

**FY 2013 Comprehensive
Federal Annual Monitoring and Evaluation (FAME) Report**

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



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**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region 2
New York, NY**



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I. Executive Summary

A. Summary of the Report

The purpose of this report is to assess the activities performed by the Puerto Rico Occupational Safety and Health Administration (PR OSHA) State Plan during Fiscal Year (FY) 2013 and its success in resolving the one outstanding observation from the FY 2012 FAME.

PR OSHA continues to have a significant enforcement presence in the workplace through its inspection activity. PR OSHA exceeded its goal and conducted 1,711 inspections during FY 2013, 201 – more than its projected goal of 1,510 inspections.

During FY 2013, PR OSHA had one significant enforcement inspection. Citations were issued for high levels of lead as well as blood levels of workers being elevated. The employer received citations for 10 serious violations and four repeat violations as well as three failure-to-abate (FTA) violations. The total penalty was over \$700,000. The case is currently in contest.

There were no findings in this year's FAME report, a notable improvement from previous years' FAME reports. OSHA identified seven new items that do not rise to the level of being a finding and these are being noted as observations which will be monitored closely by the Region. The observations identified were noted in very few case files and involved: not following the recordkeeping directive (citations were issued when there were no injuries/illnesses reported), violations being incorrectly classified, and incorrectly assigned severity/probability, results of inspections along with a copy of the citation was not sent to the authorized union and concerns that procedures were not being followed to provide affected employees or authorized employee representatives with an opportunity to participate as parties to PR OSHA hearings (Section 20(c) of the Act). Also noted during the review of the consultation case files that the Form 33 (Safety & Health Hazard Survey) was not completed in detail and abatement verification was lacking in several of the case files.

The FY 2012 FAME found that PR OSHA's lapse time for both safety and health exceeded the national average. The average lapse time for both safety and health inspection cases has declined during FY 2013, but this value is still above the national averages. The Region will continue to monitor this item throughout the remainder of FY 2014.

B. State Plan Introduction

PR OSHA under the direction of Jose Israel Droz, Assistant Secretary of Labor, is responsible for administering the Puerto Rico State Plan, which is part of the Puerto Rico Department of Labor and Human Resources headed by Secretary of Labor Vance E. Thomas Rider. PR OSHA serves a population of 646,000 workers in the private sector and 264,000 workers in the public sector. 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, and military facilities are under OSHA jurisdiction.

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.

The table below shows PR OSHA's funding levels from FY 2010 through FY 2013.

FY 2010-2013 Funding History						
FY	Federal Award (\$)	State Plan Match (\$)	100% State Plan Funds (\$)	Total Funding (\$)	Percent of State Plan Contribution	Deobligated/ One-Time Only/Reclaimed Funds (\$)
2013	\$2,480,900	\$2,480,900	\$2,404,990	\$7,366,790	65.9%	0/32,886/0
2012	\$2,588,900	\$2,588,900	\$2,140,864	\$7,318,664	64.6%	0/0/0
2011	\$2,588,900	\$2,588,900	\$2,591,843	\$7,769,643	66.7%	N/A
2010	\$2,438,800	\$2,438,800	\$3,052,169	\$7,929,769	69.2%	N/A

Staffing continues to remain consistent. The table below shows the number of full-time and part-time staff as of the end of FY 2013.

FY 2013 Staffing					
23(g) Grant Positions	Allocated FTE* Funded 50/50	Allocated FTE 100% State Funded	Total	50/50 Funded FTE On Board as of 09/30/13	100% State Funded FTE On Board as of 09/30/13
Managers/ Supervisors (Administrative)	11	0	11	6	0
First Line Supervisors (Program)	7	0	7	6	0
Safety Compliance Officers	29	3	32	21	3
Health Compliance Officers	20	1	21	16	1
Public/Private Sector Safety Consultants	6	0	6	2	0
Public/Private Sector Health Consultants	4	0	4	4	0
Compliance Assistance Specialists	0	0	0	0	0
Clerical	32	9	41	27	6
Other (positions not counted elsewhere)	7	2	9	4	1
Total 23(g) FTE	116	15	131	86	11

*Full-Time Equivalent

C. Data and Methodology

Monitoring of PR OSHA consisted of a team of OSHA personnel from both the safety and the health disciplines and from the Whistleblower 11(c) program. The team conducted onsite audits at PR OSHA's central office in Hato Rey, Puerto Rico, starting on February 3, 2012 and ending on February 7, 2013.

The evaluation of the PR OSHA program covered FY 2013, the period of October 1, 2012 through September 30, 2013 and included the following documents:

- State Activity Mandated Measures (SAMM) Report
- Enforcement Comparison
- Mandated Activities Report for Consultation (MARC)

The OSHA team reviewed a total of 121 closed case files broken down by the following:

- Non-formal complaint case files (5)
- Enforcement case files (75 total – 44 safety and 31 health – complaints, planned, referrals)
- Fatality case files (11)
- Consultation case files (19)
- SHARP files (3)
- VPP files (2)
- Whistleblower case files (6)

As part of the study, key stakeholders including local unions, were contacted to solicit their views on State Plan targeting, responsiveness, and procedures.

