

## **Key Performance Statistics for Cal/OSHA**

**July – December 2017**

### **1) DOSH Program Office – July 14, 2017**

- DOSH inspections and violation from January 1992 through December 2016
- DOSH on-site inspections and violations by major industrial groups, October-December 2016
- DOSH on-site inspections and violation cited by reason, October-December 2016

### **2) DOSH Program Office – October 10, 2017**

- DOSH inspections and violation from January 1992 through March 2017
- DOSH on-site inspections and violations by major industrial groups, January-March 2017
- DOSH on-site inspections and violation cited by reason, January-March 2017

### **3) Drawn from the pages of the *Cal/OSHA Reporter* under the “Fair Use Doctrine”**

- “Flash Report: Chevron Settles with Cal/OSHA in 2012 Disaster,” July 24, 2017
- “Minor injuries drastically affect Workers’ Comp costs,” August 4, 2017
- “Fed-OSHA’s report card on Cal/OSHA,” August 11, 2017
- “Cal/OSHA cites the highest number of violations in almost a decade,” August 11, 2017
- “Triple digits galore: Are there workplace heat illness fatalities?” September 15, 2017
- “Movers and Shakers: Nancy Medeiros, four others staffers retire from Cal/OSHA,” October 5, 2017
- “Cal/OSHA cites per inspection up,” November 10, 2017
- “Employment grows, but California injuries and illnesses decline,” November 17, 2017
- “Top stories of 2017,” January 12, 2018

Compiled by Garrett Brown, January 22, 2018

**DOSH INSPECTIONS AND VIOLATIONS CITED BY QUARTER  
FROM JANUARY 1992 THROUGH DECEMBER 2016**

CY	INVESTIGATIONS			% INSP PROG	TOTAL VIOLATIONS	VIOLATIONS PER INSPECTION	SERIOUS VIOLATIONS	OTHER THAN SERIOUS VIOLATIONS	% SERIOUS
	TOTAL INVEST	ON-SITE INSP	LETTER RESP.						
1992	13,428	12,580	848	15	29,259	2.32	4,079	25,168	14
1993	12,121	10,608	1,513	23	20,328	1.92	4,904	15,423	24
1994	14,354	11,457	2,897	22	21,803	1.90	4,987	16,814	23
1995	13,358	10,076	3,282	20	25,236	2.50	7,047	18,169	28
1996	12,600	9,103	3,497	19	21,821	2.40	5,819	16,002	27
1997	12,972	9,531	3,441	27	22,505	2.36	5,417	17,088	24
1998	12,902	9,322	3,580	20	20,889	2.24	5,292	15,597	24
1999	12,918	9,444	3,474	24	20,280	2.15	4,628	15,652	23
2000	13,002	9,298	3,704	29	20,878	2.24	4,410	16,468	21
2001	12,836	9,194	3,687	28	21,721	2.36	4,922	16,799	23
2002	12,579	9,032	3,547	28	20,038	2.22	5,157	14,881	26
2003	11,313	8,533	2,780	25	18,835	2.20	4,849	13,986	26
2004	11,000	7,522	3,478	19	16,515	2.20	4,422	12,093	27
2005	12,593	8,176	4,417	27	16,467	2.01	4,044	12,423	25
2006	12,771	8,583	4,188	33	19,789	2.31	4,765	15,024	24
2007	13,351	9,259	4,092	36	20,222	2.18	4,660	15,562	23
2008	14,260	10,027	4,233	33	21,158	2.11	4,470	16,688	21
2009	12,178	8,450	3,728	40	17,477	2.07	3,307	14,170	19
2010	12,316	8,463	3,853	38	17,179	2.03	3,210	13,969	19
2011	11,991	7,962	4,029	26	14,552	1.83	2,169	12,383	15
2012	12,778	7,720	5,058	21	15,148	1.96	2,652	12,496	18
2013	12,957	7,327	5,630	22	15,021	2.05	2,819	12,202	19
2014	13,524	7,449	6,075	22	16,547	2.22	2,944	13,603	18
1 - '15	3,158	1,899	1,259	27	4,160	2.19	817	3,343	20
2 - '15	3,555	1,969	1,586	21	4,205	2.14	854	3,351	20
3 - '15	4,237	2,275	1,962	17	4,909	2.16	970	3,939	20
4 - '15	3,035	1,611	1,424	22	5,079	3.15	1,049	4,030	21
2015	13,985	7,754	6,231	22	18,353	2.37	3,690	14,663	20
1 - '16	3,375	1,871	1,504	23	5,166	2.76	1,096	4,070	21
2 - '16	3,940	2,045	1,895	20	4,596	2.25	997	3,599	22
3 - '16	4,094	2,099	1,995	20	5,011	2.39	1,069	3,942	21
4 - '16	3,427	1,854	1,573	24	5,262	2.84	1,199	4,063	23
2016	14,836	7,869	6,967	22	20,035	2.55	4,361	15,674	22

**DOSH ON-SITE INSPECTIONS AND VIOLATIONS CITED  
FOR MAJOR INDUSTRIAL GROUPS (BY SIC)  
FROM OCTOBER THROUGH DECEMBER 2016**

REASON FOR INSPECTIONS	AGRICULTURE*		MINERAL EXTRACTION		CONSTRUCTION		MANUFACTURING		TRANSPORT. PUBLIC UTILITIES		WHOLESALE TRADE		RETAIL TRADE		FINANCIAL REAL ESTATE		SERVICES		PUBLIC ADMIN.		TOTALS		
<b>INSPECTIONS</b>																							
Total	125	7%	45	2%	566	31%	287	15%	96	5%	58	3%	115	6%	20	1%	493	27%	49	3%	1854		
Accident	56		3		161		117		45		26		39		9		141		17		614	33%	
Complaint	35		4		82		59		35		16		47		7		122		24		431	23%	
Referral	9		1		77		6		2		2		4		1		61		1		164	9%	
Follow-up	4		0		7		12		3		2		8		1		16		2		55	3%	
Unprogrammed Related	4		1		75		20		6		2		4		2		27		5		146	8%	
Programmed	17		36		164		73		5		10		13		0		126		0		444	24%	
<b>VIOLATIONS</b>																							
Total	417		160		1422		1165		197		243		203		46		1369		40		5262		
Serious	100		10		330		349		47		57		41		14		248		3		1199		
Other than Serious	317		150		1,092		816		150		186		162		32		1121		37		4063		
Percent Serious	24.0%		6.3%		23.2%		30.0%		23.9%		23.5%		20.2%		30.4%		18.1%		7.5%		22.8%		

\*Agriculture may include some inspections in Forestry & Logging; Fishing, Hunting & Trapping; and Support Activities for Forestry

**DOSH ON-SITE INSPECTIONS AND VIOLATIONS CITED BY REASON  
FROM OCTOBER THROUGH DECEMBER 2016**

REASONS FOR INSPECTIONS	TOTAL INSPECTIONS	TOTAL INSPECTIONS WITHOUT VIOLATIONS CITED	TOTAL INSPECTIONS WITH VIOLATIONS CITED	PERCENT OF INSPECTIONS WITH VIOLATIONS CITED	TOTAL VIOLATIONS	SERIOUS VIOLATIONS	OTHER THAN SERIOUS VIOLATIONS	PERCENT SERIOUS
Total	1,854	451	1,403	75.67%	5,262	1,199	4,063	22.79%
Accident	614	130	484	78.83%	1,483	466	1,017	31.42%
Complaint	431	128	303	70.30%	1,438	268	1,170	18.64%
Referral	164	29	135	82.32%	308	40	268	12.99%
Follow-up	55	43	12	21.82%	49	17	32	34.69%
Unprogrammed Related	146	44	102	69.86%	370	128	242	34.59%
Programmed	444	77	367	82.66%	1,614	280	1,334	17.35%



**DOSH INSPECTIONS AND VIOLATIONS CITED BY QUARTER  
FROM JANUARY 1992 THROUGH MARCH 2017**

CY	INVESTIGATIONS			% INSP PROG	TOTAL VIOLATIONS	VIOLATIONS PER INSPECTION	SERIOUS VIOLATIONS	OTHER THAN SERIOUS VIOLATIONS	% SERIOUS
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2016	14,836	7,869	6,967	22	20,035	2.55	4,361	15,674	22
1 - '17	3,575	1,792	1,783	22	5,752	3.21	1,302	4,450	23

