

# **FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report**

**Puerto Rico Department of Labor  
Puerto Rico Occupational Safety and Health Administration (PR OSHA)**



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## **I. Executive Summary**

### **A. State Plan Activities, Themes, and Progress**

The purpose of this report is to assess the Puerto Rico Occupational Safety and Health Administration (PR OSHA) State Plan activities for Fiscal Year (FY) 2014, and its progress in resolving outstanding observations from FAME reports, with a focus being on the FY 2013 Comprehensive FAME Report.

PR OSHA continues to have a significant enforcement presence in the workplace through its inspection activity. In FY 2014, PR OSHA continued to exceed its inspection goal by conducting 1,609 inspections in FY 2014 – 84 more than its projected goal of 1,525.

PR OSHA conducted one significant enforcement inspection. They responded to an explosion that occurred at a power plant in San Juan where one worker died and two others were seriously injured. PR OSHA's role during the process went above and beyond a typical investigation because they took an active role in providing guidance, identified situations found to be hazardous, and made recommendations for possible solutions to issues observed during the inspection. This approach was taken with the intention of eliminating and/or controlling hazardous conditions since shutting down the plant was not an option. As a result of this significant enforcement investigation, the employer received citations for three willful violations, 43 serious violations, and four other-than-serious violations. The total penalty assessed was \$359,000. The case is currently in contest.

Last year's FAME report did not contain any findings; however, eight observations were identified. For the FY 2014 FAME, OSHA conducted an on-site case file review at PR OSHA. Again in FY 2014, no findings were identified.

For the FY 2014 FAME, the eight previous observations were assessed by selecting a sample of case files to review to determine if these were isolated instances or if a trend was occurring that required further action. OSHA determined that six of the eight observations will continue to be monitored during the next performance period. The six continuing observations 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, incorrectly assigned severity/probability, and inspections results, as well as a copy of the citation were not sent to the authorized union. Also noted during the on-site review of consultation case files was that Form 33 (Safety & Health Hazard Survey) did not provide details necessary to ensure that the number assigned and description correspond.

OSHA determined that further monitoring of two of the observations – lack of abatement verification in consultation case files, and procedures regarding participation for workers or their authorized union representatives to participate at PR OSHA hearings (Section 20 (c) of the Act) were no longer warranted and could be closed.

## 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 702,626 workers in the private sector and 256,994 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 out of the central office.

In the private sector, PR OSHA covers all employers with the exception of those from 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 2014.

| <b>FY 2010-2014 Funding History</b> |                           |                         |                              |                           |                                |   |
|-------------------------------------|---------------------------|-------------------------|------------------------------|---------------------------|--------------------------------|---|
| <b>Fiscal Year</b>                  | <b>Federal Award (\$)</b> | <b>State Match (\$)</b> | <b>100% State Funds (\$)</b> | <b>Total Funding (\$)</b> | <b>% of State Contribution</b> | <b>Deobligated/One-Time Only/Reclaimed Funds (\$)</b> |
| <b>2014</b>                         | \$2,495,100               | \$2,495,100             | \$3,003,444                  | \$7,993,644               | 68.8%                          | 0/0/0   |
| <b>2013</b>                         | \$2,480,900               | \$2,480,900             | \$2,404,990                  | \$7,366,790               | 65.9%                          | 0/32,886/0  |
| <b>2012</b>                         | \$2,588,900               | \$2,588,900             | \$2,140,864                  | \$7,318,664               | 64.6%                          | 0/0/0   |
| <b>2011</b>                         | \$2,588,900               | \$2,588,900             | \$2,591,843                  | \$7,769,643               | 66.7%                          | N/A   |
| <b>2010</b>                         | \$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 August 15, 2014:

| <b>FY 2014 Staffing</b>                      |                                    |  |              |                                  |  |
|--|------------------------------------|--|--------------|----------------------------------|--|
| <b>23(g) Grant Positions</b>                 | <b>Allocated FTE* Funded 50/50</b> | <b>Allocated FTE 100% State Funded</b> | <b>Total</b> | <b>50/50 Funded FTE On Board</b> | <b>100% State Funded FTEs On Board</b> |
| <b>Managers/Supervisors (Administrative)</b> | 11                                 | 0                                      | 11           | 4                                | 0                                      |
| <b>First Line Supervisors (Program)</b>      | 7                                  | 0                                      | 7            | 6                                | 0                                      |
| <b>Safety Compliance Officers</b>            | 28                                 | 4                                      | 32           | 22                               | 3                                      |
| <b>Health Compliance Officers</b>            | 19                                 | 2                                      | 21           | 17                               | 1                                      |

