



California

State OSHA Annual Report (SOAR)

FFY 2021



EXECUTIVE SUMMARY

This annual report shows Cal/OSHA's progress toward achieving its strategic vision of becoming a model agency that promotes workplace safety and health by motivating employers and employees to be actively involved in preventing hazards, leading to reduced injuries and illnesses on the job.

Cal/OSHA's role is to enforce safety and health regulations through enforcement efforts; to provide compliance assistance through targeted outreach, education and training; and to emphasize increased awareness on the part of both employers and employees of the importance of a safety and health culture.

Cal/OSHA strives to provide as many employers as possible with assistance in achieving voluntary compliance with Cal/OSHA standards before enforcement measures become necessary—and, more importantly, before an employee is injured or killed. Traditional enforcement methods are supplemented by incentive and education programs and targeted outreach that encourage voluntary compliance. Partnership and cooperative programs leverage Cal/OSHA's resources.

In accordance with the requirements of the Government Performance and Results Act (GPRA), California developed a Five-Year Strategic Plan covering the period 2019 through 2023. The Five Year Strategic Plan incorporated the three federal OSHA goals as its direction. The three overall strategic goals are:

- Goal 1. Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.
- Goal 2. Promote workplace cultures that increase employer and employee awareness of, commitment to, and involvement in safety and health.
- Goal 3. Maximize Cal/OSHA's effectiveness and enhance public confidence.

The Federal Fiscal Year (FFY) 2021 Annual Performance Plan developed by Cal/OSHA was intended to support the overall goals of the five-year Strategic Plan. The 2021 Performance Plan included specific performance goals designed to produce measurable progress toward realization of Cal/OSHA's strategic goals. Performance goals include:

- ✚ Reducing fatalities and occupational injuries and illnesses in construction, agriculture and tree trimming;
- ✚ Reducing injuries, illnesses and fatalities in selected high hazard industries with a goal of removing the industry from the High Hazard Industries list due to decreased injury and illness rates;
- ✚ Reducing fatalities and occupational injuries and illnesses in petroleum refining and other industries which fall under the requirements of the Process Safety Management standard;

- ✚ Raising awareness of heat illness prevention among employees and employer groups in outdoor places of employment;
- ✚ Promoting, involving and communicating with high-risk vulnerable worker organizations and workers to increase their knowledge about workplace safety and health;
- ✚ Promoting voluntary compliance by offering employers a variety of partnerships including recognition and exemption programs;
- ✚ Joining with groups committed to worker safety and health to leverage Cal/OSHA resources and expertise in reducing fatalities, illnesses and injuries in the workplace;
- ✚ Revising and updating flyer with information on employer responsibilities to provide a safe and healthy environment free from the fear of retaliation for reporting an unsafe work condition or reporting a workplace injury.
- ✚ Responding effectively to mandates so that workers are provided full protection under Cal/OSHA by timely response to imminent hazards, to formal complaints and to work related fatality reports, as well as by timely issuance of citations, so that hazards could be timely corrected;
- ✚ Improving the skills, capabilities and technical knowledge of Cal/OSHA's workforce; and
- ✚ Enhancing communication with industry, labor, and professional safety and health organizations.

This annual report reflects the integrated approach to achieving goals of the five-year Strategic Plan. Cal/OSHA Enforcement programmed and self-referral activities, complemented by strategically targeted onsite compliance assistance, have continued to be coordinated to ensure the greatest impact on selected industries with the highest preventable injury, illness and workers' compensation rates.

FFY 2021 ACCOMPLISHMENTS

For the past several consecutive years, authorization and funding was granted to Cal/OSHA for establishing new positions in Enforcement and Enforcement-support units, including, starting on July 1, 2021, over 40 new Safety Engineer and Industrial Hygienist positions, along with corresponding supervisory and administrative/program support.

As result of the Department of Industrial Relations (DIR) and Cal/OSHA's intensive efforts, the hiring process to fill these new positions, along with the existing vacancies, has been successful in bringing on board many new well qualified staff in several classifications.

Throughout the entire FFY 2021, Cal/OSHA continued to direct its main focus and activities towards responding to the challenges posed by the COVID-19 pandemic, which has been the most significant public health and occupational health crisis of our lifetime.

We continued to address the serious hazards posed by this infectious disease by implementing and adapting the strategy we had starting developing since the onset of the COVID-19 crisis. We fine-tuned the approach we've been using since early 2020 to adapt to the scale of the problem, enabling us to effect more employers than through our usual, pre-pandemic procedures.

The three-prong approach consists of:

(1) Leveraging our knowledge and technical expertise to develop regulation and guidance.

In November 2020 California adopted, as emergency regulations, one of the first and most comprehensive set of COVID-19 prevention standards, addressing not only general requirements in workplaces, but also outbreaks, and specific provision in employer-provided housing and transportation. The emergency standards were readopted in June 2021, and are still in effect.

To assist stakeholders in complying with these regulations, and also with other standards applicable to COVID-19 prevention, in FFY 2021 Cal/OSHA authored and co-authored with the California Department of Public Health (CDPH) and other state agencies over 50 COVID-19 prevention industry specific guidance documents, as wells as developed fact sheets, interim guidance, frequently asked questions (FAQs), training videos, and modular training accessible through the Cal/OSHA Training Academy.

(2) Continuing to educate as many employers and workers as possible through virtual and in-person events.

A vital part of our strategy for keeping employers and workers, educated and informed on the continual changes related to COVID-19, is to maintain education and outreach activities at the highest levels possible.

Cal/OSHA worked to deliver the information through multiple virtual platforms, teleconferencing, regular webinar events, and when possible, in-person. In doing so, we also ensure that our efforts complement the Administration's broader outreach efforts, focusing on the most accessible delivery methods for California workplaces. For example, we created multiple forms of resources to assist employers and workers, and we conducted outreach to employers on compliance, through on-site visits and online training.

The launch of our an online training academy provides employers and workers simple, easy to understand training courses to ensure California workplaces understand the appropriate infection prevention methods they should establish and implement in order to reopen and operate and

reopen safely. During the 2021 FFY, over 135,000 individuals registered and completed this modular training.

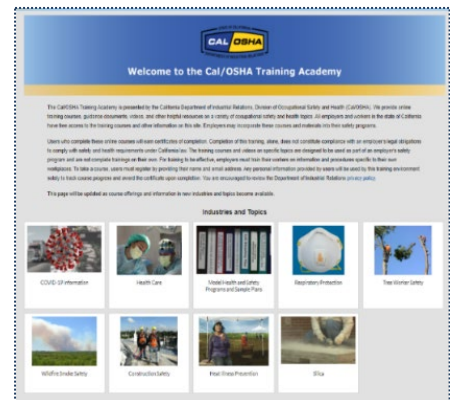
The site continues to provide educational materials and resources and information in English and Spanish on COVID-19 prevention and many other safety and health topics.

(3) Strategic enforcement efforts to have the greatest impact with finite resources.

During FFY 2021, we initiated over 1,300 COVID-19 related inspections, primarily pursuant to statutory obligations to respond to complaints, and illness and fatality reports. We identified COVID-19 related hazards in majority of inspections, and consequently we cited close to 2,300 COVID-19 violations during this period. These citations, carrying significant monetary penalties, have a deterrent effect, and have been actively publicized to incentivize compliance.

In addition, in response to the continuing large number of complaints (we received over 7,600 COVID-19 related complaints in FFY 2021), we carried on with the revised complaint response procedure we developed at the onset of the pandemic, to ensure our intervention in a significant number of workplaces. The procedure consists of investigations by letter of the majority of the complaints, supplemented by offering, and providing to the employers, assistance in correcting the hazards. This allowed us to obtain timely and satisfactory responses from employers to almost 4,800 such investigations, which could not have been inspected in person during this time.

In FFY 2021, Cal/OSHA continued to strengthen its outreach and educational efforts. The Publications Unit developed and updated over 70 educational materials and online resources, which are available to the public, such as guides, fact sheets, model programs, videos, and webpages, including the following:

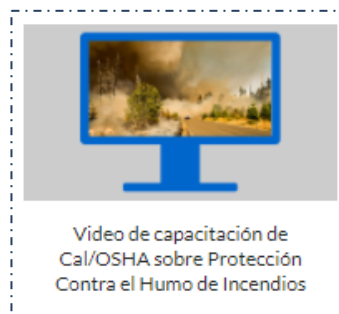


Webpages:

- ✚ The [Cal/OSHA COVID-19 Guidance and Resources webpage](#)
- ✚ The [Cal/OSHA COVID-19 Prevention Emergency Temporary Standards resources webpage](#)
- ✚ [Tree Worker webpage in Spanish](#)
- ✚ [Cal/OSHA Training Academy](#)
- ✚ COVID-19 Emergency Standards FAQs: [English](#) and [Spanish](#)

Videos:

Cal/OSHA Protection from Wildfire Smoke training video, in [English](#) and [Spanish](#)



Documents:

- ✦ [Safety and Health Protection On The Job \(Cal/OSHA poster\)](#)
- ✦ [Worker Safety: Wildfire and Evacuation Zones Infographic](#)
- ✦ [Respiratory Protection in the Workplace – A Guide for Employers](#) and [Sample Respiratory Protection Program](#)
- ✦ Nighttime Outdoor Agricultural Operations Fact Sheet in [English](#) and [Spanish](#)
- ✦ Protecting Workers Exposed to Wildfire Smoke Fact Sheet – for Workers in [English](#) and [Spanish](#)
- ✦ Protecting Workers Exposed to Wildfire Smoke Fact Sheet – for Employers in [English](#) and [Spanish](#)
- ✦ Appendix B to Section 5141.1 Protection from Wildfire Smoke Information to Be Provided to Employees (Mandatory) in [English](#) and [Spanish](#)
- ✦ [Guide to Cal/OSHA](#)
- ✦ Injury & Illness Prevention Models Program for:
 - Non-High Hazard Employers in [English](#) and [Spanish](#)
 - High Hazard Employers in [English](#) and [Spanish](#)
 - Employers with Seasonal or Intermittent Workers in [English](#) and [Spanish](#)
- ✦ [The Cal/OSHA Hazard Communication Regulation – a Guide for Employers That Use Hazardous Chemicals](#) and [Sample Hazard Communication Program](#)
- ✦ [Setting up a Tailgate/Toolbox Safety Meeting](#)



COVID-19 Related Materials:

- ✦ [Best Practices for COVID-19 Infection Prevention for Agricultural and Livestock Workers](#) in [English](#) and [Spanish](#)
- ✦ [Best Practices for COVID-19 Infection Prevention for General Industry Workers](#) in [English](#) and [Spanish](#)
- ✦ [Best Practices for COVID-19 Infection Prevention for Workers in Food Packing and Processing](#) in [English](#) and [Spanish](#)
- ✦ [Combine Physical Distancing with Face Coverings](#) in [English](#) and [Spanish](#)
- ✦ [COVID-19 Emergency Temporary Standards – What Employers Need to Know](#) in [English](#) and [Spanish](#)
- ✦ [Hazard Alert: COVID-19 PPE Availability](#)
- ✦ [Infection Prevention for Agricultural Employers and Employees](#) in [English](#), [Spanish](#), [中文 \(Chinese\)](#) and [Tiếng Việt \(Vietnamese\)](#)
- ✦ [Infection Prevention in Child Care Programs](#) in [English](#), [Spanish](#), and [中文 \(Chinese\)](#)
- ✦ [Infection Prevention in Construction](#)
- ✦ [Infection Prevention in Grocery Stores](#) in [English](#) and [Spanish](#)
- ✦ [Infection Prevention for Logistics Employers and Employees](#)
- ✦ [COVID-19 ETS-What Employers Need to Know about the Recommended Revisions](#) in [English](#) and [Spanish](#)

- ✚ [UPDATE – Cal/OSHA COVID-19 Emergency Temporary Standards](#)
- ✚ COVID-19 Model Prevention Program in [English](#) and [Spanish](#)
- ✚ Revisions to the COVID-19 Prevention ETS FAQs in [English](#) and [Spanish](#)

Joint Agency Collaboration Resources:

- ✚ Bars, Breweries and Distilleries Statewide Industry Guidance and Checklist (Produced with and released by CDPH and the Governor’s Office)
- ✚ On-On-One Personal Fitness Training: Follow Statewide Industry Guidance for Limited Services (Produced with and released by CDPH and the Governor’s Office)
- ✚ Restaurants Statewide Industry Guidance (Produced with and released by CDPH and the Governor’s Office)
- ✚ Youth and Adult Recreational Sports Guidance and FAQs (Produced with and released by CDPH and the Governor’s Office)
- ✚ Restaurants Checklist (Produced with and released by CDPH and the Governor’s Office)
- ✚ Valley Fever Fact Sheets, Posters and Wallet Card (Produced with and released by, CDPH)
- ✚ [Worker Protection From Wildfire Smoke Factsheet](#) (Produced with and released by CHSWC and LOHP UC Berkeley)

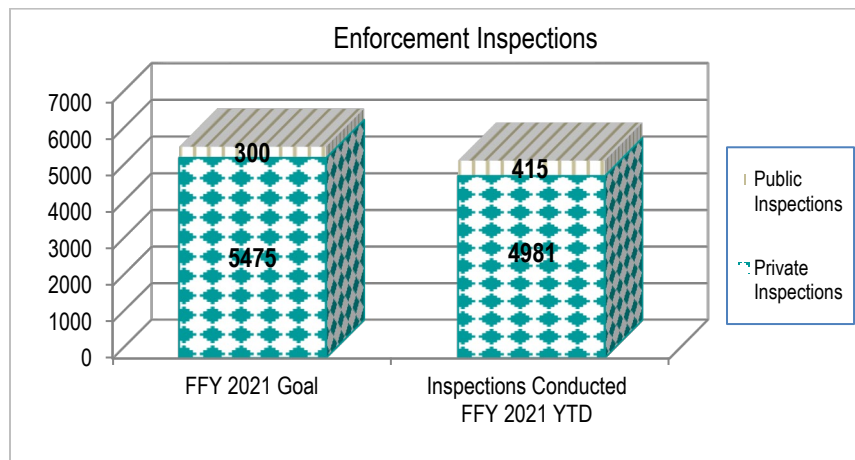
Throughout FFY 2021, Cal/OSHA continued to provide professional development and training for internal staff despite the ongoing challenges posed by the COVID-19 pandemic. The postponement of in-person learning and technical courses remained in place due to state and local county health orders. This required the Professional Development and Training Unit (PDTU) to transition from traditional in-person to virtual learning. In FFY 2021, the PDTU accomplished its FFY 2022 forecasting and planning for all division-mandated training courses, and plans to continue providing these courses through virtual training and learning platforms.

Enforcement and Outreach/Educational Activities

As illustrated in the following chart, Cal/OSHA Enforcement opened 5,396 inspections this federal fiscal year, falling short of the goal to conduct a total of 5,775 inspections, private and public sector inspections combined.

The aforementioned inspections comprised of 4,981 private industry inspections and 415 public sector inspections. During this time, Cal/OSHA identified approximately 11,011 hazards, potentially affecting the estimated 1.9 million workers employed at these establishments. Of the hazards identified, 3,016 resulted in serious, 9 resulted in willful, 111 in repeat, and 2 in failure-to-abate citations.¹

¹ OIS Inspection Summary and Scan Summary Reports dated November 24, 2021.



While enforcement activities are critical to the Cal/OSHA program, educational outreach is also a valuable component to the success of fulfilling its mission. To achieve this, Cal/OSHA has a dedicated enforcement Outreach Coordination Program, which includes a Bilingual Outreach Team (BOT). The Outreach Coordination Program provides outreach to high-risk, vulnerable employee populations throughout the state, raising their awareness of their workplace rights and protections.