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<b>INSPECTIONS</b>																							
Total	92	5%	50	3%	524	29%	281	16%	104	6%	66	4%	94	5%	15	1%	519	29%	47	3%	1792		
Accident	41		5		146		116		39		31		35		4		155		17		589	33%	
Complaint	26		3		93		67		40		12		49		6		136		26		458	26%	
Referral	3		1		104		5		3		3		1		1		41		1		163	9%	
Follow-up	4		0		3		9		1		4		5		1		6		0		33	2%	
Unprogrammed Related	7		1		75		17		12		2		2		3		27		3		149	8%	
Programmed	11		40		103		67		9		14		2		0		154		0		400	22%	
<b>VIOLATIONS</b>																							
Total	383		116		1594		1060		365		188		235		40		1711		60		5752		
Serious	102		13		379		315		79		35		38		12		321		8		1302		
Other than Serious	281		103		1,215		745		286		153		197		28		1390		52		4450		
Percent Serious	26.6%		11.2%		23.8%		29.7%		21.6%		18.6%		16.2%		30.0%		18.8%		13.3%		22.6%		

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FROM JANUARY THROUGH MARCH 2017**

REASONS FOR INSPECTIONS	TOTAL INSPECTIONS	TOTAL INSPECTIONS WITHOUT VIOLATIONS CITED	TOTAL INSPECTIONS WITH VIOLATIONS CITED	PERCENT OF INSPECTIONS WITH VIOLATIONS CITED	TOTAL VIOLATIONS	SERIOUS VIOLATIONS	OTHER THAN SERIOUS VIOLATIONS	PERCENT SERIOUS
Total	1,792	458	1,334	74.44%	5,752	1,302	4,450	22.64%
Accident	589	135	454	77.08%	1,671	510	1,161	30.52%
Complaint	458	119	339	74.02%	1,254	205	1,049	16.35%
Referral	163	62	101	61.96%	415	87	328	20.96%
Follow-up	33	30	3	9.09%	20	3	17	15.00%
Unprogrammed Related	149	45	104	69.80%	385	113	272	29.35%
Programmed	400	67	333	83.25%	2,007	384	1,623	19.13%

**Subject:** Flash: Chevron Settles with Cal/OSHA in 2012 Disaster  
**Date:** Monday, July 24, 2017 at 1:45:00 PM Pacific Daylight Time  
**From:** Cal-OSHA Reporter Newsdesk  
**To:** Garrett Brown

[email mangled click here](#)



Jul 24, 2017

## Flash Report: Chevron Settles with Cal/OSHA in 2012 Disaster

Oil giant Chevron has settled its Cal/OSHA case in the 2012 Richmond refinery fire for more than \$1 million almost a third more than originally proposed by the Division of Occupational Safety and Health. In exchange, Cal/OSHA has agreed to drop 17 violations, including four willful-serious, and reclassify two other as willful. Cal/OSHA had cited the refiner for 17 violations, including nine willful violations and six serious.

The company has also agreed to take extraordinary measures, as the Department of Industrial Relations puts it, to prevent another disaster. In the now nearly five-year-old incident, a leaky pipe triggered a fire and explosion that nearly killed 19 employees, some of whom were working to determine the extent of the leak. The personnel evacuated shortly before the unit erupted.

Cal/OSHA and the federal Chemical Safety and Hazard Investigation Board determined that Chevron engineers years earlier had warned that the pipe needed replacement due to sulfidation corrosion caused by refining lower-grade crude oil. The conflagration caused thousands of local residents to seek medical attention from the huge plume of smoke released into the air, and the unit was shut down for months. It also triggered higher gas prices due to the loss of refining capacity.

Cal/OSHA originally proposed \$782,700 in penalties, but the agreement adds another \$227,300.

Altogether, the measures will cost Chevron about \$20 million. The settlement calls for:

- Specialized incident-command and hazard-awareness training for in-house firefighting leadership;
- Additional process safety management training for refinery operators, and collaboration with United Steel Workers on training for the new PSM regulation; and
- A donation of \$200,000 to Richmonds Regional Occupational Program to train students for careers in the petrochemical industry.

As for the extraordinary measures, Chevron will replace all carbon steel piping with chrome-alloy piping, which has better sulfidation resistance. It also will develop and implement monitoring equipment and procedures to alert refinery personnel that piping needs replacement. The agency says both these measures exceed even the process safety management reforms the Cal/OSHA Standards Board recently adopted, which are pending approval by the Office of Administrative Law.

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## Minor Injuries Drastically Affect Workers' Comp Costs

Sprains, strains, and muscle tears have long been among the most common, if not serious, workplace injuries. But data from the Workers' Compensation Insurance Rating Bureau of California show that they also are the costliest – totaling some 40% of all workers' comp losses.

“This is particularly true since the change in the experience mod formula,” says our publisher who should know—our sister company,

Compline, publishes the X-Mods. “The formula weights frequency over severity. A gaggle of – even a few – small claims affects workers' comp costs drastically.”

Carriers incurred almost \$1.8 billion in losses on behalf of California employers from small injuries in 2014. Those losses included more than 146,000 claims, representing about 40% of all claims.

The report is compiled from carriers' first set of claims reports

for policy year 2014 and covers more than 366,000 claims. The policy year covers the 12 months the policy was in effect and will cover injuries from both the 2014 and 2015 calendar years.

WCIRB compiles premium and losses from all carriers –and creates the pure premium rates and X-Mods. The Bureau is a private, non-governmental organization financially supported exclusively by insurance carriers, in whose interests it operates.

Total 2014 incurred losses amounted to nearly \$4.3 billion statewide for employers that insure their workers' comp exposure. Approximately 70% of the state's payroll is in the insured market, according to figures from the Department of Industrial Relations. DIR's figure excludes the myriad of government organizations across a wide number of jurisdictions which account for more than 20% of the state's employees.

The Bureau's annual report to the California Legislature notes that there were 108,677 claims involving a strain or tear during the policy year and another 37,466 involving a sprain or tear. The \$1.3 billion in payments for strains and \$441 million in payments for sprains include payments for both indemnity benefits for lost wages and for the cost of medical treatment.

Fractures are the next most expensive injury in terms of incurred losses. These injuries cost more than \$409 million or nearly 10% of total losses but accounted for just 3.3% of the overall claims. See the accompanying chart for a breakdown of injury sources and their costs.

	Nature of Injury	Number of Claims	Percentage of Claims	Incurred Losses(\$)	Percentage of Total Losses
52	Strain or Tear	108,677	29.6%	1,342,566,526	31.6%
49	Sprain or Tear	37,466	10.2%	441,471,543	10.4%
28	Fracture	12,092	3.3%	409,063,366	9.6%
59	All Other Specific Injuries, NOC	34,301	9.4%	393,751,172	9.3%
80	All Other Cumulative Injury, NOC	13,142	3.6%	289,028,112	6.8%
10	Contusion	38,740	10.6%	285,016,280	6.7%
90	Multiple Physical Injuries Only	10,810	2.9%	193,712,067	4.6%
40	Laceration	42,774	11.7%	142,127,087	3.3%
37	Inflammation	9,284	2.5%	107,853,993	2.5%
16	Dislocation	2,094	0.6%	87,085,175	2.0%
07	Concussion	1,542	0.4%	74,407,358	1.7%
13	Crushing	3,702	1.0%	65,991,243	1.6%
02	Amputation	635	0.2%	48,273,975	1.1%
78	Carpal Tunnel Syndrome	2,125	0.6%	47,550,135	1.1%
04	Burn	6,310	1.7%	46,874,591	1.1%
77	Mental Stress	2,951	0.8%	39,307,890	0.9%
34	Hernia	2,195	0.6%	32,184,219	0.8%
91	Multiple Injuries Including Both Physical and Psychological	1,529	0.4%	29,922,780	0.7%
46	Rupture	752	0.2%	29,316,457	0.7%
43	Puncture	14,748	4.0%	27,703,842	0.7%
41	Myocardial Infarction	1,652	0.5%	25,129,269	0.6%
55	Vascular	93	0.0%	17,809,421	0.4%
25	Foreign Body	8,215	2.2%	15,485,075	0.4%
01	No Physical Injury	1,837	0.5%	58391	0.3%
69	Mental Disorder	457	0.1%	6,871,931	0.2%
71	All Other Occupational Disease Injury, NOC	772	0.2%	6,045,638	0.1%
65	Respiratory Disorders	843	0.2%	5,675,943	0.1%
36	Infection	1,311	0.4%	5,574,320	0.1%
19	Electric Shock	333	0.1%	5,341,198	0.1%
47	Severance	187	0.1%	4,893,773	0.1%
53	Syncope	498	0.1%	3,311,594	0.1%
68	Dermatitis	2,316	0.6%	3,146,301	0.1%
31	Hearing Loss or Impairment	192	0.1%	1,842,252	0.0%
32	Heat Prostration	348	0.1%	1,352,665	0.0%
58	Vision Loss	94	0.0%	894,189	0.0%
42	Poisoning - General	276	0.1%	880,961	0.0%
72	Loss of Hearing	150	0.0%	777,679	0.0%
66	Poisoning - Chemical	156	0.0%	652,650	0.0%
73	Contagious Disease	693	0.2%	632,086	0.0%
60	Dust Disease, NOC	70	0.0%	552,021	0.0%
74	Cancer	21	0.0%	501,578	0.0%
03	Angina Pectoris	62	0.0%	399,795	0.0%
22	Enucleation	24	0.0%	196,375	0.0%
30	Freezing	29	0.0%	179,879	0.0%
67	Poisoning - Metal	13	0.0%	111,439	0.0%
70	Radiation	17	0.0%	97,963	0.0%
54	Asphyxiation	26	0.0%	78,425	0.0%
61	Asbestosis	14	0.0%	73,258	0.0%
79	Hepatitis Losses	8	0.0%	54,974	0.0%
75	Psychiatric	14	0.0%	48,296	0.0%
62	Black Lung	1	0.0%	37,280	0.0%
76	VDT-Related Diseases	9	0.0%	31,487	0.0%
64	Silicosis	1	0.0%	17,139	0.0%
63	Byssinosis	1	0.0%	10,951	0.0%
	Total	366,602	100.0%	4,253,926,675	100.0%