|  |            |           |            |           |           |
|--|------------|-----------|------------|-----------|-----------|
| <b>Public/Private Sector Safety Consultants</b>    | 5          | 0         | 5          | 5         | 0         |
| <b>Public/Private Sector Health Consultants</b>    | 5          | 0         | 5          | 4         | 0         |
| <b>Compliance Assistance Specialist</b>            | 0          | 0         | 0          | 0         | 0         |
| <b>Clerical</b>                                    | 31         | 10        | 41         | 28        | 7         |
| <b>Other (all positions not counted elsewhere)</b> | 7          | 2         | 9          | 4         | 1         |
| <b>Total 23(g) FTE</b>                             | <b>113</b> | <b>18</b> | <b>131</b> | <b>90</b> | <b>12</b> |

\*Full-Time Equivalent

### C. Data and Methodology

OSHA established a two-year cycle for the FAME process. This is the follow-up year and as such, OSHA was not required to perform an on-site evaluation and case file review. However, the FY 2013 FAME report included a total of eight observations and as such, OSHA conducted an on-site review. This methodology included reviewing a sample of case files to determine if these were isolated instances or if they represented a trend that required further action.

Monitoring of PR OSHA consisted of a team of OSHA personnel from both the safety and the health disciplines. Due to unforeseen events (building power failure) at PR OSHA’s central office in Hato Rey, the review team conducted the case file evaluation at the federal OSHA office in Guaynabo. This began on February 3<sup>rd</sup> and ended on February 4<sup>th</sup>, 2015.

The evaluation of PR OSHA covered the 3<sup>rd</sup> and 4<sup>th</sup> quarters (April 1, 2014 through September 30, 2014) of FY 2014. Enforcement case files were selected from a micro-to-host report and included all offices, all inspections with violations, and union/non-union inspections. Of the 160 closed case files, 20 files were selected based on the types of violations issued (e.g., recordkeeping 1904, exits-1910.36, electrical-1910.303, bloodborne pathogens-1910.1030, and scaffolds-1926.451).

The OSHA team reviewed a total of 24 closed case files broken down by the following:

- Enforcement case files (20 total – 13 safety and 7 health – complaints, planned, referrals, one fatality)
- Consultation case files (4)

### D. Findings and Observations

The FY 2014 Follow-Up FAME Report includes six observations – all carried over from the FY 2013 FAME report. The observations that will continue to be monitored are related to: inadequate evidence to support violations, excessive lapse time, violation classification, inspections results and copies of the citation not being sent to the authorized union, and incomplete safety and health survey forms (OSHA33) for consultation visits. Appendix B describes observations subject to continued monitoring.

OSHA has determined to close two of the eight FY 2013 observations. Abatement verification was documented in 100% of the consultation case files reviewed, and written documentation establishing that authorized worker representatives were duly notified in accordance with Section 20 (c) of the Act was provided by PR OSHA.

## II. Assessment of State Plan Performance

### A. Major New Issues

#### Signature Projects

In an effort to reach more high-hazard industries, PR OSHA changed its policy from writing citations in Spanish and English to only Spanish. The intent of this change was to reduce the time CSHOs spent on clerical tasks and increase their time spent in the field conducting inspections. In FY 2014, PR OSHA exceeded its enforcement inspections projected goal of 84 by (105%).

#### Enforcement

During FY 2014, PR OSHA responded to an explosion that occurred at a power plant in San Juan. One worker died and two others were seriously injured. As a result of this significant enforcement investigation, PR OSHA issued three willful violations, 43 serious violations, and four other-than-serious violations.

### B. Assessment of State Plan Progress in Achieving Annual Performance Goals

This section focuses on PR OSHA's progress toward meeting its targeted performance goals as outlined in the program's FY 2014 Annual Performance Plan (APP). The APP consisted of two fundamental goals: to improve workplace safety and health for all workers, and to change workplace culture to increase employer and worker awareness in safety and health. This is the third year of PR OSHA's Five-Year Strategic Plan.

