strengthen and coordinate its compliance assistance activities and innovations efforts.

This report is divided into the following sections:

- Section 1. Organization of Compliance Assistance and Innovations within EQC
- Section 2. Program Activities for Fiscal Year 2003 (CAA, CWA, RCRA)
- Section 3. Multi-media or other EQC-sponsored activities
- Section 4. Innovative Approaches

For specific compliance assistance activities, information reported includes: issue addressed; project period; target audience; compliance assistance approach; measurement tool used; project results; project partners; and funding.

Section 1. Organization of Compliance Assistance and Innovations within EQC.

EQC regulatory responsibilities are carried out through four bureaus: Air Quality; Water; Land and Waste Management; and Environmental Services. The Bureaus of Air Quality, Water, and Land and Waste Management each have responsibilities that include compliance monitoring, compliance assurance, and compliance assistance. Compliance assistance is also provided through EQC's 12 district offices under the Bureau of Environmental Services.

Support to the bureaus is provided through EQC Administration. In January 2003, EQC Administration was reorganized, in part, to strengthen the links between compliance assistance and enforcement and to better coordinate compliance assistance activities throughout EQC. This reorganization also brought into the compliance assistance effort the Center for Waste Minimization, the agency's non-regulatory, pollution prevention technical assistance office. Subsequent to the reorganization, a Compliance Committee was created. This committee meets on a monthly basis, and is comprised of staff from all four bureaus. It is responsible for coordinating compliance assistance activities, and for identifying priorities based on enforcement trends and other needs as identified by EQC management and program staff.

Responsibility for coordinating EQC's innovations efforts also rests within EQC Administration. Section 4 includes a description of the SC Environmental Innovations Pilot program.

Section 2. Program Activities for Fiscal Year 2003.

1. Clean Air Act (major stationary sources)

As part of its annual work plan, the Bureau of Air Quality submits quarterly reports to EPA on its compliance assistance activities. These reports encompass the following programs: Source Evaluation; Air Toxics; Asbestos; Air Planning, Development and Outreach; Technical

Management; and Permitting. Reported activities are not divided between major and non-major sources, however. While the quarterly reports are available for review, the following is a brief summary of the reported activities within each of the programs reporting for FY03.

- (a) Source Evaluation: Reported activities for the Source Evaluation Section includes two activities: (1) notifications of periodic retests; and (2) site-specific test plan checklist mailings. During FY03, 95 notifications were sent, and approximately 37 checklist mailings were completed.
- (b) Air Toxics: Reported activities for the Air Toxics Section include: (1) outreach packages were sent to facilities potentially subject to recently promulgated MACT standards. The packets included a summary of requirements, fact sheet, copy of the regulations, and important dates and contacts. In FY03, a total of 135 facilities received packages regarding 11 MACT standards. (2) 31 compliance assistance inspections or meetings with facilities subject to different MACT categories were held during FY03. (3) 38 wastewater treatment plants and drinking water treatment plants received 112(r) compliance assistance inspections, an ongoing initiative for municipalities and small treatment plant operators. (4) The Section hosted a seminar called "Site Security, Vulnerability Assessments and Emergency Response Coordination," at which approximately 100 people attended. The Section also participated in the small specialty chemical company compliance assistance regional workshops, and presented at the SWANA Conference in Savannah, Georgia to landfill owners on the MSW Landfill MACT. (5) ongoing compliance assistance activities include distributing brochures, guidance documents, and flow charts, and updating and maintaining the web page.
- (c) Asbestos: In addition to updating and maintaining the web page, the Asbestos Section routinely responds to information requests from the regulated community regarding asbestos-related issues, and performs consultations and on-site determinations prior to renovation and demolition activities. The Section also conducted numerous workshop presentations for local government officials (see Section 3, Item 4 of this report).
- (d) Air Planning, Development and Outreach: Reported activities for this division include mailings related to the development of regulations. For FY03, mailings were performed for nine regulations in various stages of the administrative review process for regulations.
- (e) Technical Management: In FY03, the Technical Management Section mailed informational packets to all Title V facilities concerning the revision of the Title V Annual Compliance Certification Form (TVACC) to a "long form" type format. In conjunction with this change, three workshops around the state to train Title V facilities concerning the TVACC form were held with a total of 190 people in attendance. 30 people attended a presentation to the Greenville Chamber of Commerce on this issue.
- (f) Permitting: Compliance assistance activities reported by the Permitting Division including (1) 301 mailings of notices of permits due to expire, and (2) mailing of TVACC forms.

