

**FY 2019 Comprehensive
Federal Annual Monitoring Evaluation (FAME) Report**

California Department of Industrial Relations



Evaluation Period: October 1, 2018 – September 30, 2019

Initial Approval Date: May 1, 1973
State Plan Certification Date: August 19, 1977

**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region IX
San Francisco, CA**



Contents

I.	Executive Summary	3
II.	State Plan Background.....	3
A.	Background.....	3
B.	New Issues	5
III.	Assessment of State Plan Progress and Performance	5
A.	Data and Methodology.....	5
B.	Review of State Plan Performance	7
1.	Program Administration.....	7
2.	Enforcement.....	8
3.	Review procedures.....	12
4.	Standards and Federal Program Change (FPC) Adoption	13
5.	Variances.....	19
6.	State And Local Government Worker Program.....	19
7.	Whistleblower Program	19
8.	Complaint About State Program Administration (CASPA).....	21
9.	Voluntary Compliance Program	22
10.	State And Local Government 23(g) On-site Consultation Program.....	22

Appendices

Appendix A	New and Continued Findings and Recommendations	A-1
Appendix B	Observations and Federal Monitoring Plans.....	B-1
Appendix C	Status of FY 2018 Findings and Recommendations	C-1
Appendix D	FY 2019 State Activity Mandated Measures (SAMM) Report	D-1
Appendix E	FY 2019 State OSHA Annual Report (SOAR).....	E-1

I. Executive Summary

The purpose of this report is to assess California's Occupational Safety and Health program for Fiscal Year (FY) 2019 and its progress in resolving outstanding findings from the FY 2018 Follow-Up Federal Annual Monitoring and Evaluation (FAME) report. The Division of Occupational Safety and Health (DOSH), commonly known as Cal/OSHA, is the agency responsible for the enforcement of regulations protecting workers from health and safety hazards in California's workplaces. The Department of Industrial Relations (DIR) administers the California State Plan and is comprised of several divisions, as discussed in State Plan Background.

As the largest State Plan, California conducted the most inspections in the nation with a total of 7,571 inspections, exceeding their goal of 7,540 inspections. This resulted in over 18,896 hazards cited, and created safer working conditions for 8.4 million employees. Their enforcement efforts, combined with numerous outreach activities, contributed to a Calendar Year (CY) 2018 fatality rate of 2.3 per 100,000 Full-Time Equivalent (FTE) workers, which was lower than the national rate of 3.5 (data from Bureau of Labor Statistics, BLS).

During this evaluation period, several leadership positions within DIR were filled, but dozens of vacancies remained, due to a combination of attrition and changes in the hiring process. Ensuring Cal/OSHA is adequately staffed is a top priority of the newly appointed leadership.

California's ability to promulgate regulations within a matter of months, when necessary, has allowed them to lead the country in progressive standard development. Where regulatory updates and modernization can take years throughout the nation, the State Plan has been able to update permissible exposure limits (PELs) and bring forth rulemaking to address emerging hazards in a timely manner, providing a foundation for the rest of the nation to follow.

A total of six findings and six observations were identified during this evaluation. Five findings were completed from the 2018 Follow-up FAME report, and four findings and one observation were carried over from the FY 2018 report. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective action.

II. State Plan Background

A. Background

The Department of Industrial Relations (DIR) governs the California State Plan. The acting Director of DIR and State Plan Designee was Victoria Hassid. The Cal/OSHA Chief position was vacant for the majority of the year until filled by Doug Parker on September 18, 2019. Chief Parker was supported by Debra Lee, Deputy Chief for Field Enforcement; Cora Gherga, Assistant Chief of Enforcement Administration; and Eric Berg, Deputy Chief for Research and Standards. Eugene Glendenning was the Acting Consultation Program Manager.

The California Occupational Safety and Health Standards Board (OSHSB) under the DIR, promulgates occupational safety and health standards for the State of California. The Board consists of seven members, who were appointed by the governor and led by David Thomas, Chairperson, and Christina Shupe, Executive Officer.

The California Occupational Safety and Health Appeals Board (OSHAB) adjudicates contested cases. The Board is comprised of three members; Ed Lowry, Chairperson; Judith Freyman, Management Member; and Marvin Kropke was appointed as the Labor Member in October 2019. Patty Hapgood was the Acting Executive Officer.

The Department of Labor Standards Enforcement (DLSE) investigates allegations of retaliation. The Labor Commissioner was Lilia Garcia-Brower, the Assistant Chief was Patti Huber, the Regional Manager was Joan Healy, and the Senior Deputy was Kim Van Tran, who oversaw Deputy Labor Commissioners dedicated to only Occupational Safety Health (OSH) Act Section 11(c) retaliation investigations, and were located in San Francisco, Sacramento, Santa Ana, Los Angeles, and San Jose.

Cal/OSHA has 28 enforcement offices (known as district offices), with 17 of these offices separated into four geographical regions, each headed by a regional manager. Additionally, there are two High Hazard Unit offices (HHUs), one located in Oakland (HHU North) and another in Santa Ana (HHU South), that conduct programmed inspections of employers in high hazard industries. The Process Safety Management (PSM) Unit has four offices, two located in Concord (PSM North) and two located in Santa Ana (PSM South). There are three Mining and Tunneling Unit offices in California whose mandate is to inspect tunnels under construction. There are two Labor Enforcement Task Force (LETF) Unit offices, one located in Oakland (LETF North) and another in Santa Ana (LETF South) that target employers in the underground economy in partnership with other state agencies. The Crane Unit and a Pressure Vessel Unit assist compliance safety and health officers (CSHOs) by providing technical expertise for cranes, hoisting equipment, and pressure vessels and have staff that are co-located in the district offices.

The initial base award to fund the program was \$26,544,300. The base award amount increased \$523,300 resulting in \$27,067,600 (total federal base award). The State Plan matched this and contributed an additional \$35,573,176 for a total of \$89,708,376. A one-time only award of \$198,918 in March and another one-time only award of \$14,076 in September increased their total grant to \$90,134,364. For the past two years, the closeout financial reports were not closed, within 90 days after the end of the grant's performance period due to a new accounting system. A closeout extension was requested and approved, to allow more time to ensure the accuracy of the grant financial data.

State and local government consultation services are provided under the 23(g) grant, while private sector consultation is provided under the 21(d) cooperative agreement. This report covers only services provided to state and local government. The private sector consultation program is evaluated separately in the FY 2019 Regional Annual Consultation Evaluation Report (RACER).

B. New Issues

During FY 2019, newly elected Governor Gavin Newsom filled several key personnel positions that affected DIR operations, including the Cal/OSHA Chief, the Occupational Safety and Health Appeals Board Labor Chairman, and the Department of Labor Standards Enforcement Labor Commissioner. As of September 30, 2019, there were 84 vacancies within DOSH (Division of Occupational Safety and Health), 63 within district offices. The combination of a high attrition rate and changes within DIR's hiring process resulted in the large number of vacant positions.

Since 2017, California experienced the most deadly and destructive wildfires in their history resulting in outdoor workers being exposed to smoke and other hazardous airborne particles. To address this issue, Petition 573 was submitted to the OSHSB requesting emergency rulemaking to protect outdoor workers negatively impacted by smoke caused by the State's catastrophic wildfires. The petition led to the creation of emergency regulation Title 8, General Industry Safety Orders, Chapter 4, Subchapter 7, Section 5141.1 *Protection from Wildfire Smoke*, which became effective on July 29, 2019.

Governor Newsom signed several bills promulgated by the state legislature affecting Cal/OSHA in FY 2019. In support of the California Department of Public Health's (CDPH's) efforts on reducing lead exposure, Assembly Bill 35 addresses the reporting of worker blood lead levels where CDPH must report to Cal/OSHA any instances of employee blood lead levels at or above 20 micrograms per deciliter ($\mu\text{g}/\text{dL}$) within five business days. These reports serve as a serious complaint from a government agency representative and are subject to investigation within three working days. Any citations and penalties imposed upon an employer following an investigation are made public annually. Senate Bill 83 was also signed to further support efforts to protect against the hazards from lead. This bill requires revisions and updates to the general industry and construction safety lead standards by September 30, 2020.

The number of reported Valley fever cases has greatly increased in recent years. Valley fever is an infection caused by the fungus *Coccidioides* that lives in the soil in the southwestern United States and is contracted by breathing in airborne microscopic fungal spores. To address this emerging issue, Assembly Bill 203, requires construction employers in highly endemic counties to provide employee training on Valley Fever for work that is reasonably anticipated to cause substantial dust disturbance.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. The FY 2019 report is a comprehensive year report where OSHA conducted an on-site program evaluation and case file review utilizing a 12-person OSHA team, which included whistleblower protection investigators. On-site reviews were conducted at one district office randomly selected from each Region, one PSM office, and one High Hazard Unit office.

A total of 146 safety and health inspection case files and 20 complaint inquiry files were reviewed from November 4-December 12, 2019. Safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period October 1, 2017, through September 30, 2019. The selected population included:

- 27 Fatality inspections
- 113 Unprogrammed inspections (inspections resulting from fatalities, complaints, or referrals)
- 33 Programmed inspections
- 20 Unprogrammed activities (complaints or referrals)

A total of 458 retaliation investigations were completed and 262 complaints were administratively closed. The retaliation case file reviews were conducted from November 18-21, 2019. A random selection of a statistically significant number of the completed and administratively closed investigation files were chosen for review. The percentage that each category comprised of the total completed cases was determined and applied to the sample size. A total of 209 case files were selected as follows:

- 1 Litigation/Merit
- 26 Withdrawn
- 65 Dismissed
- 5 Settled
- 33 Settled other
- 79 Administratively closed

The analyses and conclusions described in this report were based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (SAMM data date 11/12/19, Appendix D)
- California (CA) SAMM (data date 12/13/19)
- State Information Report (SIR, data date 11/12/19)
- Mandated Activities Report for Consultation (MARC, data date 11/12/19)
- State OSHA Annual Report (SOAR, Appendix E)
- State Plan Annual Performance Plan
- State Plan 23(g) Grant Application
- OSHA Information System (OIS)
- Web Integrated Management Information System (Web IMIS)
- OSHAB Appeals Scheduling and Information System (OASIS)

Each SAMM has an agreed-upon Further Review Level (FRL), which can be either a single number, or a range of numbers above and below the national average. SAMM data that falls outside the FRL is evaluated for underlying performance of the mandatory activity. Appendix D represents the State Plan's FY 2019 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

This section is an assessment of California's progress in meeting mandated activities and program elements. The assessment of California's progress in achieving their annual performance plan goals is addressed in their FY 2019 State OSHA Annual Report (SOAR) (Appendix E).

1. PROGRAM ADMINISTRATION

a) Training

The Professional Development and Training Unit (PDTU) is responsible for administering and tracking the development and training of staff. Technical training and professional certification opportunities were provided to staff to enhance their professional development. This program incorporated self-study, on-the-job experiences and formal training on a variety of safety and health topics, while accommodating different levels of competency and experience. Training included formal courses and online webinars taught by experienced enforcement staff and outside experts. Approximately 1,331 DOSH staff attended 28 courses produced by PDTU covering health and safety topics. In FY 2019, all newly hired CSHOs received the required first-year training. In addition, 94% of the CSHOs hired within the last three years received all required training, and CSHOs with more than three years of service received at least two additional technical trainings.

DLSE provided in-house training specific to retaliation investigations for the whistleblower protection investigators. In addition, related training topics were covered on a quarterly basis. DLSE is in the process of requesting a review of their current training program to ensure it is equivalent to the Mandatory Training for OSHA Whistleblower Investigators, TED 01-00-020.

b) OSHA Information Systems

All enforcement and whistleblower investigation data were captured in OIS and WebIMIS and were used to assess the effectiveness of the program. The data retrieved from the systems provided indicators that helped identify potential performance deficiencies, analyze trends, and formulate corrective action. The results were discussed in the quarterly meetings. The issues with SAMM 1 and 2 not correctly reflecting unique complaint response requirements, resulted in the development of the CA SAMM report. This eliminated the need to do a manual count to assess performance. The challenges with data integrity between WebIMIS and CAL ATLAS have mostly been resolved, and are discussed in the Whistleblower section below. OSHAB uses the OASIS case management system to track inspections that have been appealed, the information is provided to the District Offices for input into OIS, and is discussed further in the Review Procedures section below.

c) State Internal Evaluation Program (SIEP) Report

The Cal/OSHA SIEP consisted of an internal review of randomly selected case files

to assess enforcement performance on various indicators including case lapse time, response time to address complaints, union/non-union involvement in inspections, worker interviews, and next-of-kin letters. In addition to these areas, the FY 2019 internal audit focused on complaints investigated by letter in lieu of an on-site inspection, and was conducted unannounced at each of the District Offices and units. Specifically, cases were selected where the hazard description may have represented a serious or imminent hazard. A total of 58 cases were selected for the audit with at least one case from each enforcement District Office. The audit was completed in October 2019.

d) Staffing

There were approximately 460 employees throughout DIR dedicated to the occupational safety and health program, the largest in the nation. As of September 30, 2019, there were 84 vacancies due to a combination of attrition and changes in the hiring process. Ensuring Cal/OSHA is adequately staffed is a top priority of the newly appointed leadership.

2. ENFORCEMENT

The Policies & Procedures Manual (P&P), equivalent to the Field Operation Manual (FOM), provides staff with guidance on how to conduct field enforcement.

a) Complaints

The California Labor Code requires that an inspection for a serious complaint be initiated within three working days, while an inspection for a non-serious complaint be initiated within 14 calendar days. These differences were not accounted for in the calculations for SAMM 1 and 2 of the OIS report, so a specific CA SAMM report was developed to capture this data. The CA SAMM data revealed that serious complaints were inspected within 2.6 working days and non-serious complaints within 11 days, both lower than the negotiated response times. All Imminent Danger Complaints and Referrals were responded to within one day, and there were no instances of denial of entry (SAMM 4).

The case file review revealed that all 20 unprogrammed activities that did not result in an inspection were handled in accordance with the P&P. Of the 24 complaint initiated inspections, one was not opened within the negotiated time frame. Furthermore, in three of the 24 (13%) complaint inspections, reviewers were unable to locate the required letters to complainants. The lack of necessary documentation resulted in a new finding.

Observation FY 2019-OB-01: In three of the 24 (13%) complaint inspections, case files lacked evidence that required notification letters were sent to the complainant regarding the status of the complaint inspection.

Federal Monitoring Plan FY 2019-OB-01: Federal OSHA will continue to conduct case file evaluations to ensure all required correspondence with complainants is documented within the case file.

b) Fatalities

Civilian worker fatality rates increased slightly from 2.2, which had been maintained since CY 2015 to 2.3 in CY 2018, but remains lower than the national rate of 3.5 per 100,000 full time equivalent (FTE) workers, and is the fourth lowest in the country. BLS data shows that except for transportation/utilities and public administration, the fatality rates in all other industries in California were equal to or lower than the national average.

Of the FY 2019 fatalities, 99.5% (26 out of 27) were responded to within one day. This exceeds the national average of 98.1% (SAMM 10) and just below the FRL of 100%. There was one outlier identified in this measure. The enforcement office responded to the work related fatality in three work days due to the misplacement of the accident report. The district office has implemented procedures to prevent this from reoccurring.