#### A. PR OSHA Strategic Goal 1

**Performance Goal 1.1.1A** Reduce the most prevalent workplace injuries/illnesses by 5% in handling and working with blood in the emergency room industry. Achieve a 1% reduction from the baseline measure to assess progress towards achievement of the five-year performance goal. The corrected baseline was established in FY 2013 based on 2012 data.

#### NAICS 621493 (Freestanding Ambulatory Surgical & Emergency Centers)

| Year | TRC (OSHA300) Rate | % Change           |
|------|--------------------|--------------------|
| 2012 | 2.89               | Baseline           |
| 2013 | 6.26               | Corrected Baseline |
| 2014 | 6.19               | 1% Decrease        |

**NAICS 622110 (General Medical & Surgical Hospitals)**

| Year | TRC (OSHA300) Rate | % Change           |
|------|--------------------|--------------------|
| 2012 | 9.53               | Baseline           |
| 2013 | 8.0                | Corrected Baseline |
| 2014 | 7.92               | 1% Decrease        |

During FY 2014, PR OSHA’s Bureau of Inspections (BI) identified 192 establishments and conducted 33 inspections where the LEP directive would apply. As a result of the inspections, 19 establishments were cited with a total of 94 violations classified as 36 serious and 58 other.

One hundred and seventy-four (174) injuries were reported on the 2013 OSHA 300 logs related to General Medical Services. The corrected baseline was established as 6.26 for NAICS 621493 and 8.0 for NAICS 622110. PR OSHA met the goal.

**Performance Goal 1.1.1B** Reduce the most prevalent workplace injuries/illnesses by 5% in the fast food industries (limited and full service restaurants). Achieve a 1% reduction from the baseline measure to assess progress toward achievement of the five-year performance goal. Corrected baseline was established in FY 2013 based on 2012 data.

| Year | TRC (OSHA300) Rate | % Change           |
|------|--------------------|--------------------|
| 2012 | 2.51               | Baseline           |
| 2013 | 5.62               | Corrected Baseline |
| 2014 | 5.56               | 1% Decrease        |

During FY 2014, BI identified 1,294 establishments and conducted 225 inspections where the LEP directive would apply. As a result of these inspections, 239 establishments were cited with a total of 352 violations classified as 150 serious, and 202 other-related-to hazards.

Three hundred and ninety-five (395) injuries were reported on the 2013 OSHA 300 logs related to the fast food industry. The corrected baseline was established as 5.62. PR OSHA met the goal.

**Performance Goal 1.1.1C** Reduce the most prevalent workplace injuries/illnesses by 5% in the emergency, disaster preparedness and, management offices. Achieve a 1% reduction from the baseline measure to assess progress toward achievement of the five-year performance goal. (The corrected baseline was established in FY 2013 based on 2012 data.)

| Year | TRC (OSHA300) Rate | % Change           |
|------|--------------------|--------------------|
| 2012 | 8.85               | Baseline           |
| 2013 | 10.92              | Corrected Baseline |
| 2014 | 10.81              | 1% Decrease        |

During FY 2014, BI identified 237 establishments and conducted 37 inspections where the LEP directive would apply. As a result of the inspections, establishments were cited with a total of 142 violations classified as 75 serious and 67 other.

Fifty-two (52) injuries were reported on the 2013 OSHA 300 logs by the employers of the Emergency, Disaster Preparedness and Management offices. The corrected baseline was established as 10.92. PR OSHA met the goal.

**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-bys, electrocutions, and caught-in/betweens). 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 – 1.28 =<br>1% Decrease   |
| 2013 | 3                    | 35,614    | 0.84          | Baseline – 1.04 =<br>1% Decrease   |
| 2014 | 5                    | 36,050    | 1.38          | Baseline – 1.26 =<br>0.9% Increase |

*Notes:*

*During FY 2014, the fatality rate was calculated at 1.26 per 10,000 workers (x fatalities ÷ 36,050 workers) ÷ 10,000 workers).*

*FY 2011 data was too small to include due to limited construction activities in Puerto Rico.*

For the Annual Performance Goal 1.1.2 in FY 2014, the program revised the baseline and performance measure to assess the progress towards achievement of the five-year performance goal. This is a continued goal from previous years. The construction industry showed increased activity during FY 2014.

During FY 2014 PR OSHA investigated five fatalities in the construction industry – all related to the four leading causes of fatalities in construction: there was one fall, one struck-by, and three electrocutions. The BI conducted 391 programmed planned construction inspections. As a result of the fatalities investigated, 11 citations were issued that related to the four leading causes of fatalities in construction.

