

Key Performance Statistics for Cal/OSHA

January – June 2017

1) DOSH Program Office – April 7, 2017

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

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

- “Top Stories of 2016,” (January 13th)
- “California Fatalities Are Up,” (January 13th)
- “Laszcz-Davis Appointed to California Occupational Safety and Health Standards Board,” (February 9th)
- “DOSH Counsel Amy Martin Dies,” (February 9th)
- “Cal/OSHA Ups the Violation Ante,” (February 17th)
- “Comparison: Feds vs. State on Injuries, Illnesses & Fatalities,” (March 31st)
- “Flash Report: California delays Silica Standard Enforcement,” (April 20th)
- “Most Cited, Most Appealed Cal/OSHA Citations for 2016,” (May 12th)
- “Violations and Serious Allegations Up Sharply in Latest Inspection Stats,” (May 12th)
- “Cal/OSHA’s Latest High Hazard List,” (May 12th)
- “Cal/OSHA Penalties Increase,” (June 30th)
- “National Safety Council Gives California a ‘C’ on Workplace Safety and Health,” (June 30th)
- “CDPH Report Measures the Safety and Health of California’s Workplaces,” (June 30th)

Compiled by Garrett Brown, July 21, 2017

**DOSH INSPECTIONS AND VIOLATIONS CITED BY QUARTER
FROM JANUARY 1992 THROUGH SEPTEMBER 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
Qtr									
1 - '14	3,023	1,765	1,258	25	4,255	2.41	807	3,448	19
2 - '14	3,697	2,059	1,638	18	3,866	1.88	691	3,175	18
3 - '14	3,914	2,047	1,867	21	4,149	2.03	727	3,422	18
4 - '14	2,890	1,578	1,312	27	4,277	2.71	719	3,558	17
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

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

REASON FOR INSPECTIONS	AGRICULTURE*		MINERAL EXTRACTION		CONSTRUCTION		MANUFACTURING		TRANSPORT. PUBLIC UTILITIES		WHOLESALE TRADE		RETAIL TRADE		FINANCIAL REAL ESTATE		SERVICES		PUBLIC ADMIN.		TOTALS	
INSPECTIONS																						
Total	196	9%	68	3%	591	28%	307	15%	134	6%	81	4%	97	5%	15	1%	564	27%	46	2%	2099	
Accident	60		5		183		122		49		23		41		5		160		24		672	32%
Complaint	80		7		118		79		61		30		40		6		201		20		642	31%
Referral	16		2		78		8		3		1		8		3		22		0		141	7%
Follow-up	4		0		4		12		0		2		4		0		4		0		30	1%
Unprogrammed Related	13		2		98		21		11		10		1		1		35		1		193	9%
Programmed	23		52		110		65		10		15		3		0		142		1		421	20%
VIOLATIONS																						
Total	381		200		1383		1083		250		251		165		37		1213		48		5011	
Serious	81		16		286		323		61		59		27		8		196		12		1069	
Other than Serious	300		184		1,097		760		189		192		138		29		1017		36		3942	
Percent Serious	21.3%		8.0%		20.7%		29.8%		24.4%		23.5%		16.4%		21.6%		16.2%		25.0%		21.3%	

*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 APRIL THROUGH SEPTEMBER 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	2,099	578	1,521	72.46%	5,011	1,069	3,942	21.33%
Accident	672	166	506	75.30%	1,388	435	953	31.34%
Complaint	642	217	425	66.20%	1,260	161	1,099	12.78%
Referral	141	37	104	73.76%	300	57	243	19.00%
Follow-up	30	25	5	16.67%	42	24	18	57.14%
Unprogrammed Related	193	59	134	69.43%	328	104	224	31.71%
Programmed	421	74	347	82.42%	1,693	288	1,405	17.01%

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January 13, 2017 Vol. 44 No. 1 www.cal-oshareporter.com Since 1973

Top Stories of 2016

The year 2016 is in our review mirror, and 2017 is well underway. Some of Cal/OSHA's issues were resolved in the past year, but others linger. And there will be new problems in the coming months, for sure. Here's a look back at the top stories we followed in 2016, including some issues that have yet to play out.

In some cases, California seems to take credit for leading the way. But various industries and critics say rather the government is helping to lead the way out of the state for some employers, and into more costs for consumers. The state government's overreaching discourages, critics say, other businesses from entering the state and creating jobs, as well as encouraging large businesses already in California to locate new divisions or facilities in other states.

PSM Reforms Prove Controversial

Two explosions that rocked Cal/OSHA's process safety management program, most particularly the 2012 Chevron Richmond incident, have led to a first-in-the-nation Cal/OSHA proposal.



The 2015 ExxonMobil Torrance explosion helped spur proposed PSM reforms.

The new set of rules reforming PSM were first published in July and went to public hearing in September. The regs would require refineries to adopt "inherently safer systems," perform periodic safety culture assessments, conduct root-cause analyses after incidents and account for human factors and organizational changes to ensure safety, among other provisions.

But the rules have proven controversial to groups both sides

Top Stories continued on page 11652

More California Workers Killed

California ended 2016 with several workplace fatalities in December. State workplaces also suffered 15 natural causes deaths in the last weeks of the year.

Cal/OSH is not investigating most of the recent deaths, but is, as usual, working to determine the causes of the work-related fatalities.

In early December in Truckee, a ski instructor was killed after swerving to avoid hitting another skier who lost control in icy conditions. The instructor, identified as Dennis Baltimore, 35, of Incline Village, tried to evade the skier by skiing off the run into some trees, but fell into a ditch and died at the scene, according to a newspaper report. He reportedly was wearing safety gear, including a helmet. The incident was at the Northstar ski resort.

In Santa Clara, an employee of RC Power died of what Cal/OSHA is terming a "possible electrocution." No other information is available about this incident at press time.

In Richvale in the northern Sacramento Valley, an employee of Lundberg Family Farms died of injuries sustained in a fall. The worker fell from a ladder inside a rice silo on December 7 and died ten days later. Lundberg is a major California rice grower.

An early December injury incident turned into a fatality later in the month. An employee of Do It All Tree Service was working on the roof of a building when he fell through a skylight and has been severely injured. He was hospitalized and died December 30th.

In Sierra Madre, another tree trimmer was killed

IN THIS ISSUE

NEWS

00-11647 to 00-11654

- Supervisor Charged with Son's Death
- California Fatalities Up
- New Proposals by Standards Board
- Cal/OSHA Moves to Slash Conveyance Fees
- Safety Variances: One Approved, One Denied
- Job Openings

DECISIONS

40-7475 to 40-7480

- Barrett Business Services, Inc.
- Fedex Freight, Inc.
- Herron Construction, Inc.
- Oldcastle Precast, Inc.
- Foundation Building Materials LLC

It is 5,766 days since our last lost-time accident.

Unfired Pressure Vessel Safety Orders §462(m)(2) requires that all piping from tanks to the first shut-off valve be Schedule 80 metallic pipe to safely distribute pressurized air at up to 200 pounds per square inch.

Instead, SDG&E would provide pressurized air through pneumatically triggered “puffer” circuit breakers, eliminating the need for shutoff valves. And instead of Schedule 80 metallic piping, the utility would use a flexible hose. Standards Board staff says this hose provides greater resistance to failure than metal piping.

The pneumatic breaker assembly is fully encased within a metal enclosure and is designed to contain any pneumatic hose failure with no risk to employees.

Among the conditions of the variance is that breaker locations will have access limited only to employees with adequate training, experience and knowledge of their operation. The air tanks must be inspected and permitted by Cal/OSHA.

No to Metalco

The board denied a variance to Emeryville’s Metalco, Inc., on walkway spacing between anodizing tanks at the facility. General Industry Safety Orders §3272(b) requires that aisles and walkways be at least 24 inches wide and have 6 feet, eight inches of headroom for safe egress from the building.

Metalco says the walkways between the tanks are only 18 inches in places, but they are 36 inches high and have no obstructions above. The company contends that the narrow width in places actually improves safety because it makes it “virtually impossible to fall over the edge of the tank.”

But the Division of Occupational Safety and Health disagrees, and it recommended denial of the variance. DOSH noted that the walkway was only 15 inches in some places and there is “insufficient room” for an average-size person to get through the walkway with safe egress.

