



**Puerto Rico Department of Labor
Puerto Rico Occupational Safety and Health
Administration**

***Federal Annual Monitoring Evaluation (FAME) Report
October 1, 2010- September 30, 2011***

**U.S. Department of Labor
Occupational Safety and Health Administration
Region II New York**

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I. EXECUTIVE SUMMARY

A. Summary of the report

The purpose of this report is to assess the State's progress related to enforcement activities and progress towards achieving their annual performance goals established in their Fiscal Year (FY) 2011 Annual Performance Plan, and to review the effectiveness of the programmatic areas related to enforcement activities. This report incorporated the findings of the 2009 Enhanced# Federal Annual Monitoring Evaluation (EFAME) and 2010 FAME evaluation for the State's 23(g) program. The 2010 FAME report focused on recommendations from the 2009 EFAME and noted that the Puerto Rico Occupational Safety and Health Administration (PR OSHA) adequately addressed the items found in 2009.

Federal OSHA selected a total of 84 case files for evaluation as follows: 10 Non-Formal Complaints (6 safety and 4 health), 52 Enforcement (31 safety including 3 fatalities and 21 health), 5 Consultation case files (2 safety, 2 health and 1 safety/health), 1 SHARP (safety/health), 1 VPP, 1 Alliance and 14 Discrimination investigation case files.

Puerto Rico OSHA (PR OSHA) continues to have a significant enforcement presence in the workplace through its inspection activity. For FY 2011, PR OSHA projected conducting 1,510 inspections. The total number of inspections conducted during FY 2011 was above the projected number by 72 inspections. PR OSHA actually conducted a total of 1,582 inspections as follows: 1,177 safety inspections (945 in the private sector and 232 in the public sector). As for health inspections, PR OSHA conducted 405 inspections (201 in the private sector and 204 in the public sector). Even though PR OSHA conducted more inspections in FY 2011 than projected, compliance staffing levels ended the year being below allocated levels. Much of the loss of positions is attributable to an unexpected increase in staff retirements. PR OSHA is taking steps to fill these vacancies.

Puerto Rico operates an acceptable Whistleblower Program. Policies and procedures are equivalent to those of federal OSHA. All of the whistleblower files reviewed were well organized. Determinations were reached based on evidence developed and maintained in each of the fourteen case files examined and timeliness of the program is very effective. Complainants in each case were advised of each determination reached and pertinent appeal rights. Data entries were made in an accurate and timely manner.

Federal on site monitoring of PR OSHA enforcement and consultation case files identified some areas in need of improvement. While there were some findings found during this FAME study related to enforcement case file preparation and hazard abatement documentation, the findings were not indicative of a systematic deficiency. Most issues concerned safety cases. Challenges identified included citing correct standards, documenting penalty calculation, failure to cite violations, documenting employee involvement and union participation, timely abatement in the public sector, and conducting "on the job" evaluations for consultants. Citation lapse time remained an issue but improvement was noted. Examples of other improvements included documentation of Next of Kin letters in fatality cases, and significant progress in the percent of serious hazards verified as corrected in public sector consultation. There were 7 recommendations, and no repeat recommendations.

PR OSHA's Strategic Plan for FY 2011 consisted of two broad strategic goals, each with supplemental performance goals.

PR OSHA's Strategic Goal #1 aimed to improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities. PR OSHA targeted five high-hazard industries aimed at reducing injuries and illnesses by 1% per year for 5 years. The targeted industries included: The Printing, Publishing and Allied Industries (goal 1.1.1A); Metal Doors and Windows (goal 1.1.1B); Warehousing and Storage (goal 1.1.1C); and Water Treatment Plants (Goal 1.1.1D). In addition, (Goal 1.1.2) focused on reducing the construction fatality rate by focusing on the four leading causes of fatalities in the construction industry (caught in-between, falls, struck by and electrical hazards).

PR OSHA met the goal for the Warehousing and Storage industry (goal 1.1.1C) and exceeded goals for the Metal Doors and Windows (goal 1.1.1B) industry. Injury and illness rates have decreased compared to the baselines established for each industry. For the Printing, Publishing and Allied Industries (goal 1.1.1A) the goal was not met; also data was not available to evaluate the Water Treatment Plants (Goal 1.1.1D) industry. In the construction industry, fatality rates were reduced by 70% compared to the baseline established in 2006.

PR OSHA's Strategic Goal #2 aimed to: Change workplace culture to increase employer and worker awareness of, commitment to, and involvement in safety and health. This goal included seven performance sub-goals; five sub-goals were met (2.2.2A-2.2.2D; 2.3.1), and two were exceeded 2.1.1A and 2.1.1B).

Performance Goal 2.1.1A aimed to increase by 50% the number of targeted employers in general industry that have either implemented an effective safety and health program or improved their existing program after an enforcement inspection. The goal was exceeded by 8.0%.

Performance goal 2.1.1B aimed to achieve an 85% rate of targeted employers in general industry that have implemented an effective safety and health program or improved their existing program after a comprehensive consultation visit. This goal was exceeded by 5%.

Performance Goal 2.2.2A-2.2.2D aimed to: Provide training to employers and workers on the skills necessary for effective worker involvement in safety and health matters for: 75% of employers inspected or provided consultations under goal #1. This goal was met (100% provided training) for all four industries: Printing, Publishing and Allied Industries, Water Treatment Industry, Metal Doors and Windows Industry and the Warehousing and Storage Industries.

Performance Goal 2.3.1 aimed to: Provide training and/or occupational safety and health reference materials to 100% of private workplaces identified as Hardware Stores. This goal was met.

B. State Plan Introduction

The Puerto Rico Occupational Safety and Health Administration (PR OSHA) administers the

Puerto Rico State Plan, which is part of the Puerto Rico Department of Labor and Human Resources. There is a Central Administrative Office and six Area Offices for enforcement activities. PR OSHA's Consultation Program is funded under the 23(g) grant agreement and its services are provided primarily from the Central Office.

In the private sector, PR OSHA covers all employers with the exception of employers within the maritime industry, e.g. marine cargo handling, long shoring, shipbuilding and ship repairing.

Employers of the Commonwealth and local government are under PR OSHA's jurisdiction.

The United States Postal Service (USPS), all federal agencies, military facilities, and maritime establishments are under federal OSHA jurisdiction.

Federal OSHA safety and health standards are adopted identically by PR OSHA. The regulations and operational systems of the plan are essentially the same as the Federal Program. A hearing examiner handles review procedures, with employer rights of appeal to the district court.

State Plan: Initial Plan Approval - August 15, 1977
Operational Status Agreement – December 8, 1981
18(b) Certification - September 7, 1982

Designee: Miguel Romero, Secretary
Puerto Rico Department of Labor and Human Resources

Excluded Coverage:

- Private Sector: Maritime Operations, including Maritime Cargo Handling, Long Shoring, Shipbuilding and Ship Repairing
- Federal Agencies, including Military Facilities and US Postal Service

Employee Coverage:

- Public Sector: 282,000 employees
- Private Sector: 641,000 employees
- Total: 1,326,000 employees

Operational Grant: Final FY 2011 Award

FY 2011 Federal Share: \$ 2,588,900
FY 2011 State Share: \$ 2,588,900
FY 2011 100% State Funds: \$ 2,591,843

Total FY 2011 Grant: \$ 7,769,643

Staffing:

	Allocated	On Board
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Enforcement –Total	55	36
Safety	35	25
Health	20	16
Consultation –Total	8	5
Safety	4	2
Health	4	3

C. Data & Methodology

Monitoring of the Puerto Rico State Plan consisted of a team of Federal OSHA personnel from both the safety and the health disciplines and from the Whistleblower program. The team conducted onsite audits at PR OSHA’s central office in Hato Rey, Puerto Rico starting on February 6, 2012 and ending on February 10, 2012.

The evaluation of the PR OSHA Program covered Fiscal Year 2011, the period of October 1, 2010 through September 30, 2011 and included the following documents:

- State Activity Mandated Measures (SAMM) Report
- State Indicator Report (SIR)
- Enforcement Comparison (INSP and ENFC Reports)
- Mandated Activities Report for Consultation (MARC)

The OSHA team reviewed a total of 84 closed case files broken down by the following:

- 10 Non-Formal Complaints (6 safety and 4 health)
- Enforcement: 31 safety (3 fatalities among them) and 21 health;
- 5 Consultation case files: 2 safety, 2 health and 1 safety/health;
- 1 SHARP file;
- 1 VPP file;
- 1 Alliance file
- 14 discrimination investigation case files.

Inspection Activities - Enforcement and Consultation

In addition to progress toward achieving its strategic goals, PR OSHA continued to maintain a credible enforcement presence in the Commonwealth; during FY 2011 their actual inspection outcome surpassed the projected goal. A total of 1,582 inspections were conducted in FY 2011. This was 4.8% higher than their planned goal of 1,510 inspections.

PR OSHA’s consultation activities were 3.6% below the number planned for FY 2011. PR OSHA projected 140 visits (121 private; 19 public) and conducted 135 (119 private; 16 public).