PR OSHA continued to maintain its successful “Door-to-Door” program in the construction industry. The “Door-to-Door” program is used to promote safety and health on-site consultation visits in the construction projects all over Puerto Rico. Due to the reduction of the number of construction projects, the “Door-to-Door” directive was updated to include projects with 25 or more workers lasting for a period of six months or more. Twelve (12) new sites were approved during FY 2014. Program participants must 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 concept occurred this year involving participants posting the program’s banner in a conspicuous place at the worksite.

During FY 2014, the Voluntary Programs Division conducted 65 on-site consultation visits in the construction industry, resulting in 270 hazards identified and notifications to employers. One hundred and seventy (170) of the 270 hazards identified were related to the four leading causes of fatalities in construction.

As part of PROSHA's effort to control the fatalities related to the four leading causes of fatalities in the construction industry, two open training sessions on safety and health in the construction industry were delivered. PR OSHA did not meet this goal.

## **B. PR OSHA Strategic Goal 2**

**Performance Goal 2.1.1A** Achieve 78% of the targeted employers in general industry that received an inspection and have either implemented an effective safety and health program or improved their existing program.

The annual performance goal of 78% established for FY 2014 was exceeded by 4%. During FY 2014, the number of targeted establishments inspected was 1,242. Of the 1,242 targeted establishments, 82.44% (1,024) implemented or improved their existing program. In addition, as part of the State Plan's effort, the Division of Voluntary Programs delivered five open training sessions regarding safety and health programs and worker involvement. The participation was as follows: 272 employer representatives and 72 workers. PR OSHA exceeded this goal.

**Performance Goal 2.1.1B** Achieve 78% percent of the targeted employers in general industry that requested an on-site visit and have either implemented an effective safety and health program or improved their existing program.

During FY 2014, the Division of Voluntary Programs conducted 216 on-site consultation visits to employers in the general industry. Of the 216 employers who requested on-site consultation visits, 187 (86%) implemented or improved their existing program. The annual performance goal of 78% established for FY 2014 was exceeded by 8%. PR OSHA exceeded this goal.

**Performance Goal 2.2.2A** Deliver training to employers and workers on the skills necessary for effective worker involvement in safety and health matters in working with blood in the emergency room.

BI conducted 33 related inspections and delivered training to all (100%) employers and workers following the inspection. The annual performance goal of 85% established for FY 2014 was exceeded by 15%. PR OSHA exceeded this goal.

**Performance Goal 2.2.2B** Deliver training to employers and workers on the skills necessary for effective worker involvement in safety and health matters in the fast food (limited and full service restaurants) industry.

BI conducted 225 fast food industry inspections and delivered training to all (100%) employers and workers following the inspection. The annual performance goal of 85% established for FY 2014 was exceeded by 15%. PR OSHA exceeded this goal.

**Performance Goal 2.2.2C** Deliver training to employers and workers on the skills necessary for effective worker involvement in safety and health matters in the emergency, disaster, preparedness, and management offices industry.

BI conducted 37 related inspections and delivered training to all (100%) employers and workers following the inspection. The annual performance goal of 85% established for FY 2014 was exceeded by 15%. PR OSHA exceeded this goal.

**Performance Goal 2.3.1** Develop and disseminate occupational safety and health training and reference materials to 100% of private workplaces identified as nursing homes and ice manufacturing plant industries.

#### Nursing Homes

The Voluntary Programs Division conducted 16 on-site consultation visits in the nursing home industry. Fifty-two (52) hazards were identified and reported to employers. One formal open training session on safety and health in the nursing home industry was delivered in Bayamon. Fifteen (15) employer representatives and five students participated. PR OSHA met this goal.

#### Ice Manufacturing Plants

The Voluntary Programs Division conducted five on-site consultation visits in the ice manufacturing plant industry. Thirty-seven (37) hazards were identified and reported to employers. One open training session regarding safety and health in the ice manufacturing plant was delivered in San Juan. Ten employer representatives participated in the training. PR OSHA met this goal.