Program staff present to small and large audiences, including those from unions, other worker-based organizations, university programs, professional organizations, and foreign consulates.

Decorative Image In FFY 2021, Outreach Coordination Program staff and other Cal/OSHA personnel participated in 154 separate events; 122 events were related to COVID-19 and 123 of these events had high-risk, vulnerable workers in attendance. These are employees who have limited or no English-speaking skills, some being monolingual in indigenous languages, who are not aware of, or do not feel empowered to claim their rights in the workplace, and who mainly work low wage jobs. Outreach staff coordinated with Mexican Consulates and participated in 14 Consulate events throughout the state, in-person and virtually. Other events included Cal/OSHA's participation along with other agencies, such as the U.S. Department of Labor, California Department of Rehabilitation (DOR), Employment Development Department (EDD), Division of Workers Compensation, Cal Resource Management Association (CalRMA), and the California Air Pollution Control Officers Association & US EOA. Cal/OSHA also participated at events organized in coordination with city and county fire departments, AgSafe, Safety Center, UC Davis and UC Berkeley events, CRLA and both the American Industrial Hygiene Association and American Society of Safety Engineers, Asian Pacific Chamber of Commerce, Farm and Agricultural associations, multiple workers unions, as well as events coordinated with employers and insurance brokers. Outreach staff distributed 20,742 written materials covering heat illness prevention, and an additional 29,161 written materials covering other important safety and health-related topics.

Topics covered during these outreach events included agricultural safety training, general industry safety, protection from wildfire smoke, COVID-19 prevention requirements and compliance regulations, important Cal/OSHA regulation updates, heat illness prevention, worker's rights, COVID-19 infection prevention, night time agriculture work, and other industry specific topics.

In FFY 2021, Cal/OSHA's Recruiting Committee members continued to meet regularly. The committee comprises of managers, and staff members from various programs, units, and classifications. The committee continued to forecast future vacancies, monitor and track vacant positions, and develop recruiting strategies to fill vacant positions as quickly as possible. The committee discussed opportunities to advertise online, in trade magazines, at universities and colleges, and at professional organizations and societal events. Members of the committee created webpages to support applicants through the

hiring process. In addition an email address (CalOSHAJobs@dir.ca.gov) was created for prospective applicants to establish dialogue with Cal/OSHA.

Cal/OSHA Field Inspectors - Industrial Hygienists and Safety Engineers



On September 29, Cal/OSHA posted 18 new Industrial Hygienist positions for work across the state. These are field positions that conduct compliance inspections in many different settings and consult with employers on a wide range of health and safety issues. Cal/OSHA also posted 10 new Safety Engineer positions.

Cal/OSHA inspectors help improve health and safety conditions in workplaces and make a positive difference in the lives of California workers.

Learn more about:

- How to become a Cal/OSHA field inspector <https://www.dir.ca.gov/dosh/jobs/Field-Inspector-Jobs.html>
- The application process <https://www.dir.ca.gov/dosh/jobs/How-to-get-a-state-job.html>
- Wage and benefits <https://www.dir.ca.gov/dosh/documents/recruiting-inspectors.pdf>
- Current openings <https://www.jobs.ca.gov/CalHRPublic/Search/JobSearchResults.aspx#depid=83>

Bilingual candidates are encouraged to apply.
Applications are due October 22.

Have questions?
Contact a Cal/OSHA recruiter at CalOSHAJobs@dir.ca.gov

Cal/OSHA Recruitment and Hiring

The Division of Occupational Safety and Health (Cal/OSHA) is actively hiring industrial hygienists, safety engineers, attorneys, administrative staff, supervisors and managers. Available positions in Cal/OSHA branches, programs and units throughout the state include Enforcement, Consultation, Elevators, Legal, Research & Standards, and more. See our job postings below (in yellow highlights) to see locations of job opportunities.

Enforcement Staffing (January 1 to October 31, 2021)

Classification	Total # of authorized positions	Staff on Board*	Percent of Positions Filled	Total Number Hired	Total Decoral Hire	Retired Annuitants Hired**	Jobless Positions, Transfers, Promotions or Separations†
Management/Supervisor	40	30	75%	5	0	0	3
Senior Safety Engineer	21	30	62%	3	0	3	6
Safety Engineer (Associate, Assistant, Junior)	221	199	90%	52	20	14	15
Industrial Hygienist (Senior, Associate, Assistant, Junior)***	21	10	48%	8	8	0	1
TOTAL	313	259	83%	68	36	16	24

*Includes retired annuitants.

**Retired annuitants are not included in the number of authorized positions. They are considered a "filled position" if working full time.

***DIR and Cal/OSHA have reintroduced and are actively recruiting for the industrial hygienist classification.

Recruitment



To expand our recruitment, we announce our job openings on Facebook, Twitter, Instagram and LinkedIn, and place paid advertisements in occupational health and safety publications and websites. We also recruit from professional organizations and institutions of higher education with degree programs related to occupational

Public Sector Consultation Service Branch Activities

The Consultation Services Branch provides onsite consultation services to the public sector under the 23(g) program. During FFY 2021, the Consultation Services Branch conducted 18 initial visits for the public sector. During these visits a total of 159 hazards were identified with 60 being classified as Serious, 8 being classified as Other-Than-Serious, and 91 being classified as Regulatory. The Consultation Services Branch also provided 17 formal training events and 38 other compliance assistance activities for the public sector. In addition there was extensive COVID-19 support in the form of 182 telephone calls, many with links to publications and other guidance documents.

PUBLIC	
FFY 2021 Visits & Compliance Assistance	Total
Total Onsites 10-1-20 to 9-30-21	
Total Number of Onsites	18
Number Initial Visits	18
Number Training and Assistance Visits	0
Number Follow Up Visits	0
Total Hazards	
Total Number of Hazards	159
Number of Serious Hazards	60
Number of O-T-S Hazards	8
Number of Regulatory Deficiencies	91
Partnership Programs	
Golden Gates	0
SHARPS	0
New	0
Renewals	0
Compliance Assistance	
Compliance Assistance to Employers (Formal Training Event)	17
Compliance Assistance to Employers - (Other)	38
Assistance Related to COVID-19 Questions	182

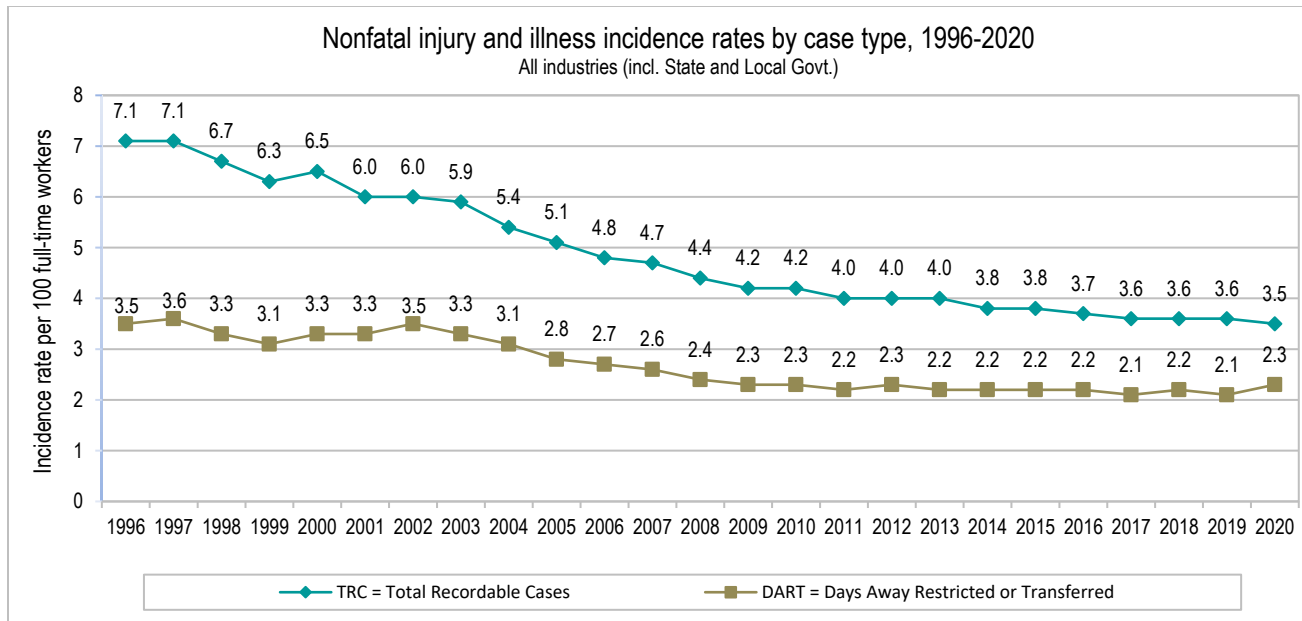
The Consultation Services Branch also administers the Voluntary Protection Program (VPP) under the 23(g) program. In FFY 2021, the VPP Unit evaluated and added 4 new sites, renewed 23 sites, and withdrew or terminated 4 sites. The VPP Unit also provided two formal training events for current and potential VPP candidates. The VPP Unit ended FFY 2021 with 6 pending applications, 71 VPP-Star sites, and 5 VPP-Reach sites.

Lastly, under the 23(g) program the Consultation Services Branch operates the Voluntary Protection Program-Construction (VPP-C). For FFY 2021, the VPP-C Unit evaluated and added seven new sites, along with 3 sites being terminated due to completion and no renewals. The VPP-C Unit ended Federal Fiscal Year 2021 with 2 pending applications and 16 total active VPP-C sites.

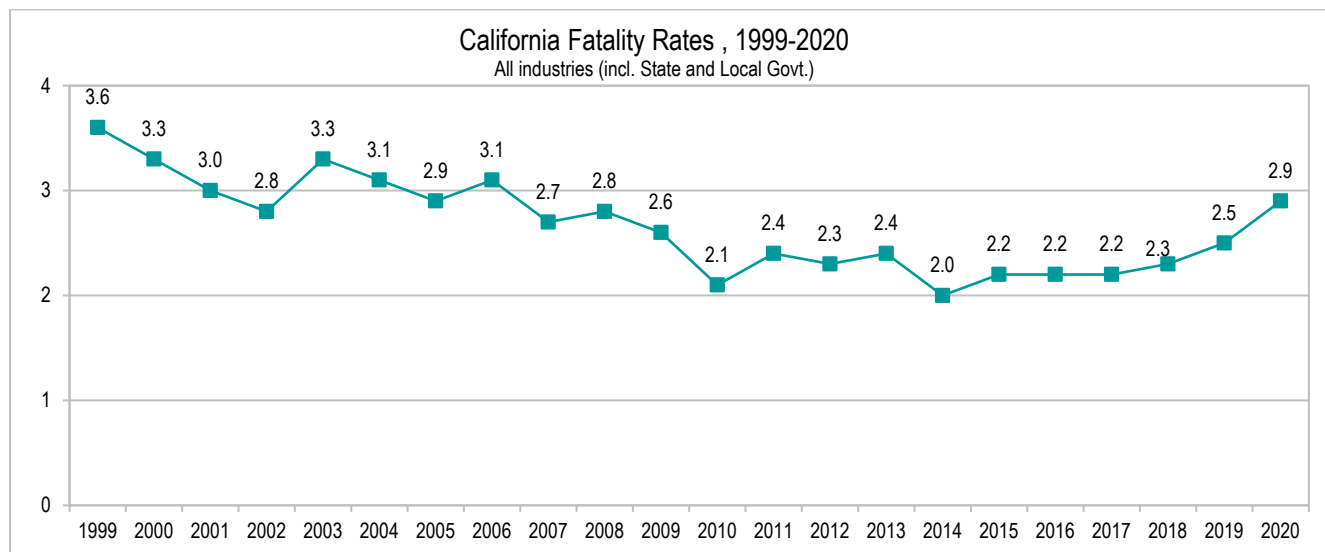


Injuries, Illnesses and Fatalities

Cal/OSHA believes these combined enforcement and educational efforts have contributed to a slight decrease in California's on-the-job total recordable case (TRC) injury and illness incidence rate of 3.5² in CY 2020. Please see the following graph.



As reported by the Census of Fatal Occupational injuries (CFOI), the rate of fatalities for CY 2020 increased to 2.9³ per 100,000 full-time equivalent (FTE) workers; however, in spite of the increase, California's CY 2020 fatality rate of 2.9 is significantly lower than the national rate of fatal work injuries for civilian workers in CY 2020, which was 3.4⁴.



² Incidence rates of nonfatal occupational injuries and illnesses by selected industries and case types, 2020 at <https://www.dir.ca.gov/OPRL/Injuries/2020/Menu.htm>

³ Fatal injury rates by state of incident and industry, 2020, available at <https://www.bls.gov/iif/oshwc/foi/staterate2020.htm>.

⁴ Fatal occupational injuries, total hours worked, and rates of fatal occupational injuries by selected worker characteristics, occupations, and industries, civilian workers 2020 and Total hours worked and rates of fatal occupational injuries by selected worker characteristics, occupations, and industries, civilian workers, 2020 available at <https://www.bls.gov/iif/oshcfoi1.htm>

The tables below provide a quick comparison of fatality rates between the national and California data by industry type. For those industries where there are comparable fatality rates, California was lower than the national average in all but three industries. The three industries are transportation and utilities; financial activities; and education and health services.

California Fatality Rates

Fatality Rate	Overall Rate	Ag, forestry, fishing & hunting	Const	Mfg	Transportation & Utilities	Whsle. and retail trade	Prof. and business services	Financial Activities	Educ. and health services	Leisure and hospitality	Other services, except public admin.	Public Admin
2019	2.5	13.9	6.5	1.5	7.5	1.9	2.2	n/a	0.7	1.7	2.7	1.3
2020	2.9	10.2	8.0	1.2	6.5	2.7	3.1	1.5	0.8	1.8	2.7	n/a

National Fatality Rates

Fatality Rate	Total	Ag, forestry, fishing & hunting	Const	Mfg	Trade, Transportation & Utilities	Whsle. and retail trade	Prof. and business services	Financial Activities	Educ. and health services	Leisure and hospitality	Other services, except public admin.	Gov't.
2019	3.5	23.1	9.7	n/a	5.5	n/a	n/a	1.0	0.6	2.2	3.0	1.8
2020	3.4	21.5	10.2	2.3	5.2	n/a	n/a	0.9	0.7	2.5	3.3	1.8

Occupational Safety and Health Appeals Board (OSHAB) Accomplishments

The California Occupational Safety and Health Appeals Board (Appeals Board) successfully faced significant challenges to the hearing process presented by COVID-19. As the workload remained steady staff concentrated on perfecting the video-conferencing of the hearing process.

Video Hearings

Since October of 2020, we have conducted 116 hearings on the Zoom video platform. The ALJs were able to take testimony, receive exhibits, and notate exhibits during the video hearings. This new hearing format has been a success. Party representatives, witnesses and the public have been able to attend the hearings from wherever they could electronically connect through Zoom. The Zoom platform has proven to be accessible. The Appeals Board has made in-person equipment available at our offices in Sacramento and West Covina. However, no hearing participant has needed to use our equipment at our two physical locations.

Overall, the response from Stakeholders has been positive. Initial apprehension about video hearings has waned, as the parties become more familiar with the use of video platforms in everyday life, the level of apprehension decreases.