Mandated Activities

State Activity Mandated Measures: PR OSHA performed satisfactorily relating to the majority of the fifteen established mandated enforcement measures discussed in this report. Outliers include percent of complaints and referrals responded within one day; assuring timely hazard correction; percent of serious, willful, repeat violations verified abated (public sector); average number of calendar days from opening conference to citations issued (lapse time); and percent of programmed inspections where serious, willful or repeat violations were issued (safety).

OSHA had identified these issues as part of FY 2009 and FY 2010 FAMEs. PR OSHA continues to demonstrate its commitment to take the appropriate steps to address the issues.

Mandated Activities Report for Consultation (MARC): PR OSHA performed satisfactorily relating to all five established mandated consultation measures in the private sector. In the public sector PR OSHA performed satisfactorily in all but one measure, percent of initial visits in high hazard establishments. PR OSHA continues their efforts in promoting consultation services to elicit requests from high hazard industries, in both sectors and to ensure timely hazard abatement by improvements in management oversight including periodic review of appropriate management reports.

Voluntary Protection Programs

During FY 2011 one worksite applied to participate in the Voluntary Protection Programs and five sites were re-certified, sixteen sites previously approved continue to participate in the program. PR OSHA's VPP Program mirrors the Federal VPP program with one exception. The highest award, Guanin, is similar to OSHA's Star while the Cemi is similar to OSHA's Merit. In addition, the category Taino was established for smaller employers that are working towards meeting all the core elements of the Guanin and/or Cemi eligibility requirements.

PR OSHA continues to make progress toward growing the Safety and Health Achievement Recognition Program (SHARP). There are currently nineteen establishments participating in SHARP. During FY 2011 there were two sites newly awarded SHARP and ten SHARP sites were renewed.

Formal stakeholder interviews conducted during the FY 2009 EFAME process provided valuable insight into all aspects of the PROSHA program. Since OSHA conducted an extensive evaluation of the PROSHA Discrimination Program as part of the FY 2009 EFAME study, and given that OSHA maintains a continuous dialogue, particularly during this rating period, as part of its on-going relationship with these key stakeholders, formal interviews were not conducted during the preparation of this year's EFAME.

D. Findings and Recommendations

The following section itemizes the findings of the 2011 FAME, and OSHA's recommendation relative to each finding. *(Detailed descriptions of these specific findings and recommendations can be found in Section IV and Appendix A)*

Case File Documentation/Citation/Penalties

The following are the findings and recommendations found during the review of both safety and health enforcement case files (52). (Only findings related to a recommendation are shown here.)

Thirty-one (31) Safety case files were reviewed – the findings were:

In 1 safety case three citations for 1926.404(b)(1) were issued separately (not grouped).

In 3 safety cases, an incorrect standard was cited when an appropriate standard under Subpart M (Fall protection) was more applicable than citing under the scaffold standard..

In 1 safety follow-up case, the FTA penalty calculation was not documented in the file.

In 4 (safety) cases apparent violations were not pursued by CSHO although deficiencies were observed in case files photos (ladders; means of egress; scaffolds; and fall protection).

In 2 safety cases severity assigned to the violation did not conform to injury/illness (burns) and/or hazard (fall). The severity of the violation issued was misclassified as low (vs. High).

Recommendation 11-1, 11-2: Provide training to all safety field staff, including supervisory staff, to ensure the application of PR OSHA’s Field Operations Manual guidance and procedures are being followed for grouping violations; citing applicable regulations, penalty calculations, classifying violations properly and applying proper adjustment factors.

Citation Lapse Time

Safety cases with citations had a lapse time of 50.7 days (vs. 35.6 for all state plans, 43/2 federal OSHA). Lapse time for health cases was 60.2 days (vs. 43.6 for all state plans, 54.8 federal OSHA). (Appendix C data) Both reflect some improvement since FY 2010.

Recommendation 11-3: Continue to implement mechanisms (e.g., expedited case file reviews, review of management reports, and ensuring CSHOs efficiently manage their workload) to improve citation lapse times.

Abatement

In FY 2011, PR OSHA assured timely abatement for serious/willful/repeat violations 97.06% of the time for private sector employers, but only 66.2% of the time for public sector employers. (SAMM 6)

Recommendation 11-4: Ensure timely hazard correction in public sector by evaluating the abatement certification received from employer and entering data into IMIS/OIS. When certification is not timely received, encourage employers to submit adequate Petitions to Modify Abatement Dates, or pursue Failure to Abate violations and penalties.

Employee and Union Involvement

Documentation of Employee Interviews

In 4 of the 31 safety case files reviewed (3 In Compliance, 1 programmed planned) there was no information as to whether employees were interviewed. When compared to FY 2009 case file review this is an improvement. In FY 2009 the audit revealed that a majority of case files reviewed were lacking information as to whether employees were interviewed

In 1 safety case, citations were not sent to union although union information was documented in case file notes.

Recommendation 11-5: Provide training to all field staff regarding the agency's policy of union/employee representative involvement during and after inspections and the requirement to properly document compliance with this policy in case files.

Lack of Employee/Union Involvement during Informal Conferences

In 6 safety cases (union sites) there was no evidence that either union or employee representatives were notified and afforded an opportunity to participate in the informal conference (4 informal conferences held) compared to FY 2009 when 10 health cases had the same finding.

Recommendation 11-6: Relating to informal conferences, PR OSHA representatives must thoroughly document the following in the case file: The fact that notification to the parties of the date, time and location of the informal conference was made.

Onsite Consultation Visits

5 Consultation case files were evaluated (2 safety, 2 health and 1 S&H); as well as 1 SHARP (S&H); 1 VPP; and 1 Alliance.

Per Consultation Program Review of 5 case files, consultant's on-the-job evaluations were not conducted.

Recommendation 11-7: Review and implement requirement for on-the-job evaluations as part of PR OSAs Internal Quality Assurance Program (CSP 02-00-002; Section VII. A.)

II. Major New Issues

There were no major new issues in FY 2011.

III. Assessment of State Action and Performance Improvements in Response to Recommendations from the FY 2010 FAME

PR OSHA does not have outstanding findings identified from the FY 2009 EFAME. PR OSHA provided response and status of corrective actions for all findings during the FY 2010 FAME as part of the Corrective Action Plan.

IV. Assessment of State Performance

Inspection Activity

The FY 2011 Inspection Activity Micro-to-Host report (INSP8) shows that PR OSHA conducted a total of 1,582 inspections during the fiscal year: 1,177 safety inspections and 405 health inspections. PR OSHA accomplished 104.77% of the total planned inspections (1,510) for the fiscal year.

Nine hundred twenty four (924) of the 1,582 inspections, or 58%, were classified as unprogrammed inspections: 8 accident investigations, 423 complaint inspections, 283 referrals, 56 follow-ups, and 154 un-programmed related inspections.

Of the 658 inspections that were classified as programmed (42% of the inspection total), 340 were planned and 318 programmed-related inspections.

Enforcement

1. Complaints

Timeliness of state response and notifications to complainant:

During this evaluation period, PR OSHA received a total of 437 formal complaints, with an average of 4.45 days for initiating complaint inspections, which is a decrease over FY 2010 average of 5.37 days. PR OSHA continues to exceed its strategic goal of responding to complaint inspections within 5 working days from notification. (SAMM report 11-08-11 – SAMM #1)

PR OSHA received a total of 20 non-formal complaints, with an average of 0.20 days for initiating the complaint investigations (FY 2010 – 0.24 days). PR OSHA continues to demonstrate prompt response to complaint investigations via phone/fax method, thus exceeding its 1-day response strategic goal. (SAMM report 11-08-11 – SAMM #2)

Complainants were timely notified of the inspection results in 99.78% of the complaint inspections (449 out of 450). (SAMM report 11-08-11 – SAMM #3)

10 Non-Formal Complaint files were reviewed (6 safety and 4 health).

- 1 safety case file was closed without abatement documentation (in writing); abatement information was obtained over the phone.
- In 1 safety case file the employer response letter to complainant was sent prior to formal (written) employer response; abatement information was obtained over the phone.

This is an issue in only 2 case files and do not appear to be a programmatic problem, OSHA is making a suggestion that prior to closing the case files Puerto Rico should ensure that all abatement issues are in accordance with established policy.

2. Fatalities – 3 fatality case files were reviewed

All three (3) fatality (safety) case files were reviewed (from a total of 31 safety case files), in one (1) case, the “next of kin” (NOK) notification letter could not be located in the file. It was noted, however, that there was an entry on the diary sheet indicating the letter was prepared and sent. This was an improvement from the FY 2009 review when approximately 50% (7 of 16) of the fatality case files were lacking the NOK letter. Also during the review of 1 fatality case a 30% reduction was given to a citation directly related to the fatality. PROSHA has set a policy which stipulates that all citations related to the fatality cannot contain a penalty reduction.

As these 2 issues occurred in only 1 case file and do not appear to be a programmatic problem, OSHA is not making a formal recommendation at this time.