### **C. Highlights from the State Activity Mandated Measures (SAMMs)**

(Source: Appendix D SMM Report 02-23-2015 and PR OSHA SOAR FY 2014)

In FY 2014, PR OSHA conducted 1,609 inspections which exceeded the 1,525 inspection goal (105%). Safety staff conducted 1,248 inspections (107% of the goal) and industrial hygiene staff conducted 371 inspections (101% of the goal). (PR OSHA SOAR FY 2014)

#### Complaints

PR OSHA's response time to complaints averaged 2.71 days which was significantly below the reference standard of five days. (SMM #1)

#### Percent of In-Compliance

The percentage of in-compliance inspections for safety was 44.4% which was higher than the national average of 29.1%. The percentage of in-compliance inspections for health was 33.87% which was slightly below the national average of 34.1%. OSHA will continue to monitor this during the quarterly meetings. (SMM #20a & #20b)

#### Fatalities

During FY 2014, 14 fatalities were reported compared to 16 in FY 2013. PR OSHA's response one day response time was 92%. (SMM #21) *[Note: During a meeting held by the Region with PR OSHA on December 10, 2014, PROSHA noted that a date had been entered incorrectly which was not reflected on the SMM report provided by the National Office. The correct percentage for this measure should have been 100%.]*

### Lapse Time

PR OSHA's citation lapse time (the average number of calendar days from opening conference to citation issuance) was calculated at 53.48 days for safety which is above the national average of 43.4 days. The lapse time for health was 84.61 days which is also above the national average of 57.05 days. (SAMM #23a & 23b)

## **III. Assessment of State Plan Corrective Actions**

Eight observations and no findings were noted in the FY 2013 FAME report. For the FY 2014 FAME, OSHA determined that six of the previous eight observations would continue to be monitored. Two observations are closed.

### **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.

### **Status Observation 13-01:**

In one of the 20 (5%) case files reviewed, the recordkeeping directive adopted by PR OSHA (CPL 02-00-135) was not being adhered to when issuing citations. Although PR OSHA showed considerable improvement in this area, due to only a sample of case files reviewed, this observation will continue to be monitored until OSHA can conduct a full, comprehensive on-site case file review.

### **Observation 13-02:**

PR OSHA's citation 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.

### **Status Observation 13-02:**

PR OSHA's citations lapse time (the average number of calendar days from opening conference to citation issuance) for FY 2014 was calculated at 53.48 days for safety, a decrease from 55.09 days in FY 2013 and above the national average of 43.4 days. The lapse time for health was 84.61 days, an increase from 74.3 days in FY 2013 and above the national average of 57.05 days. This observation is being carried over and will be addressed during next year's FAME.

### **Observation 13-03:**

In four of the 64 (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.

### **Status Observation 13-03:**

In four of the 20 (20%) case files reviewed with citations issued, violations related to scaffolding, means of egress, electrical, personal protective equipment hazard assessment/certification, hazard communication, and sanitation were issued as other-than-serious

with no justification as to why documented in the case file. These conditions most likely should have been issued as serious. This observation is being carried over and will be addressed during next year's FAME.

**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.

**Status Observation 13-04:**

In 11 of the 20 (55%) case files reviewed, the severity/probability given on OSHA 1Bs did not compare to the injury/illness assessed for violations related to electrical, means of egress, machine guarding, scaffolding, aerial lift, bloodborne pathogens, respiratory protection. This observation is being continued and will be addressed during next year's FAME.

**Observation 13-05:**

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

**Status Observation 13-05:**

Inspection results and a copy of the citation was not sent to the union in one of the five (20%) case files reviewed that had both an authorized union and where citations were issued. PR OSHA provided further information clarifying that there were no workers exposed from the other union on-site conducted; therefore, notification was not sent. This appears to be a documentation issue. This observation is being continued and will be addressed during next year's FAME.

**Observation 13-06:**

Stakeholder interviews raised concerns that procedures were not being consistently followed to provide workers or authorized representatives with an opportunity to participate at PR OSHA hearings (Section 20(c) of the Act).

**Status Observation 13-06:**

PR OSHA provided OSHA with written documentation establishing that worker representatives were duly notified in accordance with Section 20 (c) of the Act. OSHA closed this observation.

**Observation 13-07:**

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

**Status Observation 13-07:**

In all four (100%) of the consultation case files reviewed, the safety and health hazard survey (Form 33) comments section did not provide the details necessary to ensure the assigned number and description corresponded. Due to the limited number of case files reviewed, this observation is being continued and will be addressed during next year's FAME.