The Appeals Board has made user-friendly resources available on its web page, including FAQs, instructional videos for attending a video hearing and uploading exhibits in preparation for video hearings, and a mock video hearing demonstration. Specific resources include:

- (1) Written Information About Video Hearing Guide -- Document
- (2) How to use Zoom for a Video Hearing -- Video Presentation
- (3) Watch a Mock Hearing – Video Presentation
- (4) Links to Learn More About Zoom
- (5) How to File Your Exhibits in OASIS -- Video Presentation
- (6) How to File Your Exhibits in OASIS Guide -- Document

The Appeals Board conducted multiple video hearing training sessions for stakeholders during October 2020. More training of this nature is anticipated in the future.

The ALJs have received extensive training so that they may effectively conduct video hearings, and assist participants with technical issues should they arise.

After one year of conducting video hearings, our experiences demonstrate that video hearings are a viable and effective method proven to ensure that the due process rights of the parties are protected.

COVID-19 Appeals

The Appeals Board has received 460 COVID-19 appeals since April 2021. Many of the appeals have settled or are in the process of negotiating settlement. In a continuing effort to best allocate its resources to meet the ongoing needs of our stakeholders, the Appeals Board has focused on prioritizing its calendaring efforts on Unabated Serious COVID-related appeals, along with Unabated General and Regulatory COVID-related appeals. Matters which include unabated COVID-related citations receive

calendaring priority. All Unabated Serious “Expedited” COVID matters remain on the Expedited Calendar. Other COVID-related citations which have been abated are placed on the regular calendar.

Personnel

Governor Newsom reappointed Edwin Lowry as Appeals Board Chair. Mr. Lowry has brought many innovative solutions and ideas forth, in order, not to interrupt the work of the Appeals Board when workers most need to be protected. The Appeals Board has found creative methods to continue conducting settlement and pre-hearing conferences and hearings.

Two employees recently retired. One being a Sacramento Hearing Officer I and the Appeals Board’s Operation Manager. We also promoted one West Covina employee from his prior position of Hearing Officer I to Hearing Officer II. The interview process is complete for these three vacancies. The new staff will begin their Appeals Board employment in January.

Litigation

Within the past year, the Board issued notable Decisions After Reconsideration and had multiple court successes.

Notable Decisions After Reconsideration

Valley Fever: A disease known as coccidioidomycosis, otherwise commonly known as Valley Fever, can occur when a person inhales the spores of the coccidioides (cocci) fungus. The fungus lives in the soil. The spores of the fungus can become airborne when soil containing them is disturbed. The spores may also be carried by the wind and other weather-related phenomena which disturb or displace soils.

In *Papich Construction Company, Inc.*, Cal/OSHA App. 1236440, Decision After Reconsideration (March 26, 2021) and *Granite Construction Company, Inc.*, Cal/OSHA App. 1235643, Decision After Reconsideration (March 30, 2021), the Board issued decisions affirming citations based on employee exposure to Valley Fever. The relevant employers worked on development of a large solar construction project, requiring that soil be disturbed. The worksite was known to contain cocci spores. The Board upheld a violation of section 5144, subdivision (a), because exposure to Valley Fever existed and the employer failed to use accepted engineering control measures as far as feasible to prevent atmospheric contamination; and appropriate respirators were not used when effective engineering controls were not feasible. The Board also upheld a violation of section 1509, subdivision (a), pertaining to implementation of employer’s Injury and Illness Prevention Program, because Employer failed to correct the hazard of employee exposure to Valley Fever. Finally, the Board upheld a section 5144 violation, subdivision (e)(1), because employees had to wear respirators in particular circumstances and employers failed to medically evaluate its employees to determine their ability to use a respirator.

Foot Protection: The Board also issued a notable decision pertaining to foot protection. In *Golden State FC, LLC*, Cal/OSHA App. 1310525, Decision After Reconsideration (April 14, 2021), the Board found Employer failed to provide appropriate foot protection for warehouse employees exposed to foot injuries, violating the requirements of section 3385, subdivision (a). The Board found that employees worked around boxes at various heights including: boxes on conveyors three feet off the ground; boxes on pallets where the boxes are stacked to heights of up to six feet; walls of boxes in trucks where the boxes are stacked in excess of three feet high; and boxes carried by employees. At the time of inspection, various administrative and engineering controls were not followed. Employer

was aware that boxes fell off the conveyor belts on occasion. Employer was aware of prior incidents of falling objects injuring employees' feet. Finally, Employer failed to require or provide appropriate foot protection.

Personal Protective Equipment

The Appeals Board prevailed in a number of notable court cases:

In *Interline Brands, Inc. v. California Occupational Safety and Health Appeals Board* (San Bernardino County Superior Court, Case No. CIVDS2021813), the superior court affirmed a prior Board decision finding the Employer failed to provide appropriate foot protection for warehouse employees exposed to foot injuries, violating the requirements of section 3385, subdivision (a). The Board found a violation because employees routinely lifted and carried objects, which could present a falling object hazard. The Board also found employees had exposure to a zone of danger of foot injuries presented by industrial trucks used in the warehouse.

In *Aptco, LLC v. California Occupational Safety and Health Appeals Board* (Kern County Superior Court, Case No. BCV-21-100421), the superior court affirmed a prior Board decision finding employer had violated provisions of section 3395, the heat illness prevention standard. This matter involved an employee who exhibited symptoms of potential severe heat illness while performing outdoor labor in high heat conditions. The Board found that the Employer violated occupational health and safety standards by failing to appropriately respond to the employee's symptoms, even though it was later determined that the symptoms were not caused by heat illness. The Kern County Superior Court denied the Employer's petition for writ of administrative mandate, finding that the Board's determination that the Employer failed to comply with its own emergency response procedures for heat illness was supported by substantial evidence, and the violation was properly classified as Serious.

In *United Parcel Service. v. California Occupational Safety and Health Appeals Board* (Second District Court of Appeal, Case No. B308281), the appellate court affirmed a prior Board decision finding again that the Employer failed to provide appropriate foot protection for an employee loading and unloading aircrafts, violating the requirements of section 3385, subdivision (a). In an unpublished opinion, the Second District Court of Appeal affirmed the trial court's denial of the Employer's petition for writ of administrative mandate. The Court concluded that substantial evidence supported the Board's finding that the Division met its burden to show employees were exposed to foot injuries through crushing or penetrating actions, raising a presumption that ASTM-compliant footwear was appropriate, and that the Employer did not rebut the presumption by demonstrating that ASTM-compliant footwear would have provided no protection or was inappropriate for other reasons

In *Lion Farms, LLC v. California Occupational Safety and Health Appeals Board* (Fifth District Court of Appeal, Case No. F079563), the appellate court affirmed another decision by the Board pertaining to personal protective equipment over several challenges. The Division cited Employer for violations of workplace safety regulations which required a workplace hazard evaluation certified in writing, and the identification and use of situationally appropriate personal protective equipment (PPE). The investigation leading to the citations followed the death of a Lion employee while using an all-terrain vehicle (ATV) on the job. The Board affirmed the citations and a petition for writ of mandate followed. The trial court denied Lion's petition for writ of administrative mandate. The Court of Appeal affirmed the Board and trial court. In an unpublished opinion, the Fifth District Court of Appeal concluded that the Employer failed to timely raise a due process claim before the Board, and thus had forfeited the claim at the trial court level. The Court found that the Board did have the authority to evaluate the constitutionality of the safety order, had it been asked to do so. Further, even if the claim had not been forfeited, the claim was without merit because the safety order was not

impermissibly vague; a reasonable and practical construction of the regulation puts employers on notice that they must protect their employee from the injuries inherent in operating ATVs.

Finally, *in Ventura Coastal, LLC v. California Occupational Safety and Health Appeals Board* (Tulare County Superior Court, Case No. VCU272109), the superior court found that employer had no right to file a second petition for reconsideration. This matter was on remand from the Court of Appeal to determine whether the Employer's amended writ petition presented facts supporting a claim of equitable tolling.

The Division cited the Employer for workplace safety violations. The Employer appealed; the ALJ upheld the citation. On reconsideration, the Board also upheld the citation. The Employer then filed a second Petition for Reconsideration challenging the Board's Decision After Reconsideration. The Board informed Employer that the Board lacked jurisdiction to grant reconsideration again in the same matter. Eighty-four days after the Board's DAR, the Employer filed a writ petition in superior court. The time limit for filing of a writ petition is thirty days after the issuance of a DAR. The trial court dismissed the petition. The Employer appealed. The Court of Appeal remanded the matter to the trial court to permit the Employer to amend its writ petition to allege facts supporting a claim of equitable tolling. The Tulare County Superior Court concluded that the Employer had not satisfied the requirements of equitable tolling, and dismissed the Employer's amended petition.

Special Initiatives

Heat Illness Prevention

According to the National Oceanic and Atmospheric Administration (NOAA), California experienced, once again, its hottest summer ever recorded. California temperatures in July 2021 were the hottest ever recorded, 5.3 degrees above normal.

Cal/OSHA continued its highly effective Heat Illness Prevention Special Emphasis Program (SEP) in FFY 2021. The Heat and Agriculture Coordination Program provided heat illness prevention and Heat SEP implementation training to over 300 field enforcement personnel via webinar.

Program staff held bi-weekly meetings with managers and senior enforcement personnel to share information and discuss the status and progress of heat inspections.

In addition, Cal/OSHA hosted its annual [Heat Illness Prevention \(HIP\) Network](#) call, which connects over 200 employer associations, employers, and worker advocacy groups. The HIP Network is a voluntary public and private partnership established to increase both employers' and employees' awareness of the hazards of heat illness and the importance of heat illness prevention measures to prevent heat-related fatalities and serious illnesses in California outdoor workplaces.



During FFY 2021, bilingual heat outreach efforts were augmented with television and radio to raise awareness of worker protections related to heat illness.

Cal/OSHA regularly engages with stakeholders and the public by issuing online advisories to prepare for the heat season and during periods of high heat. Five online advisories were sent during this reporting period. Since 2010, we have continued our multilingual outreach and education campaign on heat illness prevention.

During this reporting period, the campaign included multilingual advertisements on 101 billboards,



284 wall posters, 180 lunch trucks and 410 work vans in Sacramento, San Joaquin, Merced, Madera, Fresno, Kings, Tulare, Kern, Santa Barbara, Ventura, Riverside, San Diego and Imperial counties. There were also 90 advertisements at gas stations in the Los Angeles area.



More than 35,700 multilingual educational advertisements in Spanish, Punjabi, Hmong, and Mixteco aired on 35 radio stations in the target areas during this reporting period. In 2020, the campaign started advertising online on social media platforms. These ads have reached 3,135,841 unique individuals and resulted in over 65,000 clicks to Cal/OSHA's 99calor.org website as well as online conversations and comments about worker rights and heat illness.



In FFY 2021, Cal/OSHA worked alongside agricultural and construction industry groups, insurance carriers and others, to provide highly effective training and outreach to employers, supervisors and work crews on heat illness prevention. By the end of FFY 2021, Cal/OSHA staff participated in 100 events where heat illness was discussed, and over 21,000 educational heat materials were distributed.

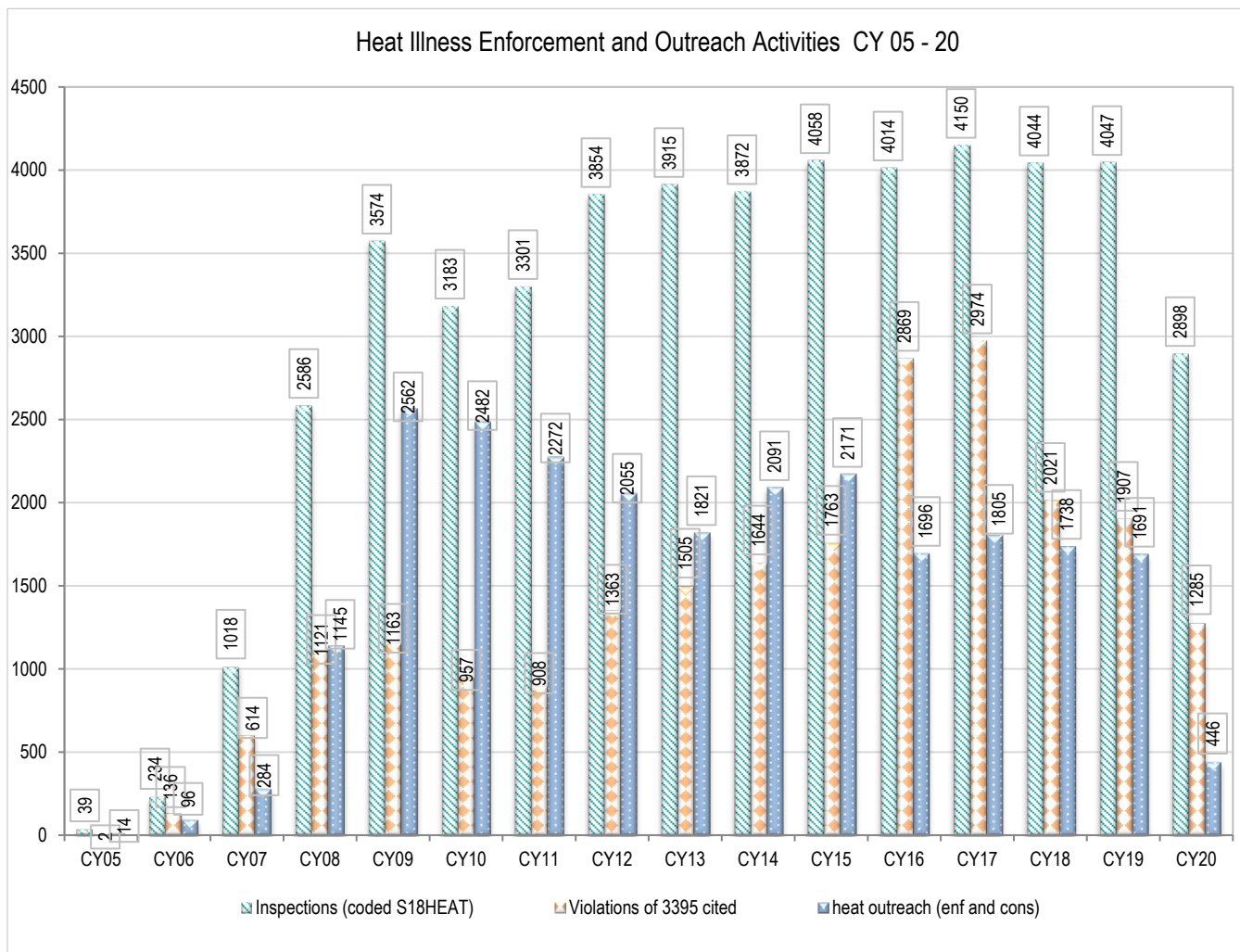
Outreach materials and resources continued to be highly useful in assisting both employers and workers in the prevention of heat-related illness and death. Many of these materials are available Cal/OSHA's

Heat Illness Prevention webpage. The webpage is available in English and Spanish, and many of the educational materials are also available in additional languages such as Hmong, Mixteco and Punjabi.

In addition to these outreach materials, specialized heat illness prevention training materials, designed to support employers efforts to train their staff, were revised and made available online in FFY 2021. These updated materials are also available in English and Spanish.

Throughout the year, Enforcement staff evaluated compliance with the heat standard when inspecting employers in industries that had employees working outdoors. Enforcement efforts peaked just prior to and during high-heat events, particularly during the summer months. The overall compliance rate for CY 2021 will be determined once all of the CY 2021 cases are closed. The overall compliance rate⁵ in CY 2020 was 73%, which is an increase compared to CY 2019, which had a compliance rate of 65.3%.