“Employees in the anodizing area are exposed to various hazards,” DOSH says, including slips and falls, and chemical and thermal burns. “If employees get splashed with hazardous materials, they would need to access the emergency shower/eyewash equipment” near the entrance to the anodizing area. “Walking down the narrow walkways may impede their access.” Employees also might carry tools or equipment, further obstructing their access.

The Division also said Metalco’s contention that the narrow walkway could enhance safety is “unsubstantiated.”

Standards Board staff opined that §3272(b) does not even apply to the situation at hand, but suggested that the variance could be granted to maintain consistency with previous variances.

But in the end, it decided the application was deficient and should be denied. It was not clear about which spaces between the tanks were at issue, for instance. There was a lack of evidence, the decision concluded, “upon which to base a finding that equivalent or superior safety” would be provided by granting the variance.

Top Stories

continued on page 11647

of the issue: The refining industry calls some provisions vague, over-broad, impractical and burdensome. And they charge that an economic impact assessment conducted by RAND Corp. on behalf of the Department of Industrial Relations grossly underestimates the financial impact of adopting the rules.

On the other side is a coalition of labor and environmental groups who counter that the formal proposal deviates from an earlier draft in crucial places and would allow to continue some of the same practices that led to the Chevron and ExxonMobil Torrance explosions in the first place.

For its part DIR says it has adhered to the recommendations of the Governor’s Interagency Working Group on Refinery Safety and is working to refine the proposal to respond to comments, with an eye to adoption by the Cal/OSH Standards Board this year.

See January 22, p. 11375; March 18, p. 11421; July 22, p. 11515; August 5, p. 11523; September 16, p. 11571; and December 9, p. 11635.

Silica Senselessness?

More than a decade ago, Cal/OSHA, with the cooperation of the construction industry, crafted rules to protect workers from silica exposure. The rules have worked to enhance safety, industry representatives say.



California construction sees water-based silica prevention as a hazard in some settings; Fed-OSHA says it is preferable.

A decade later in 2016, Fed-OSHA finalized rules for all industries, and Cal/OSHA was obligated to adopt them. The construction industry says certain provisions could make worksites less safe, not more. The regs run afoul of the state construction standard according to spokesmen for the industry.

On the national level, employer groups have sued

Fed-OSHA on the standard, casting the standard in doubt.

Cal/OSHA adopted the federal version but vowed to work with construction to address its concerns. An advisory committee met in December.

In the meantime, the election of Donald J. Trump could mean the new silica rules could soon be old news. Stay tuned.

April 1, p. 11433; July 22, p. 11513; August 26, p. 11543; September 23, p. 11569; October 28, p. 11600; and December 2, p. 11629.

Healthcare Violence Standards

The murder of a psychiatric nurse at Napa State Hospital at the hands of a patient helped trigger a set of petitions from activist nurses and their unions requesting a Cal/OSHA standard to prevent violence. Six years later the Standards Board completed its work, and the regulation to help prevent such injuries as the result of violence was adopted. It becomes effective on April 1, 2017. Like other Cal/OSHA regulations, it is the first of its kind in the nation.



Healthcare representatives packed Standards Board meetings to push for protections from violence.

And, like so many other Cal/OSHA Standards Board rulemaking projects, it has proven controversial. Nurses and their union advocates say the final standard was watered down a bit from what they proposed. Nevertheless, they laud the standard as a huge step forward.

But hospitals say some of the provisions are onerous, especially one that requires them to report to the Division of Occupational Safety and Health any violent incident against an employee.

And there's more: This month, Cal/OSHA begins advisory committee talks on a violence prevention standard for general industry.

January 8, p. 11359; October 28, p. 11599; and December 16, p. 11642.

Six Foot Rule for California?

Fed-OSHA's determination to enforce a uniform six-foot fall protection trigger throughout the nation placed California squarely in its sights, and in 2016, the state announced it would comply with the agency's directive.

Employer groups representing residential construction insisted that California rules developed in the early 2000s should not be overturned, but the Feds were not convinced.

The Standards Board drew up draft rules for implementing the six-foot trigger, a necessary step before the board can determine the economic impact of the significant rule change. The board has told Fed-OSHA that this will be a drawn-out process.

Meanwhile, like silica, the fall protection trigger issue could be straightened out by the new federal administration. That would be good news for business and those who want to keep the current Cal/OSHA rules.

January 29, p. 11383; March 25, p. 11430; April 15, p. 11445; and May 27, p. 11481.

Repeat This

In another move to appease Fed-OSHA, Cal/OSHA has revised its rules on issuing cites for repeat violations. Read: Expect more such citations. The changes are effective now and would make employers with statewide operations eligible for repeats; under the old rules, Cal/OSHA could issue repeats only to operations within a region.

They also change the "look-back" period for considering repeats from three years to five.

Employer groups, not surprisingly, are unhappy with the revisions.

May 13, p. 11469; August 5, p. 11523; and September 9, p. 11556.

High Times for California

Even before California voters approved an initiative to legalize marijuana, Cal/OSHA was considering possible rules for the medical pot industry.

Assemblyman Rob Bonta (D-Oakland) said it was high time for a regulatory framework for safety and health, whether or not there was general legalization.



But the success of the ballot initiative raises a host of questions that society and Cal/OSHA will have to answer. How this plays out is anybody's guess but expect business to be a vocal contributor.

A legislator passed a bill directing Cal/OSHA to consider regulations for medical marijuana, but now full legalization gives the state more to consider.

February 5, p. 11392; June 17, p. 11495; and October 21, p. 11596.

California's Fatalities Are Up

Led by a sharp rise in transportation incidents, workplace fatalities in California rose 13% in 2015, according to the latest Census of Fatal Occupational Injuries.

The total, 388, is the third-highest in the past six years, but below the 400 threshold, which California last experienced in 2010. The state had the second-highest fatality total in the country, but its rate of 2.2 per 100,000 full-time employees was still well below the national average of 3.4.

California's fatalities are dwarfed by Texas' 527, and its rate of 4.5.

The Golden State experienced 150 transportation fatalities in 2015, up 26% from the 119 in 2014. This category of fatality routinely leads all others. It saw significant increases in agriculture; forestry and fishing; natural resources and mining; construction; professional and business services; administrative and waste services; educational and health services; other services; and government. The other seven sectors saw decreases.

Of the six categories tracked by CFOI (see our accompanying chart), five saw rises in 2015.

The second leading causes, slips, trips and falls, and violent incidents, saw increases of 7% and 3%, respectively. Both had 77 incidents during the year.

For slips, trips, etc., most sectors saw fatality decreases, but they were offset by a 65% increase in construction, to 38 fatalities. There also were increases in trade, transportation and utilities; wholesale trade; and administrative and

2015 California Fatalities by Source

Transportation Incidents	150
Violence	77
Falls, Slips, Trips	77
Contact w/ Objects & Equipment	39
Harmful Exposure	33
Fires & Explosions	10

Top States for Fatalities

	Numbers		Rates	
	2015	2014	2015	2014
Texas	527	531	4.5	4.5
California	388	344	2.2	2.0
Florida	272	228	3.1	2.7
New York	236	241	2.7	2.8
Ohio	202	185	3.9	3.6
Pennsylvania	173	179	3.0	3.1
Illinois	172	164	2.9	2.9
North Carolina	150	137	3.4	3.1
Michigan	134	143	3.1	3.3
Missouri	117	106	4.3	3.9
Indiana	115	130	3.9	4.4
Tennessee	112	127	3.7	4.8
Louisiana	112	120	5.8	6.3
Virginia	106	116	2.8	2.8

2015 California Fatalities by Industry, Final Totals

	Total	Violence	Transportation Incidents	Fires and Explosions	Falls, Slips, Trips	Harmful Exposure	Contacts w/ Objects & Equipment
All Sectors	388	77	150	10	77	33	39
Agriculture, Forestry & Fishing	55	6	36	3	n/a	4	5
Natural Resources & Mining	56	6	36	3	n/a	4	5
Construction	75	n/a	16	n/a	38	9	7
Manufacturing	18	3	5	n/a	4	n/a	5
Trade, Transportation & Utilities	71	8	37	n/a	8	8	10
Wholesale Trade	14	n/a	5	n/a	4	n/a	3
Retail Trade	16	5	3	n/a	4	3	n/a
Transportation & Warehousing	39	n/a	28	n/a	n/a	3	6
Financial Activities	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Professional and Business Services	54	9	14	n/a	16	8	6
Administrative and Waste Services	45	6	11	n/a	15	7	5
Educational & Health Services	21	5	13	n/a	n/a	n/a	n/a
Leisure & Hospitality	22	15	5	n/a	n/a	n/a	n/a
Accommodation & Food Services	12	11	n/a	n/a	n/a	n/a	n/a
Other Services	14	4	3	n/a	n/a	n/a	n/a
Government	52	22	21	4	3	n/a	n/a

waste services, which each had a handful of incidents.