One of the unions contacted indicated their experience with PR OSHA was positive. This particular union represents both private and public sector workers and stated that the handling of matters by PR OSHA is both consistent and professional. The one concern regarding PR OSHA that this union did identify was the time given to correct hazards which they felt could be more judicious; however, they fully understood that suitable hazard correction sometimes takes more time than what could be considered ideal. OSHA did not find any issues with timeframes assigned for abatement of hazards.

Another union OSHA spoke with felt that PR OSHA was doing a very good job. They reported that PR OSHA responds to requests for inspections and investigations in a timely and proficient manner. They also stated that PR OSHA was very responsive to provide general information and were always professional when doing so.

However, another local union expressed concerns with PR OSHA. For example, when employers contest cases, the union was not being informed or provided the opportunity to attend and

participate in the formal hearings. In addition, if the union is unable to attend, following the hearing, at a minimum they would like to be informed of any changes in penalties and/or classification of the violation/s. When an employer requests a hearing, the rules and procedures referenced in Regulation Number Nine 99) Part 2200 is followed by the Legal Division and the Hearing Examiner. This is addressed as Observation 13-06 in this report.

D. Findings and Recommendations

The FY 2013 audit of enforcement (private and public sectors) and consultation (private and public sectors) case files revealed seven new items that are being noted as observations and one continuing observation. Details of the eight observations can be found in Section III and Appendix B of this report.

New observations:

- Adequate evidence to support violations – Recordkeeping violations directive (CPL 02-00-135) was not followed when issuing citations. Recordkeeping citations were issued when there were no injuries/illnesses.

- Violation classification – In case files with citations issued, violations related to electrical, blocked exits, and bloodborne pathogens were issued as other-than-serious with no justification documented in the case file. These conditions more than likely should have been issued as serious. Severity/probability given on OSHA 1Bs did not compare to the injury/illness assessed. An example includes: low/lesser given for a worker exposed to a 20-foot fall from a scaffold.

- Worker and union involvement – Inspection results and a copy of the citation were not sent to the authorized union in two of the seven case files (28.5%) reviewed that had both an authorized union and where citations were issued.

Procedures are not being consistently followed that provide workers or their authorized representatives with an opportunity to participate at PR OSHA hearings (Section 20(c) of the Act).

- Safety and health hazard survey (Form 33) – Consultation case files that contained Form 33 were not completed in detail.

- Abatement verification (Consultation) – Abatement verification for serious hazards was not found in case files reviewed.

Continuing observation:

- Lapse time – Although the average lapse time for safety and health has declined, the average for safety still exceeds the national average by 27% and for health by 30%. The Region will continue to monitor this item.

II. Major New Issues

None

III. Assessment of State Plan Performance

1. ENFORCEMENT

a) Complaints

During this evaluation period, PR OSHA responded to 382 complaints with an average response time of 2.40 days from notification. PR OSHA continues to exceed its strategic goal of responding to complaint inspections within five working days from notification. (SAMM report FY 2013 – SAMM #1)

PR OSHA received a total of six non-formal complaints with an average of 0 days for initiating the complaint investigations. PR OSHA continues to demonstrate prompt response to complaint investigations via phone/fax method, thus exceeding its one day response strategic goal. (SAMM report FY 2013 – SAMM #2)

There were no findings and/or recommendations for the 14 complaint-related inspections reviewed.

b) Fatalities

During FY 2013 the number of fatalities reported was 16. Eleven fatality case files (10 safety and one health) were reviewed. All 11 (100%) of the fatality case files contained a next-of-kin (NOK) notification letter. Responses to fatalities were 94% compared to the 100% reference. (SAMM report FY 2013 – SAMM #21)

c) Targeting and Programmed Inspections

PR OSHA conducted a total of 1,711 inspections in FY 2013: 1,255 safety inspections and 456 health inspections. This was 13.3 % higher than their planned goal of 1,510 inspections. Of the 1,255 safety inspections conducted, 1,052 (83.82%) were in the private sector and 203 (16.17%)

in the public sector. Of the 456 health inspections conducted, 246 (53.94%) were in the private sector and 210 (46.05%) were in the public sector. (PR SOAR FY 2013)

PR OSHA focused programmed inspections

- General Medical Services – 59 inspections
- Limited & Full Service Restaurants – 376 inspections
- Emergency, Disaster Preparedness & Management Offices – 51 inspections
- Public Sewage and Water Treatment Plants – 35 inspections

Based on inspections conducted in their focused areas, PR OSHA's targeting appears to be appropriate.