3. Targeting and Programmed Inspections

PROSHA conducted a total of 1,582 inspections in FY 2011: 1,177 safety inspections and 405 health inspections. This was 4.8% higher than their planned goal of 1,510 inspections. PR OSHA accomplished 104.77% of the total planned inspections (1,510) for the fiscal year. Nine hundred twenty four (924) of the 1,582 inspections, or 58%, were classified as unprogrammed inspections: 8 accident investigations, 423 complaint inspections, 283 referrals, 56 follow-ups, and 154 un-programmed related inspections. Of the 658 inspections that were classified as programmed (42% of the inspection total), 340 were planned and 318 programmed-related inspections. (Appendix C data)

In FY 2011, 46% (1,554) of violations were classified as serious, compared to 45% in FY 2010 and 44% for all state plans. PROSHA also issued citations for 5 willful, 99 repeat, and 14 Failure-to-Abate violations and 1,675 other-than-serious violations. In regards to the average number of violations per inspection, PROSHA issued citations for 3.5 violations per initial inspection which is above the state plan total of 3.4 and federal OSHA total of 2.9 violations per inspection. (Appendix C data)

Two-hundred sixty-five (265) of the safety programmed inspections, or 42.1%, resulted in the issuance of violations classified as serious/willful/repeat (S/W/R). Twenty-two (22) of the programmed health inspections, or 53.7%, resulted in the issuance of violations classified as S/W/R. The national averages were 58.5% for safety and 51.7% for health. (SAMM report 11-08-11 – SAMM #8)

PROSHA is aware of their lower than average rate of issuing of S/W/R violations for safety inspections and continues to work on their Local Emphasis Programs (LEPs) as part of their Strategic Plan with the intent of improving their targeted inspection program, focusing on the most hazardous workplaces in the Commonwealth. However, during FY 2011 the percent of S/W/R violations for health inspections was above the national average, as it was in FY 2010.

A total of 858 inspections resulted in citations issued: 1,988 violations classified as S/W/R and 1,479 classified as other-than-serious. This resulted in an average violation per inspection of 2.03 for S/W/R and 1.51 for other-than-serious. The national averages were 2.1 for S/W/R and 1.2 for other-than-serious. (SAMM report 11-08-11 – SAMM #9)

4. Citations and Penalties

- **Finding 11-01:**

In 5 of 31 safety case files evaluated (16%), these issues were noted:

- In 1 safety case three citations for 1926.404(b)(1) were issued separately (not grouped).
- In 3 safety cases, the deficiency was cited under an incorrect standard (scaffold fall protection vs Subpart M).
- In 1 safety follow-up case, the Failure to Abate (FTA) penalty calculation was not documented in the file.

- **Recommendation 11-01:** Provide training to all safety field staff, including supervisory staff, to ensure the application of PR OSHA's Field Operations Manual guidance and procedures for grouping; applicable regulations, penalty calculations, and adjustment factors.

In 3 of 21 health case files evaluated (14%), the following was noted:

- In 1 health case, the 1910.1200(h)(3)(ii) violation was not grouped as per CPL 02-02-038D Inspection Procedures for Hazard Communication Standard, 4 OSH 1910.1200, 12 OSH 1915.99, 12 OSH 1910.17.28, 1918.90, 10 OSH 1926.59 and 11 OSH 1928.21, August 11, 1998.
- In 1 health case, penalty calculations for recordkeeping violations were not applied as per CPL 02-00-135 Recordkeeping Policies and Procedures Manual (RKM), 02/08/2005]: Recordkeeping Policies and Procedures: CH2 II B.
- In 1 health case file, incorrect/old Standard Alleged Violation Elements (SAVEs) were selected for two items: 1910.134(b)(6) vs. (h)(2) and 1910.134(b)(10) vs. (e)(1).

As these 3 issues occurred in only 2-3 case files and do not appear to be a programmatic problem, OSHA is not making a formal recommendation at this time.

- **Finding 11-2 (09-8):**

- In 4 of 31 safety cases reviewed (13%), apparent violations were not pursued by the CSHO although deficiencies were observed in case file photos (ladders; means of egress; scaffolds; and fall protection). During the FY 2009 review, only 1 case file reviewed was found to have not pursued a willful violation.
- **Recommendation 11-2 (09-8):** Provide training to all safety field staff, including supervisory staff, to ensure the application of PR OSHA's Field Operations Manual guidance and procedures whenever there is evidence for apparent violations.

Violation Classification

- In 2 of 31 safety cases (6%), severity assigned to the violation did not conform to injury/illness (burns) and/or hazard (fall). The severity of the violation issued was misclassified as low (vs. High).
- This is consistent with the FY 2009 findings when only 1 case file reviewed was found to have this problem.

As this issue occurred in only 2 case files and does not appear to be a programmatic problem, OSHA is not making a formal recommendation at this time.

Penalties

During this fiscal year, PR OSHA issued 1,349 serious violations in the private sector with an average penalty per serious violation of \$1,019.93. The 3-year average national data was \$1,679.6. (SAMM report 11-08-11 – SAMM #10)

Citation Lapse Time

- **Finding 11-3:**
 - PROSHA citation lapse time (the average number of calendar days from opening conference to citation issue) for FY 2011 was calculated at 50.7 days for Safety (vs. 35.6 for all state plans and 43.2 for federal OSHA) and 60.2 for Health (vs. 43.6 for all state plans and 54.8 for federal OSHA). (Appendix C data)
 - Lapse time has improved slightly since the FY 2010 review when the Safety lapse time was calculated at 53.7 days and the Health was 62.4 days. However, it is still well above the averages for all state plans and for federal OSHA.
 - In addition, the SAMM 7 data show even longer citation lapse times: 67.51 days for safety (national average 51.9) and 81.61 days for health (national average 64.8).
 - **Recommendation 11-3:** Continue to implement mechanisms (e.g., expedited case file reviews, review of management reports, and ensuring CSHOs efficiently manage their workload) to improve citation lapse times.

5. Abatement

- **Finding 11-4:** During FY 2011, the percentage of serious, willful, repeat violations cited that was verified as abated within the abatement date plus 30 days was 97.06% in the private sector (661 out of 681) and in the public sector the average was 66.23% (100 out of 151). (SAMM report 11-08-11 – SAMM #6)
 - **Recommendation 11-4:** Ensure timely hazard correction in the public sector by evaluating the abatement certification received from the employer and entering the data into IMIS. In cases in which abatement is not received in a timely manner PR OSHA should encourage employers to submit adequate Petitions to Modify Abatement Dates, or should pursue Failure to Abate violations and penalties.

6. Employee and Union Involvement

Documentation of Employee Interviews

- **Finding 11-5 (09-11):**
 - In 4 safety cases (3 In Compliance, 1 programmed planned) there was no information as to whether employees were interviewed.
 - In 1 safety case, citations were not sent to union although union information was documented in case file notes.
 - **Recommendation 11-5 (09-11):** Provide training to all field staff regarding the agency's policy of union/employee representative involvement during and after inspections and the requirement to properly document compliance with this policy in case files.

Review Procedures

1. Informal Conferences

Lack of Employee/Union Involvement during Informal Conferences

- **Finding 11-6 (09-21):**
 - In 6 of 31 safety cases or 19% (union sites) there was no evidence that either union or employee representatives were notified and afforded an opportunity to participate in the informal conference (4 informal conferences held), compared to FY 2009 when 10 health cases had the same finding.
 - **Recommendation 11-6 (09-21):** Relating to informal conferences, PR OSHA representatives must thoroughly document the following in the case file: The fact that notification to the parties of the date, time and location of the informal conference was made.

2. Formal Review of Citations

During FY 2011, one-hundred eighty-nine (189) cases were contested with an average lapse time from the receipt of contest to the first level decision of 208.39 days. The 3-year national average was 199.7 days. (SAMM report 11-08-11 – SAMM #12)

Inspections with contested violations for FY 2011 were at 26.7 % compared to FY 2010 when the percentage was 25.2%.

Federal Program Changes and Standards Adoption

1. Standards Adoption

A total of two (2) Federal Standards were issued during FY 2011; all were submitted for adoption. The notice of intent to adopt was timely for both standards.

STANDARDS ADOPTION
For period covering: October 2010 – September 2011
Region: II State: Puerto Rico (PROSHA)

Instruction/Notice Number and Subject	Date State E-mailed Response	Intent to Adopt (Y/N)	Adopt Identical (Y/N)	State Adoption Status Change	Adoption Date
Standard Log 1910,1915 (5/03/11) Working Conditions in Shipyards Due – 7/02/11 Adoption Req. – Yes Intent Req. - Yes	5/24/11	Y	N		PROSHA will adopt for public employees exposed to maritime covered conditions. Adopted 9/28/11
Standard Log 1910 – 15,18,19,26,28 Standards Improvement Project Phase III 6/17/11 Due – 8/16/11 Adoption Req. – Yes Intent Req. - Yes	6/29/11	Y	Y		Adopted 9/28/11

2. Federal Program/State Initiated Changes

During FY 2011, a total of eleven (11) Federal Program Changes were issued. PROSHA responded in a timely manner.