Of the 27 fatality case files reviewed during the on-site review, two cases (7%) did not contain signed copies of the next-of-kin (NOK) letter. Further review indicated that the letters were generated and mailed, but were not placed in the case file.

c) Targeting and Programmed Inspection

A total of 7,571 enforcement inspections were conducted (SAMM 7), which was slightly higher than the projected goal of 7,540 projected in the FY 2019 State Plan 23(g) Grant Application. Of these, 1,691 were programmed inspections in four focused areas:

- i) The High Hazard Unit (HHU) inspects high-hazard industries based on the days away, restricted and transferred (DART) rate in 2017 (2.0). Industries with a DART rate of twice the private sector, or greater than 4.0, were added to the High Hazard List.
- ii) The Labor Enforcement Task Force (LETF) inspects employers in the underground economy (for example, employers who circumvent labor laws) for different labor violations. LETF's inspections are generally in low hazard industries, but may encompass high hazard areas. Federal funds were not provided to this unit, as it is 100% state funded.
- iii) The Process Safety Management (PSM) Units target employers who possess, store, or use chemicals above a threshold quantity. These inspections are intended to prevent catastrophic events. The PSM Units conduct programmed inspections of non-refinery establishments based on randomly selected sites within a state database. Petroleum refinery establishments must submit a schedule of "turnarounds" for all affected units for the following calendar year. A turnaround inspection is a planned shutdown to perform major maintenance. After reviewing the schedule, the PSM Unit can request further review and inspection. Federal funds were not provided to this unit, as it is 100% state funded.

- iv) The Mining and Tunneling (MT) Unit inspects each tunnel under construction six times per year, as mandated by statute. These worksites are targeted by issued construction permits with the goal of hazard prevention through frequent monitoring inspections. Federal funds were not provided to this unit, as it is 100% state funded.

The percent of safety inspections that were in-compliance was 22.6%, below the lower range of the FRL of 24.2% for this measure. For health, the in-compliance rate was within the FRL range (SAMM 9).

d) Citations and Penalties

The on-site evaluation revealed that there were 12 instances where the OIS Inspection Report, OIS Investigation Narrative, or OIS Notice of Alleged Safety or Health Hazards, were missing from the case file. If the documents are maintained in a separate system of record, their location should be referenced in the file.

Of the 146 inspection case files reviewed, 110 had citations issued. Of these, there were 24 instances where evidence critical to supporting a violation was not adequately documented within the file, such as information that the standard applied, the standard violated, employee exposure, or employer knowledge.

Finding FY 2019-01: In the 110 case files reviewed with citations issued, 24 (22%) lacked critical evidence to support the violation, such as, information that the standard applied and was violated, evidence of employee exposure, and evidence of employer knowledge.

Recommendation FY 2019-01: Cal/OSHA should ensure evidence supporting each violation is documented.

The average number of serious, willful, repeat, or unclassified (SWRU) violations per inspection decreased to 0.9 in FY 2019. This average was significantly below the lower end of FRL range at 1.4 (+/-20% of 1.8, SAMM 5), despite the continuation of training for all staff and the use of a new evidence documentation form. SAMM 5 represents the SWRU rate versus the other-than-serious (OTS) rate. Since 2011, the SWRU rate has been well below the national average and the concern was that SAMM 5 did not capture the difference of the Cal/OSHA's violation classification definitions. After conducting preliminary research, OSHA intends to look further into Cal/OSHA's "general" violation and how it compares to the definition of serious and OTS violations. A special study will be initiated to examine the root cause of this continuing issue with details documented in the FY 2021 Follow-up FAME. This finding will carry over from the FY 2018 Follow-up FAME.

Finding FY 2019-02 (FY 2018-01): The average number of SWRU violations issued was 0.85 violations per inspection. This was below the FRL (SAMM 5).

Recommendation FY 2019-02 (FY 2018-01): Cal/OSHA should determine the underlying cause for the low number of serious, willful, repeat, and unclassified

violations, and implement corrective actions to ensure serious hazards are identified and abated.

The average current penalty per serious violation in the private sector was \$7,822.06, exceeding the national average, and continued to be the highest nationally. Table 1 shows the average current penalty per serious violation, based on the number of workers controlled by an establishment, with smaller employers receiving a greater penalty reduction (SAMM 8).

**Table 1
Average Current Penalty per Serious Violation**

Number of Workers	Average Current Penalty	3 Year National Average
Total 1-250+	\$7,822.06	\$2,871.96
1-25	\$5,102.40	\$1,915.86
26-100	\$7,668.67	\$3,390.30
101-250	\$11,113.85	\$4,803.09
251+	\$10,997.16	\$5,938.59

District offices do not collect penalties from citations. The Accounting and Collections Unit, a separate unit within DIR, has the responsibility to track overdue payments and notify the appropriate district office, once full payment is received on a weekly basis.

The lapse time for safety and health inspections was 80 and 85 days respectively, both exceeding the higher end of the FRL range, which was 57 and 69 days (SAMM 11). Per statute, an employer must be notified of the intent to issue a serious citation, and is given 15 days to respond with evidence negating the serious classification.

The case file review data was consistent with SAMM 11 data and showed the average lapse time (the time period between the opening conference date and citation issuance date) was 83 days. In cases where notification of a serious violation (Form 1BY) was sent to the employer, the average lapse time was 92 days. Over the last five years, the average lapse time for both safety and health inspections has continued to increase, widening the difference between the State Plan and the national average.

Lapse time is an indicator of how long employees are exposed to a hazard, and a low lapse time infers exposure is minimized. SAMM 11 does not take into account hazards that are corrected during the inspection. According to OIS reports, 62% of all violations were coded as corrected during inspection (CDI) compared to the national average of 32%. Where serious hazards were identified, CDI was noted in 76% of violations, exceeding 34% nationally. Although these hazards were coded as CDI, the abatement may not have been witnessed by the compliance officer, while conducting the on-site inspection as defined in the OSHA FOM, but was

abated prior to the issuance of the citation. As a result, the hazards could have existed for as long as it took to issue the citation. This requires a closer look to determine the impact on lapse time.

Finding FY 2019-03 (FY 2018-02): Cal/OSHA's citation lapse time for safety and health inspections was above the FRL (SAMM 11).

Recommendation FY 2019-03 (FY 2018-02): Cal/OSHA should work with district and regional managers to continue improving citation lapse time.

- e) Abatement
The case file review showed appropriate abatement periods and overall timeliness. However, there were two instances of the 110 (2%) cases with violations where the required abatement documentation or verification was missing.
- f) Worker and Union Involvement
The percentage of initial inspections with worker walk-around representation or worker interviews was 99.9% (SAMM 13). The case file review confirmed union participation when required.

3. Review Procedures

a) Informal Conferences

Employers are encouraged to request an informal conference with Cal/OSHA within ten working days following the receipt of the citation. If an appeal is filed with OSHAB, an informal conference can be held up to the day of the appeal hearing. Informal settlement provisions provide employers the right of review, and workers or their representatives, the opportunity to participate in the proceedings.

During the informal conference, the District Manager or their designee has the authority to withdraw violations, change classifications of violations, and reduce penalties, based on supporting evidence provided by the employer. Penalty reductions are awarded to employers for completing abatement prior to citation issuance or before the due date, thereby encouraging prompt abatement. The penalty retention rate was 69.8%, which is above the two-year national average of 68.0% (SAMM 12). The cases settled by Cal/OSHA are recorded in the OIS.

The case file evaluation revealed that 10% of the files did not contain enough documentation to support changes made. Of the 48 case files reviewed, where an informal or pre-hearing conference took place, there were five instances where changes made to citations were not justified in the case files. This lack of necessary documentation resulted in a new finding.

Observation FY 2019-OB-02: In the 48 case files reviewed where an informal or pre-hearing conference took place, five cases (10%) lacked necessary documentation to justify changes made to the citation post-issuance.

Federal Monitoring Plan FY 2019-OB-02: Federal OSHA will continue to conduct case file evaluations to ensure justification is documented to support post-

issuance changes to violations.

b) Formal Review of Citations

An employer has 15 working days to file an appeal with the OSHAB. The OSHAB may accept an appeal after the 15 working days, if the employer can show good cause, such as circumstances beyond an employer's control. At least 30 days prior to the hearing, OSHAB will send out a Notice of Hearing to involved parties. The employer is responsible for notifying workers of the pending hearing by posting the notice near the site of the alleged violation or where the workers report or carry out their duties. The Administrative Law Judge (ALJ) files a written decision, 30 days after the submission date of the hearing. Any party to an appeal has the right to petition OSHAB to reconsider an order or decision by an ALJ. If any party involved in the appeal process disagrees with the ALJ's decision, they may file an additional appeal to the California Superior Court. The cases settled by OSHAB are recorded in their OASIS database and then sent back to the appropriate district office to update in OIS.

For FY 2019, 8.1% of violations were vacated after an appeal was filed, below the national average of 13.9% (SIR 5B), and 10.0% of violations were reclassified after the appeal, below the national average of 12.2% (SIR 6B). The penalty retention rate following an appeal was 58.2% versus the national average of 62.5% (SIR 7B).

Pre-OASIS, the OSHAB's average case resolution time was 233 days, while the 2019 average was 133 days. There were 2,696 appealed cases docketed in CY 2019, 2,639 were adjudicated within the same year, and 95% were adjudicated by Administrative Law Judge Orders before Hearings. There were 10 Petition for Writs concluded (when an appeal is appealed) and nine (90%) were upheld in favor of the OSHAB.

The OASIS case management system increased the OSHAB's ability to track the number of appeals and case history each month. In reviewing recent OASIS reports, OSHAB noted that the number of appeals grew from 2,075 cases in 2014 to 2,696 appeals in 2019, a 30% increase over a five-year time span.

OSHAB continued to achieve a high level of success in litigated cases. For instance, two cases gained national attention in the press from the California Court of Appeals, and supported the OSHAB's ruling that employers must make reasonable efforts to provide employees with appropriate foot protection.

4. Standards and Federal Program Change (FPC) Adoption

c) Standards Adoption

The OSHSB promulgates occupational safety and health standards for California. When a new or revised standard is proposed, an advisory opinion is requested,

OSHA reviews the new or revised standard to ensure it is at least as effective (ALAE) as the federal regulation. The rulemaking process includes a public hearing, stakeholder input, comment periods, economic analysis, and an advisory committee process as needed. Embedded within the rulemaking process is an opportunity for stakeholders to provide oral and written comments to OSHSB via the 45 Day Notice period leading up to the Public Hearing. Additional comment opportunities are provided, whenever modifications to the original proposal are made via the 15 Day Notice process. Stakeholders can comment on the proposal, prior to the Public Hearing, when the proposed regulatory text is considered for adoption.

Current regulations for residential construction fall protection is in the process of being amended. In 2016, proposed language was approved by both federal and state counterparts. The proposed rulemaking is currently undergoing a Standardized Regulatory Impact Assessment (SRIA), a requirement of Senate Bill 617. When the economic analysis estimates an impact exceeding \$50 million, this law requires state agencies to conduct a SRIA. As of December 2019, the economic analysis was underway and the OSHSB was responding to comments from the California Department of Finance. After this phase, the regulatory package undergoes review for conformance with Administrative Procedure Act requirements. The next step is approval by the Labor and Workforce Development Agency and the Office of Administrative Law (OAL). Once approved, OAL will publish the notice of proposed rulemaking in the California Regulatory Notice Register and it will proceed to OSHSB for adoption. Although the rulemaking process is underway, this item remains a finding until adoption and an effective date is implemented.

Finding FY 2019-04 (FY 2018-03): OSHSB's regulations for residential construction fall protection are not at least as effective as OSHA's regulations as required by 29 CFR 1953.5(a).

Recommendation FY 2019-04 (FY 2018-03): OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are at least as effective as the federal regulation. In addition, OSHSB and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.

OSHA was still engaged in discussions on the Bakery Oven standard at the end of FY 2019. This has since been resolved in a letter issued on January 19, 2020 and was removed as an observation.

At the time this report was written, OSHSB submitted an Advisory Opinion request to OSHA on January 7, 2020 concerning regulations for Commercial Diving which OSHA found not commensurate. This observation will continue to be monitored.

Observation FY 2019-OB-03 (FY 2018-OB-01): State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as Commercial Diving.

Federal Monitoring Plan FY 2019-OB-03: OSHA will monitor Cal/OSHA's standards to ensure they are at least as effective as OSHA standards and initiate

actions to update deficient standards.

During FY 2018 and 2019, OSHA issued three federal standard actions that required a response. Additionally, two standards carried over from previous years that were not adopted are awaiting a Plan Change Supplement and are included in Table 2 below.

Table 2
Status of FY 2019 Federal Standards Adoption
(May include any outstanding standards from earlier fiscal years)

Standard:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
Final Rule on the Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	7/11/2019	Yes	Yes	11/14/2019	8/2/2019
Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	1/1/2019	Yes	No	7/23/2019	1/1/2019 Pending OSHA Review
Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	No intent provided	N/A	N/A	5/9/2019	Not yet Adopted
Final Rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Services) (11/18/16)	1/18/2017	5/15/2017	Yes	No	5/18/2017	Not yet Adopted
Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment (4/11/14)	6/11/2014	4/22/2014	Yes	No	1/11/2015	4/1/2018 Awaiting Plan Change Supplement

d) Federal Program Change (FPC) Adoption

During FY 2018 and 2019, OSHA issued six federal program changes that required a response. Additionally, nine FPCs carried over from previous years that were not adopted, are awaiting a Plan Change Supplement, or are pending OSHA review are included in Table 3.

Table 3
Status of FY 2019 Federal Program Change (FPC) Adoption
(May include any outstanding FPCs from earlier fiscal years)

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
<i>Adoption Required</i>						
National Emphasis Program on Trenching and Excavation CPL 02-00-161 (10/1/2018)	11/30/2018	12/18/2018	Yes	No	4/1/2019	Not yet Adopted. Awaiting Plan Change Supplement
CPL 03-00-018 Revision-National Emphasis Program-Primary Metal Industries (10/20/14)	12/20/2014	3/11/2015	Yes	No	4/20/15	4/10/2015 Awaiting Plan Change Supplement
<i>Equivalency Required</i>						
Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment CPL 02-01-061 (5/22/2019)	7/21/2019	8/2/2019	Yes	No	11/22/2019	Awaiting Comparison Document
Shipyard Employment "Tool Bag" Directive CPL 02-00-162 (5/22/2019)	7/21/2019	8/2/2019	Yes	No	11/22/2019	Awaiting Comparison Document
Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment CPL 02-01-060 (5/22/2019)	7/21/2019	8/2/2019	Yes	No	11/22/2019	Awaiting Comparison Document
Site-Specific Targeting 2016 (SST-16) CPL 02-18-01 (10/16/2018)	12/15/2018	12/18/2018	Yes	No	4/16/2019	Awaiting Comparison Document

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
<i>Equivalency Required</i>						
Enforcement Procedures and scheduling for exposure WP violence (1/10/2017)	1/23/2017	2/9/2017	Yes	No	4/1/2017	Awaiting Comparison Document
OSHA's National Emphasis Program (NEP) on Shipbreaking (3/7/2016)	3/15/2016	5/20/2016	Yes	No		Not yet Adopted. Awaiting Comparison Document
Whistleblower Investigations Manual CPL 02-03-007 (1/28/16)	4/27/2016	4/27/2017	Yes	No	7/28/2016	Not yet adopted.
Mandatory Training Program for OSHA Whistleblower Investigators TED 01-00-020 (10/8/15)	12/4/2015	12/4/2015	Yes	No	4/8/2016	Not yet adopted. Awaiting Comparison Document
National Emphasis Program on Amputations CPL 03-00-019 (6/30/15)	8/30/2015	8/13/2015	Yes	No	12/31/2015	Not yet adopted. Awaiting Comparison Document
Inspection Procedures for the Hazard Communication Standard CPL 02-02-079 7/9/2015	7/22/2015	7/30/2015	Yes	No	N/A	8/24/2016 Awaiting Comparison Document
CPL 02-02-078 Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis (6/30/15)	8/30/2015	7/29/2015	Yes	Yes	12/31/15	7/29/2015 Awaiting Comparison Document

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
CPL 02-01-057 Compliance Directive for Cranes and Derricks in Construction Standard (10/17/14)	12/17/2014	3/12/2015	Yes	Yes	4/17/2015	6/29/2015 Awaiting Comparison Document
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019	6/19/2019	No	N/A	N/A Adoption not required	Will not adopt

c) State Plan-initiated standards

When a state initiates a change to their program plan, it is submitted to OSHA for review and approval. In December 2018, Petition 573 was submitted to the OSHSB requesting emergency rulemaking to protect outdoor workers negatively impacted by smoke caused by the State’s catastrophic wildfires. The petition led to the creation of emergency regulation Title 8, General Industry Safety Orders, Chapter 4, Subchapter 7, Section 5141.1 *Protection from Wildfire Smoke*, which became effective on July 29, 2019. This regulation requires employers to protect employees from health hazards associated with wildfire smoke, and applies to workplaces where exposure is reasonably anticipated. Employers are required to do the following: identify harmful exposure to airborne particulate matter where the air quality index for particulate matter 2.5 is 150 or higher, implement engineering and administrative controls, and provide respirators for voluntary use and training. The emergency regulation was effective through January 28, 2020, with the possibility of two 90-day extensions pending the promulgation of a permanent regulation in FY 2020. Table 4 below lists all the State Plan initiated changes during this evaluation period.