The percentage of in-compliance inspections for safety was recorded at 35.80% which was slightly higher than the national average of 29.1%. The health was recorded at 34.39% compared to the national average of 34.1%. OSHA is not making this a finding or observation at this time but will continue to monitor this during the quarterly meetings. (SAMM report FY 2013 – SAMM #20a & #20b) PR OSHA issued 3,787 violations compared to 3,303 violations issued in FY 2012 – an increase of 484 violations. Of the 3,787 violations issued: 1,595 were serious, 33 were repeat, none were willful or FTA, and the remaining 2,159 were other-than-serious. (INSP8 report 10-28-13)

PR OSHA issued an average of 1.75 serious/willful/repeat (S/W/R) violations per inspection and 1.74 for other-than-serious violations per inspection. PR OSHA is slightly below the national average of 2.04 for S/W/R and the national average of 0.88 for other-than-serious. (SAMM report FY 2013 – SAMM #9a and #9b)

During FY 2013, PR OSHA had one significant enforcement inspection. Citations were issued for high levels of lead as well as blood levels of workers being elevated. The employer received citations for 10 serious violations and four repeats, as well as three FTAs. The total penalty was over \$700,000. The case is currently being contested.

d) Citations and Penalties

Adequate evidence to support violations

Observation 13-01

Recordkeeping violations directive (CPL 02-00-135) was not followed when issuing citations. Recordkeeping citations were issued when there were no injuries/illnesses reported in six of the 64 case files (9.37%) reviewed.

Federal Monitoring Plan 13-01

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

PR OSHA issued 3,787 violations compared to 3,303 violations issued in FY 2012 an increase of 484 violations. Of the 3,787 violations issued, 42% were issued as S/W/R. Of these, 1,595 were classified as serious, 33 as repeats, 0 as willful or FTA, and 2,159 were other-than-serious. (INSP8 report 10-28-13)

Observation 13-02 (12-01)

PR OSHA's citations lapse time (the average number of calendar days from opening conference to citation issuance) for FY 2013 was calculated at 55.09 days for safety – a decrease from 62.21 days in FY 2012 and above the national average of 43.4 days. The lapse time for health was 74.3 days, a decrease from 91.82 days in FY 2012 and above the national average of 57.05 days. (SAMM report FY 2013 – SAMM #23a and #23b)

Federal Monitoring Plan 13-02 (12-01)

The Region will continue to address and monitor the percentages throughout the remainder of FY 2014.

Violation classification

Observation 13-03

In four of the 64 (6.25%) case files with citations issued, violations related to electrical, blocked exits, and bloodborne pathogens were issued as other-than-serious with no justification documented in the case file. These conditions likely should have been issued as serious.

Federal Monitoring Plan 13-03

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Observation 13-04

Severity/probability given on OSHA 1Bs did not compare to the injury/illness assessed in seven of the 64 (10.9%) case files reviewed. An example includes: low/lesser given for a worker exposed to a 20-foot fall from a scaffold.

Federal Monitoring Plan 13-04

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

During FY 2013, PR OSHA appropriately classified 33 violations as repeat. There were no willful violations issued during FY 2013. (INSP8 report 10-28-13)

Total penalties issued by PR OSHA for FY 2013 was \$2,268,697. The average serious penalty was \$1,070, the average repeat penalty was \$4,423, and the average other-than-serious penalty was \$192.00. (INSP8 report 10-28-13)

e) Abatement

The review of case files during this audit revealed appropriate abatement periods were being assigned and adequate verification/evidence of abatement was being obtained in the case files that had citations. PR OSHA conducted 17 follow-up inspections.

f) Worker and Union Involvement

Union involvement

Observation 13-05

Inspection results and a copy of the citation was not sent to the union in two of the seven case files (28.5%) reviewed that had both an authorized union and where citations were issued.

Federal Monitoring Plan 13-05

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Observation 13-06

Stakeholder interviews raised concerns that procedures are not being consistently followed to provide workers or authorized representatives with an opportunity to participate at PR OSHA hearings. For all of the cases that were contested during FY 2013, PR OSHA provided OSHA with written documentation establishing that employee representatives were duly notified in accordance with Section 20 (c) of the Act.

Federal Monitoring Plan 13-06

In FY 2014, a limited number of hearing examiner case files will be selected randomly and reviewed to determine if PR OSHA continues its compliance with Section 20 (c) of the Act.