FEDERAL PROGRAM CHANGE LOG
For period covering: October 2010 – September 2011
Region: II State: Puerto Rico (PROSHA)

Instruction/Notice Number and Subject	Date State E-mailed Response	Intent to Adopt (Y/N)	Adopt Identical (Y/N)	State Adoption Status Change	Adoption Date
CPL-02-01-049 PPE in Shipyard Employment (11/4/10) Due -1/11/11 Adoption Req. – No Intent Req. – Yes	11/12/10	N			In Puerto Rico, OSHA (Federal) has jurisdiction over shipyards
STD-03-11-002 Compliance Guidance for Residential Construction (12/16/10) Due- 2/26/11 Adoption Req.-No	1/21/11	Y	N		Adopted 4/28/11

Instruction/Notice Number and Subject	Date State E-mailed Response	Intent to Adopt (Y/N)	Adopt Identical (Y/N)	State Adoption Status Change	Adoption Date
Intent Req. - Yes					
CPL-03(11-01) NEP Microwave Popcorn Processing Plants (1/18/11) Due-4/16/11 Adoption Req.-Yes Intent Req. - Yes	3/14/11	Y	Y		PR OSHA will adopt in the eventuality one of these industries begins operations in Puerto Rico. Anticipated Adoption date: 6/14/11
CPL-02-01-050 PPE in General Industry (2/10/11) Due – 4/16/11 Adoption Req.-No Intent Req. - Yes	3/14/11	Y	N		Anticipate 6/10/11 Adopted: 5/23/2011
CPL-03-00-013 NEP Primary Metal Industries (5/19/11) Due-8/01/11 Adoption Req.- Yes Intent Req. - yes	8/26/11	Y	Y		Anticipated Adoption Date 1/30/12 Anticipated Submission 2/01/12 Adopted: 2/21/2012
CPL-02-00-150 Revisions to FOM (4/22/11) Due – 7/02/11 Adoption Req. – Yes Intent Req. - Yes	5/24/11	N			PROSHA has no jurisdiction over Federal Agencies and under maritime cover only public employees exposed to conditions covered under maritime.
CPL-02-01-051 Confined & Enclosed Spaces & Other Dangerous Atmospheres in Shipyard Employment (5/20/11) Due – 7/24/11 Adoption Req. – No Intent Req. - Yes	5/26/11	N			CPL will be used as a reference guide in case public employees are exposed to this hazard.
CPL-02-00-151 Subpart T – Commercial Diving (6/13/11) Due – 8/16/11 Adoption Req. – No Intent Req. – Yes	8/25/11	Y	Y		Adopted 2/10/12

Instruction/Notice Number and Subject	Date State E-mailed Response	Intent to Adopt (Y/N)	Adopt Identical (Y/N)	State Adoption Status Change	Adoption Date
CPL 02-01-052 Enforcement Procedures for Investigating /Inspecting WPV Incidents (9/8/11) Due – 11/12/11 Adoption Req. – No Intent Req. - Yes	10/04/11	Y	N		Adopted 1/20/12
CPL 02-11-03 Site Specific Targeting 2011 (SST-11) (9/9/11) Due – 11/12/11 Adoption Req.-Yes Intent Req.- Yes	1/03/12	N	N		PROSHA will continue to use CPL2.251- Scheduling for Programmed Inspections
CPL 02-03-003 Whistleblower Investigations Manual (9/20/11) Due – 11/21/11 Adoption Req. – Yes Intent Req. - Yes	10/04/11	Y	N		Adopted 1/22/12

PR OSHA Instructions – PR OSHA has created a number of internal (State-initiated) directives addressing various State-only administrative/program instructions:

- CPL 11-04 Local Emphasis Program - General Medical Services - September 29, 2011
- CPL 11-05 Local Emphasis Program - Limited and Full Service Restaurants - September 29, 2011
- CPL 11-06 Local Emphasis Program - Emergency Disaster Preparedness and Management Offices - September 29, 2011
- TED 11-03 Training and Onsite Consultation Services in Nursing Homes Facilities - September 28, 2011
- 11-02 (TED 3.6) On-site Consultation in the Construction Industry, September 28, 2011.

Variances

No variance requests were received or processed during this evaluation period.

Public Employee Program

PROSHA conducted a total of 436 (28%) inspections in the Public Sector during FY 2011. This is comparable to the 435 (30%) of inspections conducted in FY 2010. However, this is nearly double the percentage of inspections in the public sector (15%) for all state plans. (Appendix C data)

Discrimination Program – Special Study

A comprehensive review of PROSHA's whistleblower program was performed in FY 2009. During this FY 2011 evaluation, the Regional Discrimination Investigator reviewed fourteen (14) investigative files.

- Investigative Case File Reviews
 - All the files reviewed were well organized. There was only one case that was not organized. This case was withdrawn by the complainant within 8 days. The same Complainant later re-filed the case. No notification to Respondent regarding the withdrawal was found on the first file. However, the second case file was very organized and had all the required documents.
 - Determinations were reached based on evidence developed and maintained in each of the fourteen case files examined.
 - Complainants in each case were advised of the determination reached and pertinent appeal rights.
 - Of the fourteen (14) case files, the outcomes were as follows: merit was found on three cases and subsequently referred for litigation, three cases were settled, five cases were dismissed, two Complainants withdrew their complaints and one case was removed to be litigated in court. The ratio between their settled cases and the merit ones is approximately 43 percent of the total. This is more than adequate and is nearly double the national rate.
 - Timeliness of the program is adequate with only one case exceeding the 90 day limit. This case exceeded the limit by only one day. The majority of PR OSHA's cases are closed within ninety days.

- Program Management
 - All data entries were made in an accurate and timely manner.
 - Most of the data management is entered into IMIS and is properly handled by the investigators and the secretary in the office.
 - An effective procedure for appealing dismissals is in place and complainants are notified in writing of their appeal rights.
 - On every file reviewed, a sheet documenting the screening call of the case can be found. This form is designed with boxes to check for all the four

elements of a “prima facie” case. The program secretary is now documenting screen outs on IMIS and managers are in the process of formally training all investigators to do so.

- Resources
 - One of the recurrent suggestions from the investigators interviewed was that refresher training should be administered more often. All the investigators interviewed attended the 1420 course at the OSHA Training Institute. The Program Director and the State Internal Evaluation Program monitor attended the most recent Whistleblower Training Conference held in Florida. After this training conference, a procedures manual was developed and implemented by PR OSHA.
 - The CSHO’s are assigned to perform Whistleblower investigations. One recurrent suggestion from these investigators is that there should be exclusive whistleblower investigators. Although cases are being completed within acceptable time frames, the investigators complained about high case workload.

Complaints About State Program Administration (CASPA’s)

There were no Complaints About State Program Administration (CASPA’s) filed during FY 2011.

Voluntary Compliance Programs

1. Voluntary Protection Program (VPP)

The Puerto Rico State Plan has a comprehensive Voluntary Protection Program, which mirrors Federal OSHA’s VPP. The highest award, the Guanin, is similar to OSHA’s Star program, while the Cemi is similar to the Merit award. In addition, PR OSHA has a category called the Taino for smaller employers and/or those working towards meeting all the core elements of the Guanin and/or Cemi.

PR OSHA’s Voluntary Protection Programs currently has sixteen (16) participants approved at the Guanín level.

During fiscal year 2011, one (1) new VPP site was approved in the Guanín level: Pfizer Global Manufacturing in Vega Baja on June 6, 2011. One (1) VPP application was received: Hamilton Sunstrand in Santa Isabel on February 25, 2011. Five sites were re-certified: Positronic Industries Caribe, Inc., in Ponce on October 26, 2010; Caribe GE International of PR, LLC, Vega Alta Controls Plant, on January 26, 2011; Caribe GE International of Puerto Rico, Inc. in Arecibo on June 29, 2011; Pfizer Pharmaceuticals, LLC in Barceloneta on July 7, 2011 and Caribe GE International Relays Corp in Añasco on September 21, 2011.

2. Safety and Health Achievement and Recognition Program (SHARP)

PR OSHA has been engaged in implementing the Safety and Health Achievement and Recognition Program (SHARP). This is the Program's third full year of deployment of the SHARP requirements established by 29 CFR 1908 and the CSP 02 (TED 3.6) Consultation Policies and Procedures Manual (CPPM). During FY 2011, two (2) new establishments were approved in the SHARP:

- Office of Dr. Patricio J. Sumaza, DMD in Mayaguez on October 29, 2010
- Laboratorio Clínico Rincón in Rincón, on May 26, 2011.

The participation for a second, third or fourth two-year term in the SHARP was approved for the following sites:

Smile of Beauty, October 18, 2010
Laboratorio Clínico La 100, October 18, 2010
Simmons Caribbean Bedding, Inc, November 1, 2010
Laboratorio Clínico Chegar I, November 15, 2010
Laboratorio Clínico Chegar II, November 15, 2010
Laboratorio Clínico Gaudier, February 4, 2011
Laboratorio Clínico Chegar III, February 25, 2011
Pittsburg Paints, April 14, 2011
Water Treatment Specialist, April 27, 2011
Ricetec, Inc, June 14, 2011.

The SHARP activity for FY 2011 represents site visits to 12 out of the 19 establishments that are current participants in the PR OSHA Safety and Health Achievement Recognition Program.

3. "Door to Door" in Construction

This is an initiative to promote safety and health through on-site consultation visits to construction projects inspected throughout the Island with cases closed with no pending or contested citations. Those general contractors accepted to participate in this initiative should agree to abate all the hazards identified, receive three additional consultation visits in a year, and post a banner in a conspicuous place in the project, which reads as follows: "PR OSHA is Safety".