For violent incidents, most sectors saw decreases except agriculture, etc. (+1); educational and health services (+5) and government (+14). The significant jump in violent acts in government is due to the December 2015, Islamic terrorist attack in San Bernardino, where 14 workers were killed and 22 injured by husband-and-wife jihadists. The husband was an employee of the county health department and the two killed and injured his co-workers at office holiday party.

The only employment sector with an overall decrease was harmful exposure, with one less fatality than 2014. Fires and explosions increased 230%, from 3 to 10; and contact with objects and equipment rose by one fatality, to 39.

California experienced 13 multi-fatality incidents in 2015, accounting for 48 deaths. Beside the San Bernardino tragedy, there were three other multi-victim workplace homicides, four separate farm vehicle collisions, DIR says, and four helicopter or small plane crashes.

Fatalities among Latino workers were at the second-highest level since at least 2005 and accounted for 46% of all workplace deaths.

Nationally, 4,836 workers died on the job in 2015, a slight increase from the previous year, but the rate of 3.38 was slightly lower than 2014. Latino worker fatalities also were up nationally.

Two New Proposals by Standards Board – Public Hearing in February

The Cal/OSHA Standards Board has published two new regulatory proposals, based on existing Fed-OSHA requirements. California says its regulations aren't up to the Federal standard. The proposals are in a comment period - that ends February 16th with a public hearing in Walnut Creek.

If ultimately approved, they will require employers to update their emergency action plans, and employers who use certain ladders on supported scaffolds will have to provide extra safety.

Rescue Duties

The Standards Board seeks to adopt federal language on procedures for employees performing a rescue or medical procedures, as part of employers' emergency action plans. Back in 2002, the Feds realized that the previous language did not require employers to have EAPs for performing individual duties – it said "rescue and medical procedures."

But while the Feds changed the verbiage to "or," California did not, and therefore now seeks to update its standard to the federal requirement. "Board staff recently recognized that there is a subtle but noteworthy difference between the federal regulation and Title 8," says Executive Officer Marley Hart.

Emergency Evacuations

The board also wants to revise language in the standard, General Industry Safety Orders §3220(b)(4), on emergency evacuation procedures. Currently, it does not require the procedures to spell out the type of evacuation in question. Title 8 regulations only require escape procedures and exit route assignments as an element of the EAP without regard to the kind of evacuation.

Board staff says the change will not result in any significant costs to California employers because it "does not add new equipment or work processes, and primarily serves to clarify existing requirements," staff says.

The adoption is being handled under California's *Horcher* process, which allows Cal/OSHA to adopt federal language verbatim and forego the public hearing process. But the Standards Board routinely schedules public hearings on *Horcher* adoptions to identify any new or compelling reasons for the state to deviate from the federal standards, and issues unique to California.

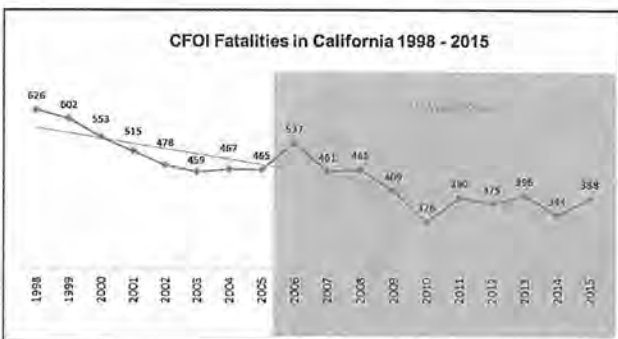
Here are the proposed changes to §3220:

(b) Elements. The following elements, at a minimum, shall be included in the plan:

(1) Emergency escape procedures and emergency escape route assignments; Procedures for emergency evacuation, including type of evacuation and exit route assignments;

(2) Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;

(3) Procedures to account for all employees after emergency



Subject: Movers & Shakers
Date: Thursday, February 9, 2017 at 10:29:00 AM Pacific Standard Time
From: Cal-OSHA Reporter Newsdesk
To: Garrett Brown

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February 9, 2017

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Movers and Shakers

California: CHSWC Commissioner Angie Wei Reappointed by Senate Rules Committee

Oakland, California The California Department of Industrial Relations (DIR) and the Commission on Health and Safety and Workers Compensation (CHSWC) have announced the reappointment of Angie Wei to the Commission, where she has served since 2005. The Senate Rules Committee reappointed Wei as a labor representative. Previously, Wei was a program associate for PolicyLink of Oakland, California, and advocated for the California Immigrant Welfare Collaborative, a coalition of four immigrant rights organizations who came together to respond to cuts in public benefits for immigrants as a result of the 1996 federal welfare reform law. This position does not require Senate confirmation. Source: Department of Industrial Relations



California: Laszcz-Davis Appointed to California Occupational Safety and Health Standards Board

Sacramento, California Chris Laszcz-Davis, of Orinda, has been appointed to the California Occupational Safety and Health Standards Board. Laszcz-Davis has been founder and principal at the Environmental Quality Organization LLC since 2002. She held several positions at Kaiser Aluminum and Chemical Corporation from 1980 to 2002, including vice president of corporate environmental affairs, health, safety and operational integrity, corporate manager of product liability and corporate director of risk assessment, strategy and compliance. Laszcz-Davis was an industrial hygiene engineer at Lawrence Livermore National Laboratories from 1976 to 1980 and a regional manager for medical and industrial hygiene programs at the U.S. Department of Energy from 1974 to 1976. This position does not require Senate confirmation and the compensation is \$100 per diem. Laszcz-Davis is a Democrat. Source: Office of Gov. Edmund G. Brown/LinkedIn



Texas: Coldspring FFA Students Shine at Contest

Houston, Texas Coldspring-Oakhurst High School's Agricultural Studies students in the



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A Closer Look
at the Rules,
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Veterinary Medical Applications class recently completed the OSHA Online Certification Program through CareerSafe and all received their General Agriculture OSHA Certification. They include: Macie Martin, Collin Nolan, Sydni Watson, Samantha Tymel, Garrett Richardson. Not pictured: Savanna Tymel and Breanna Kelley. Source: Houston Chronicle



Minnesota: Willmar Municipal Utilities Commission Elects New Officers for 2017

Willmar, Minnesota The Willmar Municipal Utilities Commission elected new officers for the new year. Carol Laumer was chosen as the commission president, replacing Dan Holtz. Justin Mattern was named vice president. Abdirizak Mahboub was elected secretary and Nathan Weber will be this year's treasurer. Safety projects funded by a \$7,000 grant from the Minnesota Occupational Safety and Health Administration to use toward projects that would reduce the risk of injury to workers were completed last year. The utilities used the funds to install slide gate operators at the service center and ballistic safety glass in the lobby of the office building. Source: West Central Tribune



PASSINGS

California: DOSH Counsel Amy Martin Dies

Fresno, California Amy Martin, special counsel at the Division of Occupational Safety and Health, has died after a long battle with cancer. She was 52. Martin often sparred with employer attorneys and representatives over enforcement actions and policy, but was universally liked and respected. Martin had spent 15 years at the Division, six years as chief counsel, before being named special counsel. Previously she worked at law firms such as Orrick, Herrington & Sutcliffe and Van Bourg, Roger and Rosenfeld, where she specialized in labor and employment law. She also was an adjunct professor at U.C. Berkeley's Hastings College of the Law. A statement from the Department of Industrial Relations said, "Amy was dedicated to Cal/OSHA because she believed in the dignity of work" and the right of all employees to return home safely. Source: Cal-OSHA Reporter



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Cal-OSHA Reporter Classifieds

Health & Safety Coordinator

SUMMARY

Provides technical safety support for refinery. Promotes safe working environment and ensures compliance with company safety procedures/policies and state/federal safety regulations.