2. REVIEW PROCEDURES

a) Informal Conferences

There are no findings and/or recommendations for the 43 case files in which informal conferences were held.

b) Formal Review of Citations

During FY 2013, 289 cases were contested. Of the 289 contested cases, 269 (92.73%) were closed with Hearing Examiner Resolutions as follows:

- 219 stipulated agreement hearings
- 50 hearings on merit

The remaining 20 cases are under legal analysis. (PR OSHA SOAR FY 2013)

3. STANDARDS AND FEDERAL PROGRAM CHANGES ADOPTION

In accordance with 29 CFR 1902, State Plans are required to adopt standards and Federal Program Changes (FPCs) within a six-month time frame. State Plans that do not adopt identical standards and procedures must establish guidelines which are “at least as effective as” the federal rules. State Plans also have the option to promulgate standards covering hazards not addressed by federal standards. During this period, PR OSHA responded in a timely manner with the required notice of intent to adopt. The tables below provide a complete list of the federal directives and standards which required action during this period:

a) Standards Adoption

Standards Requiring Action	Federal Register Date	Adopt Identical (Y/N)	Effective Date
Cranes and Derricks in Construction: Underground Construction and Demolition	04/25/2013	Y	08/13/2013
Updating OSHA Standards Based on National Consensus Standards; Head Protection	11/16/2012	Y	07/16/2013

b) Federal Program/State Plan-Initiated Changes

FPCs Requiring Action and Directive Number	Date of Directive	Intent to Adopt	Adopt Identical (Y/N)	Adoption Date
Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification	09/30/2013	N	N/A	N/A
Federal Program Change Memo for OSHA Instruction CPL-02-00-155	09/06/2013	N	N/A	N/A
National Emphasis Program - Occupational Exposure to Isocyanates	06/20/2013	Y	Y	10/21/2013
Site-Specific Targeting 2012 (SST-12)	01/04/2013	N	N/A	N/A
Inspection and Citation Guidance for Roadway and Highway Construction Work Zones	10/16/2012	Y	Y	04/04/2013

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

- PR OSHA Notice CPL 13-001 PR OSHA’s discontinuation of English and Spanish VDs (Violation Description) for Spanish only VD and English Translation Request Procedure, April 10, 2013.
- PR OSHA Notice CPL 13-002 Puerto Rico Occupational Safety and Health Administration (PR OSHA) procedure for bloodborne pathogen pilot inspection, June 11, 2013.
- PR OSHA Instruction ADM 13-001, Puerto Rico Occupational Safety and Health Administration (PR OSHA) procedure for debt certification, May 20, 2013.

4. Variances

There were no variances requests received or processed during FY 2013.

5. Public Employee Program

PR OSHA conducted 413 inspections (24.12%) in the public sector during FY 2013. This was 28.7% higher than their planned goal of 321 inspections. (SAMM report FY 2013 – SAMM #11)

6. Discrimination Program

During FY 2013, PR OSHA completed a total of four discrimination complaints investigations and all were completed within 90 days for a 100% timely completion rate. Three of the four were found to be meritorious and one was settled. The average number of calendar days to complete an 11(c) investigation was 33.33 days. (SAMM report FY 2013 – SAMM #13 and #16)

An on-site review of four case files and the records of two administratively closed cases were conducted. All the files reviewed showed that case files and records were well documented, timeliness of the program is adequate, and policies and procedures are at least as effective as OSHA's.

7. Special Study – State Plan Targeting Programs

The purpose of the Special Evaluation Study is to evaluate the State Plans' targeting programs. The special study contains two components: an analysis of how the State Plan develops a targeting program and an analysis of how the State Plan evaluates the effectiveness of its program. The findings of the study can be found in the separate template provided by the National Office.

8. Complaints About State Program Administration (CASPA's)

There were no CASPA's received during FY 2013.

9. Voluntary Compliance Program

PR OSHA Voluntary Protection Program (VPP)

PR OSHA has a comprehensive VPP which mirrors 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 smaller 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 VPP currently has 17 participants approved at the Guanin level. During FY 2013, two sites were re-approved in the Guanin level: Pfizer Consumer Products and Stryker Puerto

Rico, Ltd. Two VPP case files were reviewed during this audit. Both files were well documented following the VPP Policies and Procedures Manual TED 10-001, September 13, 2010.

Safety and Health Achievement and Recognition Program (SHARP)

PR OSHA continues to make progress toward implementing SHARP. During FY 2013 there were two new sites approved in the program:

- Oficina Dra
- Janet Rivera and Simmons Caribbean Bedding, Inc.

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

- Laboratorio Gaudier
- Laboratorio Clínico Chegar II
- Ricetec, Inc.

There are no findings and/or observations to report related to the three SHARP case files reviewed.

“Door-to-Door” in Construction

Due to the reduction of projects, contractors, and workers in this Industry the Door-to-Door directive was updated to include projects with 25 or more workers lasting for a period of six months or more. Those general contractors accepting to participate in this initiative agree to abate all the hazards identified, improve their safety and health program, and receive an onsite consultation visit at least every three months. A new banner concept will be posted in a conspicuous place in the project which reads as follows: “Construyendo con Seguridad” (Building Safety). During FY 2013, seven new construction projects were accepted in this initiative.

10. Public Sector On-site Consultation Program

PR OSHA conducted 30 public-on-site consultation visits – 11 more (157.89%) than projected for FY 2013. Of the 30 on-site visits, 17 were safety and 13 were health. Fifty-three hazards were identified and 51 (96.23%) were abated within the required timeframe. (MARC report 10-29-13 – Measure #4a) There were no findings/observations to report related to the one public sector consultation case file reviewed.