During FY 2011, one construction project was accepted to participate in this initiative. There are two ongoing projects participating in the initiative in the San Juan area.

Onsite Consultation Visits

According to the MARC reports (MARC report 11-09-11), PR OSHA conducted 135 onsite consultation visits in FY 2011: 119 in the private sector and 16 in the public sector. The outcome showed to be slightly below projections by achieving 96.43% of the total visits

conducted in both sectors. PR OSHA provided training and educational services in 29 of the 135 consultations visits that were conducted (7 informal and 22 formal).

Consultation: 5 case files evaluated (2 safety, 2 health and 1 S&H); 1 SHARP (S&H); 1 VPP; and 1 Alliance.

In 1 safety case of the 5 cases reviewed (20%), the safety and health hazard survey comments section did not provide the details to ensure the number assigned and description correspond with each other. During the FY 2009 review, 2 of 4 case files (50%) were missing the hazard survey.

As this issue occurred in only 1 case file and does not appear to be a programmatic problem, OSHA is not making a formal recommendation at this time.

- **Finding 11-7:**

- Consultation Program Review: Consultant's On-the-job evaluations were not conducted in any of the 5 case files.

- **Recommendation 11-7:** Review and implement requirement for on-the-job evaluations as part of PR OSHAs Internal Quality Assurance Program (CSP 02-00-002; Section VII. A.)

It is worth mentioning that PR OSHA has a comprehensive and very active outreach and training program. Numerous outreach activities, including training seminars and speeches are conducted by PR OSHA's experienced consultants, compliance officers and management throughout the year.

Public Sector On-site Consultation Program

Mandated Activities Report for Consultation (MARC) (Public Sector) (MARC report 11-09-11)

Total Visits: PR OSHA conducted sixteen (16) consultation visits in the public sector during FY 2011 (all were classified as "initial" visits).

Percent of Initial Visits in High Hazard Establishments (MARC 1):

PR OSHA did not conduct "initial" visits which could be coded as high hazards establishments. PR OSHA continues to promote its onsite consultation service, but is somewhat at the mercy of those public sector employers who seek its services.

Percent of Initial Visits in Smaller Businesses (MARC 2):

All fifteen (15) "initial" visits, or 100%, were conducted in establishments with less than 250 employees.

Twelve (12) of the 15 “initial” visits, or 80%, were conducted in establishments with less than 500 employees. This represents an increase from FY 2010 when 4 of the 7 initial visits, or 57% were conducted in establishments with less than 500 employees.

Percent of Visits where Consultation Conferred with Employees (MARC 3):

PR OSHA conferred with employees on all consultation visits (100% of the time). Reference point is 100%. There was one (1) follow up visit, and no training & assistance visits in FY 2011. Reference point is 100%.

Percent of Serious Hazards Verified Corrected in a Timely Manner (MARC 4a):

All serious hazards identified (29) were corrected in a timely fashion (100%). PR OSHA has made significant progress towards meeting the 100% timely verification measure as compared to FY 2010 when only 32 of 62 (51%) serious hazards were corrected in a timely manner..

Percent of Serious Hazards not verified corrected in a timely manner (MARC 4b):

All of the 29 serious hazards issued, were verified corrected in a timely manner.

Percent of Serious Hazards referred to enforcement (MARC 4c):

None of the 29 serious hazards issued were referred to enforcement after employers failed to correct them during the consultation process.

Percent of Serious Hazards verified corrected (in original time or onsite (MARC 4d):

Twenty-two (22) of the 29, or 75.86% of serious hazards were verified corrected. PROSHA has made significant progress in this measure based on the FY 2010 report where only 11 of 62 (17%) of serious hazards were verified corrected.

Number of Uncorrected Serious Hazards past 90 days (MARC 5)

As of the end of the fiscal year, PR OSHA had no outstanding uncorrected serious hazards past 90 days.

Private Sector 23(g) On-site Consultation Program

Puerto Rico uses 23(g) grant funds to conduct private sector consultation.

Mandated Activities Report for Consultation (MARC) (Private Sector)
(MARC report -11-09-11)

Total Visits: PR OSHA conducted a total of 119 consultation visits in FY 2011.

Percent of Initial Visits in High Hazard Establishments (MARC 1):

75 of the 115 “initial” visits conducted during FY 2011, or 65.22%, were to establishments under the State’s definition of high hazard establishments. The reference point is no less than 90%. PR OSHA continues to promote its onsite consultation service, but is somewhat at the mercy of those employers who seek its services.

Percent of Initial Visits to Smaller Businesses (MARC 2)

PR OSHA conducted 113 out of 115 “initial” visits to smaller establishments (less than 250 employees), for a 98.26%. The reference point is no less than 90%.

PR OSHA conducted 114 out of its 115 “initial” visits to smaller establishments (less than 500 employees), for a 99.13%. The reference point is no less than 90%.

Percent of Visits where Consultants Conferred with Employees (MARC 3)

PR OSHA conferred with employees on consultation visits 100% of the time for both “initial visits (115) and follow-up visits (4). There were no training & assistance visits in FY 2011. Reference point is 100%.

Percent of Serious Hazards Verified Corrected in a Timely Manner (MARC 4a):

A total of 497 serious hazards were identified during FY 2011, of which 480 hazards, or 96.58%, were verified corrected in a timely fashion. PR OSHA has made significant progress towards meeting the 100% timely verification measure and this measure is consistent with FY 2010 when 627 serious hazards out of 647 (96%) were verified corrected in a timely manner.

Percent of Serious Hazards not verified corrected in a timely manner (MARC 4b):

Eight (8) of the 497 serious hazards issued, or 1.61%, were not verified corrected in a timely manner. PR OSHA has conducted training for its consultants and re-emphasized the importance of timely hazard correction. PR OSHA has acted appropriately in its efforts.

Percent of Serious Hazards referred to enforcement (MARC 4c):

Nine (9) of the 497 serious hazards, or 1.81%, were referred to enforcement after employers failed to correct them during the consultation process.

Percent of Serious Hazards verified corrected (in original time or onsite (MARC 4d):

Three-hundred forty-one (341) of the 497 serious hazards, or 68.61%, were verified corrected.

OSHA Recommendation MARC’s a-d: PR OSHA must ensure timely hazard correction by continuing its efforts to evaluate abatement certifications received from employers and entering the data into IMIS.

Number of Uncorrected Serious Hazards past 90 days (MARC 5)

PR OSHA had no outstanding uncorrected serious hazards past 90 days.

Program Administration

Training is essential for the PROSHA program so they may continue to develop and improve their case file documentation. PROSHA continues to ensure that its staff is being trained in accordance with TED 01-00-018. PROSHA also has an adequate number of trained CSHOs who meet the guidelines for conducting PSM inspections.

PROSHA did not return any funding during FY 2011. Also PROSHA did not experience a hiring freeze or furloughs. Staffing allocation for enforcement is 55, the actual number is 36 on board. Consultation staffing allocation is 8 personnel with 6 currently on board.

PROSHA continues to use IMIS data for tracking purposes.

PROSHA Internal Evaluation Program (SIEP) is used to identify potential policy and procedural weakness, areas for improvement, unsatisfactory execution of the Office’s program and any other activity discovered during evaluations. Evaluation activities are accomplished by on-site visits, case file reviews, IMIS data reviews, questionnaire completion or other documentation review. Evaluations are done annually.

V. Assessment of State Progress in Achieving Annual Performance Goals

A. PR OSHA Strategic Goal 1

Performance Goal 1.1.1A Achieve 2% reduction from baseline measure of the most prevalent injuries/illnesses in the Printing, Publishing and Allied Industry.

Year	TRC (OSHA300) Rate	% Change	BLS TRC Rate	% Change	BLS DART Rate	% Change
2007	3.0	Baseline	4.1	Baseline	3.7 (CY 2006 Rate)	Baseline
2008	3.5	17% Increase	4.3	5% Increase	3.9 (CY 2007 Rate)	5% Increase
2009	1.7	43% Decrease	3.8	7.3% Decrease	3.5 (CY 2008 Rate)	5% Decrease
2010	1.2	60% Decrease	4.0	2.4 % Decrease	4.0 (CY 2009 Rate)	8% Increase
2011	0.29	90% Decrease	5.7	39% Increase	3.7 (CY 2010 Rate)	0

During FY 2011 PR OSHA’s Bureau of Inspections (BI) identified 53 establishments to which the LEP Directive would apply. The Bureau of Inspections conducted 50 visits, 24 inspections and 26 attempts. As a result of these inspections, 5 establishments were cited with a total of 22 violations classified as follows: 11 serious violations and 11 “other violations”. One (1) none-related violation (serious) to the Printing, Publishing and Allied Industry serious violation was issued.

The first baseline was established at 3.0 Total Recordable Cases Rate reported in the OSHA 300 Forms for FY 2007 with data provided by the employers of the Printing, Publishing and Allied Industry targeted by PR OSHA.

The second baseline is the injury data for the NAICS group obtained from the Bureau of Labor Statistics (BLS) using the calendar year of 2007. The CY 2010 Total Recordable Injury Rate was 5.7 and the third baseline is the DART Rate established as 3.7. PR OSHA did not meet the goal of 2% reduction from baseline.