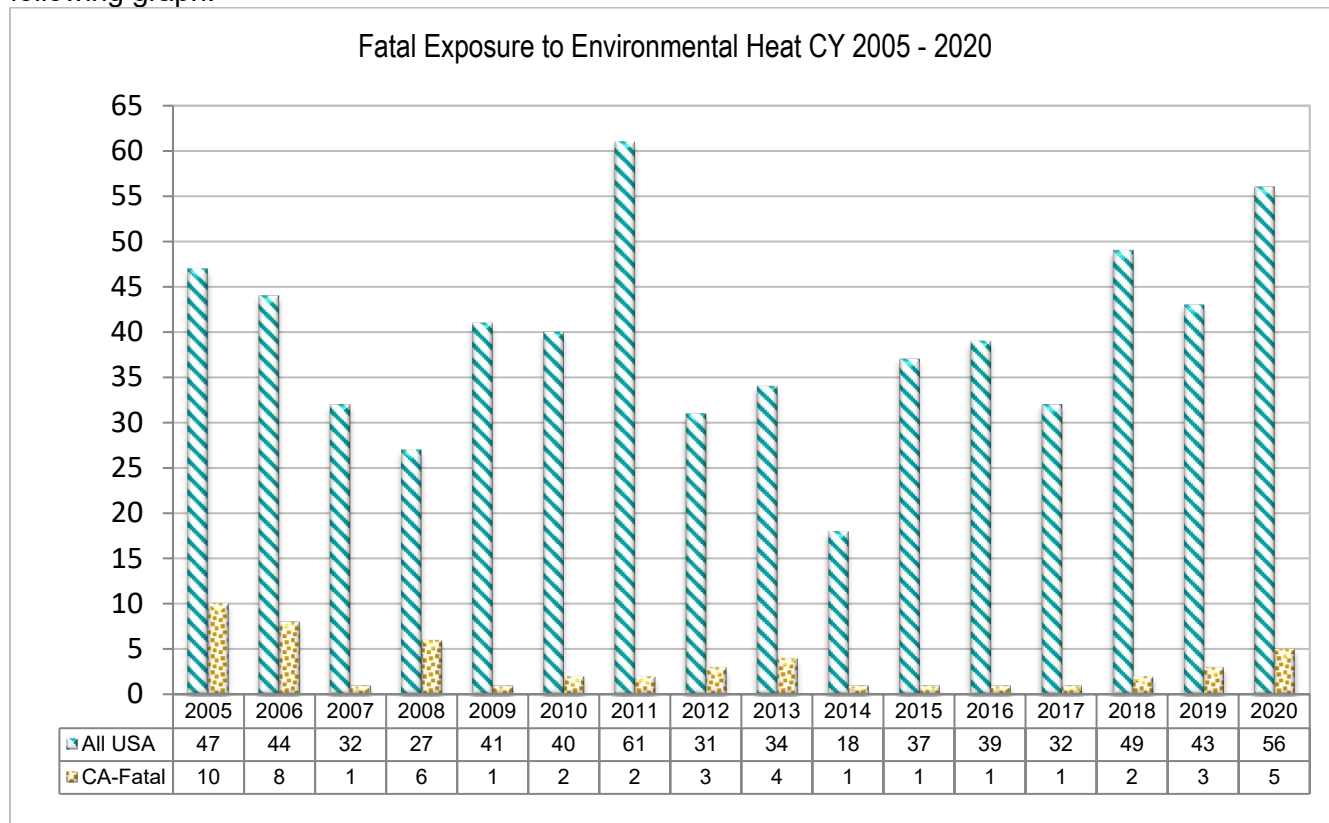
The following graph represents the year round enforcement and outreach activities from calendar year (CY) 2005 through CY 2020.



Note: The S18 HEAT coding of inspections indicates that heat hazards were evaluated in those inspections in addition to other safety and health hazards.

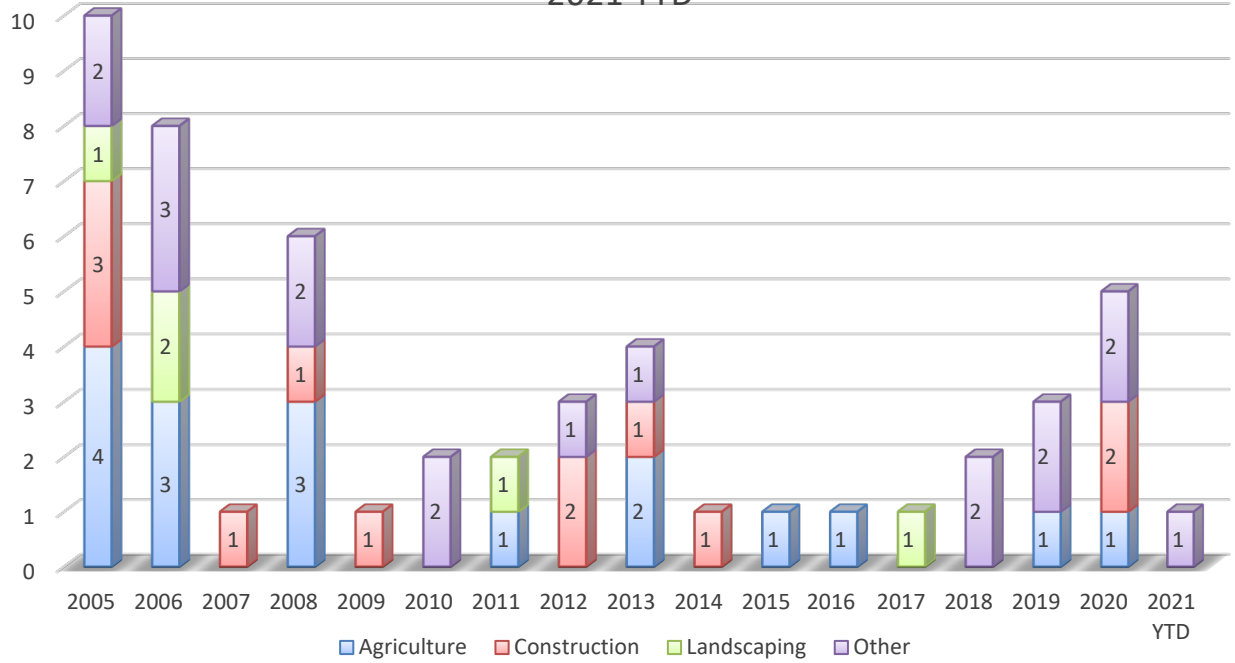
⁵ The percentage of inspections opened in 2020 and completed in 2020 or later where no violations of section 3395 were cited, compared to all inspections opened in 2019 and completed in 2019 or later where compliance with section 3395 was evaluated.

In CY 2020, there were five confirmed heat related fatalities. California has seen an overall decrease in heat related fatalities in the workplace since CY 2005, with the exception of last year. California's total heat-related fatalities can be seen compared to the total number of U.S. heat-related fatalities in the following graph.



To date for CY 2021, California has had one medically-confirmed fatality case related to outdoor heat exposure, and 16 suspect heat-related fatalities are pending medical records review. Final enforcement outcomes are still pending at this time.

Confirmed Heat Fatalities and Heat Illnesses by Industry 2005 - 2021 YTD



Tree Work Safety Emphasis Program

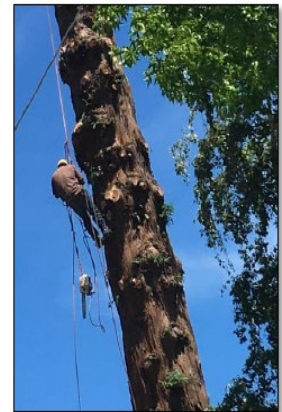
Following several tree-trimming workplace fatalities, in 2017 Cal/OSHA launched a safety awareness campaign aimed to protect the lives of tree service workers. These efforts continued through FFY 2021, as serious and fatal accidents continued to occur in these operations. Employers in this high-risk industry need to be aware of, and take steps to minimize, the hazards to their workers.

As part of the Tree Work Safety Emphasis Program, Cal/OSHA uses the combined approach of an awareness campaign and making resources available for employers and employees, and enhanced enforcement.



Among the materials available are a Tree Work Safety Guide, fact sheet and checklist, a Tree Work Safety tri-fold pamphlet in English and Spanish, and a dedicated internet webpage (<https://www.dir.ca.gov/dosh/Tree-Work-Safety.html>). During FFY 2021, the Cal/OSHA Training Academy deployed the [Tree Worker Safety page in Spanish](#), with information on personal protective equipment (PPE), educational materials, and other resources and video links. Cal/OSHA contact information is also provided on this page to provide one localized point of information for employers and workers.

The enforcement component of the program requires Cal/OSHA inspectors throughout the state to investigate possible violations when they observe unsafe tree trimming or tree removal operations, in addition to inspections of complaints and accidents involving these processes. Under this special emphasis program, 143 inspections of tree work operations were conducted.



Wildfires Response

California experienced another devastatingly destructive wildfire season in 2021, enduring 8,367 wildfires that burned 3,083,507 acres in total⁶; the second largest area of burned acreage recorded in California history⁷. The most destructive of 2021 was the Dixie fire that occurred in July 2021 in Northern California, burning 963,309 acres across five counties, destroying 1,329 structures, damaging 95 structures, and resulting in one death⁸.



⁶ CalFire incidents data <https://www.fire.ca.gov/incidents/>

⁷ CalFire top 20 largest California wildfires https://www.fire.ca.gov/media/4jandlh/top20_acres.pdf

⁸ CalFire Dixie fire incident page <https://www.fire.ca.gov/incidents/2021/7/13/dixie-fire/>

Wildfires are starting earlier and ending later each year; warmer springs and summers, reduced snowpack, and more intense dry seasons are all contributing factors to an estimated 75 day increase of fire season in California⁹. These extreme phenomena continue to have catastrophic effects on nearly all aspects of life in California, including working conditions during the fires for many categories of workers, during the cleanup and rebuilding phase, and in the aftermath of these disasters.

During FFY 2021, Cal/OSHA's role in providing compliance assistance to employers conducting wildfire debris removal operations in areas affected by wildfires increased significantly. Most jobsites were located in remote locations that required many miles of travel; this affected the amount of jobsites that could be visited in a day. There were four large fire branches located throughout the state. Between February and September 2021, a total of 339 Compliance Assistance onsite interventions were conducted, which resulted in 217 hazards that were identified and mitigated. Cal/OSHA has also provided safety training to Cal/OES, CalRecycle and contractors involved in cleanup operations.

In addition, Compliance Assistance Team members were also performing accidents, referral and complaint investigations with other Cal/OSHA district offices.

Enforcement activities also occurred in response to complaints and accident reports stemming from the wildfire smoke, wildfire fighting activities, and cleanup and rebuilding operations, and based on referrals from compliance assistance staff related to employers who demonstrated continued non-compliance.

In support of these efforts, Cal/OSHA made numerous updates to our wildfire webpages. The primary webpage, [Worker Safety and Health in Wildfire Regions](#), contains the majority of information and provides helpful links to the various additional supportive webpages and resources.

One popular resource on this page is the [List of Vendors who Report Available Supplies of N95 Disposable Respirators](#). This list assists employers in identifying available suppliers by regularly updating and maintaining the list of vendors who have represented they have at least 100,000 NIOSH-certified disposable N95 respirators in stock and available for delivery.

There have been updates to the [Cal/OSHA FAQs – Wildfire Hazards page](#), [Worker Safety and Health During Fire Cleanup page](#) and the [Protecting Outdoor Workers Exposed to Smoke from Wildfires page](#); all of which have been outlined in a user friendly format.

Helpful information on the permanent regulation, Protection from Wildfire Smoke ([section 5141.1](#)) is available as well as multilingual fact sheets, videos, infographics, and other resources for employers and workers affected by wildfire smoke.

Communicating with the Limited and Non-English Speaking Workforce

⁹ **2021 Fire Season Outlook: While wildfires are a natural part of California's landscape, the fire season in California and across the West is starting earlier and ending later each year. Climate change is considered a key driver of this trend. Warmer spring and summer temperatures, reduced snowpack, and earlier spring snowmelt create longer and more intense dry seasons that increase moisture stress on vegetation and make forests more susceptible to severe wildfire. The length of fire season is estimated to have increased by 75 days across the Sierras and seems to correspond with an increase in the extent of forest fires across the state. NIFC predicts portions of the Coast Ranges, Sierra, and Cascades in California increasing to above normal fire danger in June and July and continuing through September.** <https://www.fire.ca.gov/incidents/>

Direct communication with limited and non-English-speaking workers and their employers continues to be a high priority for Cal/OSHA. Starting in 2002, Cal/OSHA sought to overcome language barriers between Cal/OSHA staff and the limited and non-English speaking workforce by increasing the number of in-house certified bilingual employees, which at the time was 26. As of September 2021, Cal/OSHA's bilingual staff (in various languages) increased significantly, having 53 employees who passed the state's language certification exam. These efforts were supplemented by contracting with an external translation service, providing a network of native-speaking language interpreters telephonically available for over 100 languages and dialects for those instances where an in-house bilingual employee was not readily available or staff was unable to identify the language spoken.

Cal/OSHA's commitment to serve the growing number of limited and non-English-speaking workers in California was reaffirmed in 2016 by supporting staff who desired to learn Spanish. The Cal/OSHA Spanish language support program covers the cost of tuition fees, books, and in-person classes for employees interested in learning a second language after work hours at a community college, university extension program, or other local language institute. Cal/OSHA continued to make this program available to employees in FFY 2021.

Professional Development and Training

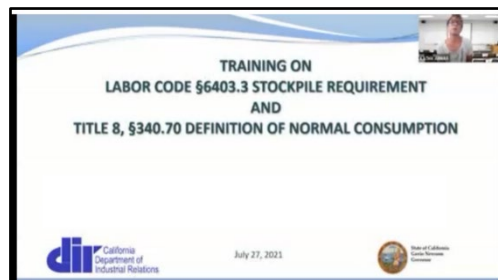
The Professional Development and Training Unit (PDTU) is responsible for administering the Professional Development and Training Program. PDTU assists all Division personnel (managerial, supervisory, professional and office support) in professional career development, directs and coordinates training for all Division personnel, and advises Division supervisors and managers on how to meet the training needs of their staff. The goal of this unit is to assist Compliance Safety and Health Officers (CSHOs) and their supervisors with direction, guidance, and training options that directly contribute to their ability to perform their duties and represent Cal/OSHA with a high degree of professional expertise.

Throughout FFY 2021, PDTU provided Division-mandated and technical training to CSHOs statewide. The unit forecasted, planned, scheduled, and delivered training to meet the training needs of Cal/OSHA staff throughout the state. Training included virtual learning courses and online webinars that were conducted by Cal/OSHA staff.



During FFY 2021, PDTU coordinated and facilitated 18 total courses, comprised of both mandatory and technical training courses and webinars, which were attended by a total of 1,737 managers, senior professional staff, and CSHOs.

Due to the limitations of state and local county health orders, only virtual out-service trainings were approved. The unit focused their efforts on delivering virtual training and providing staff with COVID-19 infection prevention training and regulation updates, to ensure the safety of Cal/OSHA staff during inspections and investigations, in addition to maintaining awareness of current and on-going revisions to departmental policies, procedures, mandates, and requirements that must be met by all California employers.