Cal/OSHA Ups The Violation Ante

The Division of Occupational Safety and Health issued citations for 17% more violations in the first six months of 2016 than the year before, and 20% more than the comparable period in 2014. And serious violations were up 25% and 40%, respectively, over 2015 and 2014.

But the facts are that few California businesses ever see or hear from Cal/OSHA. There are some 550,000+ business in California, of which nearly 150,000 are enough to have an experience mod (X-Mod). Obviously, a certain number are in non-hazardous industries but compared to the number inspections Cal/OSHA does, few companies – hazardous or not - have anything to fear. Less than 1.5% of California's employers are inspected each year.

The inspection data was gleaned from the Division's Program Office, which compiles their own statistics.

Cal/OSHA conducted 3,916 onsite inspections during the 6 months between January and June of last year. Some 32% of the inspections followed an injury accident, and 30% were the result of complaints deemed serious enough to warrant an inspection. The three types of inspections and their counts are:

- 1,251 accident-related inspections;
- 1,176 complaint-related investigations;
- 838 programmed inspections

All types of inspections increased in 2016, except programmed, which decreased 9% over the same period in 2015. But, programmed inspections were up 5% over 2014.

Accident-related inspections were up 6% and 16% over the same periods in the previous years; complaint inspections increased 13% and 7%.

The 9,762 alleged violations represent a 17% increase over January-June 2015 and 20% over the 8,121 such violations in 2014. Additionally, 2,093 of the violations in 2016 were classified as serious, a 21% rate, versus 1,671 in 2015 and 1,498 in 2014.

Several industries saw sizable increases in both total and serious violations. For instance, construction saw a 14% rise in violations, plus a 29% increase in the serious rate. Services, which had the second-most alleged violations for the period, had a 35% increase in its total for January-June 2016, and a 54% jump in the serious rate.

Wholesale trade, which saw its violation rate increase by 23%, also had a 105% rise in the serious rate.

If the first half, 2016, trends hold for the whole year, total alleged violations will be close to 20,000, and serious violations will top 4,000. Both totals would be the highest since 2008.

Some 8,000 inspections will have been conducted on California's 550,000 employers and some businesses visited more than once.

DOSH On-Site Inspections and Violations Cited, Major Industrial Groups, January-June 2016

	On-Site Inspections	Accident Related	Complaint Related	Programmed Inspections	Total Alleged Violations	Alleged Serious	% Alleged Serious
Agriculture	295	98	113	51	618	147	24%
Mineral Extraction	135	8	5	113	273	33	12%
Construction	1,194	341	268	251	2,757	647	24%
Manufacturing	626	241	164	138	2,272	592	26%
Transportation/Public Utilities	218	93	78	16	488	86	18%
Wholesale Trade	139	78	38	12	325	82	25%
Retail Trade	188	69	99	5	428	67	16%
Financial/ Real Estate	39	6	21	1	123	27	22%
Services	979	280	337	251	2,343	392	17%
Public Admin.	103	37	53	0	135	20	15%
Totals	3,916	1,251	1,176	838	9,762	2,093	21%

DOSH On-Site Inspections and Violations Cited, January-June 2016 vs. 2015, 2014

	On-Site Inspections	Accident Related	Complaint Related	Programmed Inspections	Total Alleged Violations	Alleged Serious	% Alleged Serious
2016	3,916	1,251	1,176	838	9,762	2,093	21%
2015	3,868	1,175	1,040	930	8,365	1,671	20%
2014	3,824	1,077	1,103	797	8,121	1,498	18%

SOURCE: DOSH Program Office

Comparison: Feds vs. State on Injuries, Illnesses & Fatalities

Which occupations get hurt the most? Which fatality sources are most prevalent? When it comes to statistics about injuries and illnesses compiled by the federal Bureau of Labor Statistics and by Cal/OSHA, the answers seem to be like apples and oranges.

The reason is that the Feds break out their stats by occupation. Cal/OSHA does it only by the broader industry sector. Nevertheless, the respective statistics give us an idea of what's going on overall, just in different forms.

The Insurance Information Institute, for instance, says that non-construction laborers suffered the highest number of non-fatal injuries or illnesses in 2015, based on data from the BLS. California's Division of Labor Statistics and Research can only tell us that state and local government had the highest number of injuries and illnesses that year.

Where laborers fit in is hidden in the statistics.

Fatality statistics are more comparable, as they track primary sources, such as vehicle incidents, falls, etc. The 2015 stats for these sources generally tracked between the state and nation, as our accompanying chart shows.

The bottom line is: Injuries and illness cost money in direct losses, such as medical care and rehabilitation, and indirect costs, such as productivity losses, increased insurance costs, retraining and more. Prevention pays.

Top 10 California Employment Sectors for Injuries & Illnesses, 2015

	I&Is	% of Total
1 State & Local Government	98,000	22%
2 Health Care & Social Assistance	59,700	14%
3 Retail Trade	49,500	11%
4 Leisure, Entertainment & Hospitality	48,800	11%
5 Manufacturing	37,700	9%
6 Professional & Business Services	30,900	7%
7 Transportation & Warehousing	23,900	5%
8 Wholesale Trade	21,500	4.9%
9 Construction	20,500	4.7%
10 Agriculture, Forestry & Fishing	19,100	4.3%

Top 10 Occupations With The Largest Number of Injuries and Illnesses, 2015

Rank	Occupation	Number	Percent of total
1	Laborers (nonconstruction)	59,010	6.5%
2	Truck drivers, heavy and tractor-trailer	49,260	5.5
3	Janitors and cleaners	42,740	4.7
4	Nursing assistants	37,370	4.1
5	General maintenance and repair workers	30,020	3.3
6	Police and sheriff's patrol officers	29,670	3.3
7	Retail salespersons	27,840	3.1
8	Registered nurses	21,420	2.4
9	Light truck and delivery service drivers	24,780	2.7
10	Stock clerks and order fillers	21,420	2.4
	Total, top 10	343,530	38.1%
	Total, all occupations	902,160	100.0%

California Workplace Deaths by Selected Cause, 2014-2015

Cause	2014		2015	
	Number	Percent of Total	Number	Percent of Total
Transportation Incidents	119	35%	150	39%
Violent Incidents	75	22%	77	20%
Falls	72	21%	77	20%
Contact/Objects & Equipment	38	11%	39	10%
Exposure/Harmful Substances	34	10%	33	8.5%
Fires & Explosions	3	1%	10	2.5%
Total Workplace Fatalities	344		388	

Workplace Deaths By Selected Cause, 2014-2015 (1)

Cause	2014		2015	
	Number	Number	Number	Percent of total
All transportation (includes vehicle crashes)	1,984	2,054		42%
Vehicle crashes (2)	1,157	1,264		24
Falls	818	800		17
Assaults and violence (includes homicides)	765	703		15
Homicides	409	417		9
Contact with objects and equipment	715	722		15
Exposure to harmful substances or environments	390	424		9
Fires and explosions	137	121		3
Total workplace fatalities	4,821	4,836		100%

Subject: FLASH: Cal/OSHA Delays Silica Standard Enforcement

Date: Thursday, April 20, 2017 at 9:18:05 AM Pacific Daylight Time

From: Cal-OSHA Reporter Newsdesk

To: Garrett Brown

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Thursday, April 20, 2017

FLASH REPORT!

Cal/OSHA Delays Silica Standard Enforcement

Share:

Following Fed-OSHA's recent decision to delay for three months the effective date of the crystalline silica for the construction industry, Cal/OSHA has followed suit and announced that the new date in California is now September 23rd.

Cal/OSHA says the move "synchronizes" with Fed-OSHA.

Note that unlike the Feds, Cal/OSHA's permissible exposure limit of 0.05 milligrams per cubic meter of air is already in effect for all industries. That PEL is found in General Industry Safety Orders Å§5155. The construction delay is over methods of controlling silica dust. Fed-OSHA says employers must use "wet" methods to prevent dust, such as masonry saws with water controls, and does not recognize dry methods such as vacuum controls, a bone of contention with some industrial users.