Performance Goal 1.1.1B Achieve 2% reduction from baseline measure of the most prevalent injuries/illnesses in the Metal Doors and Windows Industry.

Year	TRC (OSHA300) Rate	% Change	BLS TRC Rate	% Change	BLS DART Rate	% Change
2007	9.2	Baseline	7.1	Baseline	5.8 (CY 2006 Rate)	Baseline
2008	*No Data	*No Data	6.9	3% Decrease	5.7 (CY 2007 Rate)	2% Decrease
2009	5.6	39% Decrease	4.4	38% Decrease	3.5 (CY 2008 Rate)	40% Decrease
2010	5.5	40% Decrease	5.6	21% Decrease	5.0 (CY 2009 Rate)	14% Decrease
2011	0	100% Decrease	5.3	25.4% Decrease	5.3 (CY 2010)	9% Decrease

**No data available due to no inspections at the Metal Doors and Windows Industries.*

During FY 2011 PR OSHA’s Bureau of Inspections (BI) identified 12 establishments to which the LEP Directive applied. The Bureau of Inspections conducted 12 visits, 6 inspections and six (6) attempts. As a result of these inspections, two (2) establishments were cited with a total of 4 violations classified as follows: 4 “other violations”. All violations issued were none-related to the Metal Doors and Windows Industries

The second baseline is the injury data for the NAICS group of fabricated metal product manufacturing, obtained from the Bureau of Labor Statistics (BLS) using the calendar year of 2007. The Total Recordable Injury Rate was 5.3 and the third baseline was the DART Rate was 5.3. PR OSHA exceeded the goal of 2% reduction from the baseline.

Performance Goal 1.1.1C Achieve an additional 2% reduction from baseline measure of the most prevalent injuries/illnesses in the Warehousing and Storage Industry.

Year	TRC (OSHA300) Rate	% Change	BLS TRC Rate	% Change	BLS DART Rate	% Change
2008	2.1	Baseline	5.0	Baseline	4.5 (CY 2007 Rate)	Baseline
2009	4.2	100% Increase	3.7	26% Decrease	3.3 (CY 2008 Rate)	27% Decrease
2010	2.3	10% Increase	4.6	8 % Decrease	4.2 (CY 2009 Rate)	7% Decrease
2011	1.1	48% Increase	4.8	4% Decrease	4.6 (CY 2010)	2.2% Increase

During FY 2011 PR OSHA’s Bureau of Inspections (BI) identified 197 establishments to which the LEP Directive applied. The Bureau of Inspections conducted 60 visits, 59 inspections and 1 attempt. As a result of these inspections, 37 establishments were cited with a total of 248 violations classified as follows: 161 serious violations, 2 repeated, and 85 “other-than-serious violations”. One-hundred and twenty-six (126) violations issued were none-related to the Warehousing and Storage Industry.

The second baseline is the injury data for the NAICS group of the NAICS 493110 and 493120 group of the Warehousing and Storage Industry obtained from the Bureau of Labor Statistics (BLS) using the calendar year of 2007. The Total Recordable Injury Rate was 4.8 and the third baseline was the DART Rate was 4.6. PR OSHA met the goal of 2% reduction from the baseline based on BLS TRC and DART rates.

Performance Goal 1.1.1D Achieve an additional 1% reduction from baseline measure of the most prevalent injuries/illnesses in the Public Water Treatment Plant Industry.

Year	TRC (OSHA300) Rate	% Change	BLS TRC Rate	% Change	BLS DART Rate	% Change
2008	17	Baseline	11.5	Baseline	9.8 (CY 2007 Rate)	Baseline
2009	5.3	68% Decrease	8.4	27% Decrease	4.1	58% Decrease
2010	3.9	77% Decrease	0	* No data	0	* No data
2011	1.8	89.3% Decrease	0	* No data	0	* No data

** No data was available from BLS at the time of SOAR write up.*

The Local Emphasis Program Directive to target the Water Treatment Plant Industry (PR OSHA Instruction CPL 2-0.0802) was issued on June 20, 2008. PR OSHA Bureau of Inspections (BI) identified 100 establishments to which the Local Emphasis Program Directive applied. During FY 2011 PR OSHA Bureau of Inspection conducted 11 visits and 11 inspections. As a result of these inspections, 11 establishments were cited with a

total of 92 violations classified as follows: 48 serious violations, and 8 “other-than-serious violations”, all related to the Water Treatment Plant Industry

Using the data reported in the OSHA 300 Forms for FY 2007 and the data collected directly from the employers of the Public Water Treatment Plant Industry targeted by PR OSHA, the baseline was established at 17 Total Recordable Cases Rate.

The second baseline is the injury data for the NAICS group of the Public Water Treatment Plant Industry, obtained from the Bureau of Labor Statistics using the calendar year of 2007. The CY2007 Total Recordable Injury Rate was 11.5. The third baseline was the DART Rate established as 9.8. PR OSHA exceeded the goal of 2% reduction from the baseline based on TRC Rate (OSHA 300).

No data was available for this NAICS group from BLS TRC and DART rates to compare with baselines from FY 2008.

Performance Goal 1.1.2 Decrease an additional 1% of the fatality rate in the construction industry by focusing on the four leading causes of fatalities (falls; struck by; crushed by; electrocutions & electrical injuries).

Year	Number of Fatalities	Workforce	Fatality Rate	% Change From Baseline
2006	12	89,000	1.35	Baseline
2007	13	94,000	1.38	2% Increase
2008	11	82,000	1.34	1% Decrease
2009	8	68,000	1.17	13% Decrease
2010	2	54,000	0.37	73% Decrease
2011	2	50,000	0.4	70% Decrease

During FY 2011, the fatality rate was calculated at 0.4 per 10,000 employees (2 fatalities ÷ 50,000 workers) ÷ 10,000 employees).

PR OSHA continued to maintain a successful program initiative such as the Door to Door in the Construction Industry initiative. The Door to Door initiative is used to promote safety and health on-site consultation visits in the construction projects throughout the Island. Those general contractors accepting to participate in this initiative should agree to abate all the hazards identified, receive three additional consultation visits in a year, and post a banner in a conspicuous place in the project, which reads as follows: “PR OSHA is Safety”; one (1) new site was approved during FY 2011; two (2) construction projects are participating in this initiative.

Other PR OSHA efforts regarding this goal included training sessions in the following areas:

- ◆ Safety and Health in the Construction Industry, Humacao, Ponce and Guayama
- ◆ Safety and Health for Contractors, Ponce
- ◆ Electrical Safety in the Construction Industry, Ponce

The participation in these training sessions was as follows: 72 employer’s

representatives, and 37 employees. A total of one-hundred twenty-five (125) booklets of informational materials were distributed in these trainings.

Formal training sessions were delivered in four (4) of the twenty-five (25) onsite consultation visits where six (6) employer representatives and 124 employees were trained.

During FY 2011, twenty-five (25) on-site consultation visits were conducted in construction workplaces resulting in sixty (60) hazards from 102 identified were notified to the employers and were related to the four (4) leading causes of fatalities in construction.

B. PR OSHA Strategic Goal 2

Performance Goal 2.1.1A Achieve an additional 50% of targeted employers in general industry that have either implemented an effective safety and health program or improved their existing program.

The Annual Performance Goal 2.1.1A for FY 2011 was exceeded. Through comprehensive inspections, coupled with training and technical assistance, 721 of the 967 general industry establishments inspected either implemented a safety and health program or improved their existing program for a 75% success rate. The success rate is 25% increase compared to the 50% goal for FY 2011.

In addition, as part of the Program's effort, the Division of Voluntary Programs delivered three open training sessions on how to develop or improve an effective safety and health program. The participation in these training sessions included 75 employer representatives, 39 employees, and three persons from the general public. One hundred seventeen (117) informational materials (booklets: Domestic Violence at the Workplace, Know us, Check List for Industries, Guideline for Safety and Health Programs and Workers Involvement) were distributed at the training sessions.

Performance Goal 2.1.1B Achieve an 85% of targeted employers in general industry that have implemented an effective safety and health program or improved their existing program.

During FY 2011, the Division of Voluntary Programs conducted one hundred eleven (111) on-site consultation visits to employers in the general industry. One hundred (100) employers requesting consultation service implemented an effective safety and health program or improved their existing one. Ninety percent (90%) of the employers impacted by the on-site consultation visit developed or improved their safety and health program. The annual performance goal of 85% was exceeded.

Performance Goal 2.2.2A Provide training to employers and workers on the skills necessary for effective worker involvement in safety and health matters for 95% of employers inspected or provided consultations in the Printing, Publishing and Allied Industry

PR OSHA exceeded the goal. For FY 2011 PR OSHA Bureau of Inspections conducted twenty four (24) training sessions out of twenty four (24) inspections conducted; seventy-five (75) employers and thirty-nine (39) workers received training on the skills necessary for effective worker involvement in safety and health matters, for a 100%.

Performance Goal 2.2.2B Provide training to employers and workers on the skills necessary for effective worker involvement in safety and health matters for 95% of employers inspected or provided consultations in the Metal Doors and Windows Industry.