PARTNERSHIPS / COMPLIANCE ASSISTANCE

Employment Education and Outreach (EMPLEO)

The Employment Education and Outreach (EMPLEO) was established as a partnership to provide Spanish-speaking employees and employers with information on federal and state workplace laws. This partnership consists of government agencies, consulates, and non-profit organizations in five counties in Southern California that assists workers in understanding their rights and provides employers with information pertaining to the resources available to them. Partners in the EMPLEO program include the U.S. Department of Labor's Wage and Hour Division; OSHA; the U.S. Equal Opportunity Commission; California Division of Labor Standards Enforcement; Cal/OSHA; the consulates of Mexico, El Salvador, Guatemala, Honduras, Nicaragua and Costa Rica; the regional Hispanic Chamber of Commerce; and the Coalition of Human Immigration Rights in Los Angeles, among others.

Cal/OSHA is proud to have been part of this program since its inception in 2004, providing information and assistance to Spanish-speaking workers and employers regarding their rights and responsibilities, and responding to workplace complaints.

Cross Referrals with the Division of Labor Standards Enforcement (DLSE)

Under California law, the Division of Labor Standards Enforcement (DLSE) has responsibility for investigating worker complaints related to unpaid wages, lack of rest breaks, and other labor law violations. Unlike the federal system, DLSE – not Cal/OSHA – is responsible for investigating worker complaints of retaliation, reprisal and discrimination by employers against employees who express concern about and/or contact Cal/OSHA regarding unsafe and unhealthy working conditions.

In May 2012, DLSE and Cal/OSHA established a streamlined system involving new forms and a centralized processing point for cross-referrals between the two agencies so that all referrals are logged and tracked. Cal/OSHA refers complaints of labor law violations and employer discrimination to DLSE, while DLSE refers worker complaints, and the observations of its own employees conducting DLSE inspections of work sites, regarding unsafe and unhealthy working conditions to Cal/OSHA. The procedures have resulted in more reliable and rapid cross-referrals between Cal/OSHA and DLSE.

During the FFY 2021, the cross referral process continued for the benefit of the workers covered by these two Divisions of the Department of Industrial Relations, with Cal/OSHA forwarding 26 referrals for investigation to DLSE (19 concerning labor law violations, and seven concerning employer retaliation and discrimination).

In addition, one of the FFY 2017 FAME findings regarding retaliation claims was that DLSE was not consistently forwarding to Cal/OSHA the underlying occupational safety and health complaint. In 2019, DLSE and Cal/OSHA established an automated system that forwards to Cal/OSHA all complaints, with a notation regarding the referral being made in the DLSE file. As a result, 66 referrals were received by Cal/OSHA from DLSE during FFY 2021.

ALLIANCES

Alliance Program

In FFY 2021, Cal/OSHA continued work on its Alliance Program, despite the setback from the COVID-19 pandemic it faced in both FFY 2020 and 2021. As a result, on September 3, 2021, the Consulate of Mexico and Cal/OSHA renewed our mutual commitments to assisting vulnerable workers and educating employers by signing 10 new Alliance Agreements. These agreements include the U.S. Department of Labor, Cal/OSHA, and the Consulates of Mexico in the following locations:



- Calexico
- Fresno
- Sacramento
- San Bernardino
- San Diego
- San Francisco
- San Jose
- Santa Ana
- Los Angeles
- Oxnard

The Alliance Agreement establishes a collaborative relationship to provide Mexican nationals in California and others, information, guidance, and access to education and training resources to promote workers' rights in protecting their occupational safety and health, and to help them understand U.S. domestic law on the rights of workers and the responsibilities of employers under the Occupational Safety and Health Act.

As part of the agreements, Cal/OSHA renewed its commitment to join the Mexican Consulates in launching the Annual Labor Rights Week, where DIR and its representatives from Cal/OSHA, the Labor Commissioner's Office and Division of Workers' Compensation participated in seminars and virtual events at several Mexican Consulates throughout the state. Some of these events were in-person, and due to some county health restrictions, some were conducted virtually through Zoom and Facebook live streams. Despite the challenges of a global pandemic, shifting norms, and technological challenges, through the Alliance, we were able to reach over 7,000 direct participants.

During FFY 2021, additional relationships were developed through formal conversations about developing prospective Alliance Agreements. We anticipate this program will continue to reach its goals and increase Alliance partnerships.

SIGNIFICANT CASES

Cal/OSHA investigated many noteworthy cases during FFY 2021. Some of these investigations along with Cal/OSHA's findings of alleged violations include:

Citations to Full-Service Restaurant for Willful COVID-19 Violations. International Farmers Kitchen, LLC dba Apple Bistro and Apple Bistro, Inc. (#1491600)

On October 29, 2020, the Cal/OSHA Sacramento district office issued one serious citation and one willful-serious citation with total penalties assessed \$108,000 to International Farmers Kitchen, LLC dba Apple Bistro and Apple Bistro, Inc., a full-service restaurant located in Placerville, California.

The serious citation was issued for employer's failure to develop, implement, and maintain a written Injury and Illness Prevention Program (IIPP) at the restaurant for its employees. The willful-serious citation was issued for failure to effectively implement methods or procedures to address the hazard of employee exposure to COVID-19, including by requiring the use physical distancing and face coverings or, in the alternative, for failure to ensure the use of engineering controls to prevent the transmission of COVID-19, such as physical barriers and face coverings.

The employer did not appeal the citations.

On February 26, 2021, the Sacramento district office conducted a follow up inspection at this worksite and found that the employer had not abated the cited violations. On April 9, 2021, the Division issued failure to abate penalties to employer totaling \$1,350,000.

Citations to Food Manufacturer for Repeat Violations Resulting in a Serious Amputation Injury. Fantasy Cookie Corp. dba Fantasy Cookie (#1485593)

On November 30, 2020, the Cal/OSHA Van Nuys district office issued one repeat general citation and one repeat serious, accident-related citation to Fantasy Cookie Corp. dba Fantasy Cookie, a cookie manufacturer located in Sylmar, California. On May 31, 2020, an employee sustained a serious amputation injury when the guillotine of an energized cookie cutter machine came down on his hand. Total penalties assessed in this case were \$80,000.

The repeat-general violation was issued for failure to provide effective lockout/tagout training to employees who were assigned to clean, set up, and adjust a cookie cutter machine. The repeat-serious, accident-related violation was issued for failure to ensure that the cookie cutter machine was stopped and the power source deenergized or disengaged prior to allowing the injured employee to clean it. The employer had previously been cited for similar violations of the lockout/tagout standard in the preceding five years.

Citations to State Prison for Willful-Serious COVID-19 Violations. State of California, Department of Corrections and Rehabilitation, dba San Quentin State Prison (#1480866)

On February 1, 2021, the Cal/OSHA American Canyon district office issued one regulatory citation, four general citations, and nine serious citations, four of which were classified as willful-serious to the State

of California, Department of Corrections & Rehabilitation dba San Quentin State Prison for COVID-19-related violations. Cal/OSHA assessed total penalties of \$421,880 in connection with this investigation.

The regulatory citation was issued for the employer's failure to timely report the serious illnesses or deaths of five employees. The general violations were issued for failure to: identify or correct hazards relating to the unsafe handling/moving or non-ambulatory patients, ensure that locked exits in an alternative care site were accessible to healthcare staff who were leaving the facility; provide suitable cleansing agents in an employee restroom; and establish, implement, and maintain a compliant written biosafety plan for employees working in a clinical laboratory who performed centrifugation and other aerosol-generating procedures.

The serious citations were issued for failure to: provide access to potable water as close as practicable to an employee working outdoors at a COVID-19 screening checkpoint; ensure that a laboratory eyewash remained free and unobstructed; establish, implement, and maintain an effective exposure control plan for clinical laboratory employees exposed to blood or other potentially-infectious materials; ensure that all custody staff exposed to the SARS CoV-2 virus were supplied with fluid-resistant personal protective equipment (PPE); and ensure that employees with occupational exposure to aerosol transmissible diseases (ATDs) such as COVID-19 were effectively trained.

The willful-serious citations were issued for the employer's failure to: establish, implement, and maintain an effective ATD exposure control plan; implement work practice controls and/or provide and ensure the use of PPE to prevent or minimize employee exposures to airborne, droplet, and contact-transmission of ATDs such as SARS-CoV-2; establish, implement, and maintain its respiratory protection procedures for employees with occupational exposure to pathogens such as SARS Cov-2; and provide medical services in accordance with applicable public health guidance.

Citations to Forest Products Company for Fatal Explosion of Air Compressor Pipeline. Sierra Pacific Industries (#1493422)

On March 16, 2021, the Cal/OSHA Sacramento district office issued one regulatory citation, two general citations, and six serious citations, three of which were characterized as accident-related, to Sierra Pacific Industries for a fatality that occurred in Lincoln, California. On September 17, 2020, an employee working for Sierra Pacific Industries was setting up a Quincy 300 Compressor when a pipeline on the air compressor exploded. Pieces of the pipeline hit two employees nearby, injuring one and killing another. Total penalties assessed in this case were \$108,300.

The regulatory citation was issued for instructing unqualified employees to weld piping. The general citations were issued for using or operating an unmarked flange and steel braided flex pipe under speeds, stresses, or loads that were contrary to the manufacturer's recommendations or engineered design, and for failure to implement prescribed lockout/tagout procedures when setting up the air compressor.

The serious citations were issued for: failure to perform hydrostatic or pneumatic testing of the discharge piping prior operating the air compressor; assigning employees to set up the electrical components of the air compressor without being under the direct supervision of a qualified person; and failure to ensure that employees utilized group lockout/tagout procedures while millwrights and electricians were setting up the air compressor.

The serious, accident-related citations were issued for the employer's failure to: ensure that all of the pressure piping used with the air compressor was designed, constructed, installed, and maintained in accordance with good engineering practice; ensure that the energy within the pipeline was controlled to prevent an uncontrolled release during the repair or modification work on the air compressor; and ensure a pressure-relieving safety device was installed in the line between the compressor and block valve.

**Citations to Framing Contractor as an Exposing and Controlling Employer for Safety Violations Resulting in Serious Fall and Electric Shock Injuries.
Steelbuilt Framing Technologies (#1491630)**

On March 22, 2021, the Cal/OSHA San Diego district office issued two regulatory citations, eight general citations, and four serious citations, two of which were classified as accident-related, following an inspection of this framing contractor's jobsite in National City, California. On September 9, 2020, while Cal/OSHA's inspection was ongoing, a concrete finisher was seriously injured when his aluminum pole made inadvertent contact with an energized conductor, shocking him and causing him to fall from the unprotected edge of the structure. Cal/OSHA assessed a total of \$85,665 in penalties to Steelbuilt Framing Technologies as a controlling and exposing employer.

The regulatory citations were issued for the employer's failure to obtain a project permit prior to commencing construction of a multistory building, and for failure to post a project permit that was subsequently issued on September 29, 2020. The general citations were issued for: failure to make a thorough survey of the conditions of the job site prior to the presence of employees; failure to ensure the ground area within six feet of the concrete structure was reasonably free of irregularities; failure to ensure a walkway was free of obstructions and debris; failure to ensure that a handwashing station was provided for employees (including employees of other employers) working at the site; use of a stairway for accessing the concrete structure that was less than 24 inches in width and that lacked a mid-rail; failure to ensure that a ladder extended at least three feet above the second level deck; and use of a job-made ladder with cleats that were not inset into the ladder's side rails, as required.

The serious citations were issued for failure to ensure that an employee used a personal fall arrest system when exposed to a fall of greater than 71/2 feet at the unprotected edge of the structure, and for failure to maintain clearance of the structure of at least six feet from energized high-voltage conductors. The serious, accident-related citations were issued for failure to provide guardrails at the western edge of the structure where the employee fell, and for failure to ensure that the bull float handles used at the job site by concrete finishers, including the injured employee, which could come in contact with energized electrical conductors were constructed of nonconductive material.

**Citations to Hospital for Serious COVID-19 Violations.
Kindred Hospital (#1477006)**

On March 22, 2021, the Cal/OSHA Santa Ana district office issued six serious violations to Kindred Hospital to address COVID-19 hazards at its hospital located in Brea, California. Total penalties assessed in this case were \$150,000.

The serious violations were for the employer's failure to: establish, implement, and maintain an effective IIPP that included a system and procedures to communicate with and provide training to employees regarding the new occupational hazard of COVID-19, to investigate occupational cases of COVID-19, and to correct conditions, practices or procedures that posed a risk of transmission of COVID-19; establish, implement, and maintain an effective written ATD Exposure Control Plan that addressed SARS CoV-2 and included all required plan components; implement feasible engineering and work practice controls to minimize employees' exposure to SARS CoV-2, such as testing employees and patients for COVID-19 to allow for contact tracing, employee self-isolation, quarantine, and medical care; provide and ensure the use of respirators at least as effective as an N95 filtering facepiece for employees working in proximity to COVID-19 cases or suspected cases; analyze exposure scenarios to determine which employees had significant exposures and then to notify those employees regarding their exposures and provide post-exposure medical services; and provide required training to employees with occupational exposure to SARS CoV-2.

**Citations to Farm Labor Contractor for Willful COVID-19 Violation.
Alco Harvesting, LLC (#1483158)**

On May 13, 2021, the Cal/OSHA Van Nuys district office issued four serious citations, one of which was classified willful-serious, to Alco Harvesting, LLC, a farm labor contractor, in connection with a worksite located in Santa Maria, California. Total penalties assessed in this case were \$142,500.

The willful-serious citation was issued for failure to effectively identify and evaluate workplace hazards relating to exposure to the virus that causes COVID-19, including instances for, among other things, lack of physical distancing of at least six feet in all directions among employees harvesting lettuce, traveling in employer-provided buses, and living in employer-provided housing.

The other three serious citations were for the employer's: lack of training and instruction for employees regarding the occupational hazard of COVID-19; failure to make medical personnel readily available to advice and consultation for an employee who was seriously ill in the workplace due to COVID-19; and failure to make provisions in advance for prompt medical treatment for an employee who became seriously ill in the workplace due to COVID-19, including a communication system for contacting a doctor or emergency medical services, readily-accessible on-site treatment facilities suitable for treatment of reasonably-anticipated injury or illness, or proper equipment for the prompt medical transport of injured or ill employees when reasonably necessary and appropriate.

**Citations to City Water Department for Fatal Electrocution Accident.
City of Santa Rosa – Santa Rosa Water (#1495388)**

On May 27, 2021, the Cal/OSHA American Canyon district office issued one general and six serious citations, five of which were characterized as accident-related, to the City of Santa Rosa-Santa Rosa Water for violations at a job site in Santa Rosa, California. On September 30, 2020, an employee was electrocuted while performing maintenance on an energized motor control center at a pump station. Cal/OSHA assessed total penalties of \$97,500 in connection with this investigation.

The general violation was for failure to ensure that either a qualified electrical worker or employee in training who was competent to render immediate assistance in the event of an accident was present while employees were working on exposed conductors or parts of a high-voltage system.

The serious citation was issued for failure to ensure that protective ground equipment for the pump station was capable of conducting the maximum anticipated fault current.

The serious, accident-related citations were issued for failure to: cover all required safety subjects during a job briefing at the pump station; ensure that the blades of the disconnect were in the open position when deenergizing the power to the pump station; ensure that the lines and equipment at the pump station were deenergized by testing them prior to commencing electrical work; test conductors or equipment to ensure deenergization, install barriers or guards as necessary to prevent employee contact with an exposed energized conductor or equipment, ensure that grounding equipment was capable of conducting the maximum anticipated fault current; and to clearly identify, effectively isolate and ground the electrical equipment to be worked from all sources of voltage.