2. Clean Water Act (NPDES)

Unlike Air Quality and Hazardous Waste, the NPDES program does not have a reporting requirement for compliance assistance activities. Compliance assistance is provided by the

Compliance Assurance Division through the Pollution Source Compliance Section. In FY03, the Section assisted in developing and presenting the NPDES portion of the regional workshops for small specialty chemical companies (see Section 3, Item 3 of this report). Staff also participated as project team members for the specialty chemical company site visits. NPDES permit compliance information is maintained on the Bureau of Water's web page.

3. RCRA (hazardous waste)

In its annual work plan with EPA, the Hazardous Waste program is required to "achieve continuous improvement and reduce non-compliance with environmental laws and regulations through coordinated inspection activities, compliance assistance and enforcement activities." In FY03, the Hazardous Waste program reported 80 compliance assistance visits (CAVs). When an EPA Identification Number is assigned to a handler, the district inspector personally delivers the Hazardous Waste Reporting forms to the handler. This initial visit allows the handler to meet the inspector, and to ask questions regarding hazardous waste management activities. This is also the opportunity for the district inspector to offer compliance assistance regarding hazardous waste management.

During FY03, the Hazardous Waste program participated in a number of seminars and workshops. Staff designed and presented the hazardous waste portion of the Small Specialty Chemical Company workshops that were held in three locations between September and October 2003 with a total attendance of 61. In addition, staff assisted in the preparation of the hazardous waste portion of the *Chemical Industry Sector Notebook*, and site visit checklist used by the cross-media teams to conduct site visits at small chemical specialty companies. Staff also participated as site visit team members, conducting a number of the small specialty chemical company site visits and follow-up. Hazardous waste staff made hazardous waste presentations to Wofford College and to the Sumter Chamber of Commerce with a total attendance of 40.

Section 3. Multi-media or other EQC-sponsored activities for Fiscal Year 2003.

1. Environmental Circuit Rider Program.

- A. Issue Addressed: Small municipalities in South Carolina do not have the resources or the expertise to understand and meet a myriad of environmental requirements. Of the 269 incorporated municipalities in the state, 211 have less than 5000 in population. Many of these municipalities repeatedly find themselves in enforcement for non-compliance with regulatory requirements, particularly in the drinking water and wastewater programs.
- B. Project Period: For Pee Dee EQC District, October 2001 – September 2002; Continuation of program into Upper Savannah EQC District from May 2003 through September 2003.
- C. Target Audience: Small municipalities (< 15,000 population) in the Pee Dee and Upper Savannah EQC districts. A total of 48 municipalities participated in the project.
- D. Compliance Assistance Approach: A "circuit rider" for each district conducted on-site technical assistance visits with the municipalities using a multi-media checklist developed for the project.
- E. Measurement Tool: Follow-up site visits and written follow-up surveys. In the Pee Dee, 14 of the 32 municipalities initially visited received a follow-up visit. 17 of the 32

municipalities completed the surveys (53%). In Upper Savannah, 5 of the 16 municipalities completed the surveys (31%). Questions on the survey measured (1) changes in awareness/understanding of regulatory requirements, (2) changes in behavior, and (3) pollutant reductions. The key indicator for the project, however, was positive (or negative) overall compliance rates for participating municipalities.

- F. **Project Results:** Project results indicate a greater awareness and understanding of the regulatory requirements and very positive response to the circuit rider concept. However, compliance rates since the completion of the project have not shown an overall reduction in enforcement activity for these small municipalities. There is a clear need to continue to identify ways to work with small municipalities on compliance issues.
- G. **Project Partners:** The Municipal Association of SC, and met with the SC private water and wastewater technical assistance providers about the project.
- H. **Funding:** For the Pee Dee EQC district project, a one-year \$50,000 Regional Compliance Assistance grant from EPA's Office of Enforcement and Compliance Assurance. For the Upper Savannah EQC district project, carry-forward PPIS funds from EPA Region 4's Pollution Prevention Office.