PR OSHA exceeded the goal. For FY 2011 PR OSHA Bureau of Inspections conducted six (6) training sessions out of six (6) inspections conducted; seventy-five (75) employers and thirty-nine (39) workers received training on the skills necessary for effective worker involvement in safety and health matters, for a 100%.

Performance Goal 2.2.2C Develop and provide training to employers and worker on the skills necessary for effective worker involvement in safety and health matters for 95% of employers inspected or provided consultations in the Warehousing and Storage Industry.

PR OSHA exceeded the goal. For FY 2011 PR OSHA Bureau of Inspections conducted fifty-nine (59) training sessions out of fifty-nine (59) inspections conducted; seventy-five (75) employers and thirty-nine (39) workers received training on the skills necessary for effective worker involvement in safety and health matters, for a 100%.

Performance Goal 2.2.2D Develop and provide training to employers and workers on the skills necessary for effective worker involvement in safety and health matters in for 95% of employers inspected or provided consultations in the Water Treatment Plant Industry in the Public Sector.

PR OSHA exceeded the goal. For FY 2011 PR OSHA Bureau of Inspections conducted eleven (11) training sessions out of eleven (11) inspections conducted; (75) employers and thirty-nine (39) workers received training on the skills necessary for effective worker involvement in safety and health matters, for a 100%.

Performance Goal 2.3.1 Develop and disseminate occupational safety and health training and reference materials to 100% private workplaces identified as Nursing Homes.

PR OSHA met the 100% goal to disseminate occupational safety and health training and reference materials to the Nursing Homes. In support of this goal, the Voluntary Programs Division developed one booklet on Safety and Health in Nursing Homes for its dissemination through trainings, seminars, business associations and onsite consultation visits and as a reference material for the employers.

Six (6) open training sessions on the Safety and Health in the Nursing Homes were delivered in in Bayamon on March 25; in Ponce on April 6; in Hatillo on April 12; in Humacao on April 13, 2011; in Aguadilla on September 12; and in Guayama on September 20, 2011. The participation was as follows: 220 employer representatives, 89 employees, 39 students, and 4 from general public.

The Voluntary Programs Division conducted 15 on site consultation visits in the Nursing Homes industry. In 13 of the 15 consultation visits, 58 hazards were identified and notified to the employers.

Appendix A

FY 2011 Puerto Rico State Plan (PROSHA) FAME Report Findings and Recommendations

Rec #	Findings	Recommendations	FY 10 #
11-1	<p>In 5 of 31 safety case files evaluated (16%) these issues were noted:</p> <p>a) In 1 safety case three citations for 1926.404(b)(1) were issued separately (not grouped).</p> <p>b) In 3 safety cases, deficiency cited under an incorrect standard (scaffold fall protection vs. Subpart M).</p> <p>c) In 1 safety follow-up case, the FTA penalty calculation was not documented in file.</p>	<p>Provide training to all safety field staff, including supervisory staff, to ensure the application of PR OSHA's Field Operations Manual guidance and procedures for grouping; applicable regulations, penalty calculations, and adjustment factors.</p>	
11-2	<p>In 4 of 31 safety cases (13%) apparent violations were not pursued by CSHO although deficiencies were observed in case files photos (ladders; means of egress; scaffolds; and fall protection).</p>	<p>Provide training to all safety field staff, including supervisory staff, to ensure the application of PR OSHA's Field Operations Manual guidance and procedures whenever there is evidence for apparent violations.</p>	09-8

11-3	Safety cases with citations had a lapse time of 50.7 days (vs. 35.6 for all state plans. 43/2 OSHA). Lapse time for health cases was 60.2 days (vs. 43.6 for all state plans, 54.8 OSHA). Both reflect some improvement since FY 2010.	Continue to implement mechanisms (e.g., expedited case file reviews, review of management reports, and ensuring CSHOs efficiently manage their workload) to improve citation lapse times.	
11-4	In FY 2011 PR OSHA assured timely abatement of S/W/R violations 97.06% of the time for private sector employers, but only 66.2% of the time for public sector employers. (SAMM 6)	Ensure timely hazard correction in public sector by evaluating the abatement certification received from employer and entering data into IMIS/OIS. When certification not timely received, encourage employers to submit adequate Petitions to Modify Abatement Dates, or pursue Failure to Abate violations and penalties.	
11-5	In 4 of 31 (13%) of safety cases reviewed (3 In Compliance, 1 programmed planned) there was no information as to whether employees were interviewed. In 1 safety case, citations were not sent to the union although union information was documented in case file notes.	Provide training to all safety field staff regarding the agency's policy of union/employee representative involvement during and after inspections and the requirement to properly document compliance with this policy in case files.	09-11
11-6	In 6 of 31 or 19% of safety cases (union sites) there was no evidence that either union or employee representatives were notified and afforded an opportunity to participate in the informal conference (4 informal conferences held).	Relating to informal conferences, PR OSHA representatives must thoroughly document the following in the case file: The fact that notification to the parties of the date, time and location of the informal conference was made.	09-21
11-7	Consultation Program Review of 5 case files (2 safety, 2 health, 1 S&H): Consultant's On-the-job evaluations were not conducted.	Review and implement requirement for on-the-job evaluations as part of PR OSHAs Internal Quality Assurance Program (CSP 02-00-002; Section VII. A.)	

Appendix B

Status of FY 2010 FAME Findings and Recommendations (Chart)

There were no follow-up recommendations in the 2010 PROSHA FAME Report.

Appendix C
Puerto Rico State Plan
FY 2011 Enforcement Activity

	PR	State Plan Total	Federal OSHA
Total Inspections	1,582	52,056	36,109
<i>Safety</i>	1,177	40,681	29,671
% <i>Safety</i>	74%	78%	82%
<i>Health</i>	405	11,375	6,438
% <i>Health</i>	26%	22%	18%
<i>Construction</i>	615	20,674	20,111
% <i>Construction</i>	39%	40%	56%
<i>Public Sector</i>	436	7,682	N/A
% <i>Public Sector</i>	28%	15%	N/A
<i>Programmed</i>	658	29,985	20,908
% <i>Programmed</i>	42%	58%	58%
<i>Complaint</i>	423	8,876	7,523
% <i>Complaint</i>	27%	17%	21%
<i>Accident</i>	8	2,932	762
<i>Insp w/ Viols Cited</i>	866	31,181	25,796
% <i>Insp w/ Viols Cited (NIC)</i>	55%	60%	71%
% <i>NIC w/ Serious Violations</i>	62%	63.7%	85.9%
Total Violations	3,347	113,579	82,098
<i>Serious</i>	1,554	50,036	59,856
% <i>Serious</i>	46%	44%	73%
<i>Willful</i>	5	295	585
<i>Repeat</i>	99	2,014	3,061
<i>Serious/Willful/Repeat</i>	1,658	52,345	63,502
% <i>S/W/R</i>	50%	46%	77%
<i>Failure to Abate</i>	14	333	268
<i>Other than Serious</i>	1,675	60,896	18,326
% <i>Other</i>	50%	54%	22%
<i>Avg # Violations/ Initial Inspection</i>	3.5	3.4	2.9
Total Penalties	\$4,146,566	\$ 75,271,600	\$ 181,829,999
<i>Avg Current Penalty / Serious Violation</i>	\$ 1,098.90	\$ 963.40	\$ 2,132.60
<i>% Penalty Reduced</i>	53.4%	46.6%	43.6%
% Insp w/ Contested Viols	26.7%	14.8%	10.7%
<i>Avg Case Hrs/Insp- Safety</i>	17.5	17.1	19.8
<i>Avg Case Hrs/Insp- Health</i>	25.6	26.8	33.1
<i>Lapse Days Insp to Citation Issued- Safety</i>	50.7	35.6	43.2
<i>Lapse Days Insp to Citation Issued- Health</i>	60.2	43.6	54.8
<i>Open, Non-Contested Cases w/ Incomplete Abatement >60 days</i>	225	1,387	2,436

*Note: Federal OSHA data does not include OIS data
The total number of inspections for Federal OSHA is 40,684*

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.8.2011

Appendix D

FY 2011 State Activity Mandated Measures (SAMM) Report

PAGE 1 OF 2

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

STATE ACTIVITY MANDATED MEASURES (SAMMs)

State: PUERTO RICO

RID: 0257200

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate for each State	1947	46	Negotiated fixed number
Complaint Inspections	4.45 437	2.70 17	
2. Average number of days to initiate for each State	4	0	Negotiated fixed number
Complaint Investigations	.20 20	0	
3. Percent of Complaints where Complainants were notified on time	449 99.78 450	32 100.00 32	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	5 83.33 6	0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	661 97.06 681	33 86.84 38	100%
Public	100 66.23 151	9 81.82 11	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety Data (1 year)	48681 67.51	3937 51.80	2631708 51.9 National
Health Data (1 year)	721 20568 81.61	76 2671 86.16	50662 767959 64.8 National
	252	31	11844

*PR FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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PAGE 2 OF 2

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
STATE ACTIVITY MANDATED MEASURES (SAMMs)