**Citations to Full-Service Restaurant for Willful COVID-19 Violations.
Basilico's Pasta e Vino (#1507030)**

On June 17, 2021, the Cal/OSHA San Diego district office issued one regulatory citation, one general citation, and four serious citations, two of which were classified as willful-serious, with total penalties assessed \$152,060 to Basilico's Pasta e Vino, a full-service restaurant located in Huntington Beach, California.

The regulatory citation was issued for the employer's failure to provide OSHA 300 logs and OSHA 300A summaries to Cal/OSHA upon its request. The general citation was issued for failure to establish and implement a written IIPP. The serious citations were issued for failure to provide COVID-19-related safety training to employees and for failure to ensure that employees were separated from other persons by at least six feet throughout the restaurant. The willful-serious citations were issued for employer's failure to ensure that employees were separated from other persons by at least six feet throughout the restaurant, and for failure to provide face coverings to employees and to ensure their use.

**Citations to County Fire Authority for Serious Burn Injuries to Firefighters.
Orange County Fire Authority (#1523238)**

On July 2, 2021, the Cal/OSHA Santa Ana district office issued five serious violations, two of which were characterized as accident-related, to Orange County Fire Authority arising from wildland firefighting operations conducted near Santiago Canyon Road and Silverado Canyon Road in Irvine, California. Total penalties assessed were \$90,500. On October 26, 2020, two hand crew firefighters suffered serious burn injuries when they were overrun by rapidly-spreading spot fires.

The serious violations were issued for failure to identify and correct workplace hazards related to spot fires, such as the hazard of allowing firefighters to engage in wildland firefighting operations on sloped terrain that was covered with unburned fuel when a rapidly-spreading fire was igniting spot fires across the fire line, for failure to ensure that all of the hand crew firefighters fastened the chin straps of their structural fire helmets to keep the helmets in place, and for failure to ensure that firefighters exposed to eye injury hazards used eye protection.

The serious, accident-related violations were issued for failure to ensure that all hand crew firefighters were provided thermal protection against burns on the ears and neck, and that they wore suitable protective gloves to prevent burn injuries to their hands and wrists.

REGULATIONS

New or revised Title 8 California Code of Regulations in FFY 2021:

Administrative Regulations:

Section 340.70, Definition of Normal Consumption. In June 2021, Title 8 California Code of Regulation, section 340.70, Definition of Normal Consumption, was adopted as an emergency regulation. This rulemaking defines the term “normal consumption” as used in Labor Code section 6403.3(c), which requires that general acute care hospitals maintain a stockpile of specified equipment in an amount equal to three months of “normal consumption.” Cal/OSHA is now starting the process of promulgating the permanent regulation.

Section 336, Assessment of Civil Penalties. (Effective January 1, 2021). This rulemaking is conducted every year, to increase maximum and minimum civil penalties for certain violation classifications to conform to the percentage increase in the CPI-U, not seasonally adjusted, for October of the current year, as compared to the prior year’s October CPI-U.

Safety Regulations:

GISO Sections 3420 and 3425 (Effective October 1, 2020). This rulemaking clarified existing regulations that were affected by a rulemaking entitled Electrical Power Generation, Transmission, and Distribution; Electrical Protective Equipment. Section 3425(a)(2) and (a)(5) were amended to be as effective as federal standard 29 CFR 1910.269(r)(5)(iv) and (vi). The proposal added a definition of “drop starting” and clearly prohibits drop starting of chain saws. In addition, the application of the work practice to ensure that there is no personnel below prior to starting a power saw is expanded to apply to all elevated work locations, not just while elevated on aerial lifts

Health Regulations:

GISO Section 5141.1 (Effective February 1, 2021). This regulation superseded a temporary, emergency regulation that addressed wildfire smoke. The current regulation applies when the current air quality index for PM2.5 is 151 or greater and where the employer should reasonably anticipate that employees may be exposed to wildfire smoke. When the standard applies, the employer must determine employee exposure to PM2.5, communicate with and train employees on matters concerning wildfire smoke, and control exposures to wildfire smoke using a hierarchy of engineering, administrative and respirator controls.

GISO Sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 (Effective November 30, 2020, readopted June 17, 2021). These emergency regulations require employers to protect employees from exposure to COVID-19. The regulations apply except when employees work from home, work in locations where there is no contact with others, telework in locations not in the employer’s control, or when employees are covered by the Aerosol Transmissible Diseases Standard, section 5199. The emergency regulations require that employers establish, implement and maintain a written COVID-19 prevention program. The program must include methods for communication, identification and evaluation of hazards, investigation and response to cases, correction of hazards, training and instruction, face coverings, administrative controls, engineering controls, personal protective equipment, reporting, recordkeeping, program access, exclusion of cases and close contacts, and return to work. The regulations contain additional control

requirements when there are outbreaks, when employees use employer-provided housing, and when employees use employer-provided motor vehicle transportation.

LEGISLATION

A number of bills affecting DOSH were chaptered this year's session. The brief summaries of legislation below provide an overview of the bills' intent and do not purport to provide an official description of the legislation or go into the complete details of the measures. Copies of the legislation referenced in this report, along with information, such as legislative committee analyses, are available on the Legislative Counsel of California website at www.leginfo.legislature.ca.gov. The chaptered bills take effect January 1, 2022, unless they contain an urgency clause, in which case they took effect immediately upon the Governor's signature. Alternatively, some measures specify their effective date.

AB 73¹⁰ (Rivas) Health emergencies: employment safety: agricultural workers: wildfire smoke.

This bill amends Section 131021 of the Health and Safety Code, and adds Part 12 (commencing with Section 9110) to Division 5 of the Labor Code, relating to employment safety; it was signed into law as an urgency statute and became effective on September 27, 2021.

Summary of bill is as follows:

- (1) Existing law establishes the State Department of Public Health (department) to implement various programs throughout the state relating to public health, including licensing and regulating health facilities and control of infectious diseases. Existing law requires the department and the Office of Emergency Services, in coordination with other state agencies, to, upon appropriation and as necessary, establish a personal protective equipment (PPE) stockpile. Existing law requires the department to establish guidelines for the procurement, management, and distribution of PPE, taking into account, among other things, the amount of each type of PPE that would be required for all health care workers and essential workers, as defined, in the state during a 90-day pandemic or other health emergency.

This bill specifically includes wildfire smoke events among health emergencies for these purposes. The bill includes agricultural workers, as defined, in the definition of essential workers.

Existing law also establishes the Personal Protective Equipment Advisory Committee (committee), consisting of representatives from, among other groups, an association representing skilled nursing facilities, a statewide association representing physicians, 2 representatives of labor organizations that represent health care workers, and 2 representatives of labor organizations that represent essential workers, as defined, to make recommendations to the department for the development of guidelines for the procurement, management, and distribution of PPE, as specified.

This bill requires the committee to include a representative of a labor organization representing agricultural workers and a representative of an organization that represents agricultural employers. The bill also requires the department to report to the Legislature regarding the PPE stockpile within 6 months of the effective date of these provisions.

- (2) Existing law establishes the Division of Occupational Safety and Health and the Occupational Safety and Health Standards Board within the Department of Industrial Relations and sets forth their powers and duties relating to the adoption of health and safety standards for workers. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.

¹⁰ Bill text: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB73

Existing regulations of the division protect employees exposed to wildfire smoke and include control by respiratory protective equipment among the methods to control harmful exposure.

This bill requires the division to review and update the contents of the protection from wildfire smoke training and thereafter post it on its internet website. The bill requires that training provided by the employer to be in a language and manner readily understandable by employees, taking into account their ethnic and cultural backgrounds and education levels, including the use of pictograms, as necessary.

AB 263¹¹ (Arambula) Private detention facilities.

This bill adds Section 7321 to the Government Code, relating to private detention facilities; it was signed into law as an urgency statute and became effective on September 24, 2021. Summary as follows:

Summary of bill is as follows:

Existing law requires the operator of a private detention facility, as defined, to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, as specified.

This bill requires a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. The bill would state that its provisions are declaratory of existing law.

AB 654¹² (Reyes) COVID-19: exposure: notification.

This bill amends Section 6325 of, and amends and repeals Section 6409.6 of, the Labor Code, relating to occupational safety; it was signed into law as an urgency statute and became effective on October 5, 2021.

Summary of bill is as follows:

- (1) Existing law, the California Occupational Safety and Health Act of 1973, authorizes the Division of Occupational Safety and Health to prohibit the performance of an operation or process, or entry into that place of employment when, in its opinion, a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with COVID-19, so as to constitute an imminent hazard to employees. Existing law requires that the prohibition be issued in a manner so as not to materially interrupt the performance of critical governmental functions essential to ensuring public health and safety functions or the delivery of electrical power or water. Existing law requires that these provisions not prevent the entry or use, with the division's knowledge and permission, for the sole purpose of eliminating the dangerous conditions.

This bill adds the delivery of renewable natural gas to the list of utilities that the division's prohibitions are not allowed to materially interrupt.

- (2) Under existing law, if an employer or representative of the employer receives a notice of potential exposure to COVID-19, the employer is required to take specified actions within one business day of the notice of potential exposure, including providing written notice to all employees on the premises at the same worksite that they may have been exposed to COVID-19. Existing law requires, if an employer or the employer's representative is notified of enough COVID-19 cases to meet the definition of an outbreak, the employer, with the exception of a health facility, to notify

¹¹ Bill text: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB263

¹² Bill text: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB654

the local public health agency within 48 hours, as provided. Existing law also requires the State Department of Public Health to make workplace industry information received from local public health departments pursuant to these provisions available on its internet website in a manner that allows the public to track the number and frequency of COVID-19 outbreaks and the number of COVID-19 cases and outbreaks by industry reported by any workplace.

This bill, among other things, requires the employer, when giving notice to the local public health agency of a COVID-19 outbreak, to give that notice within 48 hours or one business day, whichever is later. The bill expands the employers exempt from the COVID-19 outbreak reporting requirement to various licensed entities, including, but not limited to, community clinics, adult day health centers, community care facilities, and child day care facilities. The bill repeals these provisions on January 1, 2023.

AB 701¹³ (Gonzalez) Warehouse distribution centers

This bill amends Section 138.7 of, and adds Part 8.6 (commencing with Section 2100) to Division 2 of, the Labor Code, relating to employment.

Summary of bill is as follows:

- (1) Existing law relating to employment regulation and supervision imposes special provisions on certain occupations and industries. Existing law charges the Labor Commissioner and the Division of Labor Standards Enforcement with the enforcement of labor laws.

This bill, among other things, requires specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, upon hire, or within 30 days of the effective date of these provisions, with a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. The bill provides that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, or occupational health and safety laws, as specified.

The bill prohibits an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with meal or rest periods or occupational health and safety laws. The bill requires that any action taken by an employee to comply with occupational health and safety laws or division standards be considered time on task and productive time for the purposes of any quotas or monitoring system.

This bill provides that if a current or former employee believes that meeting a quota caused a violation of their right to a meal or rest period or required them to violate any occupational health and safety law or standard, they have the right to request, and the employer is required to provide, a written description of each quota to which the employee is subject and a copy of the most recent 90 days of the employee's own personal work speed data. The bill limits a former employee to one of these requests. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with specified requirements, and may, upon prevailing in the action, recover costs and reasonable attorney's fees in that action.

- (2) This bill requires the Labor Commissioner to enforce these provisions by engaging in coordinated and strategic enforcement efforts with the Department of Industrial Relations, including the

¹³ Bill text https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB701

Division of Occupational Safety and Health and the Division of Workers' Compensation. The bill would authorize the commissioner to have access to data from the department including employer-reported injury data and enforcement actions in warehouses, the identity of uninsured employers, and employers who are committing workers' compensation fraud, wage theft, or other information relevant to the commissioner's authority, and would make other conforming changes. The bill would require the commissioner to report to the Legislature by January 1, 2023, the number of claims filed with the commissioner, data on warehouse production quotas in warehouses in which annual employee injury rates are above the industry average, and the number of investigations undertaken and enforcement actions initiated, per employer, as specified.

- (3) This bill requires the Division of Occupational Safety and Health or the Division of Workers' Compensation to notify the commissioner, who is required to determine whether an investigation of violations pursuant to these provisions is appropriate, if a particular worksite or employer is found to have an annual employee injury rate of at least 1.5 times higher than the warehousing industry's average annual injury rate. The bill would authorize the commissioner to adopt regulations relating to the procedures for an employee to make a complaint alleging a violation of this part.

SB 321¹⁴ (Durazo) Employment safety standards: advisory committee: household domestic services.

This bill adds Section 6305.1 to the Labor Code, relating to employment.

Summary of bill is as follows:

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. Existing occupational health and safety law, excludes "household domestic service workers" from its scope. Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety and Health (chief).

This bill would require the chief or a representative of the chief to convene an advisory committee, comprised of no fewer than 13 and no more than 18 individuals, including representatives from specified groups, to make recommendations, in consultation with other specified divisions and entities, to the department or Legislature to protect the health and safety of household domestic service employees, and develop voluntary industry-specific occupational health and safety guidance for the purpose of educating household domestic service employees and employers, as specified. The bill would require the Division of Occupational Safety and Health to post the report to its internet website and submit a copy to the Legislature, as specified, no later than January 1, 2023.

SB 606¹⁵ (Gonzalez) Workplace safety: violations of statutes: enterprise-wide violations: egregious violations.

This bill amends Sections 6317, 6323, 6324, 6429, and 6602 of, and adds Sections 6317.8 and 6317.9 to, the Labor Code, relating to occupational safety.

Summary of bill is as follows:

¹⁴ Bill text https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB321

¹⁵ Bill text https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB606

- (1) Existing law gives the Division of Occupational Safety and Health, within the Department of Industrial Relations, the power, jurisdiction, and supervision over every employment and place of employment in this state, which is necessary to adequately enforce and administer all laws requiring that employment and places of employment be safe, and requiring the protection of the life, safety, and health of every employee in that employment or place of employment. Existing law requires the division to issue a citation for a violation of provisions relating to the spraying of asbestos, or any standard, rule, order, or regulation established pursuant to specified provisions of the California Occupational Safety and Health Act of 1973 if, upon inspection or investigation, the division believes that an employer has committed a violation. Existing law imposes penalties of certain maximum amounts depending on whether the violation is serious, uncorrected, or willful or repeated. Existing law authorizes the division to seek an injunction restraining certain uses or operations of employment that constitute a serious menace to the lives or safety of persons, as specified. Existing law establishes requirements for a prima facie showing by the division to warrant, in the discretion of the court, the granting of a temporary restraining order.

This bill creates a rebuttable presumption that a violation committed by an employer that has multiple worksites is enterprise-wide if the employer has a written policy or procedure that violates these provisions, except as specified, or the division has evidence of a pattern or practice of the same violation committed by that employer involving more than one of the employer's worksites. The bill would authorize the division to issue an enterprise-wide citation requiring enterprise-wide abatement if the employer fails to rebut such a presumption. The bill would impose specified requirements for a stay of abatement pending appeal of an enterprise-wide citation. The bill would subject an enterprise-wide violation to the same penalty provision as willful or repeated violations.

- (2) This bill requires the division to issue a citation for an egregious violation, as defined, for each willful and egregious violation determined by the division, as provided. The bill, except as specified, would require each instance of an employee exposed to that violation to be considered a separate violation for purposes of the issuance of fines and penalties.

The bill exempts certain state agencies from the rebuttable presumption, enterprise-wide citation, and egregious violation citation provisions.

- (3) The bill authorizes the division, in the investigation of the policies and practices of an employer or a related employer entity, to issue a subpoena if the employer or the related employer entity fails to promptly provide the requested information, and to enforce the subpoena if the employer or the related employer entity fails to provide the requested information within a reasonable period of time.
- (4) The bill would authorize the division to seek an injunction restraining certain uses or operations of employment if it has grounds to issue a citation, as specified. The bill would expand grounds for granting a temporary restraining order to include grounds to issue a citation, as prescribed.

SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS

The Federal FFY 2021 performance goals for Cal/OSHA Enforcement consist of:

- ✚ Performance Goal 1.1 Targeting the Mobile Workforce
- ✚ Performance Goal 1.2 High Hazard Targeting Program
- ✚ Performance Goal 1.3 Process Safety Management (PSM) and Covered Industries
- ✚ Performance Goal 2.1 Heat Illness Prevention Enforcement and Outreach to Employees and Employer Groups
- ✚ Performance Goal 2.2 Educational Outreach to High-Risk, Vulnerable Employee Populations
- ✚ Performance Goal 2.3 Partnership Programs
- ✚ Performance Goal 2.4 Alliances
- ✚ Performance Goal 2.5 Increase Employers' Awareness of Activities Protected from Retaliation or Discrimination
- ✚ Performance Goal 3.1 Timeliness of Inspections Opening and Citations Issuance
- ✚ Performance Goal 3.2 Training and Professional Development
- ✚ Performance Goal 3.3 Communication with Stakeholders

Each of these performance goals and their corresponding activities and outcome measures are detailed in the tables that follow.

GOAL 1.1
Targeting the Mobile Workforce

Strategic Goal: Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.

Performance Goal: Target the mobile workforce to reduce fatalities and occupational injuries and illnesses in construction, agriculture and tree trimming by reducing and eliminating hazards in these industries.

Performance Indicator Type	Indicator	Results	Comments												
Activity Measures	<ul style="list-style-type: none"> Conduct approximately 2,800 inspections combined for construction, agriculture and tree trimming. Approximately 10% of the construction inspections will be programmed. Attempt to sustain a 1% higher percentage of the serious classification of citations issued as result of these inspections. 	<ul style="list-style-type: none"> 2,081 combined inspections were conducted in construction, agriculture and tree trimming during FFY 2021, as reflected by OIS as of November 24, 2021. 8% (119 out of 1,464) construction inspections opened in FFY 2021 were programmed. The percent of serious citations issued in FFY 2021 as a result of these inspections, that were sustained (with final order dates) were: <table data-bbox="961 954 1377 1068" style="margin-left: 40px;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>FFY 2020</u></th> <th style="text-align: center;"><u>FFY 2021</u></th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">86%</td> <td style="text-align: center;">90%</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">83%</td> <td style="text-align: center;">89%</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">79%</td> <td style="text-align: center;">96%</td> </tr> </tbody> </table> <p style="font-size: small; margin-left: 40px;">FFY 20 OIS data as of November 24, 2021 FFY 21 OIS data as of November 24, 2021</p>		<u>FFY 2020</u>	<u>FFY 2021</u>	Agriculture	86%	90%	Construction	83%	89%	Tree Trimming	79%	96%	<ul style="list-style-type: none"> This goal was not achieved. Reflects inspections in construction, agriculture and landscaping NAICS as well as inspections in other NAICS coded as S 12 Tree Trim. This goal was not achieved. This goal was achieved. These numbers, however, are expected to change as cases are adjudicated.
	<u>FFY 2020</u>	<u>FFY 2021</u>													
Agriculture	86%	90%													
Construction	83%	89%													
Tree Trimming	79%	96%													

Goal 1.1 Targeting the Mobile Workforce (cont.)

Performance Indicator Type	Indicator	Results	Comments																								
Outcome Measures Cont.	<ul style="list-style-type: none"> Abatement of non-contested serious hazards found in these industries will be achieved in 95% of cases. Number of serious hazards eliminated as a result of these inspections will increase by 1% compared to FFY 2019. Trenching and excavation hazards abated will increase by 5% compared to FFY 2017. Number of employees removed from serious hazards as a result of these inspections will increase by 1% compared to FFY 2019. 	<ul style="list-style-type: none"> Abatement of serious, willful, repeat (S/W/R) violations cited during FFY 2021 and not currently under contest is as follows: <ul style="list-style-type: none"> 96% - agriculture 93% - construction 86% - tree trimming The number of serious, willful, repeat (S/W/R) hazards eliminated as a result of these inspections were: <table style="margin-left: 40px; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">blank</th> <th style="text-align: center;">FFY 2019</th> <th style="text-align: center;">FFY 2021</th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">387</td> <td style="text-align: center;">248</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">1,275</td> <td style="text-align: center;">579</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">101</td> <td style="text-align: center;">64</td> </tr> </tbody> </table> <small>FFY 19 - OIS data as of November 24, 2021 FFY 21 - OIS data as of November 24, 2021</small> The OSHA National Office tracks the achievement of this agency priority goal (APG). The number of employees removed from serious, willful, repeat (S/W/R) hazards as a result of these inspections were: <table style="margin-left: 40px; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">FFY 2019</th> <th style="text-align: center;">FFY 2021</th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">20,524</td> <td style="text-align: center;">7,986</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">9,058</td> <td style="text-align: center;">4,371</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">2,079</td> <td style="text-align: center;">100</td> </tr> </tbody> </table> <small>FFY 19 - OIS data as of November 24, 2021 FFY 21 - OIS data as of November 24, 2021</small> 	blank	FFY 2019	FFY 2021	Agriculture	387	248	Construction	1,275	579	Tree Trimming	101	64		FFY 2019	FFY 2021	Agriculture	20,524	7,986	Construction	9,058	4,371	Tree Trimming	2,079	100	<ul style="list-style-type: none"> This goal was achieved in one of the three industries. Whenever possible, Cal/OSHA field staff attempt to secure abatement of these hazards while on-site. This goal was not met. The OSHA National Office tracks the achievement of this agency priority goal (APG). This goal was not met.
blank	FFY 2019	FFY 2021																									
Agriculture	387	248																									
Construction	1,275	579																									
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Agriculture	20,524	7,986																									
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GOAL 1.2
High Hazard Targeting Program

Strategic Goal: Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.

Performance Goal: Reduce injuries, illnesses and fatalities in selected high hazard industries, with a goal of removing the industry from the High Hazard Industries list due to decreased injury and illness rates.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> The High Hazard Unit and other district offices staff will conduct 350 targeted inspections of establishments in high hazard industries from the High Hazard Industries list. 	<ul style="list-style-type: none"> 225 targeted inspections were conducted during FFY 2021 by the High Hazard Enforcement Unit (HHU) and other district offices, as reflected by OIS as of November 24, 2021. 	<ul style="list-style-type: none"> This goal was not achieved. In addition to these targeted inspections, the HHU staff also assisted other district offices with accidents, complaints and self-referral inspections, as well as provided phone coverage, due to staffing needs during the COVID-19 pandemic.
Outcome Measures	<ul style="list-style-type: none"> Abatement of non-contested serious hazards found in these inspections will be achieved in 97% of cases. Percentage of Programmed inspections conducted in High Hazard establishments, with Serious/Willful/Repeat (S/W/R) violations will be 60% or greater. The High Hazard Targeting program will identify violations in at least 90% of all programmed inspections during the FFY. Average number of violations per inspection with violations will reach or exceed 5.0. 	<ul style="list-style-type: none"> 99% of serious, willful, and/or repeat violations (S/W/R), not currently under contest, cited in FFY 2021 as the result of HHU targeted inspections and district office programmed inspections (coded REGIONP1), were abated. 63% of programmed inspections conducted in High Hazard establishments had S/W/R violations in FFY 2021 as reflected by OIS as of November 30, 2021. 95% of Programmed inspections conducted in High Hazard establishments had violations cited in FFY 2021. Average number of violations per inspection with violations was 5.7 for programmed inspections with violations cited in FFY 2021. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved. This goal was achieved.

GOAL 1.3

Process Safety Management (PSM) and Covered Industries

Strategic Goal: Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.

Performance Goal: Reduce fatalities and occupational injuries and illnesses in petroleum refining and other industries which fall under the requirements of the PSM standard.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> The Cal/OSHA Process Safety Management (PSM) Unit will conduct a total of 15 programmed inspections at facilities, other than petroleum refineries, that meet the trigger threshold quantities for the PSM standard. Participate in two outreach/compliance assistance activities provided to industry/professional groups. PSM Unit will conduct two comprehensive inspections of petroleum refineries during normal operating conditions. The PSM Unit will conduct four comprehensive turnaround inspections of petroleum refineries (two in the North and two in the South), in accordance with Labor Code 7872. 	<ul style="list-style-type: none"> 21 programmed inspections were conducted in FFY 2021 at facilities other than petroleum refineries that meet the trigger threshold quantities for the PSM standard, as reflected by OIS on November 24, 2021. The PSM Unit staff participated in six outreach/compliance assistance activities provided to industry/professional groups. The PSM Unit staff conducted no comprehensive programmed inspections of petroleum refineries (NAICS 324110) during normal operating conditions in FFY 2021. The PSM Unit conducted six turnaround inspections of petroleum refineries (NAICS 324110), two in the North and four in the South, in accordance with Labor Code 7872. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was not achieved. This goal was achieved.

GOAL 1.3 Process Safety Management (PSM) and Covered Industries (cont.)

Performance Indicator Type	Indicator	Results	Comments
Activity Measures Cont.	<ul style="list-style-type: none"> The PSM Unit will conduct follow-up inspections at establishments other than petroleum refineries for 2% of all inspection types, whether programmed or unprogrammed. 	<ul style="list-style-type: none"> Three follow-up inspections were conducted during FFY 2021, as reflected in OIS as of November 24, 2021. 	<ul style="list-style-type: none"> This goal was achieved. The PSM Unit has 19 non-follow-up inspections conducted at establishments other than petroleum refineries, that are not currently under contest, which would have required at least one follow-up inspection.
Outcome Measures	<ul style="list-style-type: none"> Abatement of non-contested serious hazards found in these industries will be achieved in 98% of cases. The number of fatalities and serious injuries/illnesses attributable to violations of the PSM standard at these facilities will be reduced compared to the average level for the past three years. 	<ul style="list-style-type: none"> 90% of serious, willful, and/or repeat violations (S/W/R), not currently under contest, cited during FFY 2021 were abated, as reflected in OIS as of November 24, 2021. There were three fatalities or serious injuries/illnesses attributable to violations of the PSM standard (T8 CCR 5189 and 5189.1) at covered facilities during CY 2020, as reflected by OIS reports and internal tracking by PSM management staff. 	<ul style="list-style-type: none"> This goal was not achieved. The PSM Unit currently has one inspection with unabated SWR violations where the employer has begun the process of filing an appeal. For this reason, the employer will not provide proof of abatement to the PSM Unit, regardless of the attempts made to request this. This goal was not achieved. The average number of fatalities and serious injuries/illnesses attributable to violations of the PSM standard at covered facilities for the past three years (2018 - 2020)¹⁶ is three. However, it should be noted that current data shows only one serious injury/illness attributable to violations of the PSM standard (T8 CCR 5189 and 5189.1) at covered facilities during CY 2021, to date.

¹⁶ The number of fatalities and serious injuries/illnesses attributable to violation of the PSM standard for calendar years 2018, 2019 and 2020 were respectively 2, 4 and 3. Please note, 2018 data was revised to reflect the most recent data out of OIS, dated November 29, 2021.

Goal 2.1

Heat Illness Prevention Enforcement and Outreach to Employees and Employer Groups

Strategic Goal: Promote workplace cultures that increase employee and employer awareness of, commitment to, and involvement in safety and health.

Performance Goal: Raise awareness of heat illness prevention among employees and employer groups in outdoor places of employment.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> • Conduct 2,300 inspections of outdoor places of employment where heat hazards are evaluated. • Conduct a minimum of 100 outreach events where heat illness prevention will be discussed and emphasized. • Distribute a minimum of 10,000 units of heat illness prevention outreach materials during inspections and outreach events. 	<ul style="list-style-type: none"> • 2,434 inspections were conducted where outdoor heat hazards were evaluated (coded S 18 HEAT) during FFY 2021, as reflected by OIS as of October 1, 2021. • 93 seminars/workshops were conducted where heat illness was emphasized during FFY 2021. • Staff distributed over 21,000 units of heat illness prevention materials during outreach events alone. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was not achieved, mainly due to the state and county stay at home orders. • This goal was achieved.
Outcome Measures	<ul style="list-style-type: none"> • Abatement of non-contested heat hazards found in outdoor places of employment will be achieved in 95% of cases. 	<ul style="list-style-type: none"> • 89% of 3395 violations, not currently under contest, cited during FFY 2021 (all industries) were abated, as reflected by OIS as of November 24, 2021. 	<ul style="list-style-type: none"> • This goal was not reached. Cal/OSHA continues to work with employers to obtain abatement.

GOAL 2.1 Heat Illness Prevention Enforcement and Outreach to Employees and Employer Groups (cont.)

Performance Indicator Type	Indicator	Results	Comments
<p>Outcome Measures</p>	<ul style="list-style-type: none"> Reduce the number of heat-related serious illnesses and fatalities occurring in outdoor places of employment, based on Cal/OSHA internal tracking, from the baseline average level for calendar years 2011-2013. 	<ul style="list-style-type: none"> There were five confirmed outdoor heat related fatalities and 47 confirmed heat illnesses in CY 2020, based on Cal/OSHA internal tracking. CY 2021 data as of November 24th shows there was also one confirmed heat fatality and 16 confirmed heat illnesses. This number is expected to change as additional heat cases continue to be evaluated. 	<ul style="list-style-type: none"> This goal was partly achieved. Regarding the heat illnesses, as the baseline average number of heat-related illnesses for CY 2011 – 2013¹⁷ was 52, the goal was met. With respect to heat fatalities, the goal was not met, because the baseline average number of heat fatalities for CY 2011 - 2013)¹⁸ was three.

¹⁷ The number of heat-related illness for calendar years 2011, 2012 and 2013 based on Cal/OSHA internal tracking were respectively 54, 48 and 54.

¹⁸ The number of worker fatalities due to outdoor heat exposure for calendar years 2011, 2012 and 2013 based on Cal/OSHA internal tracking were respectively 2, 3, and 4.

Goal 2.2

Educational Outreach to High-Risk, Vulnerable Employee Populations

Strategic Goal: Promote workplace cultures that increase employer and employee awareness of, commitment to, and involvement in safety and health.

Performance Goal: Promote, involve and communicate with high-risk vulnerable worker organizations and workers to increase their knowledge about workplace safety and health.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> • Cal/OSHA Enforcement Branch staff and BOT staff will continue to distribute publications in English and other languages that detail the requirements of Cal/OSHA regulations including worker rights. Publication distribution will exceed 20,000 in total. • Cal/OSHA staff will participate in 120 training and outreach events in FFY 2021 for high-risk, vulnerable workers organized by worker and community organizations, the University of California (UC) programs, and consulates. 	<ul style="list-style-type: none"> • Over 29,000 publications, links to publications, and flyers were distributed during FFY 2021 outreach events with vulnerable workers. • Cal/OSHA staff participated in 123 outreach events with vulnerable workers. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved.

Goal 2.2 Educational Outreach to High-Risk, Vulnerable Employee Populations (cont.)