Cal/OSHA, in announcing the delay, emphasizes, "employers must continue to meet the requirements of Title 8 section 1530.1 to control employee exposures to dust created by operations conducted on concrete or masonry materials."

This standard was crafted in 2008 in negotiations between Cal/OSHA and the construction industry, and is widely respected in the industry, which says the federal silica rules give them fewer choices to keep workers safe. The industry says it is close to developing data that shows dry methods are just as effective as wet methods.

Now it has an extra three months to do that.

--30--

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Most Cited, Most Appealed Cal/OSHA Citations for 2016

The general industry and construction Injury and Illness Prevention Program – the IIPP - standards sandwiched the heat illness prevention standard as the top three most cited Cal/OSHA safety orders for 2016, as is becoming traditional. The lockout/tagout standard is again one of the top most-cited safety regulations in California.

What's new is that the top two most cited were up significantly over 2015 – up 12% in the case of the IIPP standard and 14% for heat illness. Cited violations under the LOTO standard, General Industry Safety Orders §3314, were up a whopping 26% in 2016. Violations cited under the construction IIPP standard were down 4%.

The most appealed standard was GISO §4070, belt and pulley guarding, at 72%.

Twenty of the most-cited safety orders for 2016 appeared on the 2015 list as well. Newcomers were Employer Records of Occupational Injury or Illness Forms (§14300.29); Guardrails at Elevated Locations (GISO §3210); Moving Parts of Machinery or Equipment (GISO §4002); Asbestos (Construction Safety Orders §1529); and Personal Protective Devices (GISO §3380).

The percentage of serious violations alleged for the most cited violations is generally higher

Twenty-Five Most Frequently Cited T8 CCR Standards in CY 2016

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	2187	171	7.8%
3395	Heat Illness Prevention	2014	240	11.9%
1509	Construction Injury and Illness Prevention Program	1192	69	5.8%
3314	Clean, Repair, Service, Set-up and Adjust Prime Movers, Machinery and Equipment	843	356	42.2%
5194	Hazard Communication	586	15	2.6%
342	Reporting Work-Connected Fatalities and Serious Injuries	547	5	0.9%
5144	Respiratory Protection	432	21	4.9%
6151	Portable Fire Extinguishers	420	1	0.2%
5162	Emergency Eyewash and Shower Equipment	349	129	37.0%
461	Permits to Operate Air Tanks	334	0	0.0%
2340.16	Work Space About Electric Equipment	319	1	0.3%
3276	Portable Ladders	319	97	30.4%
1512	Construction: Emergency Medical Services	285	9	3.2%
3650	Industrial Trucks: General Requirements	275	83	30.2%
3668	Powered Industrial Truck Operator Training	231	26	11.3%
3328	Safe Practices, Personal Protection: Machinery and Equipment	219	77	35.2%
1670	Personal Fall Arrest Systems, Personal Fall Restraint Systems and Positioning Devices	176	129	73.3%
4650	Compressed Gas and Air Cylinders: Storage, Handling, and Use	173	31	17.9%
3400	Medical Services and First Aid	159	3	1.9%
14300.29	Employer Records of Occupational Injury or Illness: Forms	158	0	0.0%
2500.8	Flexible Electrical Cords and Cables: Uses Not Permitted	155	2	1.3%
3210	Guardrails at Elevated Locations	145	84	57.9%
4002	Moving Parts of Machinery or Equipment	142	103	72.5%
1529	Asbestos	141	40	28.4%
3380	Personal Protective Devices	140	20	14.3%

Note: "Serious" includes Serious, Willful, and Repeat Violations



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News Desk 916-276-7704
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 Publisher J Dale Debber
 Editor Kevin Thompson
 Digest Editor Richard Waldinger
 Capitol Correspondent Bess Shapiro
 Art and Web Production Maria Galvez
 Subscription and Fulfillment Stephanie Jakubowski

Cal-OSHA Reporter (ISSN 1054-1209) Published weekly, 48 times per year, except for two weeks each in July and December/January, by Providence Publications, LLC. Licensed under a site license with pricing based upon the terms and conditions found on our website.

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News items or corrections are welcome and may be submitted by phone or fax, or by mail.

than in 2015, perhaps reflecting Cal/OSHA's efforts to cite more serious violations in keeping with Fed-OSHA mandates. The citation most often cited as serious? The personal fall protection standard, CSO §1670. The least – section 462, Permits to Operate Tanks, 0%.

Newcomers to the most appealed list, at least for 2016, were the process safety management standard, GISO §5189; point-of-operation guarding, GISO §4184; and general requirements for scaffolds, CSO §1637.

The only two standards that were both on the most-cited and most-appealed lists were section 342(a), the fatality and serious injury reporting standard; and GISO §4002, Moving Parts of Machinery or Equipment.

Ten Most Appealed Title 8 Standards During CY 2016

Standard	Description	Total Violations	Percent Appealed
4070	Belt and Pulley Drives, Guarding	125	72.0%
5189	Process Safety Management of Acutely Hazardous Materials	118	68.6%
342	Reporting Work-Connected Fatalities and Serious Injuries	547	67.6%
3578	Permissible Abrasive Wheel Exposure, for Periphery Grinding	122	65.6%
4002	Moving Parts of Machinery or Equipment	142	65.5%
4184	Points of Operation and Other Hazardous Parts of Machinery, Guarding	101	63.4%
4300.1	Table Saws - Manual Feed (Class B)	117	63.3%
5157	Permit-Required Confined Spaces	114	62.3%
3577	Use, Care, and Protection of Abrasive Wheels: Protection Devices	133	61.7%
1637	Scaffolds – General Requirements	110	60.0%

Violations and Serious Allegations Up Sharply in Latest Inspection Stats

Is Cal/OSHA is getting more bang for its buck these days? The latest inspection statistics, covering the first three quarters of 2016, show that it conducted fewer onsite inspections than 2015, and even fewer than 2012.

But total alleged violations were up 11% over 2011 and the highest in years for the corresponding period. And violations alleged as serious were up an eye-catching 20% over 2015, and 58% above the 2012 level.

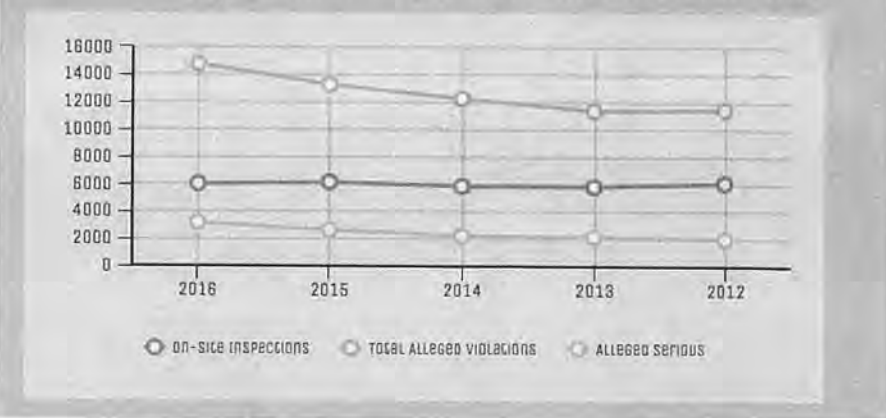
Between January and June of last year, the Division of Occupational Safety and Health conducted 6,015 inspections at worksites around the state. About 30% of them were in construction, which showed a similar percentage in the number of violations cited during those inspections. Construction was followed closely by the services sector, which had about 26% of the onsite inspections and 24% of the alleged violations.

Manufacturing was the subject of about 16% of the inspections, and on the receiving end of 23% of the violations. Manufacturing also had the distinction of having the highest percentage of serious violations, at 27%.

These statistics, of course, aren't predictive of the final results. Most citations (up to 90% or so) are settled, often for relative pennies on the dollar. And even if the cases go to hearing before the Appeals Board often have the same result.

DOSH On-Site Inspections and Violations Cited

September-June 2016 vs. Previous Years



This chart tracks total onsite inspections, alleged violations and the percentage of serious violations in recent years.