Source: WCIRB unit statistical data at first report level



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## Fed-OSHA's Report Card on Cal/OSHA

In its latest evaluation, Fed-OSHA found few new issues with the way Cal/OSHA is running its show, although the federal agency gave it an "incomplete" in several areas. The Federal Annual Monitoring and Evaluation (FAME) report is a follow-up to an evaluation started for the 2015-16 fiscal year. Next year, the Feds will conduct a new comprehensive review.

### Average Current Penalty per Serious Violation

Number of Workers	FY 2016	National Average
Total 1-250+	\$7,427.28	\$2,329.72
1-25	\$5,026.65	\$1,586.45
26-100	\$7,704.58	\$2,601.13
101-250	\$9,824.94	\$3,596.91
251+	\$10,807.69	\$4,525.64

*Cal/OSHA penalties continue to be the highest in the nation, according to a Fed-OSHA comparison.*

The major new finding in report is that some workplace safety retaliation complaints were being investigated by the state Division of Workers' Compensation, instead of the Division of Labor Standards Enforcement. "All investigation of retaliation resulting from these reports fall under the OSHA grant," Fed-OSHA states.

The investigations in question were reports of retaliation for reporting work-related fatalities, injuries or illnesses that did not also allege a safety or health hazard. The Feds say they will monitor DLSE's process to ensure that it handles such complaints properly.

The FAME report notes that Cal/OSHA has "begun to overcome the budgetary restraints" it faced in the wake of last decade's recession. Between 2014 and 2016, the Division of Occupational Safety and Health added about 100 enforcement and support positions. It also increased inspections, violations cited, and abatement of serious hazards. For statistics on calendar-year 2016 inspections and violations, see accompanying story on p. 11845.

Cal/OSHA already has the highest average penalties in the nation for serious violations, and new rules taking effect next year will raise the stakes even more.

OSHA also noted that California, during the evaluation pe-

**Report Card** continued on page 11845

## Penalty Hike Regulation to OAL

The Department of Industrial Relations has sent a regulatory package to the Office of Administrative Law that dramatically increases Cal/OSHA penalties in some cases. The changes in DIR §336 increase the penalties for regulatory, general, willful and repeat violations, as mandated by changes to the federal budget in 2016.

Gov. Jerry Brown signed SB 96 in June, which makes the increases law and DIR promulgated the regulatory revisions. OAL has until September 14 to approve the changes. If so, they go into effect on January 1, 2018.

Congress increased Fed-OSHA penalties because fines for safety and health violations had remained static for many years; Cal/OSHA is obligated to follow suit. The new penalties include:

- An increase from a maximum of \$7,000 to \$12,471 for regulatory and general violations;
- A maximum penalty for willful and repeat violations of \$124,709, from \$70,000. The minimum penalty for a willful violation also is increasing, to \$8,908 from \$5,000.
- A repeal of the \$2,000 cap for violations of Cal/OSHA's tower cranes standards. Such violations will now be subject to a maximum of \$25,000 for serious violations. The minimum stands at \$1,000.
- The rulemaking also repeals a Labor Code section establishing a maximum \$2,000 penalty for violations involving carcinogens.

DIR is issuing the regulation under the authority of

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40-7881 to 40-7882

- United Parcel Service, Inc.
- Employbridge Holding Company DBA Select Staffing
- Barrett Business Services Inc.
- Toor Management, Inc.

It is 5,976 days since our last lost-time accident.

## PSM Revisions Are Effective Soon

California's Office of Administrative Law has given final approval to sweeping new requirements for the state's refineries. OAL has set an October 1, 2017, date for the standard, General Industry Safety Orders §5189.1, to take effect.



*The 2012 Chevron Richmond refinery fire spurred comprehensive changes to California's PSM program.*

The rulemaking is the result of recommendations by a gubernatorial task force assembled after the August 2012 explosion and fire at the Chevron Richmond refinery. Cal/OSHA issued the proposal late last summer and the Standards Board adopted the rulemaking package this May. Other states, particularly Washington, are eyeing the regulations as a possible template for reform.

The standard requires the state's 15 refineries to adopt "inherently safer" designs and systems and holds employers accountable for the mechanical integrity of equipment. It also requires employee involvement in all aspects of a refinery's safety and prevention program and periodic safety culture assessments.

Additionally, it gives stop-work authority to refinery personnel if necessary and provides for anonymous hazard reporting. In the event of an incident, employers will be required to perform root-cause analyses and develop corrective measures.

Cal/OSHA's Process Safety Management Unit has been reorganized with more inspectors (20, versus seven in 2012), and performs longer and more comprehensive refinery inspections. The new resources come from a 1-1/2-cent assessment on each barrel of crude oil produced in the state.

[Click here](#) to see the text of the new regulation.

### Report Card

*continued from page 11843*

riod, had not adopted the new citation penalty structure passed by Congress and signed by the president in 2016. It raised maximum penalties significantly for some violations and provided for yearly cost-of-living increases. The governor has signed a bill adopting the new structure, and DOSH has submitted regulatory language to the Office of Administrative Law. The new penalties are effective January 1, 2018. See story on p. 11843 for details.

FAME also criticized the Consultation Service for a "decreased presence" in state and government workplaces. Consultation did not meet its performance goal of 28 such visits – it conducted only 16, continuing a downward trend.

### Kudos

Fed-OSHA praised Cal/OSHA for its rulemaking prowess. "California has continued to lead the way in innovative standard development," the report says. "The Workplace Violence Prevention in Healthcare [standard], in particular, is unprecedented and will have national impact."

The federal agency also praised Cal/OSHA for its "highly effective" heat illness prevention special-emphasis program, and notes that the state resolved a longstanding issue on issuing repeat violations. Cal/OSHA adopted rules that consider an employer's statewide history for purposes of determining whether it committed an alleged repeat violation. It also expands the "look back" period from three years to five years.

Here are some other highlights from the FAME report:

Fed-OSHA says Cal/OSHA has been partially successful in the federally mandated goals for 2016 of: Conducting 2,800 inspections in construction and agriculture; sustaining a high number of serious violations compared to the previous year; abating non-contested serious hazards in 95% of cases; reducing fatalities by 0.2 from the average of 5.9 the previous three years; and reducing the total recordable incident rate by 0.1 from the 4.0 rate for construction and 5.4 for agriculture, forestry, fishing and hunting.

DOSH conducted 2,877 inspections, exceeding the goal, but it did not meet the goal of reducing fatalities. The rate increased for both construction and ag.

Cal/OSHA was able to reduce the total recordable rate in construction – it went from 4.0 to 3.3. But in ag, it increased to 5.6.

On the goal of removing industries from Cal/OSHA's high-hazard list, OSHA says DOSH conducted 344 high-hazard inspections, instead of the target 400. It achieved 97% abatement of non-contested serious-willful-repeat and unclassified (SWRU) violations, but the goal was 99%. DOSH did achieve its goal of increasing its inspections of high-hazard establishments by 5% – it increased them by 7%.

The Feds say the failure of the High-Hazard unit to hit the target of 400 inspections was due to "unplanned staffing vacancies."

The report also notes that DOSH's citation "lapse time" – the period from beginning an investigation to issuing citations – has improved, but is still more than 20% higher than the national average. It improved to 68.5 days for safety violations and 73.9 days for health violations. DOSH was able to obtain abatement for SWRU violations in 69% of cases, a 3% increase.

DOSH responded to all imminent hazard com-



plaints or referrals within one day, OSHA adds. And it responded to fatalities within one work day in 139 of 141 cases.

Fed-OSHA still thinks Cal/OSHA doesn't issue enough SWRU violations. In 2016, it did so at the rate of 0.7 per inspection, which the Feds say is 63% below the national average of 1.9. "Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated."