Performance Indicator Type	Indicator	Results	Comments
<p>Outcome Measures</p>	<ul style="list-style-type: none"> • After attending the training and outreach events, at least 1,200 participants will have gained increased knowledge of workplace safety and health hazards, workers' rights and how to exercise those rights. An additional 20,000 workers will gain this knowledge through trainings conducted by event participants. • Develop an online COVID-19 training platform for employers and workers in English and Spanish. 	<ul style="list-style-type: none"> • There were over 18,000 attendees at FFY 2021 outreach events with vulnerable workers. Based on this information, it is safe to infer that at least 1,200 event participants came away with increased knowledge of workplace health and safety hazards, workers' rights under the law and how to exercise these. It is also safe to infer that over 25,000 workers gained health and safety knowledge • The Cal/OSHA COVID-19 training for employers and workers was deployed in English and Spanish on-line. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved.

Goal 2.3
Partnership Programs

Strategic Goal: Promote workplace cultures that increase employer and employee awareness of, commitment to, and involvement in safety and health.

Performance Goal: Promote voluntary compliance by offering employers a variety of partnerships including recognition and exemption programs.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Cal/VPP unit will hold three, and Cal/VPP Construction unit will hold two, workshops (via webinar) to promote these programs. 	<ul style="list-style-type: none"> The Cal/VPP unit held two, and Cal/VPP Construction unit held no workshops (via webinar) to promote these programs in FFY 2021. 	<ul style="list-style-type: none"> This goal was not achieved. Employers were encouraged to attend one or more of our COVID-19 webinars as part of our overall outreach efforts.
Outcome Measures	<ul style="list-style-type: none"> Six new establishments will be added into the Division's leadership level for fixed site establishments (Cal/VPP) and 14 will be renewed. Six new establishments will be added into the Division's leadership level partnership program for construction VPP worksites and two will be renewed. 	<ul style="list-style-type: none"> Four new VPP establishments were added into the Divisions leadership level for fixed establishments and 23 were renewed in FFY 2021. Seven new establishments were added into the Division's leadership level partnership program for construction VPP worksites and no sites were renewed during FFY 2021. 	<ul style="list-style-type: none"> The goal of renewals was exceeded; the goal of new establishments was not met. The new establishment goal of new sites was exceeded; the goal of two renewals was not met.

**Goal 2.4
Alliances**

Strategic Goal: Promote workplace cultures that increase employer and employee awareness of, commitment to, and involvement in safety and health.

Performance Goal: Join with groups committed to worker safety and health to leverage Cal/OSHA resources and expertise in reducing fatalities, illnesses and injuries in the workplace.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Identify 10 potential participants that meet the requirements for alliances. Enter into a dialogue with six of the potential participants to explain the purposes, requirements and expectations of alliances, provide relevant information and explore a proposal that defines the projected participants and goals and objectives of the proposed alliance. Select three organizations with which to enter into alliance agreements. 	<ul style="list-style-type: none"> 37 potential participants were identified that meet the requirements for alliances. Cal/OSHA entered into a dialogue with 15 potential participants to explain the purposes, requirements, and expectations of alliances. Six organizations were selected for entering into alliance agreements. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved.
Outcome Measures	<ul style="list-style-type: none"> Cal/OSHA will sign three alliance agreements. Cal/OSHA and the alliance participants will develop written Work Plans describing the specific activities and products that the alliance will complete during the two-year alliance agreement. Cal/OSHA and the alliance participants will implement the actions agreed upon in the Work Plan. 	<ul style="list-style-type: none"> Ten Alliance Agreements were entered into alliance agreements FFY 2021. These are two-year, renewable agreements. Work plans developed describing specific activities that will be completed during the two year contract. Cal/OSHA and Alliance participants began implementing the actions agreed upon. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved.

Goal 2.5

Increase employers' awareness of activities protected from retaliation or discrimination

Strategic Goal: Promote workplace cultures that increase employer and employee awareness of, commitment to, and involvement in safety and health.

Performance Goal: Revise and update flyer with information on employer responsibilities to provide a safe and healthy environment free from the fear of retaliation for reporting an unsafe work condition or reporting a workplace injury.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Updated presentation about Labor Law to present protections for reporting unsafe work conditions or work related injuries and distribution of flyer in 10 presentations Approved flyer for wide distribution to Cal/OSHA, LETF and BOFE deputies for distribution during inspections 	<ul style="list-style-type: none"> Presentations about Labor Law to discuss protections for reporting unsafe work conditions or work related injuries, mostly in the context of the COVID-19 have been developed, and were used in over 15 outreach events. Also, the new flyer was distributed to agricultural workers during outreach events.¹⁹ New approved Retaliation Flyer in the context of COVID-19 was completed July 2020: https://www.dir.ca.gov/dlse/LCO-COVID-Flyer.pdf; flyer has been massively distributed in BOFE Statewide COVID-19 Enforcement Task Force operations. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved.

¹⁹ The following outreach events were held where laws against retaliation were discussed:

- October 14, 2020 – CLIWA Spanish language Zoom presentation for on SPSL and COVID related retaliation for janitors and car wash workers
- October 27 & 29, 2020 – TODEC presentation in English and Spanish on SPSL and retaliation for agricultural workers
- December 10, 2020 – Warehouse Workers Resource Center & Inland Employer Labor Council presentation in English and Spanish on SPSL and COVID related retaliation
- January 21, 2021 – UC Davis WCAHA / LWDA presentation for farmworkers in English and Spanish on PSL and retaliation protections
- February 19, 2021 – UC Davis WCAHA / LWDA presentation for farmworkers in English and Spanish on PSL and retaliation protections
- February 23, 2021 – AgSafe Annual conference on Labor Commissioner priorities on Wage and Hour, COVID protections, and retaliation for growers, packers/shippers, wineries and farm labor contractors
- April 5, 2021 – Spanish and Mixteco-language presentation Radio Indigena Supplemental PSL and retaliation (Radio Indigena reaches 20,000 farm workers in Ventura County)
- April 16, 2021 – UC Davis WCAHA / LWDA presentation for farmworkers in English and Spanish on PSL and retaliation protections
- July 28-30, 2021 – Farmworker Caravan Spanish-language presentation on farm and agriculture worker rights to PSL and retaliation protections
- August 30, September 1-3, 2021 – Mexican Consulate presentation on SPSL and retaliation protections
- September 16-21, 2021 – Farmworker Caravan Spanish-language presentation on farm and agriculture worker rights to PSL and retaliation protections

Goal 2.5 Increase employers' awareness of activities protected from retaliation or discrimination (cont.)

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Approval of language for settlement agreements confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. Creation and approval of a poster for voluntary posting in the workplace confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. 	<ul style="list-style-type: none"> Default Settlement Agreements used by RCI on cases alleging violations of Labor Code sections 6310 and 6311 include a provision for the employer to post a Notice in the workplace confirming an employee's right to report unsafe work conditions or a workplace injury without fear of retaliation. This poster has not been developed but there is a flyer that may be used and posted for workers in the workplace. 	<ul style="list-style-type: none"> This goal was achieved. This goal was not achieved.
Outcome Measures	<ul style="list-style-type: none"> Ten presentations to 200 employers on the protections for reporting unsafe working conditions with the distribution of flyers to those in attendance. Distribution of 100 flyers about protections for reporting workplace health and safety or injury concerns through on-site inspections. Five settlement agreements confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. Five agreements to post a Notice in the workplace confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. 	<ul style="list-style-type: none"> Due to the restriction regarding in-person presentations, ongoing online webinars (one or two each month) were presented to 1,840 attendees, who were mostly employers. These seminars included information on laws against retaliation. Over 405 copies of the new Retaliation Flyer has been distributed in BOFE Statewide COVID-19 Enforcement Task Force operations. At least 13 settlement agreements have been executed confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. Thirteen settlement agreements have been executed in which the employer agreed to post a Notice in the workplace confirming an employee's right to report unsafe work conditions or to report a workplace injury without fear of retaliation. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved. The goal was achieved.

Goal 3.1

Timeliness of Inspections Opening and Citations Issuance

Strategic Goal: Maximize Cal/OSHA's effectiveness and enhance public confidence.

Performance Goal: Respond effectively to mandates so that workers are provided full protection under Cal/OSHA by timely response to imminent hazards, to formal complaints and to work related fatality reports, as well as by timely issuance of citations, so that hazards could be timely corrected.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Cal/OSHA district offices will run on a weekly basis the "UPA Tracking" report to monitor the unsatisfied complaints, and will run monthly the "UPA One Liner Detail" report to track complaint response time. Cal/OSHA will use the SAMMs report to monitor, on a monthly basis, response times to imminent hazard complaints/referrals, as well as fatality reports, and correct data entry errors that occur. Cal/OSHA district offices will run monthly the "Open Inspection" report and work with CSHOs to expedite citation issuance. Cal/OSHA offices will monitor SAMMs and other management reports to track progress of citation lapse time. 	<ul style="list-style-type: none"> Cal/OSHA staff did not consistently run the OIS "UPA Tracking" report on a weekly basis to monitor the unsatisfied complaints, and the "UPA One Liner Detail" report monthly to track complaint response time. Cal/OSHA staff ran the SAMMs report to monitor response times to imminent hazard complaints/referrals, as well as fatality reports and corrected any data entry errors that occurred. Cal/OSHA staff ran the OIS Open Inspections report on a monthly basis and worked with CSHOs to identify less complicated cases without serious citations with the goal of issuing citations as soon as possible. Cal/OSHA staff ran the OIS SAMMs, and Open Inspection reports to track citation lapse time and other measures. 	<ul style="list-style-type: none"> This goal was not achieved. This goal was achieved. This goal was achieved. This goal was achieved.

Goal 3.1 Timeliness of Inspections Opening and Citations Issuance (cont.)

Performance Indicator Type	Indicator	Results	Comments									
Outcome Measures	<ul style="list-style-type: none"> Respond to formal serious complaints on average within 3 working days and to formal non-serious complaints on average within 14 calendar days of receipt of the complaint. Respond to 100% of imminent hazard complaints/referrals within one work day of receipt. Respond to 100% work related fatality reports within one work day of receipt. Decrease the average number of days for citations issuance for both safety and health inspections. Percentage of serious violations abated during inspection will be at least 68%. 	<ul style="list-style-type: none"> Cal/OSHA responded within an average of 12.37 work days to ALL serious complaints (formal and non-formal), and within 20.76 calendar days to ALL non-serious complaints (formal and non-formal), as reflected by CA SAMMs #CA-1A and CA-1B dated November 30, 2021. Cal/OSHA responded to 100% of imminent hazard complaints/referrals within one work day of receipt, as reflected by SAMMs #03 dated November 30, 2021. Cal/OSHA responded to 63.70% work related fatality reports within one work day of receipt, as reflected by SAMMs #10 dated November 30, 2021. Average citation lapse time as reported by OIS SAMMs #11 was as follows: <table border="1" data-bbox="999 992 1341 1157"> <thead> <tr> <th></th> <th>FFY 2020</th> <th>FFY 2021</th> </tr> </thead> <tbody> <tr> <td>Safety</td> <td>83.14</td> <td>89.78</td> </tr> <tr> <td>Health</td> <td>89.84</td> <td>119.03</td> </tr> </tbody> </table> <p>FFY 2020 OIS SAMMs #11 dated 12/03/20 FFY 2021 OIS SAMMs #11 dated 11/30/21</p> 65% of serious, willful, repeat (S/W/R) violations cited during FFY 2021 were abated on site, as reflected by OIS as of November 24, 2021. 		FFY 2020	FFY 2021	Safety	83.14	89.78	Health	89.84	119.03	<ul style="list-style-type: none"> This goal was not achieved. This goal was achieved. This goal was not achieved. There were 151 fatalities with response time greater than one work day of receipt. Most of these (144) were COVID-19 related and required further information and/or guidance This goal was not achieved. In response to the pandemic, Executive Orders N-63-20 and N-71-20 suspended the six-month statute of limitations for the issuance of citations, first for 60 days and then indefinitely. This affected lapse times but gave enforcement staff more flexibility in order to respond effectively to the COVID-19 crisis. This goal was not achieved.
	FFY 2020	FFY 2021										
Safety	83.14	89.78										
Health	89.84	119.03										

Goal 3.2
Training and Professional Development

Strategic Goal: Maximize Cal/OSHA's effectiveness and enhance public confidence.
Performance Goal: Improve the skills, capabilities and technical knowledge of Cal/OSHA workforce.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> • A professional development program for newly hired CSHOs will be developed and implemented during: <ul style="list-style-type: none"> ○ The first year ○ The first three years • Individual development plans (IDPs) for CSHOs after the first three years will continue to be developed by managers and submitted to the Professional Development and Training Unit (PDTU). • The implementation of all IDPs will be monitored and tracked by PDTU and management. • At least two technical courses will be offered. 	<ul style="list-style-type: none"> • A virtual professional development program was implemented for newly hired CSHOs working for DOSH during: <ul style="list-style-type: none"> ○ The first year ○ The first three years • Individual development plans (IDPs) for CSHOs after the first three years developed by managers were submitted to PDTU for training analysis needs. • PDTU and management monitored and tracked the implementation of IDPs completed. • PDTU offered more than two technical courses to CSHOs this year 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. • This goal was achieved. • This goal was achieved.

Goal 3.2 Training and Professional Development (cont.)

Performance Indicator Type	Indicator	Results	Comments
Outcome Measures	<ul style="list-style-type: none"> • 80% of the newly hired CSHOs will receive all the required training during their first year. • 80% of the newly hired CSHOs will receive all the required training during their first three years. • 80% of the CSHOs with more than three years of experience will attend at least four technical courses during their first five years. 	<ul style="list-style-type: none"> • 100% of newly hired CSHOs received all the required training during their first year. • 99% of the newly hired CSHOs received all the required training during their first three years. • 100% of the CSHOs with more than three years of experience attended at least four technical courses. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. • This goal was achieved.

GOAL 3.3

Communication with Stakeholders

Strategic Goal: Maximize Cal/OSHA's effectiveness and enhance public confidence.
Performance Goal: Enhance communication with industry, labor, and professional safety and health organizations.

Performance Indicator Type	Indicator	Results	Comments
Activity Measures	<ul style="list-style-type: none"> Continue to hold the Cal/OSHA Advisory Committee meetings. Hold exploratory and pre-rulemaking open public advisory meetings on a variety of topics. Reach out to stakeholder groups for their feedback when developing fact sheets and other publications on various subjects. Respond to requests from stakeholders for Cal/OSHA senior staff and management to participate and present at various events. 	<ul style="list-style-type: none"> Three Cal/OSHA Advisory Committee meetings were held during FFY 2021 Cal/OSHA held exploratory and pre-rulemaking open public advisory meetings on a variety of topics. Stakeholders were identified and selected to participate in reviewing fact sheets and other publications on various subjects during development. Cal/OSHA responded to requests from stakeholders for senior staff and managers to participate and present at various events throughout the state. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved. This goal was achieved.

Goal 3.3 Communication with Stakeholders (cont.)

Performance Indicator Type	Indicator	Results	Comments
<p>Outcome Measures</p>	<ul style="list-style-type: none"> • Hold at least two Cal/OSHA Advisory Committee meetings. • Hold at least six exploratory and pre-rulemaking open public advisory meetings on emerging topics. • All of the factsheets and publications developed by Cal/OSHA or under its direction will be subject to input from the interested stakeholders. • Cal/OSHA senior staff and management will participate and present at 12 events organized by stakeholder groups and organizations. 	<ul style="list-style-type: none"> • Three Cal/OSHA Advisory Committee meetings were held during FFY 2021. • Seven exploratory and pre-rulemaking open public advisory meetings on emerging topics were held during FFY 2021. • Selected stakeholders reviewed and provided input on all of the new fact sheets and publications that were developed by Cal/OSHA or under its direction. • Senior staff and management participated and presented at 84 events organized by stakeholder groups and organizations. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. • This goal was achieved. • This goal was achieved.