**Table 4
State Plan Initiated Changes**

Rulemaking (State Plan Initiated Changes)	Concurrence Date	Adoption Date	Effective Date
Hotel Housekeeping Musculoskeletal Injury Prevention	4/13/17	1/18/18	7/1/18
Life Rings and Personal Flotation Devices (PFD) in Marine Terminal Operations	2/22/19	11/15/18	4/1/19

Rulemaking (State Plan Initiated Changes)	Concurrence Date	Adoption Date	Effective Date
Guarding of Conveyor Belt Support Rollers - Deletion of Note	3/18/19	1/17/19	7/1/19
Protection from Wildfire Smoke	5/24/19	7/18/19	7/29/19

5. Variances

A variance is a regulatory action permitting employers to deviate from the requirements of an OSHA standard under certain conditions. OSHSB grants permanent variances. The majority that are submitted concern the Elevator Safety Orders, which are outside of the scope of General Industry and Construction Safety Orders. No permanent variances were granted during this evaluation period.

6. State And Local Government Worker Program

In FY 2019, 365 (4.8%) inspections in state and local government workplaces were completed, falling short of the projected goal of 440 inspections and within the FRL for SAMM 6. Penalties are assessed against state and local government employers in the same manner as private sector employers.

7. Whistleblower Program

Claims of workplace retaliation for reporting occupational safety and health issues are investigated by the DLSE, Retaliation Complaint Investigation Unit. During FY 2019, there were eight full-time whistleblower protection investigators, located in five different offices.

DLSE completed 1% of their retaliation investigations within 90 days (SAMM 14). The FRL is fixed at 100%, and the national average was at 34%. DLSE is well below that number, but is working towards making improvements. The merit rate was 15% (SAMM 15), which is below the FRL range of 18.4% to 27.6%. In addition, the average days to complete a retaliation investigation was 582 days (SAMM 16). The FRL for this metric was fixed at 90 days and the national average was 287 days. DLSE has indicated that this is partially a data entry problem but has provided assurance that all open cases and cases received after October 1, 2017, are correctly entered into WebIMIS. Observations FY 2018-OB-02 and Observation FY2018-OB-03 are closed.

While there are still minor issues with data integrity between WebIMIS and CAL ATLAS, DLSE has significantly improved their process. DLSE has also allocated approved funding to create a data link between the two systems.

During the case file review, evidence of referrals to Cal/OSHA, memorandum of interviews (MOI), a DLSE supervisor review, and receipt of closing letter to complainant and respondent were noted. Findings FY 2018-06, FY 2018-07, FY 2018-08, and FY

2018-09 are considered completed.

Based on a case file review, it appeared DLSE generally followed OSHA policies and procedures. DLSE has not adopted The Mandatory Training for Whistleblower Investigators and has been working on an updated manual governing the review and processing of workplace retaliation. Having this manual will provide clear, updated policies, and could potentially reduce findings each year. As of the date of this report, DLSE has submitted several chapters for review with a completed manual estimated in FY 2020.

Finding FY 2019-05 (FY 2018-04): DLSE does not have an updated approved whistleblower investigations manual to ensure that its policies and procedures are at least as effective as OSHA's.

Recommendation FY 2019-05 (FY 2018-04): DLSE should complete the whistleblower investigation manual to ensure that its policies and procedures are at least as effective as OSHA's.

When a complainant voluntarily withdraws a complaint, the complainant shall be advised that they forfeit all rights to appeal or to object, and the case will not be reopened. There was no evidence in the cases reviewed of this advisement.

Finding FY 2019-06: In 88% (23 of the 26) of retaliation cases withdrawn by the complainant, there was no documentation that DLSE advised the complainant of the consequences of the withdrawal.

Recommendation FY 2019-06: DLSE should ensure that complainants are advised that by entering a withdrawal, they will be forfeiting all rights to appeal or to object, and the case will not be reopened.

Complainants shall be advised of their dual file right to ensure their right to request a federal review within outlined filing times is retained. There only needs to be a notification and the responsibility to dual file is on the complainant.

Observation FY 2019-OB-04: There was no evidence in the retaliation case files reviewed that DLSE was advising complainants of their right to dually file with OSHA, or to contact OSHA, after all appeal rights have been exhausted at the state level.

Federal Monitoring Plan FY 2019-OB-04: OSHA will monitor during quarterly meetings that information regarding complainants' rights at the federal level is provided and documented in the retaliation case file.

Proper documentation in retaliation case files is important to ensure the totality of the case is recorded and understood by all parties conducting any type of review after the case has been completed. In 32 out of the 209 case files reviewed, documentation was not found for final signatures on settlement agreements, correspondence, and evidence of review by a supervisor, or other documents required to be in the retaliation case file.

Observation FY 2019-OB-05: Retaliation case files lacked the required documentation such as final signatures on settlement agreements, correspondence, and evidence of review

by a supervisor.

Federal Monitoring Plan FY 2019-OB-05: OSHA will monitor the lack of required documentation during quarterly meetings with DLSE.

As noted in previous FAME reports, there was no evidence that claims of alleged retaliation for reporting workplace injuries or illnesses (FY 2016 OB-01) were being investigated by DLSE. In 2017, the state legislature addressed the issue by amending Labor Code 6310 to reflect that DLSE has jurisdiction to investigate these claims. Under the OSH Act, reporting workplace injuries and illnesses is an OSHA activity. Any retaliation in response to OSHA activities falls under 11(c) of the OSH Act and must be investigated under the grant. There still does not appear to be any internal controls to ensure DLSE investigates these claims when there is also a worker's compensation claim, or validates an active worker's compensation claim exists prior to referring the complainant to the Division of Worker's Compensation (DWC). In addition, there is no assurance that complainant was informed of their right to dually file with OSHA or that the investigation followed policies and procedures equivalent to the OSHA WIM.

Observation FY 2019-OB-06: There is no clear evidence that DLSE investigates retaliation for reporting workplace injuries and illnesses, but refers the complainants to Division of Workers' Compensation (DWC).

Federal Monitoring Plan FY 2019-OB-06: During quarterly meetings, OSHA will monitor that complaints of retaliation due to reporting of workplace injuries and illnesses are investigated under the grant.

8. Complaint About State Program Administration (CASPA)

There was one Complaint About State Plan Administration (CASPA) each in FY 2018 and FY 2019. CASPA CA-2018-61 alleged that citations were not issued within the six-month statute of limitations as required by the P&P. Following an investigation into the allegations, a determination was made that Special Orders were issued in two inspections well past the required six-month time frame. A Special Order allows the chief (or the chief's authorized representative) to correct an unsafe condition, device, or place of employment which poses a threat to the health or safety of an employee, and which cannot be made safe under existing standards or orders of the standards board. Although Special Orders are not citations, OSHA recommended that Cal/OSHA update the P&P to ensure that procedures are in place requiring Special Orders be issued within the six-month statute of limitations.

CASPA CA-2019-62 alleged a whistleblower complainant was denied appeal rights, even though the case was appealed within the appropriate time frame, and that the state did not consider evidence provided to support the complaint. Following a review of the state's investigation file, it appears that the Complainant was informed several times about how to file an appeal of the state's determination and our investigation found no merit in the allegations.

9. Voluntary Compliance Program

The California Voluntary Protection Program (Cal/VPP) for general industry employers and VPP-C for construction employers provides recognition and programmed inspection exemptions to qualified worksites. Participants are expected to have exceptional safety and health programs attributing to a lower risk of injuries and illnesses.

In FY 2019, six new certifications and 12 re-certifications of general industry establishments were completed, totaling 72 active sites. For construction, two new sites were added and three sites either withdrew or were terminated, totaling 13 active construction sites. One workshop each was held to promote Cal/VPP and VPP-C, meeting the projected goal.

10. State And Local Government 23(g) On-site Consultation Program

The Consultation Services Branch provides consultation services to state and local government employers and is funded under the 23(g) grant. Private sector consultation is funded under the 21(d) cooperative agreement, and is evaluated separately in the FY 2019 Regional Annual Consultation Evaluation Report (RACER).

Consultants conducted 44 initial consultation visits, exceeding the goal of 40 visits to employers in state and local government agencies. All visits were to high hazard industries, exceeding the goal of 90% (MARC 1). Visits to smaller businesses with less than 250 employees, as well as visits to establishments with less than 500 employees, were 79.6% (MARC 2A and 2B). In all 44 consultation visits, the consultant conferred with employees 100% of the time (MARC 3).

During this evaluation period, 124 serious hazards were identified and all were corrected in a timely manner (MARC 4A and 4B). Two serious hazards were corrected on-site during the visit, 104 within the original timeframe, 15 within the extension timeframe, and three within 14 days of the latest correction due date, exceeding the goal of 65 percent (MARC 4D). No employers were referred to enforcement (MARC 4C). There were no uncorrected serious hazards with correction dates 90 days past due (MARC 5).

Appendix A – New and Continued Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 2018-# or FY 2018-OB- #
FY 2019-01	In the 110 case files reviewed with citations issued, 24 (22%) lacked critical evidence to support the violation, such as, information that the standard applied and was violated, evidence of employee exposure, and evidence of employer knowledge.	Cal/OSHA should ensure evidence supporting each violation is documented.	New
FY 2019-02	The average number of SWRU violations issued was 0.85 violations per inspection. This was below the FRL (SAMM 5).	Cal/OSHA should determine the underlying cause for the low number of serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and abated.	FY 2018-01
FY 2019-03	Cal/OSHA's citation lapse time for safety and health inspections was above the FRL (SAMM 11).	Cal/OSHA should work with district and regional managers to continue improving citation lapse time.	FY 2018-02
FY 2019-04	OSHSB's regulations for residential construction fall protection are not at least as effective as OSHA's regulations as required by 29 CFR 1953.5(a).	OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are at least as effective as the federal regulation. In addition, OSHSB and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.	FY 2018-03
FY 2019-05	DLSE does not have an updated approved whistleblower investigations manual to ensure that its policies and procedures are at least as effective as OSHA's.	DLSE should complete the whistleblower investigation manual to ensure that its policies and procedures are at least as effective as OSHA's.	FY 2018-04
FY 2019-06	In 88% (23 of the 26) of retaliation cases withdrawn by the complainant, there was no documentation that DLSE advised the complainant of the consequences of the withdrawal.	DLSE should ensure that complainants are advised that by entering a withdrawal they will be forfeiting all rights to appeal or to object, and the case will not be reopened.	New

Appendix B – Observations Subject to New and Continued Monitoring
 FY 2019 California Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2019-OB-01		In three of the 24 (13%) complaint inspections, case files lacked evidence that required notification letters were sent to the complainant regarding the status of the complaint inspection.	Federal OSHA will continue to conduct case file evaluations to ensure all required correspondence with complainants is documented within the case file.	New
FY 2019OB-02		In the 48 case files reviewed where an informal or pre-hearing conference took place, five cases (10%) lacked necessary documentation to justify changes made to the citation post-issuance.	Federal OSHA will continue to conduct case file evaluations to ensure justification is documented to support post-issuance changes to violations.	New
FY 2019-OB-03	FY 2018-OB-01	State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as Commercial Diving.	OSHA will monitor Cal/OSHA’s standards to ensure they are at least as effective as OSHA standards and initiate actions to update deficient standards.	Continued
FY 2019-OB-04		There was no evidence in the retaliation case files reviewed that DLSE was advising complainants of their right to dually file with OSHA, or to contact OSHA, after all appeal rights have been exhausted at the state level.	OSHA will monitor during quarterly meetings that information regarding complainants’ rights at the federal level is provided and documented in the retaliation case file.	New
FY 2019-OB-05		Retaliation case files lacked the required documentation such as final signatures on settlement agreements, correspondence, and evidence of review by a supervisor.	OSHA will monitor the lack of required documentation during quarterly meetings with DLSE.	New
FY 2019-OB-06		There is no clear evidence that DLSE investigates retaliation for reporting workplace injuries and illnesses, but refers the complainants to Division of Workers’ Compensation (DWC).	During quarterly meetings, OSHA will monitor that complaints of retaliation due to reporting of workplace injuries and illnesses are investigated under the grant.	New
	FY 2018-OB-02	The percent of 11(c) investigations completed within 90 days (SAMM 14) was 4%.	OSHA will continue to monitor and discuss this data at the quarterly meetings, and will continue to work with the National Office to provide information regarding the data tracking to DLSE.	Closed
	FY 2018-OB-03	The average number of calendar days to complete an 11(c) investigation (SAMM 16) is 588 days.	OSHA will continue to monitor and discuss this data at the quarterly meetings.	Closed

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY-2018-01	The average number of serious, willful, repeat, and unclassified violations issued per inspection was 0.9 violations per inspection. This was below the FRL (SAMM 5).	Cal/OSHA should determine the reason for the low number of serious, willful, repeat, and unclassified violations, and implement corrective actions to ensure serious hazards are identified and abated.	<p>Cal/OSHA will implement the following measures to increase the average number of S/W/R violations per inspection:</p> <ul style="list-style-type: none"> a. “Serious Violation Training” is being provided to all newly hired professional enforcement staff as part of “Orientation to Enforcement” (within their first year) and “Inspection Techniques and Legal Aspects” (within their first three years) to increase their skills and knowledge in identifying hazards and classifying violations properly; b. The “Case Management/Review” training content has been updated and expanded, requiring District Managers and Senior staff to meet monthly with CSHOs to monitor and review their inspection files and proposed violations, to ensure correct identification of hazards and classification of violations; all Regional Managers, District Managers and Senior staff have been provided the updated training; c. Additionally, during monthly regional meetings, District Managers and Senior staff are specifically reminded to monitor and review CSHO’s inspection files for: <ul style="list-style-type: none"> (1) Correct identification of hazards and classification of violations, and (2) for cases that do not include serious, willful or repeat violations, verify that evidence of such classifications could not be gathered during the inspection; d. The system for CSHOs to identify and organize the evidence of violations, which contributes to accurately classifying violations, has been revised to require enforcement staff to use a “Supplemental Violation Worksheet”, e. Cal/OSHA management will continue to track the number of S/W/R violations to determine whether further corrective actions are needed. 	Not Completed	Open June 11,2020