2. *Senior Environment Corps.*

- A. **Issue Addressed:** Volunteer, community-based initiative to use seniors to promote pollution prevention, resource conservation, and environmental awareness.
- B. **Project Period:** May 2003 through September 2003.
- C. **Target Audience:** Senior volunteers in the Greenwood, SC community in the Upper Savannah EQC District.
- D. **Compliance Assistance Approach:** Community-based effort to involve seniors in promoting environmental conservation and pollution prevention.
- E. **Measurement Tool:** Potential pollutant reductions from project(s) selected by the Senior Environment Corps.
- F. **Project Results:** Volunteer seniors organized, and project selected (storm drain stenciling in the City of Greenwood in the neighborhoods around Lander University).
- G. **Project Partners:** The Upper Savannah Council of Governments; EQC contracted with the COG to organize and develop a plan for this project.
- H. **Funding:** Carry-forward PPIS funds from EPA Region 4's Pollution Prevention Office.

3. *Chemical Industry Sector Compliance Assistance Initiative.*

- A. **Issue Addressed:** Historical and highly publicized environmental incidents involving small specialty chemical companies; identified need by EQC management.
- B. **Project Period:** January 2003 through October 2004.
- C. **Target Audience:** Small specialty chemical companies (companies in 2800 SIC with <200 employees for the workshop phase; companies in 2800 SIC with <50 employees for the site visit phase).
- D. **Compliance Assistance Approach:** The first phase of the project consisted of three, regional one-day workshops covering issues in land, air and water. The second phase consisted of on-site compliance assistance visits with follow-up visits/contact as needed.
- E. **Measurement Tool(s):** For the workshops, pre- and post-test evaluations were used to

measure (1) changes awareness/understanding, and (2) planned changes in behavior (management or operational practices). A six-month written follow-up survey was mailed to participants to measure (2) changes in behavior, and (3) pollutant reductions. For the site visits, documentation included a site visit evaluation form completed by the site visit team; the form was a modified version of EPA's Compliance Assistance Conclusion Data Sheet (CACDS) for Compliance Assistance Facility Visits. Letters sent to facilities receiving site visits also documented compliance issues, and specific steps required (e.g. need to apply for a permit) to maintain or return to compliance.

F. Project Results: 61 attendees representing 43 facilities participated in the Phase 1 workshops. This represented about 18% of the invited facilities. Analysis of the evaluations indicated positive changes in attendees' awareness and understanding of the regulations covered during the workshops with the largest increases in the air and hazardous waste regulation sections. In response to questions concerning planned changes in behavior, respondents indicated changes in storage or handling of material, plans to conduct self-audits, and the need to contact the district offices for additional information. 89% of the respondents rated the workshop as either "excellent" or "good." The six-month written follow-up surveys have not yet been analyzed. 27 site visits were conducted as part of Phase 2 (about 20% of the identified facilities meeting the criteria for a site visit). Project teams consisting of 2-3 staff from different media programs completed site visits. Prior to the site visit, a General Facility Information Sheet was sent to the facility to obtain information about specific regulatory concerns. At the site visit, specially prepared compliance assistance packets were distributed, including a *Chemical Industry Sector Notebook* developed specifically for this project. Site visit evaluation forms were completed by the team, and follow-up letters indicating compliance issues and providing a period of time to correct them were sent. An Access database was created to input data from the site visits, and the analysis of this data is ongoing.

Project Partners: EPA Region 4 and the University of South Carolina. Meetings were held with the SC Manufacturers Alliance, but the organization did not participate in the project.

G. Funding: Cross-media staff from EQC's compliance and enforcement programs volunteered their time to serve as presenters at the workshops and to conduct the site visits. EPA Region 4 served as a co-sponsor of the workshops, and provided funds for facility rental at one location (\$150.00). The University of South Carolina's Institute for Public Service and Policy Research's Environmental Research and Service unit received a PPG supplemental grant from EPA Region 4 through EQC's Center for Waste Minimization to develop the Chemical Industry Sector Notebook, provide assistance with organizing and conducting the workshops, and to provide data analysis on project results.