The agency also said the High Hazard and Process Safety Management units were not issuing enough SWRUs – their average together was 58.9%, versus the national average of 71.9%.

Fed-OSHA has not backed off of its insistence that Cal/OSHA's standards for residential construction fall protection are not at least as effective as its regulations, meaning a uniform six feet for a fall protection trigger. The Cal/OSHA Standards Board has convened two advisory committees on the subject and has drafted a potential standard, but says it must conduct a detailed economic impact analysis before it can promulgate a regulation.

The board is moving ahead with the economic impact analysis and appears committed to the revisions.

The one performance goal Fed-OSHA says Cal/OSHA fully achieved was promoting safety and health with high-risk worker organizations. DOSH distributed more than 60,000 publications and flyers and held 100 events with some 30,000 vulnerable workers in FY 2016. Additionally, more than 18,000 workers attended workshops, training and similar events.

Department of Industrial Relations Director Christine Baker said Cal/OSHA would issue a corrective action plan to address the FAME findings. "We continue to work diligently to improve our program," she tells the Feds.

[Click here](#) to see a copy of the FAME report.

## Cal/OSHA Cites the Highest Number of Violations in Almost a Decade

Increased personnel leads to more inspections, which leads to more citations. That's the bottom line on the latest statistics released by Cal/OSHA. In 2016, California's Division of Occupational Safety and Health (DOSH) conducted the highest number of on-site inspections since 2011 and issued citations for more than 20,000 violations, the highest number since 2008.

Not coincidentally, DOSH has added dozens of new inspectors and support personnel in the past three years.

In addition to more violations, Cal/OSHA issued the highest percentage characterized as serious since 2007.

DOSH conducted almost 7,900 in-person inspections in 2016, topped only by 2011's 7,962. The total violations alleged

have been steadily increasing since a low of about 14,500 in 2011. That year also saw a low in serious violations, at 15%, and those ratios have increased in recent years.

In 2016, construction led all sectors, with more than 2,300 on-site inspections and more than 5,500 alleged violations, 23% of which were considered serious. Almost 700 of the inspections were triggered by incidents, followed by programmed (surprise) inspections, then complaints.

The highest serious percentage was in manufacturing at 28%, although it had about half the on-site inspections as construction. Thirty-nine percent of the inspections in manufacturing were accident-based, as opposed to 29% in construction.

In its latest evaluation of the Cal/OSHA program, Fed-OSHA notes that in fiscal-year 2016 (which ran from October 2015 to September 2016), DOSH conducted 7,456 inspections, exceeding the federally established goal of 7,300. The Division obtained abatement of 19,581 hazards over that period, versus 17,527 the year before, a 13% increase.

From 2014 through 2016, DOSH added about 100 positions to its enforcement and supporting units, the Feds note. Last year, Cal/OSHA's budget was \$82 million, including about \$26.5 million from the Feds. The state matched that grant, as it's called, and added another \$29 million of its own. (The state funds Cal/OSHA through assessments on employers' workers' comp premiums known as the OSH Fund.)

In the coming year, Cal/OSHA's budget will increase to about \$88 million, according to Cora Gherga, assistant DOSH chief for enforcement administration. Some of that increase will be devoted to cost-of-living increases for Cal/OSHA personnel.

The accompanying charts show the 2016 breakdown of inspection and violation information by industry and a comparison of the totals for the past decade.

	ON-SITE INSPECTIONS	TOTAL ALLEGED VIOLATIONS	ALLEGED- SERIOUS	% ALLEGED SERIOUS
2016	7869	20035	4361	0.22
2015	7754	18353	3690	0.2
2014	7449	16547	2944	0.18
2013	7327	15021	2819	0.19
2012	7720	15148	2652	0.18
2011	7962	14552	2169	0.15
2010	8463	17179	3210	0.19
2009	8450	17477	3307	0.19
2008	10027	21158	4470	0.21
2007	9259	20022	4660	0.23

# DOSH On-Site Inspections and Violations Cited



## Agriculture

- On-Site Inspections - 616
- Accident Related - 214
- Complaint Related - 228
- Programmed Inspections - 91
- Total Alleged Violations - 1416
- Alleged Serious - 328
- Percent Alleged Serious - 23%



## Mineral Extraction

- On-Site Inspections - 248
- Accident Related - 139
- Complaint Related - 16
- Programmed Inspections - 201
- Total Alleged Violations - 633
- Alleged Serious - 59
- Percent Alleged Serious - 9%



## Construction

- On-Site Inspections - 2,351
- Accident Related - 685
- Complaint Related - 468
- Programmed Inspections - 525
- Total Alleged Violations - 5,562
- Alleged Serious - 1,263
- Percent Alleged Serious - 23%



## Manufacturing

- On-Site Inspections - 1,220
- Accident Related - 480
- Complaint Related - 302
- Programmed Inspections - 276
- Total Alleged Violations - 4,520
- Alleged Serious - 1,263
- Percent Alleged Serious - 28%



## Transportation/ Public Utilities

- On-Site Inspections - 448
- Accident Related - 187
- Complaint Related - 174
- Programmed Inspections - 31
- Total Alleged Violations - 935
- Alleged Serious - 194
- Percent Alleged Serious - 21%



## Wholesale Trade

- On-Site Inspections - 278
- Accident Related - 127
- Complaint Related - 84
- Programmed Inspections - 37
- Total Alleged Violations - 819
- Alleged Serious - 198
- Percent Alleged Serious - 24%



## Retail Trade

- On-Site Inspections - 400
- Accident Related - 149
- Complaint Related - 186
- Programmed Inspections - 21
- Total Alleged Violations - 796
- Alleged Serious - 115
- Percent Alleged Serious - 12%



## Financial/ Real Estate

- On-Site Inspections - 74
- Accident Related - 20
- Complaint Related - 34
- Programmed Inspections - 1
- Total Alleged Violations - 206
- Alleged Serious - 49
- Percent Alleged Serious - 24%



## Services

- On-Site Inspections - 2,036
- Accident Related - 581
- Complaint Related - 660
- Programmed Inspections - 519
- Total Alleged Violations - 4,925
- Alleged Serious - 836
- Percent Alleged Serious - 17%



## Public Admin.

- On-Site Inspections - 198
- Accident Related - 78
- Complaint Related - 97
- Programmed Inspections - 1
- Total Alleged Violations - 223
- Alleged Serious - 35
- Percent Alleged Serious - 16%

## Total for 2016

- On-Site Inspections - 7,869
- Accident Related - 2,537
- Complaint Related - 2,249
- Programmed Inspections - 1,703
- Total Alleged Violations - 20,035
- Alleged Serious - 4,361
- Percent Alleged Serious - 22%



## Triple Digits Galore: Are There Workplace Heat Illness Fatalities?

It's been a hot summer in California, even in places not normally known for sizzling temperatures. Such locales as the Sonoma coast area have seen multiple days well into triple digits. That's not uncommon for California's inland valleys, but for those not acclimated, it's a big "yikes!"

There is good news for California workplaces: So far this "heat season," as it's known, it appears no workers have died from heat related issues.

Years of Cal/OSHA campaigns to warn employers and employees about the dangers of heat and the precautions employers have taken to prevent illness appear to be paying off. All the metrics are down, save one. And that's good.

"There have been no confirmed heat-related fatalities so far this year," says Department of Industrial Relations public information officer Frank Polizzi.

In fact, such fatalities have trended down the past several years. There was one heat-related fatality each in 2016, 2015 and 2014, versus four in 2013.

Illnesses have been low, as well. In a July report, there were only two confirmed heat illnesses in completed Cal/OSHA inspections for 2017. There were 52 confirmed illnesses for all of 2016; 63 in 2015; and 43 in 2014. The recent severe heat waves will tell the story of the season.

As of mid-year, heat illness inspections appear to be down sharply from previous years. The July report showed 1,708 heat-related inspections, compared to 4,014 for the full year of 2016, 4,058 in 2015 and 3,872 in 2014. Projected for the full year, the 2017 inspections would be well behind all three pre-

Statewide									
	2016	2015	2014	2013	2012	2011	2010	'09	'08
Heat Inspections	4,014	4,058	3,872	3,915	3,854	3,301	3,183	3,574	2,586
Inspections with Heat Violations	1,599	1,489	1,324	1,175	1,099	836	788	935	899
Heat Violations Cited During Specified Year	2,869	1,763	1,644	1,505	1,363	908	957	1,163	1,121
Penalties*	\$3,591k	\$1,565k	\$1,106k	\$1,216k	\$894k	\$570k	\$579k	\$1,042k	\$1,775k
Outreach Activities**	1,696	2,171	2,091	1,821	2,055	2,272	2,482	2,562	1,145

Cal/OSHA Chart

vious years. The 2017 inspections included 859 in construction and 244 in agriculture. The investigations yielded one order prohibiting use for heat.