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY 2018-02	Cal/OSHA's citation lapse time for safety and health inspections was above the FRL (SAMM 11).	Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.	<ol style="list-style-type: none"> 1. The "Case Management/ Review" training content has been updated and expanded, requiring District Managers and Senior staff to meet monthly with CSHOs to monitor and review their inspection files and proposed violations; all Regional Managers, District Managers and Senior staff have been provided the updated training. 2. District Managers will ensure support staff run the "Open Inspection" report and use the "Citation Pending" section of the report when meeting with CSHOs monthly to review all open inspections and develop strategies to complete them timely. This includes identifying cases that do not include serious violations and are not complicated, for issuance of citations as soon as possible. 3. Additionally, during monthly regional meetings, District Managers and senior staff are specifically reminded to monitor and review CSHO's inspections files to identify the cases that do not include serious violations and that present few to no difficulties, for issuance of citations as soon as possible. 4. The Regional Office will monitor case lapse times by running OIS reports monthly to track the progress of citation lapse time and provide the information to District Managers, to assist them with working with CSHOs to reduce citation lapse time. 	Not Completed	Open June 11, 2020

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY 2018-03	OSHSB's regulations for residential construction fall protection are not ALAE as OSHA's regulations, as required by 29 CFR 1953.5(a).	OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are ALAE as the federal regulation. In addition, OSHSB and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.	OSHSB is developing a rulemaking package for Residential Fall Protection to address OSHA's requirements. Final SRIA submitted to DOF for fiscal review on 5/29/19. OSHSB currently responding to comments received 6/28/19.	Not Completed	Open June 11,2020
FY 2018-04	DLSE does not have an updated whistleblower investigations manual to ensure that its policies and procedures are ALAE as OSHA's.	DLSE should develop a whistleblower investigations manual to ensure that its policy and procedures are ALAE as OSHA's and submit it to OSHA for approval.	A draft version of the OSHA RCI manual was submitted to OSHA for review on August 5, 2019. Once OSHA has reviewed and made comments, DLSE will submit a final version.	Not Completed	Open June 11,2020
FY 2018-05	In FY 2017, in 14 of 31 (45%) retaliation	DLSE should enter information into Web IMIS in	All data has been verified for cases closed through September 30,	October 1, 2018	Verified Closed November 21, 2019

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
	investigation cases reviewed, information was not consistently or accurately entered into IMIS.	a consistent and accurate manner.	2018 and updated accordingly in Web IMIS. DLSE and OSHA have a technical working group to better synchronize data between CAL ATLAS and the OSHA OITSS WB Application.		
FY 2018-06	In 21 of 31 (68%) closed retaliation investigation cases reviewed, there was no evidence that DLSE referred the retaliation claim to Cal/OSHA.	DLSE should refer retaliation claims to Cal/OSHA.	DLSE has been forwarding copies of all complaints filed to Cal/OSHA by e-mailing the first two pages of complaints to the Cal/OSHA point of contact; a notation regarding the referral is being made in the file.	January 1, 2019	Verified Closed November 21, 2019
FY 2018-07	In FY 2017, in 8 of 15 (53%) retaliation dismissals, there was no proof of receipt that the Complainant or Respondent received a closing letter.	DLSE should maintain proof of receipts that Complainants and Respondents receive closing letters.	For all dismissals, the closing letter is sent to the Complainant and Respondent with a verification receipt or an acceptable substitute. DLSE will go to the U.S. Postal Service website and print certified mail tracking information to be added to the file.	October 1, 2018	Verified Closed November 21, 2019

Appendix C - Status of FY 2019 Findings and Recommendations

FY 2019 California Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status
FY 2018-08	In FY 2017, in 27 of 28 (96%) retaliation investigation cases reviewed, there was no evidence that DLSE conducted a screening interview and created a Memorandum of Interview (MOI) based on information learned during the screening interview.	DLSE should conduct screening interviews, and draft an MOI during the intake process.	All cases accepted after October 1, 2018 have a screening memo in the file following an initial interview by an intake investigator. Early cases followed the WIM instructions and if the prima facie case was established, the initial interview was delayed.	October 1, 2018	Verified Closed November 21, 2019
FY 2018-09	In FY 2017, in two of the three (33%) administrative closures, there was no evidence that a DLSE Supervisor reviewed and approved the decision.	DLSE should ensure that a supervisor review and approve the decision to administratively close complaints.	DLSE protocol requires supervisor's approval in all case closures. DLSE is ensuring the IMIS case summary documents that a case was administratively closed with supervisor approval. All cases closed after September 30, 2018 have a notation about the supervisor's approval.	October 1, 2018	Verified Closed November 21, 2019

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: California – CAL/OSHA			FY 2019	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	9.77	3	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	6.12	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	7.03	1	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	2.47	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
5	Average number of violations per inspection with violations by violation type	SWRU: 0.85	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
		Other: 2.47	+/- 20% of Other: 0.97	
6	Percent of total inspections in state and local government workplaces	4.82%	+/- 5% of 5.84%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 5.54% to 6.13%.
7	Planned v. actual inspections – safety/health	S: 6,269	+/- 5% of S: 6,125	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 5,818.75 to 6,431.25 for safety and from 1,344.25 to 1,485.75 for health.
		H: 1,302	+/- 5% of H: 1,415	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$7,822.06	+/- 25% of \$2,871.96	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	a. Average current serious penalty in private sector (1-25 workers)	\$5,102.40	+/- 25% of \$1,915.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	b. Average current serious penalty in private sector (26-100 workers)	\$7,668.67	+/- 25% of \$3,390.30	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	c. Average current serious penalty in private sector (101-250 workers)	\$11,113.85	+/- 25% of \$4,803.09	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	d. Average current serious penalty in private sector (greater than 250 workers)	\$10,997.16	+/- 25% of \$5,938.59	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.
9	Percent in compliance	S: 22.56%	+/- 20% of S: 30.30%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
		H: 36.00 %	+/- 20% of H: 36.12%	
10	Percent of work-related fatalities responded to in one workday	99.50%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 79.91	+/- 20% of S: 47.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health.
		H: 84.99	+/- 20% of H: 57.23	
12	Percent penalty retained	69.79%	+/- 15% of 66.38%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.85%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	34%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	23%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
16	Average number of calendar days to complete an 11(c) investigation	284	90	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

17	Percent of enforcement presence	1.05%	+/- 25% of 1.23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.
----	---------------------------------	-------	------------------	---

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

FY 2019 California Comprehensive FAME Report



California State OSHA Annual Report (SOAR) FFY 2019

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

EXECUTIVE SUMMARY

The Cal/OSHA annual report documents progress toward achieving the Cal/OSHA 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, which would lead to reduced injuries and illnesses on the job.

The role of Cal/OSHA is to enforce safety and health regulations for employers who are not in compliance with the law through enforcement efforts, and 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) 2019 Annual Performance Plan developed by Cal/OSHA was intended to support the overall goals of the five-year Strategic Plan. The 2019 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;

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

- ✚ 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;
- ✚ 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 workforce; and
- ✚ Enhancing communication with industry, labor, and professional safety and health organizations.

This annual report for Cal/OSHA Enforcement reflects the integrated approach to achieving goals which were stated in the Cal/OSHA Strategic Plan. Cal/OSHA Enforcement programmed and self-referral activities have continued to be coordinated to ensure the greatest impact on selected industries with the highest preventable injury, illness and workers' compensation rates.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

FFY 2019 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 October 1, 2018, six new positions to conduct inspections addressing the hazards posed by heat at indoor places of employment. However, during FFY 2019 a high rate of attrition combined with a change in the Department of Industrial Relations' (DIR) hiring process resulted in a higher-than-average number of vacant positions. Currently DIR and Cal/OSHA are working diligently to fill these vacancies.

Starting in October 2017 and throughout the last two reporting periods, many parts of California were severely impacted by wildfires, which burned millions of acres, causing massive property damage, widespread evacuations and high levels of smoke-related pollutants in the air. Cal/OSHA took a multifaceted approach responding to each of the stages of these unprecedented natural disasters, from providing relevant health and safety information on the website, to participating in outreach and consultation, and during FFY 2019, engaging in extensive compliance assistance activities, all complemented by enforcement activities when necessary.

During this past fiscal year, Cal/OSHA collaborated with the Occupational Safety and Health Standards Board (OSHSB) to develop, propose, promulgate, and adopt, as an emergency regulation, the first in the nation standard that addresses worker protection from the hazards posed by wildfire smoke.

In FFY 2019, Cal/OSHA continued to strengthen its outreach and educational efforts. The Publications Unit developed and revised many educational materials and online resources, including guides, fact sheets, model programs, and webpages. Educational materials are primarily drafted or revised by the permanent full-time 23(g) staff member in the Publications Unit. The draft documents are reviewed and edited by Research and Standards Unit staff, the Cal/OSHA Legal Unit, senior management, Cal/OSHA leadership, by selected stakeholders, and DIR Communications.

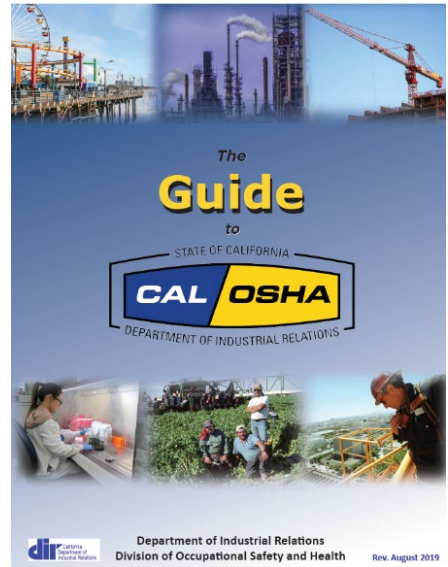
Educational materials and online resources that were developed or updated, and made available to the public in FFY 2019 included the following:

- Aerosol Transmissible Diseases (Fact Sheet)

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

- Agricultural Industrial Tractors (Poster)
- Brief Guide to Recordkeeping Requirements (Guidance document)
- Cal/OSHA Pocket Guide for the Construction Industry (Professionally printed and PDF versions)
- Cannabis Industry Health and Safety (Internet webpage)
- Confined Space Guide for General Industry (Guidance document)
- Easy Ergonomics for Desktop Computer Users (Guidance document)
- Employer Sample Procedures for Heat Illness Prevention (Model programs in English and Spanish)
- Fall Protection in Construction (Fact Sheet)
- Guide to Cal/OSHA
- Hazard Alert in the Granite Countertop Industry (Hazard alert)
- Lockout/Tag-out/Block-out (Tailgate topic sheet)
- Musculoskeletal Injury Prevention Program for Hotel Housekeepers (Model program)
- N95 Mask Commonly Asked Questions (Internet webpage and PDF)
- Operating Rules for Industrial Trucks (Posters in English and Spanish)
- Protecting Indoor Workplaces from Wildfire Smoke with Building Ventilation Systems (Internet webpage)
- Protecting Workers When there are Power Outages (Internet webpage)
- Respirable Crystalline Silica Standards (Internet webpage)
- Respiratory Protection (Fact Sheet)
- Roofing Safety, General Requirements (Tailgate topic sheet)
- Safety and Health Protection on the Job (Cal/OSHA Poster)
- Tree Work Safety (Tri-fold pamphlet in English and Spanish and internet webpage)
- Wildfires, Wildfire Cleanup, and Rebuilding (Internet webpages)
- Workplace Violence Prevention in Health Care (Fact Sheet)



The Publications Unit also continued to develop, update, and expand educational material and guidance information on Cal/OSHA's internet pages for all stakeholders, including the public, and intranet webpages for internal staff. Internet webpages included information on protecting both indoor and outdoor workers during the quickly evolving wildfire emergencies and related power outages throughout the state.

Throughout FFY 2019, last year's achievements in the training and professional development of Cal/OSHA staff continued by ensuring that newly hired employees and staff promoted to compliance safety and health officers participated in the Division-mandated and technical training courses. This was accomplished by coordinating, facilitating, and contracting a significant number of training courses over

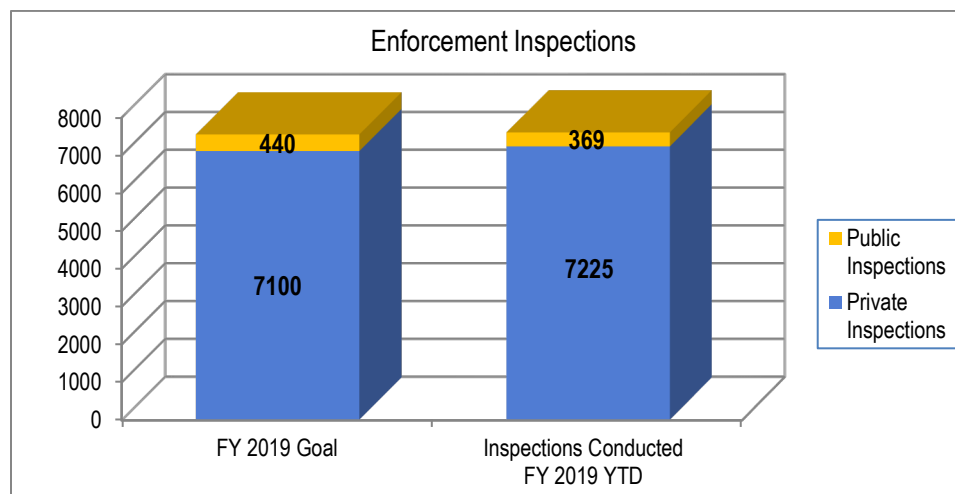
Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

the fiscal year.

Enforcement and Outreach/Educational Activities

As illustrated in the following table, Cal/OSHA Enforcement opened 7,594 inspections this federal fiscal year, exceeding the goal to conduct a total of 7,540 inspections, private and public sector inspections combined. The aforementioned inspections comprised of 7,225 private industry inspections and 369 public sector inspections, falling short of the goal to conduct 440 public sector inspections. During this time, Cal/OSHA identified approximately 18,896 hazards, potentially affecting the estimated 8.4 million workers employed at these establishments. Of the hazards identified, 4,245 resulted in serious, 28 resulted in willful, 223 in repeat, and 2 in failure-to-abate citations¹.



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 program focuses on providing educational outreach to high-risk, vulnerable employee populations.

In FFY 2019, bilingual outreach coordination staff and other Cal/OSHA personnel participated in 246 separate events, of which 152 of these events had high-risk, vulnerable employees 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, Peruvian, Guatemalan, and

¹ OIS Inspection Summary and Scan Summary Reports dated December 3, 2019.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Salvadorian Consulates and participated in 83 events throughout the state. Other events included participation at Associate Employees Union, Agsafe, SoCal Gas in Downey, EDD Farmworkers Resource Fair, Caltrans new engineers training, 6th Annual Farmworker Appreciation Day & Resource Fair, 4th Annual Migrant Seasonal Farmworker Appreciation Day & Resource Fair, United Women's Organization Farmworker Women's Conference, California Nurses Association, Chinese Business Delegation, California Schools Risk Management, and events coordinated with insurance brokers and temporary staffing agencies. Outreach staff distributed 40,957 written materials covering heat illness prevention, and an additional 42,647 written materials covering other important safety and health-related topics.

Topics covered during these outreach events included agricultural safety, general industry safety, construction safety, heat illness prevention, cannabis safety, worker's rights, wildfires, and other industry specific topics.