11. Private sector 23(g) On-site Consultation Programs

On-site Consultation Visits

According to the MARC reports, (MARC report 10-29-13) PR OSHA conducted 172 on-site consultation visits – 36 more (126.47%) than the projected 136 visits for FY 2013. Of the 172 on-site consultation visits, 70 were safety and 102 were health.

One hundred and five of the 169 initial visits (62.13%) conducted during FY 2013 were in high hazard establishments. The reference point is <90%. PR OSHA continues to promote its on-site consultation service, but the number of visits depends on employers who seek its services. (MARC report 10-29-13 Measure #1)

PR OSHA conducted 163 initial visits of the total conducted for the year to smaller establishments (less than 250 workers) for 98.82%. The reference point is no less than 90%. (MARC report 10-29-13 Measure #2)

PR OSHA conducted 163 out of its 169 (96.45%) initial visits to smaller establishments (less than 500 employees). The reference point is no less than 90%. (MARC report 10-29-13 Measure #2)

PR OSHA conferred with workers on consultation visits 100% of the time for both initial visits (169) and one follow-up visit. There were no training and assistance visits in FY 2013. The reference point is 100%. (MARC report 10-29-13 Measure #3)

A total of 795 serious hazards were identified during FY 2013 of which 771 hazards (96.98%) were verified corrected in a timely fashion. PR OSHA has made significant progress towards meeting the 100% timely verification measure as compared to previous evaluation periods. (MARC report 10-29-13 Measure #4a)

Nine of the 795 serious hazards issued (1.13%) were not verified corrected in a timely manner. PR OSHA continues to conduct training for its consultants and re-emphasized the importance of timely hazard correction. PR OSHA has acted appropriately in its efforts. (MARC report 10-29-13 Measure #4b)

Fifteen of 795 serious hazards (1.89%) were referred to enforcement after employers failed to correct them during the consultation process. (MARC report 10-29-13 Measure #4c)

Five-hundred and eighty-two of the 795 serious hazards (73.21%) were verified corrected. (MARC report 10-29-13 Measure #4d) PR OSHA had no outstanding uncorrected serious hazards past 90 days. (MARC report 10-29-13 Measure #5)

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. N A review of eighteen private sector consultation case files and one (1) public sector consultation case file were evaluated.

Observation 13-07

In four of the 19 consultation case files (21%) reviewed, the safety and health hazard survey (Form 33) comments section did not provide the details to ensure the number assigned and description corresponded with each other.

Federal Monitoring Plan 13-07

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

Observation 13-08

In two of 17 consultation case files (11%) reviewed, abatement verification (certification and documentation) for serious hazards was not found for all identified hazards in the case files (requirements of CSP 02-00-002; Section II.F; and IV.F.2.II, respectively).

Federal Monitoring Plan 13-08

In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.

12. State Plan Administration

Training:

Training is essential for PR OSHA in order for them to continue to develop and improve their case file documentation. PR OSHA continues to ensure that its staff is being trained in accordance with TED 01-00-018. PR OSHA also has an adequate number of trained CSHOs who meet the guidelines for conducting Process Safety Management (PSM) inspections.

Funding:

Due to a sequestration order from Congress, \$83,700 was cut from PR OSHA's 23(g) enforcement program during FY 2013.

Staffing (including benchmarks, furloughs, hiring freezes, etc.):

Actual Staffing in FY 2013

- Safety Enforcement: 24
- Health Enforcement: 17

- Consultation: 6
- Total Staff (all full-time only): 97

Allocated Staff

- Safety Enforcement: 32
- Health Enforcement: 21
- Consultation: 10
- Total Staff (all full-time only): 131

PR OSHA, which does not have final approval status, operates under unadjusted 1980 staffing benchmarks of 23 safety and 34 health staff members.

Information Management (including use of Integrated Management Information System [IMIS] reports for State Plan management):

PR OSHA continues to use IMIS data for tracking purposes.

State Internal Evaluation Program (SIEP) Report:

PR OSHA’s State Internal Evaluation Program (SIEP) is used to identify potential policy and procedural weakness, areas for improvement, unsatisfactory execution of the State Plan 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.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals

A. PR OSHA Strategic Goal 1

Performance Goal 1.1.1A Reduce by 5% the most prevalent workplace injuries/illnesses in Handling and Working with Blood in the Emergency Room Industry.

Establish corrected baseline and performance measure to assess progress towards achievement of the five-year performance goal.