Questioned at the recent Cal/OSHA Advisory Committee meeting about the big drop in heat inspections, agency officials speculated that it could be due to fewer reports of illnesses or fewer complaints.

The one negative metric is that compliance isn't as robust as previous years. It was 60.2% in 2016, down from 63.3% the previous year. The percentage for 2017 hasn't been calculated yet, of course.

Proposed penalties are also way down this year. As of July, Cal/OSHA issued citations worth about \$918,000, down from the full-year total of \$3,591,468 in 2016, although not too far from years previous to that. (See our accompanying chart.)

As in past years, the top heat illness violations remain the lack of a heat illness prevention program or an inadequate one, inadequate training, and violations of the water provision requirements of the Standard, General Industry Safety Orders §3395.

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**Subject:** Movers & Shakers

**Date:** Thursday, October 5, 2017 at 1:48:36 PM Pacific Daylight Time

**From:** Cal-OSHA Reporter Newsdesk

**To:** Garrett Brown

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## Movers and Shakers

### California: Nancy Medeiros, Four Other Staffers Retire from Cal/OSHA

Sacramento, California Nancy Medeiros, manager of Cal/OSHA's Amusement Ride and Tramway Unit, has retired after a 28-year career with the agency. She has worked in the ART unit since 1998. Medeiros started in Cal/OSHA enforcement, where she participated in rescue efforts on the San Francisco-Oakland Bay Bridge after the Loma Prieta earthquake. She also helped oversee safety during reconstruction in the Oakland hills after the devastating 1991 fire. Cal/OSHA says the ART unit is one of the most successful state-run ride and public safety programs in existence. Four other Cal/OSHA employees have retired as well, including senior safety engineers Robert Nakamura, Stephen Kaplan and Richard Roberts, and management services technician Rosalind Ponce. Source: Cal-OSHA Reporter



### California: Nick Stavropoulos Named to National Safety Council Board

San Francisco, California Nick Stavropoulos, president and chief executive officer of Pacific Gas & Electric Co., has been named to the National Safety Council's board of directors. Stavropoulos has more than 35 years of experience in the U.S. and international energy industry. He oversees a diverse workforce of employees across electric, gas, power generation and nuclear operations as well as corporate support functions. He began working for PG&E in 2011 to lead the multibillion-dollar recovery and restoration effort to enhance the safety of the company's natural gas system after the 2010 gas pipeline explosion in San Bruno. Under his leadership, PG&E's gas business has earned or qualified for several international safety certifications including ISO 55000; PAS 55001; API RP 1173; and RC 14001. Stavropoulos is also a frequent keynote speaker at national and international conferences on leadership and safety culture. Source: Business Wire/PG&E



### National Safety Council Appoints Jennifer Steffus as Chief Development Officer



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## Cal/OSHA Cites Per Inspection Up

Cal/OSHA is on pace this year to surpass its 2016 total for cited violations. That is if the first-quarter statistics are any indication. It appears this is a trend, not an anomaly.

The Division of Occupational Safety and Health issued citations for more than 5,700 alleged violations during the first quarter. Projecting that pace into a full year, it would mean almost 23,000 violations.

In 2016, DOSH cited employers for more than 20,000 violations, the highest total since 2008. If the year's total does indeed approach 23,000, it would be the most aggressive number of alleged violations since the late 1990s.

### Inspections Down - Cites Up

The number of inspections conducted during the quarter was slightly lower than the comparable period of 2016, but DOSH issued more citations per inspection – 3.21 per visit in 2017 vs. 2.76 in the first quarter of 2016. This is an increase of ½ a cite per inspection. That's statistically one more citation for every two visits.

DOSH issued almost 20% more serious violations in the period. The percentage of serious violations increased slightly to 23%. For all of 2016, it was 22%.

Construction had the highest number of on-site inspections in the first quarter of 2017, followed by services and manufacturing. But services had the highest number of alleged violations, followed by construction, then manufacturing, as our accompanying chart shows.

Manufacturing and financial/real estate had the highest percentage of serious violations cited, at

30% each. Agriculture also had a high rate, followed by construction.

### Blame it on Training

Violations identified per inspection could be increasing due to the hiring and training of new enforcement inspectors, says Department of Industrial Relations spokesman Frank Polizzi. "Many of these inspectors were hired or promoted into the new enforcement inspector positions authorized in 2015."

Additionally, he says, "it appears the Division is more effectively identifying workplaces where we should conduct programmed inspections."

Meanwhile, defense counsel has taken notice. "At the end of July, our office tech informed us that we have already opened as

DOSH On-Site Inspections and Violations Cited, Major Industrial Groups, January-March 2017

	ON-SITE INSPECTIONS	ACCIDENT RELATED	COMPLAINT RELATED	PROGRAMMED INSPECTIONS	TOTAL ALLEGED VIOLATIONS	ALLEGED SERIOUS	% ALLEGED SERIOUS
Agriculture	92	41	26	11	383	102	27%
Mineral Extraction	50	5	3	40	116	13	11%
Construction	524	146	93	103	1,594	379	24%
Manufacturing	281	116	67	67	1,060	315	30%
Transportation/ Public Utilities	104	39	40	9	365	79	22%
Wholesale Trade	66	3	12	14	188	35	19%
Retail Trade	94	35	49	2	235	38	16%
Financial/ Real Estate	15	4	6	0	40	12	30%
Services	519	155	136	154	1,711	321	19%
Public Admin.	47	17	26	0	60	8	13%
Totals	1,792	589	458	400	5,752	1,302	23%



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many new files as in all of 2016," says Heidelberg-based Fred Walter, of the Walter & Prince law firm. "And the phone is still ringing."

Walter says the higher citation numbers aren't a fluke "We're adding staff," he tells us.

The statistical data about the outcome of whether or not the cites will stick is months out.

Sources inside Cal/OSHA tell *Cal-OSHA Reporter* that not only is the new inspectors training a question, but so is their intent. The question, the source says, is whether the new inspectors have been oriented towards safety or punishment.

DOSH On-Site Inspections and Violations Cited, First Quarter 2017 vs. Previous Years

	ON-SITE INSPECTIONS	TOTAL ALLEGED VIOLATIONS	ALLEGED SERIOUS	% ALLEGED SERIOUS
2017	1,792	5,732	1,302	23%
2016	1,871	5,166	1,096	21%
2015	1,899	4,160	817	20%
2014	1,765	4,255	807	19%
2013	1,695	3,815	796	21%
2012	1,742	3,876	715	18%
2011	1,847	3,202	332	10%
2010	1,872	3,975	798	20%
2009	1,804	4,241	836	20%
2008	2,919	6,061	1,315	22%
2007	2,125	5,268	1,195	23%

Miners' Mindfulness = Safety

It might be too much to expect miners – or any workers – to take a meditation break to clear their heads, but Lehigh Hanson Region West has successfully employed a technique that takes only seconds but gets employees' focus back on safety.

Terry Tyson, safety manager for the region, says using "Focus 1...2...3" has paid dividends by reducing incidents in and around trucks and other parts of its facilities.

It is a product of the "mindfulness" movement – producing a state of mind during which a person focuses primarily on one thing at a time. Tyson addressed the subject at this week's safety awards presentation of the California Construction and Industrial Materials Association (CalCIMA).

Distractions are a significant contributor to workplace accidents, as employees try to juggle demanding work schedules, plus personal issues. "An organizational culture of mindfulness improves focus, the ability to manage stress, employee interactions, and overall workplace and human functioning," Tyson says, citing a study by Case Western Reserve University's Weatherhead School of Management.

It also contributes to longer periods of listening and observing on-demand focus, and better attention. That can lead to better productivity, reduced stress, better memory, enhanced emotional intelligence, confidence and a sense of well-being and



Terry Tyson, Lehigh Hanson Region West: "Paying attention with a purpose."

HEIDELBERGCEMENT Group Safety Week  
Lehigh Hanson West Region - South

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You can train your brain to FOCUS on potentially hazardous conditions!

When stepping out of your mixer truck at a job site to get to your chutes or when entering a new work area, STOP for **THREE SECONDS** to look around.

Repeat, "FOCUS, 1...2...3," silently or aloud before proceeding. During that time, look for tripping hazards, look for guards missing, look for things that can HURT you.

Science has proven that by initiating such actions, they call it a "starting ritual," your brain actually becomes more aware of your surroundings. It triggers the prefrontal cortex of your brain to clear the mind of distracting thoughts for just a few moments. In those three seconds you can focus on things around you or on the path directly in front of you.

Practiced regularly, it becomes a habit that can prevent injury.