In FFY 2019, Cal/OSHA's Recruiting Committee members, comprised of managers and senior professional staff, continued their efforts to forecast future vacancies, and monitor and track vacant positions in the professional staff classifications. These functions assisted with identifying where to allocate resources to recruit prospective employees. Members of the committee shared employment benefits and opportunities at local societal events and advertised in trade magazines and journals. The variety of marketing options selected and used by the committee furthered the goals of educating and successfully recruiting prospective applicants for the program.

STATE OF CALIFORNIA
CAL OSHA
DEPARTMENT OF INDUSTRIAL RELATIONS

Apply to work for
Cal/OSHA

For a listing of current exam bulletins
and job vacancies, visit
www.dir.ca.gov/dirjobs/dirjobs.htm
Cal/OSHA homepage
www.cal-oshn.ca.gov

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

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 2019 the Consultation Services Branch conducted 44 initial visits for the public sector. During these visits a total of 289 hazards were identified with 136 being classified as Serious, 128 being classified as Other-Than-Serious, and 25 being classified as Regulatory. In addition, one Golden Gate recognition award was presented. The Consultation Services Branch also provided eight formal training events and 19 other compliance assistance activities for the public sector.

PUBLIC - Goals	
FFY 2019 Visits & Compliance Assistance	Total
Total Onsites 10-1-18 to 9-30-19	
Total Number of Onsites	44
Number Initial Visits	44
Number Training and Assistance Visits	0
Number Follow Up Visits	0
Total Hazards	
Total Number of Hazards	289
Number of Serious Hazards	136
Number of O-T-S Hazards	128
Number of Regulatory Deficiencies	25
Partnership Programs	
Golden Gates	1
SHARPS	
New	0
Renewals	0
Compliance Assistance	
Compliance Assistance to Employers (Formal Training Event)	8
Compliance Assistance to Employers - (Other)	19

The Consultation Services Branch also administers the Voluntary Protection Program (VPP) under the 23(g) program. In FFY 2019, the VPP Unit evaluated and added six new sites, renewed 12 sites, along with 10 sites being withdrawn or terminated. The VPP Unit also provided one formal training event for current and potential VPP candidates. The VPP Unit ended FFY 2019 with eight pending applications, 64 VPP-Star, and eight VPP-Reach sites.

Lastly, under the 23(g) program operates the Voluntary Protection Program-Construction (VPP-C). For FFY 2019, the VPP-C Unit evaluated and added two new sites, along with three sites being withdrawn or terminated. The VPP-C Unit also provided one formal training event for current and potential VPP-C candidates. The VPP-C Unit ended Federal Fiscal Year 2019 with eight pending applications and 13 total

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

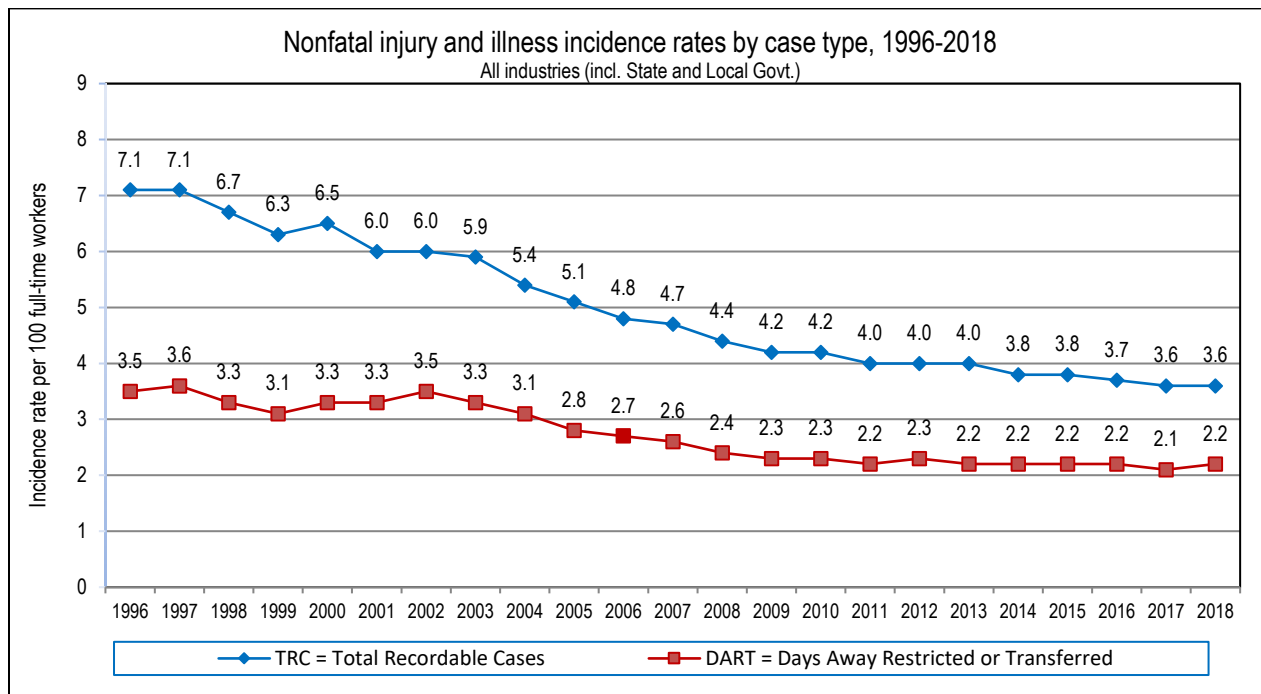
FY 2019 California Comprehensive FAME Report

active VPP-C sites.



Injuries, Illnesses and Fatalities

Cal/OSHA believes these combined enforcement and educational efforts have contributed to maintaining California's on-the-job total recordable case (TRC) injury and illness incidence rate of 3.6² in CY 2018. Please see the following graph.

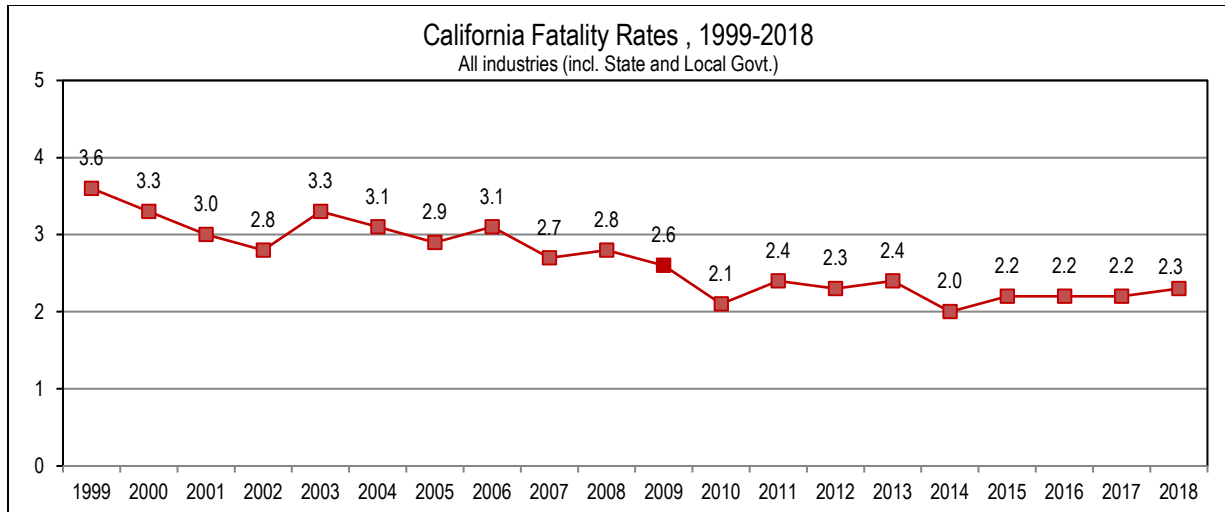


² Table 1. Incidence rates of nonfatal occupational injuries and illnesses by selected industries and case types, 2018 at www.dir.ca.gov/oprl/Injuries/2018/Menu.htm

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

As reported by the Census of Fatal Occupational injuries (CFOI), the rate of fatalities for CY 2018 increased slightly to 2.3³ per 100,000 full-time equivalent (FTE) workers).



In spite of the slight increase, California’s CY 2018 fatality rate of 2.3, the fourth lowest in the country⁴, is significantly lower than the national rate of fatal work injuries for civilian workers in CY 2018, which was 3.5 per 100,000 full-time equivalent (FTE) workers⁵.

The tables below provide a quick comparison of fatality rates between the national and California data by industry type, and show that except for transportation/utilities and public administration, the fatality rates in all other industries were equal to or lower than the national average.

California Fatality Rates

Fatality Rate	Overall Rate	Ag, forestry, fishing & hunting	Const	Mfg	Transportation & Utilities	Whsle. and retail trade	Prof. and business services	Educ. and health services	Leisure and hospitality	Other services, except public admin.	Public Admin
2017	2.2	10.0	6.1	1.4	5.9	2.0	2.6	0.5	0.9	1.1	1.6
2018	2.3	9.3	6.1	1.2	7.8	1.3	2.7	0.5	1.5	1.4	2.8

³ Fatal injury rates by state of incident and industry, 2017, available at www.bls.gov/iif/oshwc/cfoi/staterate2017.htm and 2018 available at www.bls.gov/iif/oshwc/cfoi/staterate2018.htm.

⁴ Table 5. Fatal occupational injuries counts and rates by state of incident, 2017-18 available at www.bls.gov/news.release/cfoi.t05.htm.

⁵ Fatal occupational injuries, total hours worked, and rates of fatal occupational injuries by selected worker characteristics, occupations, and industries, civilian workers 2017 and 2018 available at www.bls.gov/iif/oshcfoi1.htm#rates.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

National Fatality Rates

Fatality Rate	Total	Ag, forestry, fishing & hunting	Const	Mfg	Trade, Transportation & Utilities	Whsle. and retail trade	Prof. and business services	Educ. and health services	Leisure and hospitality	Other services, except public admin.	Gov't.
2017	3.5	23.0	9.5	1.9	5.4	n/a	3.0	0.8	2.2	2.9	2.0
2018	3.5	23.4	9.5	2.2	5.3	n/a	3.3	0.7	2.2	2.6	1.8



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Occupational Safety and Health Appeals Board (OSHAB) Accomplishments

Calendar year 2019 brought staffing changes to the Occupational Safety and Health Appeals Board. Upon Art Carter's retirement in late 2018, Governor Brown appointed the Board's then current Public Member Ed Lowry as Chair. The Board functioned most of the year without a new Labor Member until late October when Governor Newsom appointed Marvin Kropke. The Board also hired three new Administrative Law Judges, Leslie Murad, Sam Lucas and Mario Grimm, to join the Board's team in West Covina.

The Appeals Board OASIS case management system increased the Board's ability to track the number of appeals and case history each month. In reviewing recent OASIS reports, the Board noted that the number of appeals grew from 2,075 cases in 2014 to 2,932 appeals in 2018. This is a 41% increase over a four-year time span. We have been very pleased with the success of the Board's OASIS system and staff's ability to address the increased workload.

The Board continued to achieve a high level of success in litigation cases. Specifically, two cases from the Court of Appeal further supported the Board's ruling that employers must make reasonable effort to provide employees with appropriate foot protection.

Home Depot U.S.A., Inc. v. California Occupational Safety and Health Appeals Board, et al., Court of Appeal, Fourth Appellate District, Division Two, Case No. E070417

Within a Decision After Reconsideration, the Board affirmed a citation issued against Home Depot for violation of California Code of Regulations, title 8, section 3385, subdivision (a), which requires appropriate foot protection for employees exposed to foot injuries. This citation arose out of Home Depot's Mira Loma warehouse, which services Home Depot's stores. The Board affirmed the footwear citation finding Home Depot's employees were exposed to foot injuries when they manually lift heavy loads. The Board observed that these employees regularly had to lift heavy loads while unloading truck trailers and while reading orders for delivery to stores. The Board also observed that workers on foot worked or walked in close proximity (on some occasions within two feet) to industrial trucks. The Board found Home Depot's safety policies and prohibition on open-toed or open-heeled shoes did not adequately protect these employees and ordered Home Depot to provide appropriate foot protection. Home Depot challenged the Board's affirmation of the citations in Court, ultimately appealing the decision to the Fourth District Court of Appeal. The Court of Appeal denied Home Depot's appeal and concluded the Board's decision on the footwear citation was both reasonable and supported by substantial evidence.

Home Depot U.S.A., Inc. v. California Occupational Safety and Health Appeals Board, et al., Court of Appeal, Fourth Appellate District, Division Two, Case No. E071313

Within a Decision After Reconsideration, the Board again affirmed a citation issued against Home Depot for violation of California Code of Regulations, title 8, section 3385, subdivision (a), which requires appropriate foot protection for employees exposed to foot injuries. This citation arose out of

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Home Depot's Rialto, California store. The Board affirmed the footwear citation finding multiple sources of exposure to foot injuries for employees, including: some employees were required to, and it was reasonably predictable that they would, lift heavy loads by hand; employees worked on foot near industrial trucks, and, one employee was actually struck by an industrial truck. The Board found Home Depot's administrative and engineering controls did not adequately protect these employees. Home Depot challenged the Board's affirmance of the citations in Court, ultimately appealing the decision to the Fourth District Court of Appeal. The Court of Appeal denied Home Depot's appeal and concluded the Board's decision on the footwear citation was both reasonable and supported by substantial evidence. [REDACTED]

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Special Initiatives

Heat Illness Prevention

According to the National Oceanic and Atmospheric Administration (NOAA), 2019 had the hottest summer ever recorded globally. This last summer saw average temperatures in the U.S. at 1.7 degrees above average. California continues to see record-breaking high summer temperatures. This past summer, temperatures in historically hot Palm Springs reach 121 degrees while historically cold San Francisco reached 100 degrees in June.

Cal/OSHA continued its highly effective heat illness prevention special emphasis program in 2019. The program uses a multifaceted approach that includes components of education and targeted enforcement.

In addition, in 2019 Cal/OSHA worked alongside agricultural and construction industry groups, insurance carriers and others and provided highly effective training and outreach to employers, supervisors and work crews on heat illness prevention. By the end of FFY 2019, Cal/OSHA staff participated in 199 events where heat illness was discussed.

As in past years, bilingual training efforts were augmented with television interviews and regular participation in radio programs to raise awareness of the Cal/OSHA program, on how to file a complaint, heat illness prevention and field sanitation issues. Cal/OSHA also participated in the yearly Heat Illness Prevention Network call, which connects over 100 employer associations, employers and worker advocate groups.

In addition to issuing five heat advisories, the outreach campaign included multilingual public service announcements on approximately 42 billboards, 86 wall posters, 71 lunch trucks and 40 work vans in Sacramento, San Joaquin, Merced, Madera, Fresno, Kings, Tulare, Kern, Santa Barbara, Ventura, Riverside, San Diego and Imperial counties. More than 8,800 multilingual ads in Spanish, Hmong, Punjabi and Mixteco aired on 29 radio stations in the target areas as well.

Outreach materials and resources continued to be highly useful in assisting both employees and employers in the prevention of heat-related illness and death. Many of these materials are available online at either the Cal/OSHA heat page at: <http://www.dir.ca.gov/dosh/heatillnessinfo.html> or at the Cal/OSHA heat campaign outreach page located at <http://99calor.org/english.html>. Both webpages are available in English and Spanish, and many of the educational materials are also available in Hmong, Mixteco, and Punjabi.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report



Throughout the year, Enforcement staff evaluated compliance with the heat standard (last amended in 2015) 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.