NAICS 621493

Year	TRC (OSHA300) Rate	% Change
2012	2.89	Baseline
2013	6.26	Corrected Baseline

NAICS 622110

Year	TRC (OSHA300) Rate	% Change
2012	9.53	Baseline
2013	8.0	Corrected Baseline

During FY 2013, PR OSHA’s Bureau of Inspections (BI) identified 160 establishments to which the LEP Directive would apply. During this fiscal year the BI conducted 59 inspections. As a result of these inspections, 37 establishments were cited with a total of 116 violations classified as follows: 42 serious and 74 other. For the NAICS 621493 and 622110 the corrected baselines were established using OSHA 300 Forms for FY 2012. PROSHA met this goal.

Performance Goal 1.1.1B Reduce by 5% the most prevalent workplace injuries/illnesses in the Fast Food Industries (Limited and Full Services Restaurants). Establish corrected baseline and performance measure to assess progress towards achievement of the five-year performance goal.

Year	TRC (OSHA300) Rate	% Change
2012	2.51	Baseline
2013	5.62	Corrected Baseline

During FY 2013, BI identified 1,294 establishments to which the LEP Directive would apply. During this fiscal year the BI conducted 376 visits, and 376 inspections. As a result of these inspections, 239 establishments were cited with a total of 851 violations classified as follows: 374 serious, 476 other, and one repeat related to hazards associated with the LEP.

The corrected baseline was established as 5.62 Total Recordable Cases (TRC) Rate reported on the OSHA 300 Forms for FY 2012 with data provided by the employers of the Limited and Full Services Restaurants targeted by PR OSHA. PROSHA met this goal.

Performance Goal 1.1.1C Reduce by 5% the most prevalent workplace injuries/illnesses in the Emergency, Disaster Preparedness and Management Offices.

Establish corrected baseline and performance measure to assess progress towards achievement of the five-year performance goal.

Year	TRC (OSHA300) Rate	% Change
2012	8.85	Baseline
2013	10.92	Corrected Baseline

During FY 2013 BI identified 180 establishments to which the LEP Directive would apply. BI conducted 51 inspections. As a result of these inspections, establishments were cited with a total of 293 violations classified as follows: 137 serious, 153 other, and three repeat.

The corrected baseline was established as 10.92 Total Recordable Cases Rate reported on the OSHA 300 Forms for FY 2012 with data provided by the employers of the Emergency, Disaster Preparedness and Management Offices targeted by PR OSHA. PR OSHA met the goal.

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
2008	16.8	Baseline
2009	5.3	68% Decrease
2010	3.9	77% Decrease
2011	1.8	89.3% Decrease
2012	0	* No data
2013	0	* No data

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

The LEP Directive to target the Water treatment plant industry (PR OSHA Instruction CPL 2-0.0802) was issued on June 20, 2008. BI identified 35 establishments to which the LEP Directive would apply for this fiscal year. During FY 2013, BI conducted 35 visits which in 35 inspections. As a result of these inspections, establishments were cited with a total of 59 violations classified as 40 serious and 19 other.

Using the data reported on the OSHA 300 Forms for FY 2012 with data collected directly by the employers of the public sewage and water treatment plants industry targeted by PR OSHA the Total Recordable Cases Rate was zero. This rate constituted a 16.8 decrease (or 100%) from the baseline of 16.8. The LEP concluded during FY 2013. PR OSHA exceeded the goal of an additional 1% reduction per year from the baseline.

Performance Goal 1.1.2 Decrease the fatality rate in the construction industry by an additional 5% from the baseline by focusing on the four leading causes of fatalities in construction (falls, struck-by object, electrocutions, and caught-in/between).

Revise baseline and performance measure to assess progress towards achievement of the five-year performance goal.

Year	Number of Fatalities	Workforce	Fatality Rate	% Change From Baseline
2012	5	48,000	1.04	Baseline
2013	3	35,614	1.03	Revised Baseline

Note: During FY 2013, the fatality rate was calculated at 1.03 per 10,000 workers (3 fatalities ÷ 35,614 workers) ÷ 10,000 workers).

During FY 2013 PR OSHA investigated three fatalities in the construction industry; all were due to one of the four leading causes of death in the construction industry: there were two falls and one struck-by an object.

BI conducted 391 programmed planned construction inspections. As a result of the three fatalities investigated, six citations were issued. The number of workers covered by the construction industry was 35,614 in FY 2013 which is a significant decrease from previous years. The workforce in the construction industry suffered a 60% reduction due to steady declines in labor productivity.

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 all over Puerto Rico. Due to the reduction of projects, contractors and workers in this Industry the Door-to-Door Directive was updated to include projects with 25 or more workers lasting for a period of six months or more. Those general contractors accepting to participate in this initiative agree to abate all the hazards identified, improve their safety and health program, and receive an on-site consultation visit at least every three months. A new banner concept will be posted in a conspicuous place in the project. Seven new sites were approved in FY 2013.

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

- Safety and Health in the Safety and Health in the Construction Industry
- OSHA 300
- Excavations
- Personal Protective Equipment
- Fall Protection
- Scaffoldings
- Manual Hands Tools
- Safety Analysis
- Violence at the Workplace
- Domestic Violence at the Workplace

The participation in these training sessions was as follows: 156 employer representatives, 41 workers, 11 students, and 11 for general public. There were 266 informational materials (booklets) were distributed at the training sessions.