DOSH On-Site Inspections and Violations Cited

January–September 2016



Agriculture

- On-Site Inspections - 491
- Accident Related - 158
- Complaint Related - 193
- Programmed Inspections - 74
- Total Alleged Violations - 999
- Alleged Serious - 228
- Percent Alleged Serious - 23%



Construction

- On-Site Inspections - 1785
- Accident Related - 524
- Complaint Related - 386
- Programmed Inspections - 361
- Total Alleged Violations - 4140
- Alleged Serious - 933
- Percent Alleged Serious - 23%



Transportation/ Public Utilities

- On-Site Inspections - 352
- Accident Related - 142
- Complaint Related - 139
- Programmed Inspections - 26
- Total Alleged Violations - 738
- Alleged Serious - 147
- Percent Alleged Serious - 20%



Retail Trade

- On-Site Inspections - 285
- Accident Related - 110
- Complaint Related - 139
- Programmed Inspections - 8
- Total Alleged Violations - 593
- Alleged Serious - 74
- Percent Alleged Serious - 12%



Services

- On-Site Inspections - 1543
- Accident Related - 440
- Complaint Related - 538
- Programmed Inspections - 393
- Total Alleged Violations - 3556
- Alleged Serious - 183
- Percent Alleged Serious - 17%



Mineral Extraction

- On-Site Inspections - 203
- Accident Related - 136
- Complaint Related - 12
- Programmed Inspections - 165
- Total Alleged Violations - 473
- Alleged Serious - 49
- Percent Alleged Serious - 10%



Manufacturing

- On-Site Inspections - 933
- Accident Related - 363
- Complaint Related - 243
- Programmed Inspections - 203
- Total Alleged Violations - 3355
- Alleged Serious - 915
- Percent Alleged Serious - 27%



Wholesale Trade

- On-Site Inspections - 220
- Accident Related - 101
- Complaint Related - 68
- Programmed Inspections - 27
- Total Alleged Violations - 576
- Alleged Serious - 141
- Percent Alleged Serious - 24%



Financial/ Real Estate

- On-Site Inspections - 54
- Accident Related - 11
- Complaint Related - 27
- Programmed Inspections - 1
- Total Alleged Violations - 160
- Alleged Serious - 35
- Percent Alleged Serious - 22%



Public Admin.

- On-Site Inspections - 149
- Accident Related - 61
- Complaint Related - 73
- Programmed Inspections - 1
- Total Alleged Violations - 183
- Alleged Serious - 32
- Percent Alleged Serious - 17%

Cal/OSHA's Latest High Hazard List

Cal/OSHA's latest list of high-hazard industries includes more industries than the 2017-17 list, but less than half of the establishments, and more than 200,000 fewer employees.

This year's list includes 44 industries, slightly higher than the 42 from the previous year, and 27,489 establishments, down sharply from the more than 60,000 list in 2016-17. They represent about 935,000 employees, versus some 1.2 million in last year's list.

Cal/OSHA uses the list to target employers for programmed

inspections by enforcement and outreach from the Cal/OSHA Consultation Service. Industries and establishments are chosen randomly by computer for visits from enforcement.

Industries must have an aggregate days away, restricted duty or job transfer rate (DART) of at least 200% of the national average to be on the list. The highest rate on the latest list is 10.2 for forest nurseries or the gathering of forest products, at 10.2. Other industries with the highest rates include soft drink manufacturing, at 9.8; fiber, yarn and thread mills, at 9.6; and cookie and cracker manufacturing, at 9.4.

FFY 2017-2018 HIGH HAZARD INDUSTRY LIST

Industry Sectors	NAICS	Industry	DART	Establishments	Employees
Agriculture	1114	Greenhouse, nursery, and floriculture production	4.6	997	27317
	1119	Other crop farming	6.2	1209	11269
	1121	Cattle ranching and farming	4.9	1867	22885
	1123	Poultry and egg production	8.0	162	2418
	1129	Other animal production	8.9	347	2227
	1132	Forest nurseries and gathering of forest products	10.2	43	623
Construction	2372	Land subdivision	4.4	969	7756
	23813	Framing contractors	6.2	731	19242
	23817	Siding contractors	4.6	198	1922
Manufacturing	3113	Sugar and confectionery product manufacturing	6.0	208	6580
	31142	Fruit and vegetable canning, pickling, and drying	4.9	212	18596
	31152	Ice cream and frozen dessert manufacturing	4.8	68	2677
	311611	Animal (except poultry) slaughtering	5.9	39	5208
	311821	Cookie and cracker manufacturing	9.4	70	2489
	311824	Dry pasta, dough, and flour mixes manufacturing from purchased flour	8.2	62	2460
	31183	Tortilla manufacturing	6.3	119	6474
	312111	Soft drink manufacturing	9.8	105	10734
	3131	Fiber, yarn, and thread mills	9.6	29	340
	316	Leather and allied product manufacturing	5.1	166	2625
	321	Wood product manufacturing ⁽¹⁾	4.5	928	22399
	3253	Pesticide, fertilizer, and other agricultural chemical manufacturing	6.9	101	2149
	32732	Ready-mix concrete manufacturing	4.3	332	6887
	327331	Concrete block and brick manufacturing	8.7	48	1667
	3311	Iron and steel mills and ferroalloy manufacturing	5.3	109	3177
	33121	Iron and steel pipe and tube manufacturing from purchased steel	6.1	38	1607
	331222	Steel wire drawing	4.4	24	586
	33149	Nonferrous metal (except copper and aluminum) rolling, drawing, extruding, and alloying	5.0	56	1730
	331513	Steel foundries (except investment)	7.0	43	1265
	332111	Iron and steel forging	5.5	43	1901
332112	Nonferrous forging	4.5	18	2151	



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Helping to Keep Business in California Not ... Cal/OSHA Penalties Increase

The State of California already fines employers considerably more than any other state. But that is apparently not good enough for Democrat Governor Jerry Brown, and the 2/3 Democrat majority legislature who passed and signed SB 96 which, along with other provisions, adopts new, far higher, penalties for general, repeat and willful violations. The law is based on mandates from the 2017-17 federal budget.

The accompanying chart provides perspective into the 2016 average penalty amounts charged by California for serious violations, as compared to other states. As you can see California is already, by far, the significant outlier in terms of penalties.

Under California's new rules, general violations which currently max out at \$7,000, are increased to \$12,471. The new penalty levels also apply to Cal/OSHA posting, recordkeeping and notice requirements.

The legislation also increases both the minimum and maximum penalties for repeat and willful violations. The new minimum is \$8,908, and the maximum goes from the current \$70,000 to a whopping \$124,709 – a 78% increase.

Not only that: The maximum penalties could increase again as soon as January 1, 2018. The bill permits increases based on the Consumer Price Index for All Consumers beginning at the first of next year and annually after that. And SB 96 exempts regulations increasing the penalty amounts from the sunshine of the Administrative Procedures Act.

Cal/OSHA and the Department of Industrial Relations will need to revise Title 8 §336 to reflect the increases. Cal/OSHA penalties for serious violations (other than repeats or willful violations) already, by far, the highest in the nation, courtesy of 2000's AB 1127, and aren't being increased.

SB 96 also adds language stating that "no person shall discharge or in any way discriminate against an employee for reporting a work-related fatality, injury or illness, or request access to occupational injury or illness reports."

Another provision of the bill eliminates the maximum penalty for violations of crane safety standards. Under existing law, a violation of tower crane standards, orders or special orders has a minimum penalty of \$1,000 and a maximum of \$2,000. Now, there will be no limits on the maximum.

Penalties continued on page 11822

Federal Judge Says Suit Valid on Fed-OSHA 'Union Walkaround' Rule

A federal district judge in Texas has issued a preliminary ruling refusing to dismiss a lawsuit by a national business group against a controversial – and purportedly "underground" – regulation by Fed-OSHA.

The National Federation of Independent Business (NFIB) sued to stop the "union walkaround" rule, by which union representatives are allowed to accompany OSHA inspectors, even at non-union workplaces.

The judge also noted that unions use these 'walkarounds' as a valuable tool for organizing non-union workplaces.

As with many Fed-OSHA rules, OSHA did not develop this one through the regular rulemaking process, NFIB says, but pronounced through a Standard Interpretation Letter.

It's become a common practice, and one that those in the regulated community refer to as "underground regulation." Cal/OSHA looks askance at such practices.