Professional athletes and the military have begun to utilize this simple, **THREE SECOND** practice to increase awareness, because it works!

focus - 1...2...3

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Lehigh Hanson  
HEIDELBERGCEMENT Group  
Region West Safety and Health

Lehigh Hanson trains its workers to refocus their attention on safety, and the effort has reduced accidents at its facilities.



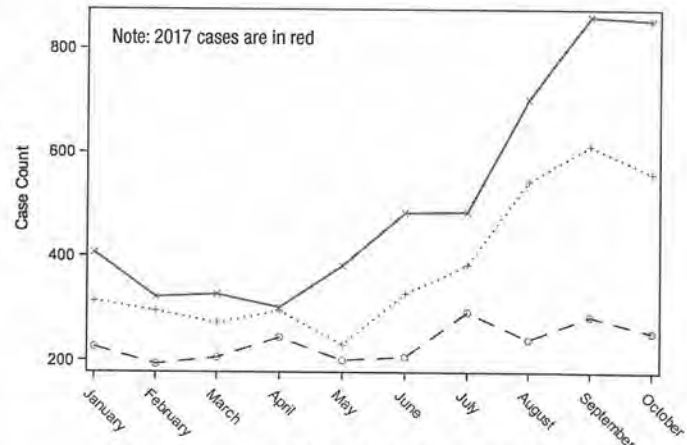
sides in the top layer of dirt in many parts of California, particularly the Central Valley. It is released into the air when the soil is disturbed. Also known as California Fever, San Joaquin Valley Fever, and Desert Rheumatism, it produces flu-like symptoms, including fever, night sweats, fatigue, coughing, chest pains, headaches, rashes and achy joints.

Most people infected with Valley Fever won't feel any symptoms at all, but in severe cases, it can cause long-term disability and even death. Such victims usually are the elderly, pregnant women and those with compromised immune systems. Some ethnicities, such as African Americans and Filipinos, are at increased risk, as well.

It is most prevalent in Fresno, Kings, Kern, Madera, Merced, Tulare and San Luis Obispo counties. This year, health officials have begun 1,855 Valley Fever investigations in Kern County, 558 in Fresno County, 347 in Tulare County and even 681 in Los Angeles County.

CDPH Director Dr. Karen Smith advises anyone in potentially affected areas to consult with their healthcare provider if they develop flu-like symptoms.

Reported Suspect, Probable, and Confirmed Cases of Coccidioidomycosis by Year and Month of Estimated Onset, California, 2015-2017 (reported as of October 31 of each year)



For workers, at-risk tasks include digging, truck driving, operating heavy equipment, and construction work. Mitigation strategies include keeping workers upwind of soil being disturbed, watering ground before it is disturbed, and otherwise reducing dust.

## Employment Grows, but California Injuries and Illnesses Decline

California employment grew by several hundred thousand employees in 2016, but that didn't translate to more workplace injuries and illnesses. In fact, statistics show they dropped slightly from 2015. The state's injury and illness rate fell slightly.

The latest Survey of Occupational Injuries and Illnesses (SOII) estimates 466,600 recordable cases, down from 470,600 in 2015.

The overall I&I rate, 3.7 per 100 full-time equivalent employees, was down from 3.8, while the rate for private industry remained the same at 3.3. Reportable employment rose in California, about 2%, from 17.8 million to nearly 18.2 million.

Nationally, the federal Bureau of Labor Statistics reports 2.9 million injuries and illnesses, also a decrease from 2015. The rate was 2.9, down from 3.0 the previous year.

The California days away, restricted duty and transfer rate (DART) remained the same at 2.2. The number of DART cases for all sectors, 272,400, equals the 2015 percentage of DART cases per total recordable cases –

2016 Vs. 2015: California Injury & Illness Numbers and Rates

	2016 TOTAL RECORDABLE CASES	2015 TOTAL RECORDABLE CASES	2016 I&I RATES	2015 I&I RATES
All Sectors	466,600	470,600	3.7	3.8
Private Industry	360,100	363,100	3.3	3.3
Agriculture, Forestry, Fishing & Hunting	20,200	20,600	5.8	5.6
Mining/Energy Extraction	400	200	1.5	0.7
Construction	26,500	21,200	3.8	3.3
Manufacturing	41,200	39,900	3.2	3.2
Wholesale Trade	18,100	22,600	2.7	3.3
Retail Trade	47,900	51,300	3.9	4.1
Transportation & Warehousing	25,500	24,900	5.6	5.7
Utilities	1,300	1,000	2.4	1.8
Information	7,000	6,200	1.5	1.4
Financial Activities	13,500	12,800	1.8	1.7
Professional & Business Services	33,600	32,700	1.8	1.7
Administrative/Support & Waste Management	17,900	18,300	3.1	3.1
Educational Services	3,500	4,500	2.0	2.5
Health Care & Social Assistance	60,200	65,100	4.6	4.6
Arts, Entertainment & Recreation	9,100	8,900	4.6	4.6
Accommodation & Food Services	40,500	42,200	4.0	4.3
Other Services	11,700	9,000	3.2	2.5



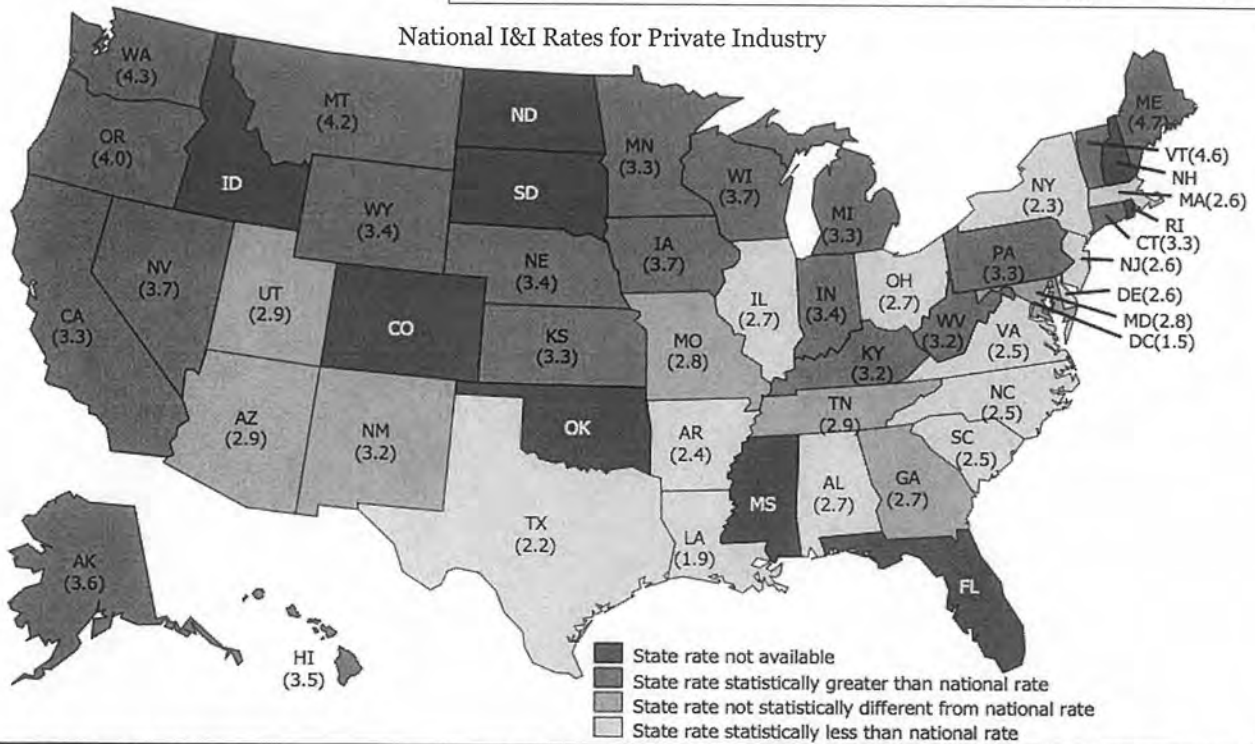
Highest California I&I Rates – Total Recordable, 2016

	RATE
<b>Local Government</b>	
Nursing & Residential Care Facilities	12.7
Justice, Public Order & Safety Activities	11.6
Museums, Historical Sites & Similar Institutions	10.7
Executive, Legislative & General Govt. Support	10.2
<b>State Government</b>	
Justice, Public Order & Safety Activities	10.6
Hospitals	9.1
Nursing & Residential Care Facilities	7.7
<b>Private Industry</b>	
Leather & Allied Product Manufacturing	10.0
Food Product Manufacturing	9.4
Couriers & Messengers	8.8
Hospitals	6.6
Nursing & Residential Care Facilities	6.4
Forestry & Logging	6.4
Crop Production	6.3
Warehousing & Storage	6.0
Accommodation	6.0

2016 Recordable Cases vs. DART cases

INDUSTRY	TOTAL RECORDABLE CASES	DART CASES	% DART
All Industries	466,600	272,400	58%
Private Industry	360,100	223,600	62%
Agriculture, Forestry & Fishing	20,200	12,600	62%
Mining/Energy Extraction	400	200	50%
Construction	26,500	18,700	71%
Manufacturing	41,200	27,600	70%
Wholesale Trade	18,100	13,000	72%
Retail Trade	47,900	31,000	65%
Transportation & Warehousing	25,500	19,000	75%
Utilities	1,300	800	62%
Information	7,000	4,400	63%
Financial Activities	13,500	8,700	64%
Administrative/Support & Waste Management	17,900	13,200	74%
Professional & Business Services	33,600	20,900	62%
Educational Services	3,500	1,800	51%
Health Care & Social Assistance	60,200	31,200	52%
Arts, Entertainment & Recreation	9,100	5,300	58%
Accommodation & Food Services	40,500	21,300	53%
Other Services	11,700	7,000	60%

National I&I Rates for Private Industry



58%. The percentage for private industry rose to 62%, from 61% in 2015.