4. Asbestos Workshops for Local Government Officials.

- A. Issue Addressed: Lack of knowledge/understanding of existing asbestos renovation and demolition regulations by local building officials.
- B. Project Period: January 2003 through September 2004.
- C. Target Audience: Local government officials in SC (mayors, city and county administrators, city and county council chairmen, building officials). 95 local officials

attended the workshops.

- D. Compliance Assistance Approach: Series of 9 local workshop presentations across the state. Formal presentation lasted 30 minutes, followed by general questions and answer. Average length of workshops was 2-2 1/2 hours. Guidance documents, copies of the regulations, notification forms, etc. were distributed to participants.
- E. Measurement Tool: Workshop evaluations. 31 evaluations were completed (32%).
- F. Project Results: Small, informal local presentations proved to be very advantageous for this audience. Eliminated need to travel to Columbia, and did not take up the official's entire day. 97% of the evaluation respondents stated that the materials helped them to understand state and federal asbestos requirements. 100% of the respondents said they would recommend this workshop to others.
- G. Project Partners: The Regional Councils of Government (COGs) and EQC district offices. Workshops were held at the COG offices since most local officials were familiar with the COGs. The COGS were instrumental in helping to gather mailing lists, and in getting the word out about the workshops.
- H. Funding: The Section Manager for the Asbestos program conducted the workshops; the COG offices provided the facilities; no additional funding was obtained for this project.

5. Colleges and Universities Compliance Assistance Conference.

- A. Issue Addressed: Identified sector through EPA's Sector Strategies Initiative and historical enforcement trends involving universities indicated need for training.
- B. Project Period: May 2003 through January 2004.
- C. Target Audience: Colleges and universities in South Carolina
- D. Compliance Assistance Approach: 2-day conference held in Columbia, SC
- E. Measurement Tool: Pre-conference e-mail survey to colleges and universities asking them for choices of environmental topics from a prepared list. Pre- and post-conference evaluation surveys.
- F. Project Results: 65 attendees representing 27 colleges and universities in SC attended along with five from universities in Georgia, and three from universities in North Carolina. Total attendance, including speakers and exhibitors, was 89.
- G. Project Partners: Sustainable Universities Initiative (consortium of SC colleges and universities) and EPA Region 4.
- H. Funding: EPA Region 4, for facility rental; Sustainable Universities for speakers, travel, and materials.

Section 4. Innovative Approaches.

1. South Carolina Environmental Innovations Pilot program.

In June 2002, the SC General Assembly enacted legislation creating a pilot program designed to allow participating facilities to test and demonstrate alternative environmental approaches. Up to 10 facilities may participate in the program, and eligibility to participate is based on a facility either being a member, or meeting the criteria to be a member, of the SC Environmental Excellence program. The participating facility and SCDHEC enter into an enforceable cooperative agreement that allows the facility to undertake environmental improvements that

may not be authorized under existing laws or regulations. In return, the facility must show greater pollutant reductions, administrative cost-savings or reduction for both the agency and the facility, or energy and/or resource conservation results. The first cooperative agreement was finalized in March 2004, and the 2nd cooperative agreement is currently in negotiations. Two additional facilities have expressed interest in the program. Agreements must be finalized by June 2007.

Conclusion.

In June 2003 the EQC Compliance Committee distributed a written survey questionnaire to EQC central office and district staff to: (1) inventory ongoing compliance assistance activities within EQC; (2) identify organizational structures, programs, and staff involved in providing compliance assistance; (3) to determine how EQC staff define compliance assistance, and (4) to highlight specific compliance activities conducted during 2002. As evidenced from the survey responses, EQC staff strongly believes that compliance assistance is an integral part of their daily responsibilities. Also evident from the responses was the need to clarify what “compliance assistance” encompasses, who performs these functions within the organization, and how the availability of these services is communicated to the regulated community. EQC is working on standardizing the definition of compliance assistance and developing a compliance assistance web page as a single point of entry for the regulated community trying to navigate through the numerous programs and services provided by the agency. These activities are part of a larger effort to strengthen and coordinate compliance assistance activities within EQC, and to better define the role this assistance plays in the agency’s overall compliance and enforcement responsibilities.