During FY 2013, the Voluntary Programs Division conducted 36 on-site consultation visits in the construction industry resulting in 140 hazards identified and reported to employers. Eighty-three of the 140 hazards identified were related to the leading causes of fatalities in construction. One formal training session was delivered in one of the 36 on-site consultation visits where three employer representatives and 13 workers were trained. PR OSHA met this goal.

B. PR OSHA Strategic Goal 2

Performance Goal 2.1.1A Achieve 80% of the targeted employers in general industry that have either implemented an effective safety and health program or improved their existing program.

PR OSHA's annual performance goal of 80% was achieved. The annual performance goal of 77% established for FY 2013 was exceeded. In addition, as part of the State Plan's effort, the Division of Voluntary Programs delivered seven open training sessions in safety and health programs and worker involvement in safety and health matters. The participation was as follows: 447 employer representatives, 73 workers, and one student. PR OSHA exceeded this goal.

Performance Goal 2.1.1B Achieve 80% percent of the targeted employers in general industry that have implemented an effective safety and health program or improved their existing program.

During FY 2013, the Division of Voluntary Programs conducted 166 on-site consultation visits to employers in the general industry. One-hundred fifty out of 166 employers or 90% who requested consultation services implemented an effective safety and health program or improved their existing one. The new annual performance goal of 77% established for FY 2013 was exceeded by 13%. PR OSHA exceeded this goal.

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 100% of employers inspected or provided consultations in the Handling and Working with Blood in the Emergency Room Industry.

PROSHA established a new baseline of 80% for FY 2013.

In FY 2013, BI conducted 59 training sessions out of the 59 inspections conducted for a 100% outcome. The goal was exceeded by 20% compared to established baseline of 80%. PR OSHA exceeded this goal.

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 100% of employers inspected or provided consultations in the Fast Food (Limited and Full Services Restaurants) Industry.

BI conducted 367 inspections and provided training to all of the employers and workers following the inspections. PR OSHA met this goal.

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 100% of employers inspected or provided consultations in the Emergency, Disaster Preparedness and Management Offices Industry.

The Bureau of Inspections conducted 61 inspections and provided training to all of the employers and workers following the inspections. PR OSHA met this goal.

Performance Goal 2.2.2D Achieve an additional 15% in the Public Sewage and Water Treatment Plants Industry to provide training to employers and workers on the skills necessary for effective worker involvement in safety and health matters.

BI conducted 35 inspections in the Public Sewage and Water Treatment Plants Industry and provided training to all employers and workers following the inspections. PR OSHA met this goal.

Performance Goal 2.3.1 Develop and disseminate occupational safety and health training and reference materials to 100% private workplaces identified as nursing homes. The Voluntary Programs Division conducted 38 onsite consultation visits in the nursing homes industry. One hundred fifty-two hazards were identified and reported to employers. Four formal open training sessions on safety and health in the nursing homes industry were delivered in Arroyo, Canóvanas and Aguadilla with training participation being 264 employer representatives and 125 workers. PR OSHA met this goal.

V. Other Special Measures of Effectiveness and Areas of Note

An area of note that warrants additional discussion is the development and implementation of State Plan-initiated directives during the third-quarter of FY 2013 which were not part of the Annual Performance Plan or Five-Year Strategic Plan:

- CPL 13-002 MOTELS: a pilot program which became effective on June 11, 2013. The purpose is to conduct programmed inspections in the motel industry to address bloodborne pathogens and personal protective equipment in that industry.

- PR OSHA Notice CPL 13-001 PR OSHA's discontinuation of English and Spanish VDs (Violation Description) for Spanish-only VD and English Translation Request Procedure, April 10, 2013.

Appendix A – New and Continued Findings and Recommendations

FY 2013 PR OSHA State Plan Comprehensive FAME Report

FY-Rec #	Finding	Recommendation	FY 2012

There were no new findings in FY 2013.