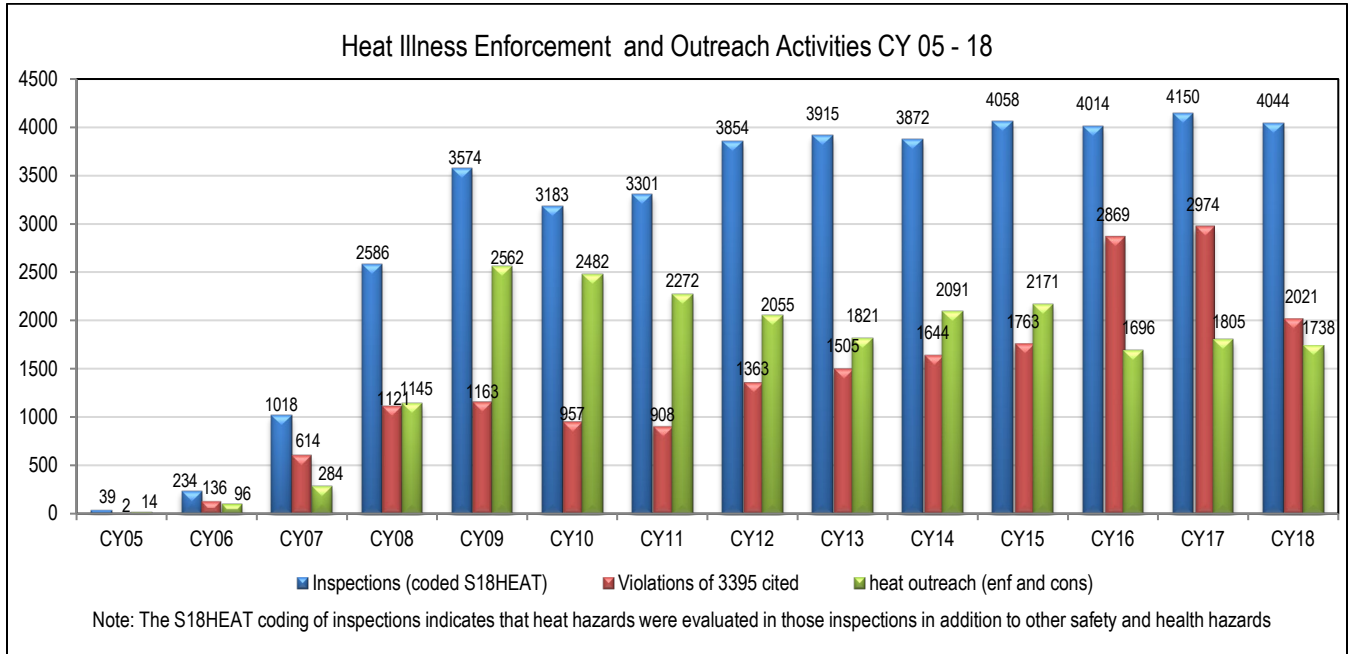
The overall compliance rate for 2019 will be determined once all of the 2019 cases are closed. The overall compliance rate⁶ in 2018 was 61.9%, very close to the 61.1% in 2017.

The following graph represents the year round enforcement and outreach activities from calendar year (CY) 2005 through CY 2018.

⁶ The percentage of inspections opened in 2018 and completed in 2018 or later where no violations of section 3395 were cited, compared to all inspections opened in 2017 and completed in 2017 or later where compliance with section 3395 was evaluated.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

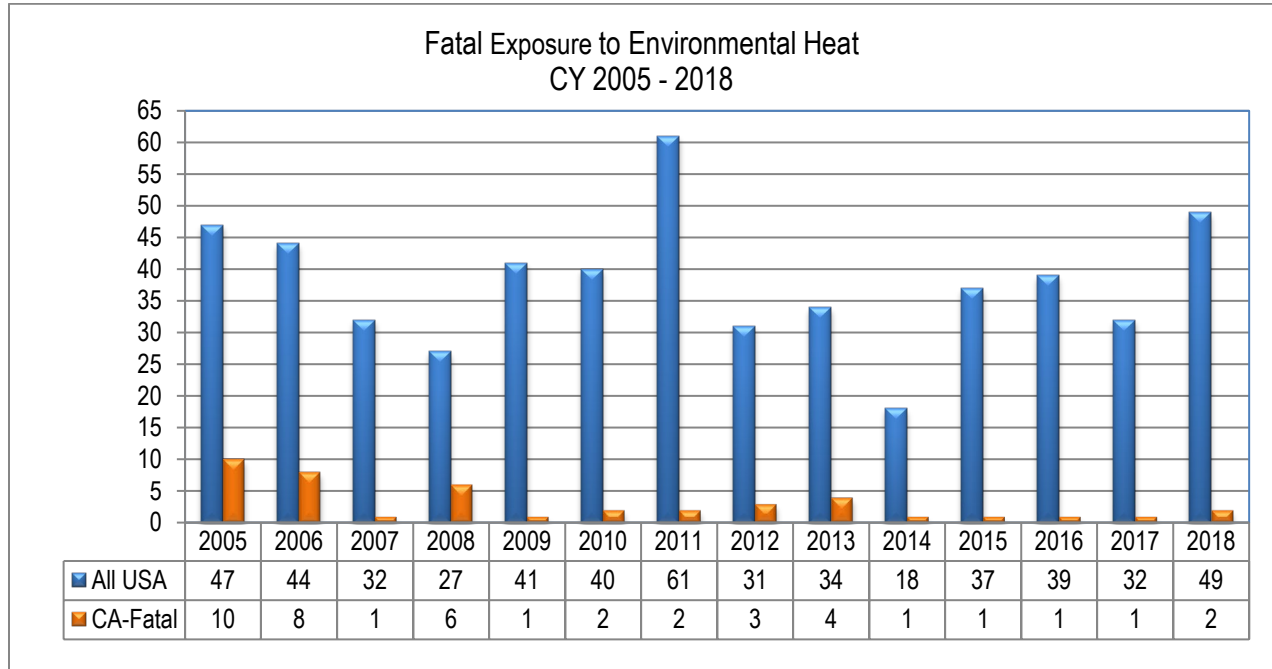


In CY 2018, there were two confirmed heat related fatalities compared to 10 in CY 2005, when the initial emergency standard was passed. California has seen a significant decrease in heat related fatalities in the workplace since CY 2005, while nationwide the number of reported heat fatalities has decreased at lower rate over the same period, as shown in the following graph⁷.

⁷ The national statistics may not be entirely comparable in that they may include cases of indoor heat-related fatalities, while California's are focused on outdoor heat cases. "USA" Source: United States Department of Labor - Bureau of Labor Statistics.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

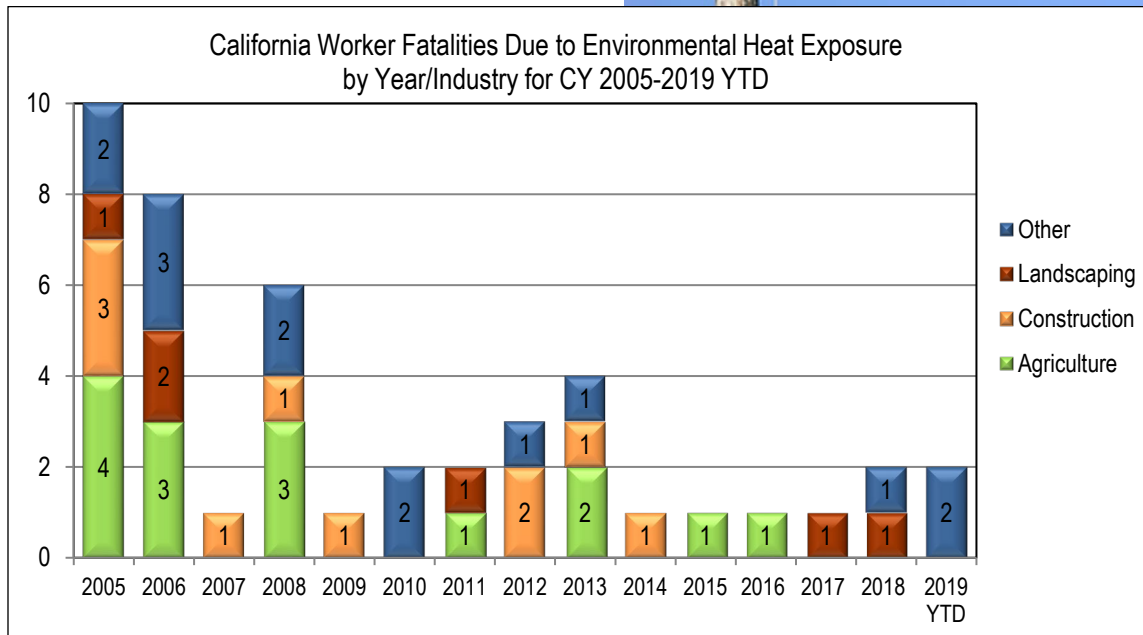


To date for 2019⁸, California has had two medically-confirmed fatality cases related to outdoor heat exposure, and 16 suspect heat fatalities are pending medical records review. Final enforcement outcomes are still pending at this time. The following table indicates the distribution of fatalities due to outdoor heat exposure, by industry, for the 2005-2019 YTD period.

⁸ Data as of December 27, 2019.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report



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 19, 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 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

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

(<https://www.dir.ca.gov/dosh/Tree-Work-Safety.html>).

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.

Wildfires Response

California experienced the most destructive wildfire season in State history in 2018, enduring over 8,500 wildfires that burned close to 1,900,000 acres in total, the largest area of burned acreage recorded in a fire season. One of these, the Camp Fire that burned in November 2018 in Northern California, was both the deadliest fire in State history, claiming the lives of 86 people, as well as the most destructive, destroying 18,804 structures. These extreme phenomena had catastrophic effects on almost any aspect of life in the state, including working conditions during the fires for many categories of workers, and in the aftermath of these disasters, during the cleanup and rebuilding phase.

As a result, along with other federal, state and local agencies, Cal/OSHA was called to assist with the response both at the time of the active emergencies, and during the cleanup, remediation and reconstruction stages.

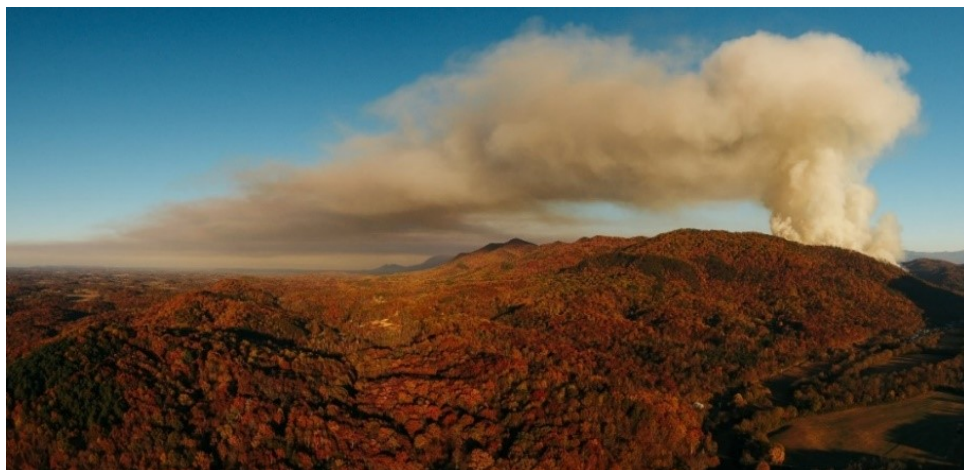
Cal/OSHA made many updates to the Worker Safety and Health in Wildfire Regions webpage. Updates include helpful information on the new emergency regulation, Protection from Wildfire Smoke ([section 5141.1](#)) intended to protect employees exposed to wildfire smoke, a new frequently asked questions webpage related to wildfire hazards, and a webpage containing information for employers to learn what to do to protect their workers when there are power outages. All of this educational information is posted and featured on the Department of Industrial Relation's homepage <https://www.dir.ca.gov>, which contains a link to <https://www.dir.ca.gov/dosh/Worker-Health-and-Safety-in-Wildfire-Regions.html>. This page has been linked to the OSHA's wildfires safety page.

In response to complaints about smoke exposures, Cal/OSHA conducted three onsite inspections and more than 50 investigations by letter. In addition, Cal/OSHA safety and health staff was assigned for various lengths of time to the Office of Emergency Services (OES) operations centers, both regional and state.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report



During the FFY 2019, Cal/OSHA's role in providing compliance assistance to employers conducting cleanup operations in areas affected by wildfires increased significantly. Between March and June 2019, a number of 1,094 compliance assistance interventions were conducted, which resulted in 995 hazards that were identified and mitigated. Cal/OSHA has also provided safety training to contractors involved in cleanup operations.

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

Communicating with the Limited and Non-English Speaking Workforce

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 were 26. As of November 2019, Cal/OSHA's bilingual staff (in various languages) increased significantly, having 65 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 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 2019.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Professional Training and Certification

The Professional Development and Training Unit (PDTU) is responsible for administering the Professional Development and Training Program. The goal of the program 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 2019, 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 in-person courses, online webinars conducted by Cal/OSHA staff, and out-service courses taught by academic institutions, professional organizations, and highly-respected professionals who are experts in their field.




During FFY 2019, PDTU coordinated and facilitated 28 total courses, comprised of both mandatory and technical training courses and webinars, which were attended by a total of 1,331 managers, senior professional staff, and CSHOs.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

As in previous years, PDTU and Cal/OSHA leadership continue to encourage and support qualified staff in obtaining professional certifications. Staff that elect to participate in these opportunities are reimbursed tuition, books, and other related fees and expenses.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

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 assist workers understand 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 be 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 new procedures have resulted in more reliable and rapid cross-referrals between Cal/OSHA and DLSE.

During the FFY 2019, 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 79 referrals for investigation to DLSE (67 concerning labor law violations, and 12 concerning employer retaliation and discrimination), and receiving four referrals from DLSE concerning working conditions.

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

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

notation regarding the referral being made in the DLSE file. As a result, 124 referrals were received by Cal/OSHA from DLSE during FFY 2019.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

ALLIANCES

Alliance Program

In FFY 2019, Cal/OSHA established an Alliance Program and began implementing it immediately. In early spring of 2019, DIR signed 10 new alliance agreements between the U.S. Department of Labor, Department of Industrial Relations, Cal/OSHA and the Consulate of Mexico, in the following cities:



- 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, DIR and Cal/OSHA joined the Mexican Consulates in launching the annual Labor Rights Week, during which DIR and its representatives from Cal/OSHA, the Labor Commissioner's Office and Division of Workers' Compensation participated in seminars at all ten Mexican Consulates across the state.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

SIGNIFICANT CASES

Cal/OSHA investigated many noteworthy cases during FFY 2019. Some of these include:

Citations to Framing Contractor for Willful Violations of Nail Gun Safety Regulations Circle M Contractors, Inc. (#1311050)

On October 16, 2018, the Cal/OSHA Santa Ana district office issued two willful serious accident-related citations with total penalties assessed \$225,500 to Circle M Contractors, Inc., for a jobsite located in Lake Forest, California. On April 17, 2018, a carpenter was seriously injured when the pneumatic nail gun he was carrying, with his finger on the trigger, unintentionally discharged a nail into his left arm.

The willful serious accident-related citations were issued for failure to ensure safe operation of the pneumatically-driven nailer, in accordance with the manufacturer's instructions regarding the carrying of the gun only by its handle and not with the finger on its trigger; and for failure to provide effective, hands-on training for operating nailing tools safely. The employer had been cited before for failing to ensure workers carry nail guns only by the handle, and its Log 300 included numerous instances of nail gun injuries.