NFIB sued OSHA after the agency had permitted a member of Service Employees International Union (SEIU) to accompany an inspector at an NFIB-member employer. The union did not represent any employees at the facility. The NFIB claims the rule violates the federal Administrative Procedures Act.

Fed-OSHA asked the United States District Court in Texas to dismiss the suit, asserting that NFIB lacked standing in the case because it could not show it had been harmed. Judge Sidney Fitzwater denied that motion, saying the association has a valid claim.

IN THIS ISSUE

NEWS

00-11815 to 00-11824

- SRIA Bill Threatens Transparency?
- NSC Gives California a 'C' on Workplace Safety
- CDPH's Report on California Employee Safety and Health
- Phone App to Beat the Heat
- Latest Workplace Fatalities
- Job Openings

DECISIONS

40-7851

- Social Accessory Production
- Lead Reclamation Services

CLE Self-Test

40-7852

It is 5,934 days since our last lost-time accident.

Penalties

continued from page 11815

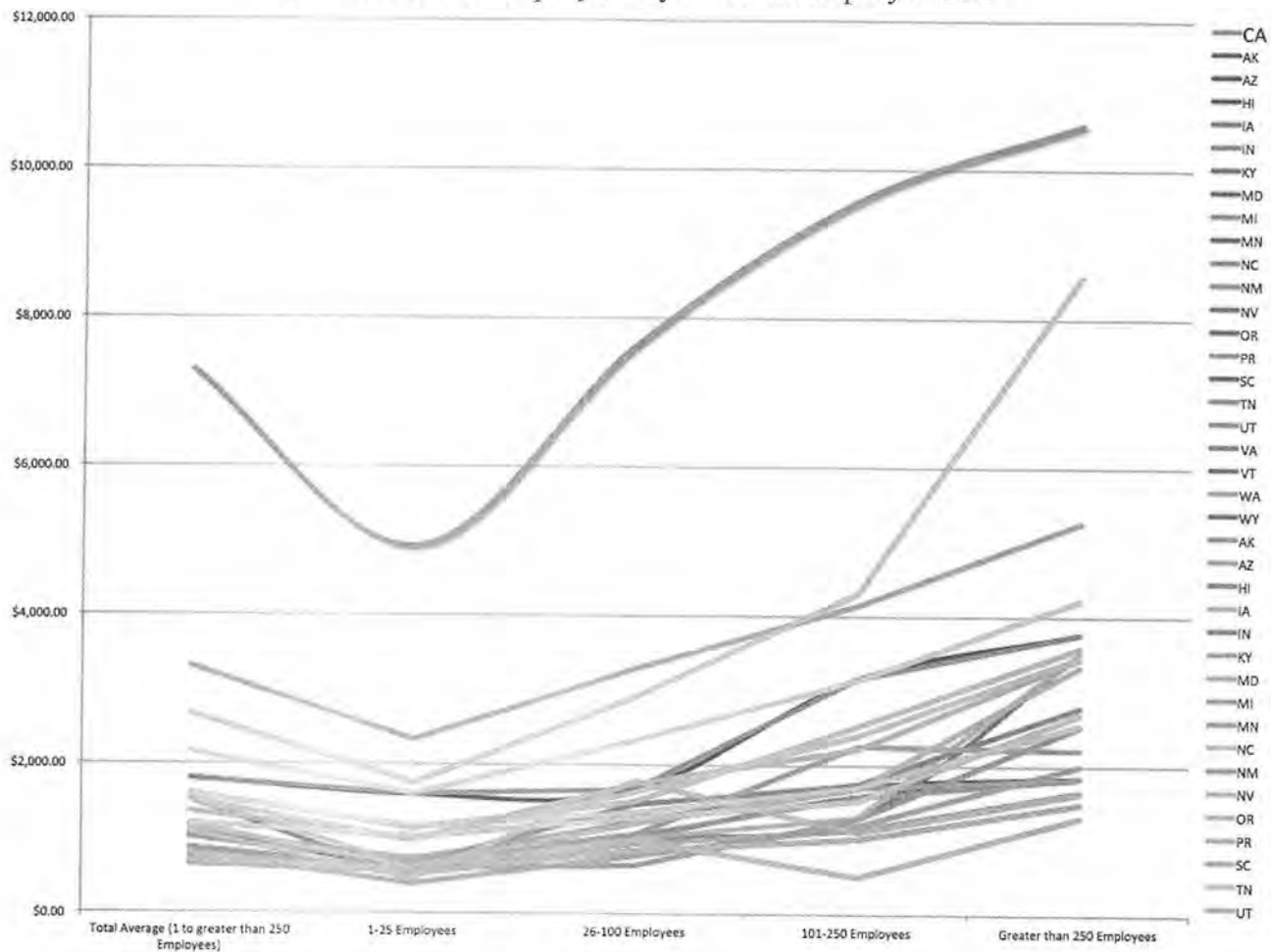
The same applies to use-of-carcinogen regulations, where the maximum penalty currently is \$2,000.

Conversely, SB 96 eliminates civil penalties for violations of rules on asbestos-related work. Current, owners of commercial and industrial buildings and employers who do asbestos work must first determine if asbestos-containing material is present. Knowing, negligent and willful violations can trigger penalties of between \$2,000 and \$20,000.

DIR spokesman Frank Polizzi tells *Cal-OSHA Reporter* these penalty provisions are being replaced by provisions in California Labor Code §§ 6427, 6429 and 6431.

Those codes govern Cal/OSHA general, repeat/willful and recordkeeping violation penalties, meaning asbestos violations now will be subject to the increased penalties once they take effect. But in advance of that, asbestos violations will be subject to those Labor Code provisions on July 1st.

Average Penalty Amounts for Serious Violations
Private Sector Employers by State & Employer Size



Fed-OSHA Chart

You can't know when an emergency will occur.
You can know how to prepare for one. **Learn Now**

National Safety Council Gives California a 'C' on Workplace Safety and Health

While California got a "B" from the National Safety Council for the overall state of safety in the state, when it comes to workplace safety, it rates no more than a "C," NSC says. Only two states received top grades for occupational safety and health, while more than half got "D's" or worse.

The State of Safety report was NSC's first and will most likely be a biennial report, says NSC President and CEO Deborah Hersman. The report covers roadway safety, home and community safety, and OSH.

Overall, California ranked 7th in the nation, measured by implementation of NSC safety indicators. For roadway and home/community measures, the council says California has at least 60% of safety indicators in place.

But on workplace safety, the group says the state has achieved only 56% of the indicators in the category of prevention, preparedness, and enforcement.

NSC lists five key indicators for this category include:

- A state requirement for safety and health programs;
- State and local government employee OSHA coverage;
- Requirements for employers to have safety committees;
- A state workplace violence prevention law; and
- The existence of a multi-line telephone system of enhanced 911 for employers.

California, of course, helped pioneer the Injury and Illness Prevention Program requirement through state law (part of workers' comp reforms in the early 1990s, as implemented by Cal/OSHA). Cal/OSHA also covers state and local government employees.

As far as requiring safety committees, the state does not. But the IIPP standard states that a workplace safety committee will satisfy the requirement for communicating an employer's IIPP.

ESF

INDICATORS FOR STATE STATUS

Indicators listed in order of impact. Weight on scale of 1-5 shown in parentheses below.

- State requirement of safety and health programs (also known as illness and injury prevention programs) for employers – partial credit awarded (3)
- State/local government employee OSHA coverage (3)
- Existence of state workplace safety committee law/mandate – partial credit awarded (3)
- Existence of state workplace violence law – partial credit awarded (3)
- Existence of multi-line telephone system enhanced 911 program for employers (3)

Note: Partial credit was awarded in instances in which states took some, but not all, of the necessary steps to implement these indicators.



California is rated as "developing" in the NSC category of prevention, preparedness and enforcement.

NSC charts

California does not have a state workplace violence prevention law, nor does it have the enhanced 911 program for employers.