Appendix B – Observations Subject to Continued Monitoring

FY 2013 PR OSHA State Plan Comprehensive FAME Report

Observation # [FY13-OB-1]	Observation # [FY12-OB-1]	Observation	Federal Monitoring Plan	Current Status
FY13-OB-01		<p><i>Adequate evidence to support violations:</i> The recordkeeping directive adopted by PR OSHA (CPL 02-00-135) was not being adhered to when issuing citations. Recordkeeping citations were issued when there were no injuries/illnesses reported in six of the 64 case files (9.37%) reviewed in the workplace.</p>	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY13-OB-02	FY12-OB-01	<p><i>Lapse time:</i> PR OSHA’s citations lapse time (the average number of calendar days from opening conference to citation issuance) for FY 2013 was calculated at 55.09 days for safety, a decrease from 62.21 days in FY 2012 and above the national average of 43.4 days. The lapse time for health was 74.3 days, a decrease from 91.82 days in FY 2012 and above the national average of 57.05 days. (SAMM report FY 2013 – SAMM #23a and #23b)</p>	The Region will continue to address and monitor the percentages throughout the remainder of FY 2014.	Continued
FY13-OB-03		<p><i>Violation classification:</i> In four of the 64 (6.25%) case files with citations issued, violations related to electrical, blocked exits and bloodborne pathogens were issued as other-than-serious with no justification documented in the case file. These conditions most likely should have been issued as serious.</p>	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY13-OB-04		<p><i>Violation classification:</i> Severity/probability given on OSHA 1Bs did not compare to the injury/illness assessed in seven (7) of the 64 (10.9%) case files reviewed. An example includes: low/lesser given for a worker exposed to a 20-foot fall from a scaffold.</p>	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New

Appendix B – Observations Subject to Continued Monitoring

FY 2013 PR OSHA State Plan Comprehensive FAME Report

Observation # [FY13-OB-1]	Observation # [FY12-OB-1]	Observation	Federal Monitoring Plan	Current Status
FY13-OB-05		<i>Union involvement:</i> Inspection results and a copy of the citation was not sent to the union in two of the seven case files (28.5%) reviewed that had both an authorized union and where citations were issued.	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY13-OB-06		<i>Union involvement:</i> Stakeholder interviews raised concerns that procedures are not being consistently followed to provide workers or authorized representatives with an opportunity to participate at PR OSHA hearings. For all of the cases that were contested during FY 2013, PR OSHA provided OSHA with written documentation establishing that employee representatives were duly notified in accordance with Section 20 (c) of the Act.	In FY 2014, a limited number of hearing examiner case files will be selected randomly and reviewed to determine if PR OSHA continues its compliance with Section 20 (c) of the Act.	New
FY13-OB-07		<i>Consultation case file documentation:</i> In four of the 19 consultation case files (21%) reviewed, the safety and health hazard survey (Form 33) comments section did not provide the details to ensure the number assigned and description correspond with each other.	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New
FY13-OB-08		<i>Consultation case file documentation:</i> In two of 17 consultation case files (11%) reviewed, abatement verification (certification and documentation) for Serious hazards was not found for all identified hazards in the case files (requirements of CSP 02-00-002; Section II.F; and IV.F.2.II, respectively).	In FY 2014, a limited number of case files will be selected randomly and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New

Appendix C - Status of FY 2012 Findings and Recommendations

FY 2013 PR OSHA State Plan Comprehensive FAME Report

FY 2013 Puerto Rico Occupational Safety & Health Administration (PR OSHA) State Plan Comprehensive FAME Report					
12-Rec #	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status

There were no findings in FY 2012.

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 PR OSHA State Plan Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

State: Puerto Rico			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	2.4	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
2	Average number of work days to initiate complaint investigations	0	(Negotiated fixed number for each state) - 1	State data taken directly from SAMM report generated through IMIS.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	99.74%	100%	State data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State data taken directly from SAMM report generated through IMIS.
9a	Average number of violations per inspection with violations by violation type	1.75	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 PR OSHA State Plan Comprehensive FAME Report

9b	Average number of violations per inspection with violations by violation type	1.74	Other: .88	from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
11	Percent of total inspections in the public sector	24.12	(Negotiated fixed number for each state) 27.7%	State data taken directly from SAMM report generated through IMIS.
13	Percent of 11c Investigations completed within 90 calendar days	100	100%	State data taken directly from SAMM report generated through IMIS.
14	Percent of 11c complaints that are meritorious	75.00	24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
16	Average number of calendar days to complete an 11c investigation	33.33	90 Days	State data taken directly from SAMM report generated through IMIS.
17	Planned vs. actual inspections - safety/health	1254/458	(Negotiated fixed number for each state) - 1183/327	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
18a	Average current serious penalty - 1 -25 Employees	a. 370.07		State data taken directly from SAMM report generated through IMIS; national data is not available.
18b	Average current serious penalty - 26-100 Employees	b. 760.88		
18c	Average current serious penalty - 101-250 Employees	c. 730.82		

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 PR OSHA State Plan Comprehensive FAME Report

18d	Average current serious penalty - 251+ Employees	d. 1279.13		
18e	Average current serious penalty - Total 1 - 250+ Employees	e. 706.22		
19	Percent of enforcement presence	4.47%	National Average 1.5%	Data is pulled and manually calculated based on FY 2013 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	Safety - 35.80	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	Health - 34.39	Health - 34.1	
21	Percent of fatalities responded to in 1 work day	94%	100%	State data is manually pulled directly from IMIS for FY 2013
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
23a	Average Lapse Time - Safety	55.09	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	74.3	57.05	

Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report

FY 2013 PR OSHA State Plan Comprehensive FAME Report

24	Percent penalty retained	64.14	66	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.