**Observation 13-08:**

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

**Status Observation 13-08:**

In all four (100%) of the consultation case files reviewed, abatement verification (certification and documentation) was included. OSHA closed this observation.

**Appendix A – New and Continued Findings and Recommendations**

**FY 2014 PR OSHA State Plan Follow-up FAME Report**

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| FY 2014-# | Finding | Recommendation | FY 2013-OB-# |
|-----------|---------|----------------|--------------|
|           |         |                |              |

There were no findings in FY 2014.

**Appendix B – Observations Subject to New and Continued Monitoring**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

| <b>Observation #<br/>FY 2014-OB-#</b> | <b>Observation#<br/>FY 2013-OB-#</b> | <b>Observation</b>   | <b>Federal Monitoring Plan</b>  | <b>Current Status</b> |
|---------------------------------------|--------------------------------------|--|---|-----------------------|
| FY 2014-OB-01                         | FY 2013-OB-01                        | <i>Adequate evidence to support violations:</i><br>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 one of the 20 (5%) case files reviewed.   | During next year's FAME, a sample of case files will be reviewed to determine if this reflects a trend. | Continued             |
| FY 2014-OB-02                         | FY 2013-OB-02<br>FY 2012-OB-01       | <i>Citation lapse time:</i> Citation lapse time was calculated at 53.48 days for safety – a decrease from 55.09 days in FY 2013, 62.21 days in FY 2012, and above the national average of 43.4 days. The lapse time for health was 84.61 days – an increase from 74.3 days in FY 2013, 91.82 days in FY 2012, and above the national average of 57.05 days.  | The Region will continue to monitor during the performance period.                                      | Continued             |
| FY 2014-OB-03                         | FY 2013-OB-03                        | <i>Violation classification:</i><br>In four of 20 (20%) case files reviewed with citations issued, violations related to scaffolding, means of egress, electrical, and personal protective equipment hazard assessment/certification, hazard communication, and sanitation were issued as other-than-serious with no justification documented in the case file. The related conditions most likely should have been issued as serious. | During next year's FAME, a sample of case files will be reviewed to determine if this reflects a trend. | Continued             |
| FY 2014-OB-04                         | FY 2013-OB-04                        | <i>Violation classification:</i><br>Severity/probability noted on OSHA 1Bs did not compare to the injury/illness assessed in 11 of the 20 (55%) case files reviewed. The severity/probability given on OSHA 1Bs did not compare to the injury/illness assessed for violations related to electrical, means of egress, machine guarding, scaffolding, aerial lift, bloodborne pathogens, and respiratory protection.                    | During next year's FAME, a sample of case files will be reviewed to determine if this reflects a trend. | Continued             |

**Appendix B – Observations Subject to New and Continued Monitoring**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

| Observation #<br>FY 2014-OB-# | Observation#<br>FY 2013-OB-# | Observation  | Federal Monitoring Plan   | Current Status |
|-------------------------------|------------------------------|--|---|----------------|
| FY 2014-OB-05                 | FY 2013-OB-05                | <i>Union involvement:</i><br>Inspection results and a copy of the citation was not sent to the union in one of the five (20%) case files reviewed that had both an authorized union and where citations were issued. (PR OSHA provided information showing that there were no workers exposed from the other union on-site which is why notification was not sent.) Further monitoring is needed.              | During next year’s FAME, a sample of case files will be reviewed to determine if this reflects a trend. | Continued      |
|                               | FY 2013-OB-06                | <i>Union involvement:</i><br>Stakeholder interviews conducted raised concerns that procedures were not being consistently followed that provide workers or their authorized representatives with an opportunity to participate at PR OSHA hearings. PR OSHA provided OSHA with written documentation establishing that worker representatives were duly notified in accordance with Section 20 (c) of the Act. |   | Closed         |
| FY 2014-OB-06                 | FY 2013-OB-07                | <i>Consultation case file documentation:</i><br>In all four (100%) of the consultation case files reviewed, the safety and health hazard survey (Form 33) comments section did not provide details necessary to ensure that the number assigned and description corresponded.  | During next year’s FAME, a sample of case files will be reviewed to determine if this reflects a trend. | Continued      |
|                               | FY 2013-OB-08                | <i>Consultation case file documentation:</i><br>In four of the four consultation case files (100%) reviewed, abatement verification (certification and documentation) for serious hazards was properly identified in the case files (requirements of CSP 02-00-002, Section II.F, and IV.F.2.II, respectively).  |   | Closed         |

**Appendix C - Status of FY 2013 Findings and Recommendations**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

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| FY 2013-# | Finding | Recommendation | State Plan Response/Corrective Action | Completion Date | Current Status and Date |
|-----------|---------|----------------|---------------------------------------|-----------------|-------------------------|
|           |         |                |                                       |                 |                         |

There were no findings in FY 2013.

**Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

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OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Puerto Rico opened 1,603 enforcement inspections in FY 2014. Of those, 1,603 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data. For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
- d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
- e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
- f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
- g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

| <b>U.S. Department of Labor</b>  |  |                        |                           |  |
|--|--|------------------------|---------------------------|--|
| <b>Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)</b> |  |                        |                           |  |
| <b>State Plan: Puerto Rico</b>   |  |                        | <b>FY 2014</b>            |  |
| <b>SAMM Number</b>   | <b>SAMM Name</b>   | <b>State Plan Data</b> | <b>Reference/Standard</b> | <b>Notes</b>   |
| <b>1</b>   | Average number of work days to initiate complaint inspections    | 2.71                   | 5 days                    | State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan. |
| <b>2</b>   | Average number of work days to initiate complaint investigations | 0.66                   | 1 day                     | State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan. |

**Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

|            |  |          |                   |   |
|------------|--|----------|-------------------|---|
| <b>4</b>   | Percent of complaints and referrals responded to within 1 work day (imminent danger) | 100.0%   | 100%              | State Plan data taken directly from SAMM report generated through IMIS.   |
| <b>5</b>   | Number of denials where entry not obtained   | 0        | 0                 | State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.  |
| <b>9a</b>  | Average number of violations per inspection with violations by violation type        | 1.41     | SWR: 1.99         | State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.                                |
| <b>9b</b>  | Average number of violations per inspection with violations by violation type        | 1.79     | Other: 1.22       |   |
| <b>11</b>  | Percent of total inspections in the public sector                                    | 19.96%   | 37.77%            | State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.   |
| <b>13</b>  | Percent of 11c Investigations completed within 90 calendar days                      | 100%     | 100%              | State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.   |
| <b>14</b>  | Percent of 11c complaints that are meritorious                                       | 50       | 24.8% meritorious | State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.   |
| <b>16</b>  | Average number of calendar days to complete an 11c investigation                     | 60       | 90 Days           | State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.   |
| <b>17</b>  | Planned vs. actual inspections - safety/health                                       | 1246/357 | 1159/366          | State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan. |
| <b>18a</b> | Average current serious penalty - 1-25 Employees                                     | 367.14   |                   | State Plan data taken directly from SAMM report generated through IMIS.   |
| <b>18b</b> | Average current serious penalty - 26-100 Employees                                   | 749.28   |                   |   |

**Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report**  
**FY 2014 PR OSHA State Plan Follow-up FAME Report**

|            |   |         |                           |   |
|------------|---|---------|---------------------------|---|
| <b>18c</b> | Average current serious penalty - 101-250 Employees   | 702.5   |                           |   |
| <b>18d</b> | Average current serious penalty - 251+ Employees  | 1424.46 |                           |   |
| <b>18e</b> | Average current serious penalty - Total 1 - 250+ Employees                                    | 665.93  |                           |   |
| <b>19</b>  | Percent of enforcement presence   | 4.34%   | National Average<br>1.51% | Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.   |
| <b>20a</b> | 20a) Percent In Compliance – Safety   | 44.4    | Safety - 29.1             | State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011. |
| <b>20b</b> | 20b) Percent In Compliance – Health   | 33.87   | Health - 34.1             |   |
| <b>21</b>  | Percent of fatalities responded to in 1 work day  | 92%     | 100%                      | State Plan data is manually pulled directly from IMIS for FY 2013.  |
| <b>22</b>  | Open, Non-Contested Cases with Abatement Incomplete > 60 Days                                 | n/a     |                           | Data not available.   |
| <b>23a</b> | Average Lapse Time - Safety   | 53.48   | 43.4                      | State Plan 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. |
| <b>23b</b> | Average Lapse Time - Health   | 84.61   | 57.05                     |   |
| <b>24</b>  | Percent penalty retained  | 61.16   | 66                        | State Plan 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. |
| <b>25</b>  | Percent of initial inspections with employee walk around representation or employee interview | 100.00  | 100%                      | State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.  |