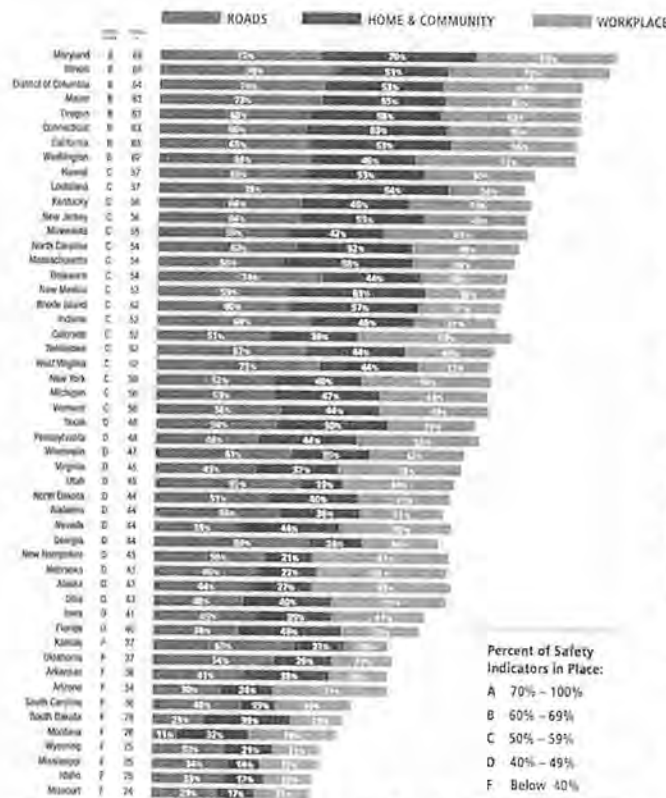
On the workplace safety scale, California scored 1.5 out of 5 indicators, with NSC rating it as “developing” in prevention, preparedness, and enforcement. States need to “react to emerging issues and threats, such as workplace violence,” NSC says, pointing out that almost 16% of work-related fatalities in the United States are due to violence. It is the third-leading cause of death in the workplace.

On worker health and well-being, the council also said California was developing, with two indicators in place. The indicators for this measurement include: having a state drug-free workplace law, an anti-smoking law and a workplace wellness law.

California was the first to ban smoking in the workplace and employers may test for employee drug use, with some limitations. The state does not have a “wellness” law.

NSC rated California “off track” on workers’ comp, giving no more than one indicator. The three indicators include the maximum length of benefits for injured workers; maximum weekly benefit for permanent disabilities; and maximum length of benefit in weeks for permanent disabilities.

STATE GRADES IN RANK ORDER



NSC gave California a “B” on overall safety, largely on road safety and home/community measurements.

Time for a Break

With this issue, Cal-OSHA Reporter is taking its annual two-week summer break from publishing. We will return with our July 21 edition.

In the meantime, we will keep you informed of any major late-breaking developments in the world of Cal/OSHA and occupational safety and health via our Flash Reports.

Happy 241st birthday, America. Have a safe, sane and happy July 4th holiday, dear readers.

CDPH Report Measures the Safety and Health of California Workplaces

California has made strides to decrease workplace fatalities, injuries and illnesses, but “much more work” needs to be done to further reduce them, according to a new study by the California Department of Public Health.

The study was spearheaded by Dr. Robert Harrison, MD, MPH, chief of the Occupational Health Surveillance and Evaluation Program (OSHEP), part of CDPH’s Occupational Health Branch. He’s a former member of the Cal/OSHA Standards Board.

The report covers 2008-2013. OSHEP collaborated with the National Institute for Occupational Safety and Health and several other states to develop the Occupational Health Indicators in the report. They include work-related injuries, illnesses and exposures and factors that can influence occupational health.

During the covered period, more than 100,000 California workers lost work each year after being injured at work, and 20% of the required hospitalization. More than 1.7 million workers are employed in “high-risk” occupations – those where the injury rate is at least twice the overall rate for U.S. industries.

CDPH also says that almost 1 million working adults report that their asthma was caused by or made worse by work exposures. More than 350 are diagnosed with mesothelioma, and 200 die annually. And more than 1,800 employees have blood lead levels at least 10 micrograms per deciliter, which CDPH says puts them at risk of heart and kidney disease, high blood pressure and cognitive damage.

CDPH is leading the effort to reduce Cal/OSHA’s permissible exposure limit for lead from 50 micrograms to 10.

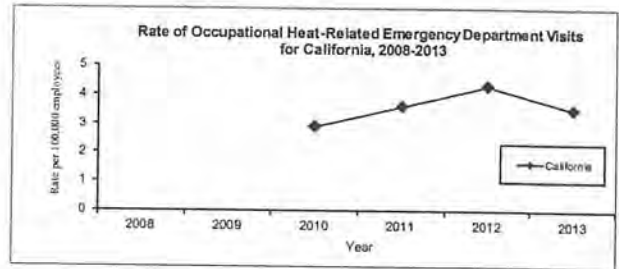
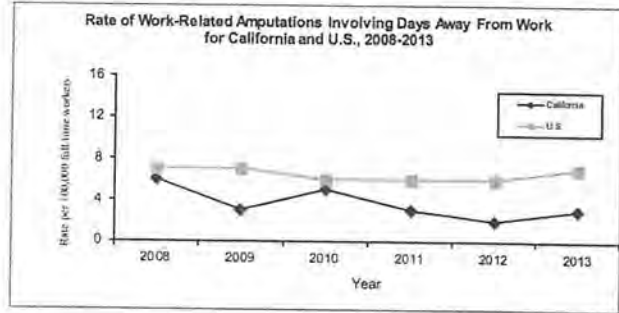
Here are some highlights from the report. The accompanying charts also help tell the story.

- California had a significantly lower workplace fatality rate between 2008-13. For instance, in 2013, the state had a rate of 2.5 per 100,000 full-time

workers, versus 3.3 for the country as a whole. California fatalities generally declined during the reporting period.

- Fatalities from lung disease caused by inhaling mineral dust (pneumoconiosis) averaged between 91 and 119 from 2008-13, with a mortality rate between 3.1 and 4.3 per million residents. The U.S. rate was 6.8 in 2013, compared to 3.6 in California.
- Californians suffered an increasing number of musculoskeletal disorders in the reporting period, from about 28,000 in 2008 to about 43,000 in 2013. The latter figure represented about 14% of the national total. California surpassed the national rate for 100,000 full-time workers in 2011 and stayed above it through 2013.
- The rate of amputation injuries was halved from 2008 (6.0) to 2013 (3.0), and 2013 was far less than the national rate of 7.0.
- Work-related hospitalizations dropped 15% during the six-year period, from 23,529 to 19,952. The rate decreased correspondingly.
- Heat-related emergency room visits varied from 2010 to 2013 from 459 to 595, with a high of 705 in 2012. The rate varied from 2.9 to 3.5.
- California appears to lag behind the nation as a whole on the number of board-certified safety professionals, but appears equal to federal rates on certified industrial hygienists.

[Click here](#) to see the full report.



Year	California						U.S.
	2008	2009	2010	2011	2012	2013	2013
Number of Residents with Elevated Blood Lead Levels $\geq 40 \mu\text{g/dL}$	69	45	36	34	31	23	N/A
Prevalence Rate of Elevated Blood Lead Levels $\geq 40 \mu\text{g/dL}$ Among Adults per 100,000 employed	0.4	0.3	0.2	0.2	0.2	0.1	N/A

Year	California						U.S.
	2008	2009	2010	2011	2012	2013	2013
Rate of Board-Certified Industrial Hygienists per 100,000 Employees	5.0	5.5	5.5	N/A	3.5	4.1	4.0
Number of Board-Certified Industrial Hygienists	859	883	876	N/A	N/A	N/A	N/A
Rate of AIHA ¹ Membership per 100,000 employees	5.7	5.8	5.3	N/A	5.1	3.9	4.3
Number of AIHA ¹ Members	974	947	853	N/A	N/A	N/A	N/A

Year	California						U.S.
	2008	2009	2010	2011	2012	2013	2013
Rate of Board-Certified Safety Professionals per 100,000 Employees	6.2	6.8	7.1	N/A	7.3	7.2	9.5
Number of Board-Certified Safety Professionals	1,049	1,099	1,135	N/A	N/A	N/A	N/A
Rate of ASSE ¹ Membership per 100,000 Employees	17.7	16.9	17.8	N/A	17.7	18.4	22.9
Number of ASSE ¹ Members	3,016	2,739	2,838	N/A	N/A	N/A	N/A