Citations to Window Washing Company for Fatal Fall BWM, Inc. - Barry's Window Cleaning (#1322074)

On November 12, 2018, the Cal/OSHA San Diego district office issued eight general citations, three of which were classified as willful, and five serious citations, two of which were classified as willful with total penalties assessed \$235,040 to BWM, Inc. - Barry's Window Cleaning for fatality that occurred in San Diego, California. On June 12, 2018, a window cleaner fell 97 feet from the parapet on the roof of the building whose windows he was cleaning when he accessed the controlled descent apparatus (CDA) he intended to use for the operation.

The general violations were for deficiencies of the Injury and Illness Prevention Program (IIPP); for improper selection of a portable ladder; for failure to receive from the building owner written operating procedures for the window cleaning operations; and for two violations of the Heat Illness Prevention Program requirements. The willful general citations were issued for failure to restrict vehicular and pedestrian access to the area on the ground below the suspended CDA; for deficiencies of the marking, tagging and inspection of the CDA's components; and for using CDA lines that did not meet manufacturer's specifications. The serious violations addressed improper use of the portable ladder; deficiencies in the ladder safety training; and failure to provide independent anchorages for the support line and safety line of the CDA. The willful serious violations were cited for the use of a CDA although there were other means to clean the windows safely and practicably; and for allowing knots in the lanyards, working lines, and/or safety lines being used by employees.

Citations to Pipe Installation Contractor for Fatal Trench Collapse Platinum Pipeline, Inc. (#1333964)

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

On December 5, 2018, the Cal/OSHA Foster City district office issued three general and seven serious citations, two of which were classified as willful serious accident-related with total penalties assessed \$242,600 to Platinum Pipeline, Inc., for a fatality at a jobsite located in Daly City, California. On July 27, 2018, five employees were digging a trench to install storm drain pipes at a residential construction site, when one of walls of the excavation, which was 14-foot high and was not protected against cave-ins, collapsed and killed one of the workers.

The general violations were for deficiencies of the IIPP recordkeeping requirements; for the failure to have a Heat Illness Prevention Plan (HIPP); and for not providing heat illness prevention training to employees. The serious citations were issued for failing to train all employees in the required excavator notification and excavation practices; for failing to ensure the stability of a power pole that was adjacent to the excavation; for placing excavated material too close to the edge of the excavation; for using sloping configurations of two of the excavation walls that did not meet the requirements of the standard; and for allowing employees to work on the faces of a sloped excavation at levels above other employees, who were not adequately protected from the hazard of falling, rolling, or sliding material. The willful serious accident-related citations were issued for failing to ensure that no employees were in the trench until an adequate protective system was put in place to ensure their safety; and for failing to remove workers from an excavation after a competent person observed cave-in hazards. One of the employees who was trained and competent in excavation operations had observed a large crack in the soft dirt of the unprotected wall, but instead of removing the workers from the trench, instructed them to be cautious but work was allowed to proceed.

Citations to Cannabis Company for Safety Violations Following Explosion that Burned Employee Future2 Labs Health Services, Inc. / Future2 Labs, LLC. (#1325347)

On December 18, 2018, the Cal/OSHA Fremont district office issued three regulatory, four general and three serious accident-related citations with total penalties assessed \$50,470 to Future2 Labs Health Services, Inc., located in Santa Cruz, California, following an explosion that seriously injured a worker. On June 19, 2018, an employee was working in a cannabis extraction lab, which was being operated in a PODS storage container. He suffered second and third degree burns over most of his upper body when an electric spark from a piece of equipment ignited the propane gas that was used to extract oil from the cannabis leaves.

The regulatory violations were for failing to report the serious injury to Cal/OSHA; and for two deficiencies of the IIPP recordkeeping requirements. The general violations addressed the lack of an IIPP; the failure to provide training under employer's emergency action plan; the lack of a Hazard Communication Program; and the failure to maintain safety data sheets for the hazardous substances used at the workplace. The serious accident-related citations were issued for failing to ensure that the machinery and equipment involved in cannabis extraction operations was maintained in a safe operating condition, such that the equipment had frequent leaks; for failure to assess hazards and provide personal protective equipment; and failure to ensure that no source of ignition was permitted in the work location where the concentration of the flammable gases or vapors was reasonably be expected to exceed 25 percent of the lower explosive limit.

Citations to Ceramic Material Company for Willful Failure to Guard Machinery in Fatal Accident Aardvark Clay & Supplies, Inc. (#1348217)

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

On March 20, 2019, the Cal/OSHA Santa Ana district office issued one general and four serious citations, two of which were classified as willful, with one of these being characterized as accident-related with total penalties assessed \$ 237,780 to Aardvark Clay & Supplies, Inc., located in Santa Ana, California. On September 20, 2018, an employee was fatally entangled in a pug mill, which is a clay manufacturing machine whose rotating mixing blades had their manufacturer-provided guards removed by the employer because they seemed to interfere with the rate of production.

The general citation was for a missing top rail of the guardrail provided on an elevated work platform. The serious violations were for employer's failure to effectively implement several provisions of its IIPP; and for failing to properly set up the point of operation guard for four slug cutters to prevent employees' hands from entering the point of operation. The willful serious violation was cited for failure to guard the point of operation of mixers, while the willful serious accident-related citation was issued for failure to guard openings of the four pug mills.

Citations to Food Manufacturer and Staffing Agency for Amputation of Worker's Fingers JSL Foods, Inc. (#1351365) and Priority Workforce Inc. (#1351361)

On April 2, 2019, the Cal/OSHA Los Angeles district office issued one regulatory, three general and three serious citations, two of which were classified as willful and repeat, one being also characterized as accident-related with total penalties assessed \$276,435 to JSL Foods, Inc., located in Los Angeles, California. Priority Workforce Inc., located in Tustin, California, was also issued three serious citations with total penalties assessed \$29,250. On October 2, 2018, an employee of Priority Workforce Inc. was assigned to JSL Foods, Inc., a maker and distributor of noodles, pasta and baked goods. The worker was cleaning a dough rolling machine which had not been de-energized and locked-out, when his left hand was partially pulled into the moving rollers and two of his fingers were amputated.

The regulatory violation was for failing to report the serious injury to Cal/OSHA. The general violations were failing to mark electrical disconnecting means as to their purpose; failing to implement corrective procedures as required by the IIPP standard; and lack of effective provisions for prompt medical treatment in the event of serious injury or illness. The serious violation addressed the inadequate guarding of the rolls of a dough brake. The willful serious repeat citation was issued for employer's failure to train all employees who engaged in cleaning the machines in its hazardous energy control procedures, while the willful serious repeat accident-related citation was issued for the failure to ensure that the dough brake that the employee was cleaning had been de-energized and locked out. The employer had been previously cited twice during the past five years for similar violations of the lockout/tagout standard.

The three serious citations issued to Priority Workforce Inc. were for failing to inspect for health and safety hazards the workplace of the secondary employer where it sent employees; for not ensuring that the employees assigned by the secondary employer to clean machines were trained in its hazardous energy control procedures; and for not ensuring that the dough brakes near which its employees were working had rolls that were guarded while in motion.

Citations to Solar Panel Installation Company for Willful Fall Protection Violation Nexus Energy Systems Inc. (#1364467)

On June 6, 2019, the Cal/OSHA Oakland district office issued three general and four serious citations, one of which was classified as willful and also characterized as accident-related, with total penalties

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

assessed \$193,905 to Nexus Energy Systems Inc. for a jobsite located in Oakland, California. On December 6, 2018, three installers were working to install solar panels at an Oakland residence when one of the workers lost his footing and fell 15 feet onto the concrete driveway, suffering serious injuries. None of the workers were wearing fall protection.

The general violations were for failing to investigate a prior burn accident and take measures to correct safety hazards; for failing to adopt a Code of Safe Practices that related to employer's solar panel installation operations; and for the lack of a Heat Illness Prevention Plan. The serious citations were for not providing approved insulated gloves to employees working on energized parts of electrical equipment; for failing to ensure that employees complied with employer's fall protection measures; and for not providing fall protection training to employees working at heights. The serious willful accident-related citation was issued for failing to ensure that fall protection equipment was used by employees who worked at heights of over 15 feet.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

Citations to Engineered Stone Manufacturer for Fatal Silica Exposures STONE ETC., INC. (#1374173 and # 1376013)

On July 26 and on August 5, 2019, the Cal/OSHA Oakland, and Long Beach, district offices issued a total of three regulatory, eight general, of which one was classified as willful, and 16 serious citations, six of which were classified as willful, with total penalties assessed \$893,745 to STONE ETC. INC. as result of inspections conducted at company's two locations, in Hayward and in Gardena, California. In January 2019 Cal/OSHA was notified of two deaths from silicosis of two former employees of the company at the Hayward location, and opened an inspection. Both employees had been working as stone fabricators/polishers for several years before they died. A complaint inspection was opened in February 2019 at the Gardena location.

The employer engages in similar operations at both locations, namely stone fabrication, which consists of cutting and finishing stone materials, mostly for countertops. Majority of these materials are various brands of engineered stone, a manufactured, quartz-based composite material that can contain >90% crystalline silica. Both locations had been inspected by Cal/OSHA before, and had been cited for violations related to silica exposures and hazards.

The regulatory violations were for failure to obtain compressed air tanks without permits; and for failing to post the required signs at entrances to silica regulated areas. The general violations cited were for failing to maintain the required working space about electric equipment; for a portable fuel container that was not the approved safety type; for failing to provide to employees required foot protection; for failing to ensure that hearing protection was correctly worn; for failing to activate monthly emergency eyewash equipment; for failing to conduct required silica exposure assessment for all employees; and for deficiencies in employer's written Silica Exposure Control Plan. The willful general citation was issued for failure to provide medical evaluation to respirator users. The serious violations cited were for failure to maintain grinders as required by the manufacturer; for allowing employees to wear tightfitting respirator facepieces over headwear; for conducting grinding, polishing, and/or buffing operations without required local exhaust ventilation; for not ensuring consistent use of respirators in silica regulated areas; for allowing the dry sweeping, and the use of compressed air, to clean silica-containing dust; for failing to effectively implement hazard identification and hazard correction procedures, and to provide effective training to employees, as required by the IIPP standard; for failing to conduct required silica exposure assessment for all employees; for failing to implement provisions of the Exposure Control Plan; and for failing to provide the required training regarding the hazards of silica to the employees exposed to it. The willful serious violations were cited in both inspections, and were for failing to fit-test the employees wearing tight-fitting facepiece respirators; for failing to use engineering and work practice controls to reduce and maintain employee exposure to respirable crystalline silica to or below the PEL for the employees engaged in processing engineered stone materials; and for not providing medical surveillance to employees who were determined to be occupationally exposed above the silica PEL for 30 or more days per year.



Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

REGULATIONS

New or revised Title 8 California Code of Regulations in FFY 2019:

Administrative Regulations:

Section 336, Assessment of Civil Penalties. (Effective January 1, 2019). 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 Section 3389(a) (Effective April 1, 2019). This non-horcher rulemaking addressed a deficiency in section 3389(a) that made it less effective than the Code of Federal Regulations, Title 29. The amendment changed section 3389(a) to require both a life ring and a personal flotation device (PFD) in marine terminal operations where employees are exposed to the hazard of drowning as required by CFR sections 1917.26(f) and 1917.95(b)(1).

GISO Section 3999(b) (Effective July 1, 2019). This rulemaking addressed the note contained in subsection 3999(b) that affected the clarity and application of the section. The note was originally included to explain that nonhazardous, belt conveyor support rollers need not be guarded. However the ambiguous terms "normally" and "serious injury" served to detract from the section's clarity and reduced its application to only hazards that would result in a serious injury. The amendment clarified the note by removing the terms "normally" and "serious injuries" and included a new reference to applicable hazards described in section 4002.

Health Regulations:

GISO Section 5141.1 (Effective July 29, 2019). This emergency 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.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

LEGISLATION

Governor Newsom signed seven bills affecting Cal/OSHA in FFY 2019. While signed in FFY 2019, most bills will take effect on January 1, 2020. The exception is SB 83, a budget trailer bill that took effect upon signing on June 27, 2019.

AB 35⁹ Worker safety: blood lead levels: reporting.

Under this bill the California Department of Public Health must report to Cal/OSHA any instance where a worker's blood lead level is at or above 20 micrograms per deciliter ($\mu\text{g/dL}$) within five business days of receiving the report. Reports received by Cal/OSHA shall constitute a complaint from a government agency representative charging a serious violation, subject to an investigation within three working days. In addition, Cal/OSHA must make information concerning any citations and fines imposed as a result of completed investigations publicly available on an annual basis. AB 35 also provides that the reportable blood lead levels do not supersede any lower blood lead levels that are actionable under Cal/OSHA lead standards.

AB 203¹⁰ Occupational safety and health: Valley Fever.

This bill requires construction employers engaging in specified work activities or vehicle operation in counties where Valley Fever is highly endemic to provide effective awareness training on Valley Fever to all employees annually and before an employee begins work that is reasonably anticipated to cause substantial dust disturbance. Training must cover specific topics, and can be included in the employer's injury and illness prevention program training or as a standalone training program. If a county is identified as being highly endemic for the first time, covered employers working in that county would not have to provide training during that first year, but would be required to provide training in subsequent years.

AB 647¹¹ Hazardous substances: cosmetics: disinfectants: safety documents.

This bill requires translation of safety data sheets (SDS) for cosmetics or disinfectants into languages common to the beauty care industry by July 1, 2020. Any entity that manufactures or imports a hazardous substance or mixtures of substances that constitute cosmetics or disinfectants (if those manufacturers are already required to develop or obtain safety data sheets (SDS) under existing law) must translate the safety data sheets by July 1, 2020 into the following languages: Spanish, Vietnamese, Chinese, Korean and any other language determined by the Director of the Department of Industrial Relations to be common to the beauty care industry. These entities must post and maintain the materials and its translations on their websites. If there are separate data sheets for color or tint, those would also have to be translated and posted online.

⁹ Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB35

¹⁰ Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB35

¹¹ Bill Text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB647

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

AB 1400¹² Employment safety: firefighting equipment: mechanics.

Under this bill the Commission on Health and Safety and Workers' Compensation, in partnership with the County of Los Angeles and labor organizations, must by January 1, 2021 conduct a study on the risk of exposure to carcinogens and the incidents of occupational cancer among mechanics who repair and clean firefighting vehicles.

AB 1804¹³ Occupational injuries and illnesses: reporting.

This is a technical fix amending Labor Code section 6409.1(b) to require employers to report serious occupational injuries and illnesses by telephone or through a specified online mechanism established by the division for this purpose, rather than by telephone or email.

AB 1805¹⁴ Occupational safety and health.

This bill amends the definition of the term "serious injury or illness" in Labor Code section 6302(h) to make California's requirements for reporting serious occupational injuries and illnesses align with (and therefore be at least as effective as) the corresponding federal regulation. In addition, Labor Code section 6302(i) is amended to make its definition of "serious exposure" consistent with the new "realistic possibility" standard in Labor Code 6432, as amended by AB 2774 (Swanson, Chapter 692, Statutes of 2010). Finally, it amends Labor Code section 6309(a), which specifies when a complaint is deemed to allege a "serious violation," to make this section consistent with the new "realistic possibility" standard in Labor Code 6432.

SB 83¹⁵ Employment.

This is a budget trailer bill that makes several changes to existing law regarding employment. As it relates to Cal/OSHA, the provisions of this bill require the Division to submit to the Occupational Safety and Health Standards Board a rulemaking proposal to revise the lead standards for purposes of the general industry safety orders and construction safety orders and require the Board to vote on the proposed changes by September 30, 2020.