### The Numbers are Estimates

SOII produces estimates based on a scientifically selected probability sample, according to the Department of Industrial Relations. It is not a “census” of all employers and incidents. The survey is conducted by DIR’s Office of Policy, Research, and Legislation by collecting data from samples. The sampling methodology allows inferences to be made from the data regarding the characteristics of the population being sampled, the department says.

Among the 18 California industrial sectors tracked, 10 showed increases in I&I numbers, with eight decreases. The rates indicated eight increasing, six decreasing and four staying the same as 2015.

Construction, which saw decreased injuries and illnesses in 2015, jumped back again, almost to 2014 levels. The 2016 estimate represents a 25% rise. The “other services” category rose 30%.

State and local government, which traditionally accounts for the highest number of injuries in the state, showed a slight decrease, from 107,600 in 2015 to 106,400 last year. Its I&I rate – the highest of all sectors – decreased, too. The sector with the second-highest number of injuries, health care, and social assistance, saw a 7.5% decrease. Its I&I rate stayed the same.

DART cases overall remained close to the numbers for 2015, with some fluctuation among the individual sectors. For instance, construction saw a 31% increase in DART cases to go with the increase in recordable.

The highest DART percentage was in transportation and warehousing, at 75%. Four other sectors had percentages in the 70s, as well. The lowest percentage, perhaps ironically, was in state and local government, at 46%.

The accompanying charts break out the data from the 2016 SOII.

On the national level, the Bureau Labor & Statistics reports that four private-industry sectors – construction, manufacturing, wholesale trade and retail trade – experienced “significant” declines in their total recordable rates. Fourteen sectors had rates that were unchanged from 2015, and only one, finance and

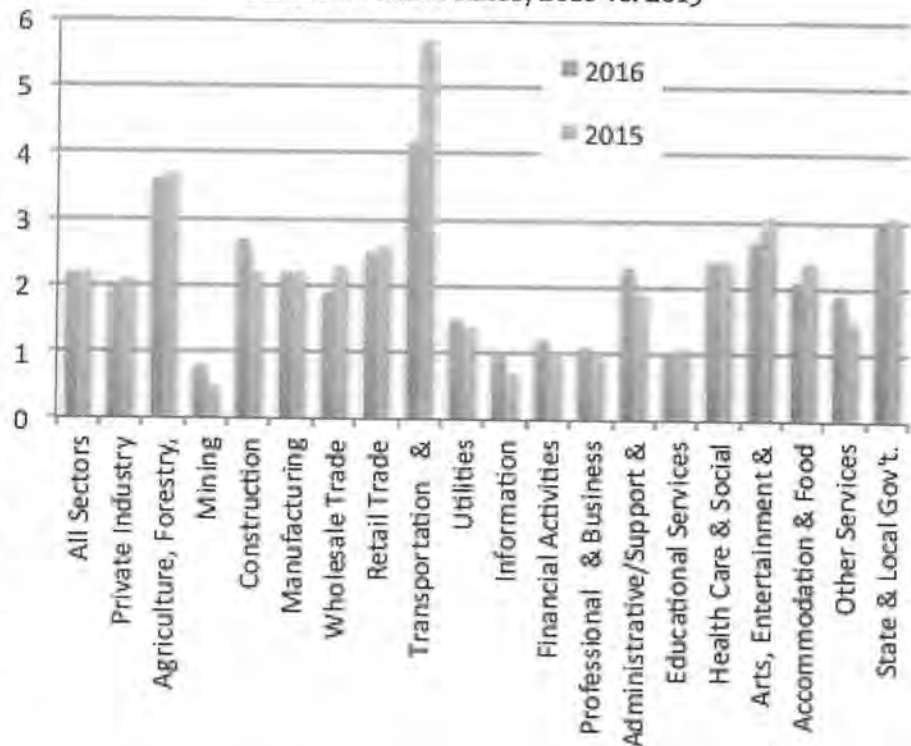
California Injuries & Illnesses, 2007-2016

	NUMBERS	RATES
2016	466,600	3.7
2015	470,600	3.8
2014	460,700	3.8
2013	468,400	4.0
2012	451,500	4.0
2011	440,900	4.0
2010	464,000	4.2
2009	491,900	4.2
2008	541,800	4.4
2007	594,400	4.7

insurance, saw a rise in the overall recordable rate.

About 31% of occupational injuries and illnesses nationwide resulted in days away from work. The California percentage was 54% for all sectors and 51% for private industry.

California DART Rates, 2016 vs. 2015



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## Top Stories of 2017

So long, 2017, and welcome 2018. It was a busy year for California's occupational safety and health community. Here's a look at the top stories of the year that was.

### Fatal Falls Still a Tragic Reality

Be they from roofs, skylights, trees, or ladders; falls were a major portion of California's workplace fatalities in 2017. In 2016, falls, slips, and trips accounted for 77 fatalities. Last year, falls or related incidents alone accounted for a least 50 employee deaths, by our count.

As has been customary for the past several years, California employers, particularly in construction, participated in fall protection "stand downs" in May to emphasize fall prevention. Cal/OSHA and Fed-OSHA were partners in the stand-downs.



*Workers participate in a May fall protection stand-down.*

### Cal/OSHA Chief Counsel Dies

The Division of Occupational Safety and Health's Amy Martin, passed away at 52, a victim of cancer. Martin, who specialized in employment and labor law in private practice, joined DOSH in 2002 and became its chief counsel in 2010. She was an effervescent personality and committed to her causes. Even those in the community who disagreed with her Cal/OSHA legal stances praised her as passionate about her work and likable. "Her death hit the Division hard, and she will be missed by all, especially me," said DOSH PSM Unit Manager Clyde Trombetta. RIP Amy Martin.



*Amy Martin*

### Big Penalty Hikes

Already facing the highest penalties in the nation for occupational safety and health violations, California saw fines for

many types of violations increase substantially.

The sharp rise was thanks to the U.S. Congress which, in 2016 as part of the federal budget, decided to adjust penalties for inflation. The move raises maximum penalties for general and regulatory violations here from \$7,000 to \$12,471; from \$70,000 to \$124,709 for willful and repeat violations (plus a

*2017 continued on page 11975*

### Reminder – Penalties Rising

The Department of Industrial Relations and Cal/OSHA have raised the maximum and minimum penalties for certain Title 8 violations, just months after a huge increase mandated by the U.S. Congress in 2017. The raises are for regulatory, general repeat and willful violations.

The increases were effective January 8 and amount to 2.04113%, the percentage increase in the Consumer Price Index for All Urban Consumers, measured from October 2016 to October 2017.

In 2016, Congress mandated in the federal budget bill huge increases in penalties for OSHA violations to account for inflation over many years. The bill also provides for annual increases to adjust for inflation, prompting the latest move.

For regulatory and general violations, the maximum penalty has increased from \$12,471 to \$12,726. For repeat and willful violations, the maximum has jumped from \$124,709 to \$127,254. The minimum penalty for willful violations is not \$9,090, from the 2017 minimum of \$8,908.

## IN THIS ISSUE

### NEWS

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- New DOSH Drafts on Indoor Heat
- Cal/OSHA's Workplace Violence Plan
- Electric Power Generation Revise Approved
- Cal/OSHA Stings Employer Over Bee Encounter
- New Tunneling Tech Needs Variance
- Permanent CPHs for Refinery
- Job Openings

CLE Self-Test

40-7951

**It is 6,130 days since our last lost-time accident.**

## Refinery Seeks Variance for CPH

The Andeavor Refinery in Martinez has gotten approval from the Cal/OSH Standards Board to permanently install construction personnel hoists (CPH) at its facility.

The installation needs a Cal/OSHA variance because Construction Safety Orders §§ 1601.1(a)(1) and 1604.26(c)(1) limit CPHs to construction, alteration or demolition activities, and require an attendant.