State: PUERTO RICO

RID: 0257200

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
Safety	265 42.13	20 33.90	90405 58.5 National
Data (3 years)			
Health	629 53.66	59 66.67	154606 51.7 National
Data (3 years)			
9. Average Violations per Inspection with Vioations			
S/W/R	41 1988 2.03	3 169 1.57	21098 419386 2.1 National
Data (3 years)			
Other	977 1479 1.51	107 141 1.31	198933 236745 1.2 National
Data (3 years)			
10. Average Initial Penalty per Serious Violation (Private Sector Only)	977 1375893 1019.93	107 138213 1303.89	198933 611105829 1679.6 National
Data (3 years)			
11. Percent of Total Inspections in Public Sector	1349 436 27.56	106 16 17.39	363838 1228 28.0 Data for
this State (3 years)			
12. Average lapse time from receipt of Contest to first level decision	1582 39386 208.39	92 4603 242.26	4393 3533348 199.7 National
Data (3 years)			
13. Percent of 11c Investigations Completed within 90 days	189 18 100.00	19 0 0	17693 100%
14. Percent of 11c Complaints that are Meritorious	7 38.89	0	1517 23.0 National
Data (3 years)			
15. Percent of Meritorious 11c Complaints that are Settled	18 3 42.86	0	6591 1327 87.5 National
Data (3 years)			
	7	0	1517

*PR FY11

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E

State Information Report (SIR)

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PAGE 1

U. S. D E P A R T M E N T O F L A B O R

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011
STATE = PUERTO RICO

INTERIM STATE INDICATOR REPORT (SIR)

MONTHS-----	-----24 MONTHS-----		----- 3 MONTHS-----		----- 6 MONTHS-----		-----12
PERFORMANCE MEASURE	FED	STATE	FED	STATE	FED	STATE	FED
STATE	FED	STATE	FED	STATE	FED	STATE	FED
C. ENFORCEMENT (PRIVATE SECTOR)							
1. PROGRAMMED INSPECTIONS (%)							
603	40070	1109	3694	202	8169	299	18137
	A. SAFETY		61.3	71.4	61.4	64.6	62.5
63.8	63.7	62.0	6026	283	13312	463	29042
945	62876	1790	480	8	1020	25	2126
32	4357	46	39.7	12.3	36.4	19.2	34.6
	B. HEALTH		1208	65	2806	130	6150
16.0	34.7	12.1					
200	12569	381					
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)							
326	32614	562	3378	83	7266	199	14959
	A. SAFETY		73.7	48.8	72.4	52.9	70.1
49.7	69.1	48.3	4583	170	10036	376	21330
656	47196	1164	456	6	890	14	1723
17	3487	23	57.0	33.3	57.2	45.2	56.2
	B. HEALTH		800	18	1555	31	3068
28.3	55.3	24.2					
60	6309	95					
3. SERIOUS VIOLATIONS (%)							
1014	109064	1703	11703	302	23768	648	48704
	A. SAFETY		79.6	56.4	77.4	54.0	76.7
51.4	78.4	49.0	14698	535	30703	1200	63528
1973	139117	3476	2634	48	5290	73	10266
114	21598	264	66.6	42.5	64.7	37.4	64.4
	B. HEALTH		3957	113	8180	195	15930
39.4	66.7	42.0					
289	32380	629					
4. ABATEMENT PERIOD FOR VIOLS							
49	23693	87	2394	23	4978	42	10776
	A. SAFETY PERCENT >30 DAYS		16.6	6.2	16.8	5.6	17.9
4.2	17.9	4.6					

1164	132414	1909	14465	370	29573	750	60243
0	3159	7	259	0	711	0	1451
.0	B. HEALTH PERCENT >60 DAYS		6.5	.0	8.6	.0	9.4
	10.0	2.2					
139	31619	322	4006	57	8234	88	15507

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011
STATE = PUERTO RICO

INTERIM STATE INDICATOR REPORT (SIR)

MONTHS-----	-----24 MONTHS-----		----- 3 MONTHS-----		----- 6 MONTHS-----		-----12
	PERFORMANCE MEASURE STATE	FED	STATE	FED	STATE	FED	
C. ENFORCEMENT (PRIVATE SECTOR)							
5. AVERAGE PENALTY							
A. SAFETY							
256215	5086228	490944	505479	63590	1258835	140815	2803637
	OTHER-THAN-SERIOUS		1181.0	464.2	1195.5	487.2	1126.9
478.0	1055.2	489.5					
			428	137	1053	289	2488
536	4820	1003					
B. HEALTH							
82550	1667151	135620	219203	26650	441915	58350	853346
	OTHER-THAN-SERIOUS		1184.9	720.3	1077.8	833.6	980.9
825.5	958.7	717.6					
			185	37	410	70	870
100	1739	189					
6. INSPECTIONS PER 100 HOURS							
1222	73070	2355	6874	375	15417	630	33850
	A. SAFETY		6.0	4.5	5.6	3.7	5.5
3.6	5.4	3.6					
			1138	83	2730	169	6145
342	13476	656					
			1458	126	3330	249	7311
442	14958	896					
	B. HEALTH		2.4	3.1	2.2	2.9	2.2
2.6	2.0	2.7					
			615	41	1501	85	3390
169	7404	329					
			1270	25	3026	38	6577
60	12352	133					
	7. VIOLATIONS VACATED %		5.6	4.1	6.6	3.4	7.0
3.2	6.2	3.8					
			22608	611	46128	1121	93448
1847	200310	3474					
			737	35	1997	77	4456
117	9147	279					
	8. VIOLATIONS RECLASSIFIED %		3.3	5.7	4.3	6.9	4.8
6.3	4.6	8.0					
			22608	611	46128	1121	93448
1847	200310	3474					
			19478404	158674	40012395	300369	77322520
606905	134938244	1278255					
	9. PENALTY RETENTION %		61.0	59.3	61.6	60.8	62.8
62.5	62.8	57.2					
			31918969	267585	65001782	493857	123124542
970571	214845679	2233082					

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011
STATE = PUERTO RICO

INTERIM STATE INDICATOR REPORT

MONTHS-----			----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12
PERFORMANCE MEASURE			PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE
PUBLIC	PRIVATE	PUBLIC					
D. ENFORCEMENT (PUBLIC SECTOR)							
1. PROGRAMMED INSPECTIONS %							
14	1109	26	202	5	299	8	603
	A. SAFETY		71.4	7.0	64.6	5.8	63.8
6.0	62.0	5.8	283	71	463	137	945
232	1790	445					
12	46	52	8	3	25	7	32
	B. HEALTH		12.3	5.7	19.2	6.6	16.0
5.9	12.1	12.1	65	53	130	106	200
203	381	428					
2. SERIOUS VIOLATIONS (%)							
229	1703	372	302	60	648	134	1014
	A. SAFETY		56.4	37.3	54.0	42.9	51.4
42.6	49.0	39.4	535	161	1200	312	1973
537	3476	945					
242	264	442	48	65	73	148	114
	B. HEALTH		42.5	52.0	37.4	50.5	39.4
45.1	42.0	44.4	113	125	195	293	289
537	629	996					

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011
STATE = PUERTO RICO

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

MONTHS-----	----- 24 MONTHS-----		----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12
	PERFORMANCE MEASURE		FED	STATE	FED	STATE	FED
STATE	FED	STATE					
E. REVIEW PROCEDURES							
166	4270	327	579	34	1131	54	2220
22.2	23.0	26.9	22.8	22.7	23.4	17.3	23.5
748	18586	1216	2542	150	4834	312	9442
138	2360	282	328	37	620	67	1259
18.4	12.7	23.2	12.9	24.7	12.8	21.5	13.3
748	18586	1216	2542	150	4834	312	9442
83053	28079915	148087	3616720	13853	9500018	49528	16062961
12.7	60.6	11.7	56.1	11.4	62.4	16.6	62.3
655690	46371522	1268467	6443756	121131	15212620	299143	25766759

Appendix F

FY 2011 State OSHA Annual Report (SOAR)
(Available Separately)

APPENDIX G
 FY 2011 23(g) Consultation Data
 Puerto Rico State Plan

	PR Public Sector	Total State Plan Public Sector	PR Private Sector
Requests	17	1,328	120
<i>Safety</i>	-	576	44
<i>Health</i>	15	560	33
<i>Both</i>	2	192	43
Backlog	1	123	-
<i>Safety</i>	-	51	-
<i>Health</i>	1	58	-
<i>Both</i>	-	14	-
Visits	16	1,632	119
<i>Initial</i>	15	1,336	115
<i>Training and Assistance</i>	-	175	-
<i>Follow-up</i>	1	121	4
<i>Percent of Program Assistance</i>	100%	67%	98%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%	100%
Employees Trained	112	5,030	339
<i>Initial</i>	112	2,144	339
<i>Training and Assistance</i>	-	2,886	-
Hazards	45	6,063	640
<i>Imminent Danger</i>	-	3	-
<i>Serious</i>	32	4,804	524
<i>Other than Serious</i>	6	1,171	76
<i>Regulatory</i>	7	85	40
<i>Referrals to Enforcement</i>	-	6	12
Workers Removed from Risk	886	171,075	6,343
<i>Imminent Danger</i>	-	55	-
<i>Serious</i>	294	136,884	4,752
<i>Other than Serious</i>	181	26,046	938
<i>Regulatory</i>	411	8,090	653