¹² Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1400

¹³ Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1804

¹⁴ Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1805

¹⁵ Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB83

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 California Comprehensive FAME Report

SUMMARY OF ANNUAL PERFORMANCE PLAN RESULTS

The Federal FFY 2019 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 3.1 Timeliness of Inspections Opening and Citation 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 2,950 inspections combined for construction, agriculture and tree trimming. • Approximately 10% of the construction inspections will be programmed. • Attempt to sustain a 2% higher percentage of the serious classification of citations issued as result of these inspections. 	<ul style="list-style-type: none"> • 3,113 combined inspections were conducted in construction, agriculture and tree trimming during FFY 2019, as reflected by OIS as of December 3, 2019. • 17% (388 out of 2,280) construction inspections opened in FFY 2019 were programmed. • The percent of serious citations issued in FFY 2019 as a result of these inspections, that were sustained (with final order dates) were: <table style="margin-left: 40px; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">FFY 2018</th> <th style="text-align: center;">FFY 2019</th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">80%</td> <td style="text-align: center;">80%</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">80%</td> <td style="text-align: center;">87%</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">85%</td> <td style="text-align: center;">92%</td> </tr> </tbody> </table> <p style="font-size: small; margin-top: 10px;">FFY 18 OIS data as of December 5, 2019 FFY 19 OIS data as of December 12, 2019</p>		FFY 2018	FFY 2019	Agriculture	80%	80%	Construction	80%	87%	Tree Trimming	85%	92%	<ul style="list-style-type: none"> • This goal was 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 achieved. • This goal was partially achieved. These numbers, however, are expected to change as cases are adjudicated.
	FFY 2018	FFY 2019													
Agriculture	80%	80%													
Construction	80%	87%													
Tree Trimming	85%	92%													

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

Goal 1.1 Targeting the Mobile Workforce (cont.)

Performance Indicator Type	Indicator	Results	Comments																								
<p>Outcome Measures Cont.</p>	<ul style="list-style-type: none"> Abatement of non-contested serious hazards found in these industries will be achieved in 95% of cases. The number of serious hazards eliminated as result of these inspections will increase by 2% compared to FFY 2017. The number of employees removed from serious hazards as result of these inspections will increase by 2% compared to FFY 2017. 	<ul style="list-style-type: none"> Abatement of serious, willful, repeat (S/W/R) violations cited during FFY 2019 and not currently under contest is as follows: <ul style="list-style-type: none"> 99% - agriculture 98% - construction 97% - tree trimming The number of serious, willful, repeat (S/W/R) hazards eliminated as of the result of these inspections were: <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">FFY 2017</th> <th style="text-align: center;">FFY 2019</th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">359</td> <td style="text-align: center;">385</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">1,352</td> <td style="text-align: center;">1,251</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">123</td> <td style="text-align: center;">97</td> </tr> </tbody> </table> <p style="font-size: small; margin-top: 5px;">FFY 17 - OIS data as of December 5, 2019 FFY 19 - OIS data as of December 12, 2019</p> The number of employees removed from serious, willful, repeat (S/W/R) hazards as result of these inspections were: <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">FFY 2017</th> <th style="text-align: center;">FFY 2019</th> </tr> </thead> <tbody> <tr> <td>Agriculture</td> <td style="text-align: center;">5,443</td> <td style="text-align: center;">20,515</td> </tr> <tr> <td>Construction</td> <td style="text-align: center;">7,428</td> <td style="text-align: center;">8,381</td> </tr> <tr> <td>Tree Trimming</td> <td style="text-align: center;">289</td> <td style="text-align: center;">2,067</td> </tr> </tbody> </table> <p style="font-size: small; margin-top: 5px;">FFY 17 - OIS data as of December 5, 2019 FFY 19 - OIS data as of December 12, 2019</p> 		FFY 2017	FFY 2019	Agriculture	359	385	Construction	1,352	1,251	Tree Trimming	123	97		FFY 2017	FFY 2019	Agriculture	5,443	20,515	Construction	7,428	8,381	Tree Trimming	289	2,067	<ul style="list-style-type: none"> This goal was achieved. Whenever possible, Cal/OSHA field staff attempt to secure abatement of these hazards while on-site. This goal was achieved in one of the three industries. This goal to increase the number of employees removed from serious hazards as result of these inspections by 2% compared to FFY 2019 was achieved in all three industries.
	FFY 2017	FFY 2019																									
Agriculture	359	385																									
Construction	1,352	1,251																									
Tree Trimming	123	97																									
	FFY 2017	FFY 2019																									
Agriculture	5,443	20,515																									
Construction	7,428	8,381																									
Tree Trimming	289	2,067																									

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 385 targeted inspections of establishments in high hazard industries from the High Hazard Industries list. 	<ul style="list-style-type: none"> 426 targeted inspections were conducted during FFY 2019 by the High Hazard Enforcement Unit and other district offices, as reflected by OIS as of December 3, 2019. 	<ul style="list-style-type: none"> This goal was achieved.
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"> 99.6% of serious, willful, and/or repeat violations (S/W/R), not currently under contest, cited in FFY 2019 as the result of HHU targeted inspections and district office programmed inspections (coded REGIONP1), were abated. 61% of programmed inspections conducted in High Hazard establishments had S/W/R violations in FFY 2019 as reflected by OIS as of December 4, 2019. 94% of Programmed inspections conducted in High Hazard establishments had violations cited in FFY 2019. Average number of violations per inspection with violations was 5.2 for programmed inspections with violations cited in FFY 2019. 	<ul style="list-style-type: none"> This goal was achieved. This goal was achieved. This goal was achieved. This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 Unit (PSM) will conduct a total of 40 programmed inspections at facilities, other than petroleum refineries, that meet the trigger threshold quantities for the PSM standard. • Participate in seven outreach/compliance assistance activities provided to industry/professional groups. • PSM Unit will conduct four 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"> • 67 programmed inspections were conducted at facilities other than petroleum refineries that meet the trigger threshold quantities for the PSM standard, as reflected by OIS on December 3, 2019. • The PSM Unit staff participated in 16 outreach/compliance assistance activities provided to industry/professional groups. • The PSM Unit staff conducted four comprehensive programmed inspections of petroleum refineries (NAICS 324110) during normal operating conditions in FFY 2019. • The PSM Unit conducted five turnaround inspections of petroleum refineries (NAICS 324110), two in the North and three 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 achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 10% of all inspection types, whether programmed or unprogrammed. 	<ul style="list-style-type: none"> Three follow-up inspections were conducted during FFY 2019. 	<ul style="list-style-type: none"> This goal was not achieved: 57 non-refinery, non-follow-up inspections that are not currently under contest were conducted, which would have required six follow-up inspections.
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"> 100% of serious, willful, and/or repeat violations (S/W/R), not currently under contest, cited during FFY 2019 were abated, as reflected OIS as of December 12, 2019. There were no fatalities or serious injuries/illnesses attributable to violations of the PSM standard (T8 CCR 5189 and 5189.1) at covered facilities during CY 2018, as reflected by OIS reports (using accident investigations conducted by the dedicated Cal/OSHA PSM Unit). 	<ul style="list-style-type: none"> This goal was achieved. This goal was 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 (2016 - 2018)¹⁶ was 1.

¹⁶ The number of fatalities and serious injuries/illnesses attributable to violation of the PSM standard for calendar years 2016, 2017 and 2018 were respectively 2, 1 and 0.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 2,500 inspections of outdoor places of employment where heat hazards are evaluated. • Conduct a minimum of 95 seminars where heat illness prevention will be 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"> • 2,922 inspections in construction, agriculture and landscaping NAICS were conducted where heat hazards were evaluated (coded S 18 HEAT) during FFY 2019, as reflected by OIS on December 11, 2019. • 134 seminars/workshops were conducted where heat illness was emphasized during FFY 2019. In all, Cal/OSHA Enforcement staff participated in 199 outreach events where heat illness prevention was addressed, including TV and radio interviews. • Staff distributed over 40,000 units of heat illness prevention materials during outreach events alone. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. Cal/OSHA continues to collaborate with various employers, labor groups, community based organizations and local governments to train employers and employees on heat illness prevention. • 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"> • 94% of 3395 violations, not currently under contest, cited during FFY 2019 (all industries) were abated, as reflected by OIS as of December 12, 2019. 	<ul style="list-style-type: none"> • This goal was not reached. Cal/OSHA will continue to work with employers to obtain abatement.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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

Performance Indicator Type	Indicator	Results	Comments
Outcome Measures	<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 two confirmed outdoor heat related fatalities and 73 confirmed heat illnesses in CY 2018, based on Cal/OSHA internal tracking. CY 2019 data as of December 27 shows there were also two confirmed heat fatalities and 65 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 partially achieved. The baseline average number of heat fatalities for CY 2011 - 2013)¹⁷ was three. The baseline average number of heat-related illnesses for CY 2011 – 2013¹⁸ was 52.

¹⁷ 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.

¹⁸ 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.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 125 training and outreach events in FFY 2019 for high-risk, vulnerable workers organized by worker and community organizations, the UC programs, and consulates. 	<ul style="list-style-type: none"> • Over 65,000 publications and flyers distributed during FFY 2019 outreach events with vulnerable workers. • Cal/OSHA Enforcement staff participated in over 155 outreach events with vulnerable workers. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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

Performance Indicator Type	Indicator	Results	Comments
Outcome Measures	<ul style="list-style-type: none"> At least 1,200 training and outreach event participants will have gained increased knowledge of workplace safety and health hazards, workers' rights, and how to exercise those rights. An additional 25,000 workers will gain this knowledge through trainings conducted by event participants. The Safety and Health in Agricultural Field Operations publication will be completed in English and translated into Spanish. 	<ul style="list-style-type: none"> There were over 23,000 attendees at FFY 2019 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 conclude that over 25,000 workers gained health and safety knowledge from the workshops, training and other events. The English Safety and Health in Agricultural Field Operations publication is nearing completion. The translation of this publication into Spanish is expected to be completed in FFY 2020. 	<ul style="list-style-type: none"> This goal was achieved. This goal was not achieved. There are many layers of review, which includes external stakeholders.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 and Cal/VPP Construction Units will hold one workshop each to promote Cal/VPP and Cal/VPP Construction. 	<ul style="list-style-type: none"> Cal/VPP and Cal/VPP Construction each held one workshop. 	<ul style="list-style-type: none"> This goal was achieved.
Outcome Measures	<ul style="list-style-type: none"> Seven new establishments will be added into the Division's leadership level for fixed site establishments (Cal/VPP) and 15 will be renewed. Six new establishments will be added into the Division's leadership level partnership program for construction VPP worksites and one will be renewed. 	<ul style="list-style-type: none"> Six new VPP establishments were added into the Divisions leadership level for fixed establishments and 12 were renewed. Two new establishments were added into the Division's leadership level partnership program for construction VPP worksites and none were renewed during FFY 2019. 	<ul style="list-style-type: none"> This goal was not achieved. Cal/VPP Construction currently has eight applications being processed into FFY 2020. This goal was not achieved. Cal/VPP Construction had three projects completed and not renewed in FFY 2019.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 30 potential participants that meet the requirements for alliances. • Enter into a dialogue with 20 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 eight organizations with which to enter into alliance agreements. 	<ul style="list-style-type: none"> • 38 potential participants were identified that meet the requirements for alliances. • Cal/OSHA entered into a dialogue with 20 potential participants to explain the purposes, requirements, and expectations of alliances. • 10 organizations were selected and entered 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 eight 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 year. 	<ul style="list-style-type: none"> • 10 organizations were selected and entered into alliance agreements FFY 2019. • Work plans were developed describing specific activities that will be completed during the year. 	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

	<ul style="list-style-type: none">• Cal/OSHA and the alliance participants will implement the actions agreed upon in the Work Plan.	<ul style="list-style-type: none">• Cal/OSHA and the alliance participants began implementing the actions agreed upon.	
--	---	--	--

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 citations lapse time. 	<ul style="list-style-type: none"> • Cal/OSHA staff ran the OIS “UPA Tracking” report on a weekly basis to monitor the unsatisfied complaints, and ran 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 achieved. • This goal was achieved. • This goal was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 2.60 work days to ALL serious complaints (formal and non-formal), and within 11.10 calendar days to ALL non-serious complaints (formal and non-formal), as reflected by CA SAMMs #CA-1A and CA-1B dated December 13, 2019. • Cal/OSHA responded to 100% of imminent hazard complaints/referrals within one work day of receipt. • Cal/OSHA responded to 99.51% work related fatality reports within one work day of receipt. • Average citation lapse time as reported by OIS SAMMs #11 was as follows: <table border="1" style="margin: 10px auto; border-collapse: collapse; text-align: center;"> <thead> <tr> <th></th> <th>FFY 2018</th> <th>FFY 2019</th> </tr> </thead> <tbody> <tr> <td>Safety</td> <td>77.79</td> <td>79.91</td> </tr> <tr> <td>Health</td> <td>80.51</td> <td>84.99</td> </tr> </tbody> </table> <p style="font-size: small; margin-top: 5px;">FFY 2018 OIS SAMMs #11 dated 12/20/18 FFY 2019 OIS SAMMs #11 dated 12/5/19</p> • 71% of serious, willful, repeat (S/W/R) violations cited during FFY 2019 were abated on site, as reflected by OIS as of December 12, 2019. 		FFY 2018	FFY 2019	Safety	77.79	79.91	Health	80.51	84.99	<ul style="list-style-type: none"> • This goal was achieved. • This goal was achieved. • Cal/OSHA responded to one work related fatality report in three work days due to the misplacement of this accident report. The district office has implemented procedures to prevent this from reoccurring. • This goal was not achieved. • This goal was achieved.
	FFY 2018	FFY 2019										
Safety	77.79	79.91										
Health	80.51	84.99										

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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 and implemented. • 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"> • An improved 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 have been implemented and the IDP results for training needs continue to move forward. • PDTU and management monitored and tracked the implementation of all 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 partially achieved. Not all managers submitted their IDPs as required. • This goal was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

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. • 90% of the newly hired CSHOs will receive all the required training during their first three years. • 70% of the CSHOs with more than three years of experience will attend at least two technical courses. 	<ul style="list-style-type: none"> • 100% of the newly hired CSHOs received all the required training during their first year. • 94% 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 two technical courses. 	<ul style="list-style-type: none"> • This goal was achieved. • This goals was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

GOAL 3.3

Communication with Stakeholders

Strategic Goal: Enhance communication with industry, labor, and professional safety and health organizations.

Performance Goal: Reach out and engage a wide range of stakeholders in all pertinent aspects of Cal/OSHA’s program.

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"> • One Cal/OSHA Advisory Committee meeting was held during FFY 2019. • 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 partially achieved. • This goal was achieved. • This goal was achieved. • This goal was achieved.

Appendix E - FY 2018 State OSHA Annual Report (SOAR)

Communication with Stakeholders (cont.)

Performance Indicator Type	Indicator	Results	Comments
Outcome Measures	<ul style="list-style-type: none"> • Hold at least two Cal/OSHA Advisory Committee meetings • Hold at least four 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 eight events organized by stakeholder groups and organizations. 	<ul style="list-style-type: none"> • One Cal/OSHA Advisory Committee meeting was held during FFY 2019. • Eight exploratory and pre-rulemaking open public advisory meetings on emerging topics were held during FFY 2019. • 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 99 events organized by stakeholder groups and organizations. 	<ul style="list-style-type: none"> • This goal was not achieved. • This goal was achieved. • This goal was achieved. • This goal was achieved.