Tesoro image

*The Andeavor Martinez Refinery, formerly known as Tesoro.*

Andeavor, formerly Tesoro, asserts that the “heavy industrial conditions” at the refinery are comparable to a construction site. It is installing the hoists at its Cat Cracker, Hydro Cracker and Delayed Coker units. The employer says the hoists will provide safer access to the units, quicker response time when there are issues on the upper decks, allow the safe transport of injured workers and better support for turnaround activities.

The refinery will train and certify its workers as competent authorized operators, eliminating the need for regular attendants. A regular attendant will be required during turnarounds, which include periods of construction, alteration or demolition.

### 2017

*continued from page 11971*

new minimum for willfuls of \$8,908); removes a cap of \$2,000 for tower crane violations and subjects them to the \$25,000 maximum for serious violations, and does the same for violations involving carcinogens.

Cal/OSHA’s \$25,000 maximum for serious violations remains unchanged, but still is the highest in the nation.

What’s more, the law provides for a yearly cost-of-living increase, so the penalties are increasing again this year. See our story on p. 11971.

## Controversial IIPP Requirements

The Injury and Illness Prevention Program is the lodestar of Cal/OSHA regulations. It contains the basic requirements employers must fulfill in creating their workplace safety programs

and is the go-to standard for Cal/OSHA compliance.

But does the standard come up short on employee access? That’s the question that came to fore in 2017, through proposed legislation from labor and a petition from the employer side, both aimed at resolving the question on their own - different - terms.



*Dan Leacox*

The legislation, AB 978 by Assemblyman Monique Limon (D-Ventura), would have required an employer to provide its IIPP and supporting materials upon request to employees or their representatives within five days.

Employer groups said it would have opened up employers’ private records to an “unlimited” number of organizations. But the bill ultimately failed, thanks to a veto by Gov. Jerry Brown, who noted that the Cal/OSH Standards Board is poised to take up the issue in the coming year.

AB 978 was the second attempt at IIPP-access legislation.

For now, it’s up to the Standards Board, which authorized an advisory committee to study a petition by regulatory consultant Dan Leacox. He seeks a more employer-friendly “means of access” to IIPPs. Labor groups opposed the petition because they said the legislation would be “far more expeditious.” The employers won this round, but an election which will produce a new governor and likely one not so business friendly is only a few months away.

## Employer Prosecutions

Last year saw a steady stream of cases in which employers and supervisors were prosecuted following employee fatalities. The cases included:

A crane operator who hoisted his son and a co-worker on a personnel platform, only to see them plunge to their deaths at a Yolo County construction site. Mark Powell was charged with two counts of involuntary manslaughter and willfully violating Cal/OSHA standards. Powell pleaded not guilty.

The crew had been conducting pile-driving operations for a bridge when a cable broke. Powell hoisted his son and the co-worker to troubleshoot the problem and retrieve the cable, but the line for the platform jammed and the platform was dislodged.

The Sonoma County district attorney charged Maggiora & Ghilotti and a foreman in the 2015 death of a worker who was crushed by a pipe during a project to replace a water line along U.S. 101 near Petaluma. A forklift operator was setting the pipe on the ground, and the victim was attempting to steady it, but it rolled and crushed him.



In San Francisco, Meng Peng, the owner of Galaxy Granite was sentenced to one year of home detention and three years' probation in the 2014 deaths of two workers who were crushed by a bundle of granite slabs they were unloading. The slabs had not been secured against displacement.

In Orange County, the owner of Five Star Plastering, his safety coordinator and a crew supervisor were charged with five felony counts after one employee was electrocuted and another seriously injured while attempting to raise a banner at a high school football field.

The defendants were charged with willfully causing death and injury. The owner was part of the school's booster club and took up the project to honor local veterans as a volunteer.

The workers were erecting a 20-foot-high scaffold and came within two feet of a 12,000-volt power line.

The California Court of Appeal upheld the involuntary manslaughter conviction of a construction project manager in an infamous 2012 trench cave-in. Attorneys for Dan Luo raised a series of challenges to his conviction, but the court rejected all of them.

Luo was the manager for a residential project in Milpitas. The deceased worker had been hired days before the incident to help finish an excavation, even though the city had issued a stop-work order just days before that. Heavy rains had softened the hillside, and it gave way, killing laborer Raul Zapata.

And the California Supreme Court has taken oral arguments in the 2009 case of Solus Industrial Innovations, in which two workers died when a residential water heater used for industrial work exploded.

The issue before the court is whether district attorneys can use the unfair competition laws of the state Business and Professions Code to recover civil penalties. Solus' attorneys argue that federal law preempts such civil cases.

## Significant Regulatory Actions

Cal/OSHA, including the Standards Board and DOSH, either completed several significant regulatory initiatives or began working on them. Here are the most notable:

**Process Safety Management:** The Standards Board approved sweeping changes to the state's PSM regulation, after several years of work by the Division of Occupational Safety and Health. The changes were spurred by the August 2012 explosion and fire at the Chevron Richmond Refinery and given impetus by a subsequent explosion at the ExxonMobil Torrance Refinery. The new PSM rules became effective October 1, 2017.

**Post-Tensioning and Reinforcing Steel:** Initiated by a petition from the Iron Workers International Union, the Standards Board approved new requirements for the post-tensioning of concrete and protections for working with and around rebar.



*An example of post-tensioning.*

**Wood Dust PEL:** After some fits and starts, the board adopted a dramatic decrease in the permissible exposure limit for wood dust and western red cedar dust. Employer groups said the PEL was infeasible and unreasonable, and board chair Dave Thomas agreed, casting a decisive no vote in January.

DOSH subsequently redrafted the PEL, increasing it from the proposed 1 part per million to 2 ppm, which industry found more acceptable and the board ultimately approved.

**Indoor Heat Illness:** DOSH began talks on a standard regulating heat in indoor places of work, mandated by 2016's SB 1167.

The Division convened two advisory committees, with the mandate to have a standard ready for a vote by the Standards Board by January 2019. Stakeholders told DOSH that its original draft language was too complex and too broad. The regulated public will get a chance to comment on the latest draft on February 8, 2018, in Oakland.

**Hotel Housekeeping:** They show up at every Standards Board meeting, testifying about the grueling conditions under which they toil and urging the board to act expeditiously on the protections they seek.

Hotel housekeepers successfully pushed the board to publish their long-sought proposal to give them relief from the so-called "bed race." That was in March. Since a May public hearing, they have continued to press Cal/OSHA to bring the proposal to a vote, which will happen this month in Oakland.

**Workplace Violence:** Following the successful adoption of requirements to protect healthcare workers from violence, DOSH began work on a companion standard for general industry. It was the result of a petition a teacher who said her profession, too, is subject to violence at the hands of students. Other professions also say, they, too, need a Cal/OSHA regulation to help keep them safe.

Cal/OSHA has identified six sectors that it says are most at risk for violence, including medical workplace and men-



tal health facilities not currently covered by the existing standard, education, law enforcement, retail outlets such as convenience stores, and transportation.

DOSH has produced a new discussion draft and has scheduled a stakeholders meeting for January 25 in Oakland. The recently released draft does not limit the standard to any particular industries.

### Stories of General Interest

Here are some of the most noteworthy general-interest stories in last year's *Cal-OSHA Reporter*:

**Goodwill Fatality:** Truck driver Dave Goudie was present when a fellow employee of Goodwill Industries' Sacramento Franklin Road facility was killed at a loading dock. Goudie had warned management not long before the incident that a serious incident could result from unsafe conditions, but he says managers did not take him seriously.

Then, a week after the fatality, Goodwill fired Goudie for allegedly violating its safety protocols. He says it was for telling Cal/OSHA investigators about his complaints. In April, DOSH cited Goodwill for alleged willful and serious violations in connection with the incident. Last fall, Goudie filed suit against his former employer for wrongful termination and defamation.

**Oroville Dam Project:** Last winter's heavy rains created a scary situation at the Oroville Dam, the highest dam in the country. The main spillway severely eroded, then an emergency spillway failed as well.

After the immediate crisis passed, the Department of Water Resources set about an ambitious plan to repair both spillways. Our story details the scope of the project and DWR's plan to



*A wildfire-ravaged mobile home park in Santa Rosa.*

accomplish it safely.

**Wildfires:** First in the North Bay counties, then in Ventura and Santa Barbara counties, wildfires consumed thousands of acres and structures, and killed scores of people.

Both the response to the fires and the recovery posed hazards to workers from fire, smoke, vehicle incidents and exposure to toxic debris. DOSH took a proactive approach early into the North Bay fires, dispatching inspectors to affected areas, and posting advice to employers on how to keep employees safe. It continued those efforts as the Southland burned.

The recovery continues, up and down the coast.

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