



# "The Public Interest"

## Health/Safety and Environmental Issues

*the PASMA way to shared knowledge*

Public Agency Safety Management Association

September 25<sup>th</sup>, 2015

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Changes to T8CCR334 "Repeat Citation History to go State Wide"

### **The Potential Impact part II (Editorial)**

Thank you all for your attendance at the recent PASMA Conference. I thoroughly enjoyed your company and most importantly your interest in preserving the resources that we are mandated to protect, our employees. I was a bit disappointed that Ms. Sum, Cal/OSHA Chief was unable to attend. To be fair Ms. Sum did send an emissary to speak in her behalf, Ms. Debra Lee, Acting Deputy Chief. Ms. Lee presented an update of the Division's operations and was subsequently asked why Division management did not make attempts to visit Southern California stakeholders particularly during the "public comment periods" for proposed safety orders. Secondly, and most importantly, Ms. Lee was asked if the Division was relying on any data regarding the frequency that Fed/OSHA has used "nationwide" employer histories to enforce repeat citations. Ms. Lee indicated that she was not aware of any such data and the sales pitch we received was that the Division is "simply trying to align itself with Federal standards". I find that response specious without hard data establishing the need. I seem to recall another such specious arguments relative to the passage of AB 2774 when we were told it was an attempt to "initiate a dialogue" between the Division and the employer. That worked out well, didn't it? I believe that any regulatory agency is duty bound to be as transparent as possible and provide hard metrics to support the creation of any new regulations or changes in policy. To be sure, there is plenty of blame to go around...the Division for not being as transparent as it could be, and ours, for not acting with sufficient vigor to influence the politics of the game we're forced to play.

As most of you know, I've spent well over 37 years in a compliance experiment both in the Air Force and Cal/OSHA. That experiment confirmed time and again that mid level managers of Health and Safety Programs face operational challenges in that they typically serve only in an advisory capacity, are viewed as a budgetary expenditures rather than a preventative value added, and simply do not have the tools to convert the thinking of Administrators and Policy makers. To those points allow me to illustrate the real risk potential in numbers relative to both AB 2774 and the current proposed standard on repeat citations. The data is from the Federal OSHA Website (reference the URL address in the screen shots) and only covers Local and State inspections for the past year. Imagine the risk potential should the Division be successful in using a **5 year** history as proposed in this new standard. Borrowing AB2774 language, this data clearly indicates the "realistic possibility" that Public Sector employers are a targeted inspection for the Division simply because a) they tend not to have an adequate infrastructure in place to support compliance and b) they tend not to avail themselves to the full appeals process. In closing this editorial I re-iterate the need for collective action. None of our organizations have even the remotest budgetary buffer to absorb the inevitable decision by some compliance officer that there is a repeat citation to add to his/her production quota particularly since hard data substantiating that the current Cal/OSHA policy has proven to be ineffective in reducing serious injuries and fatalities has not been provided. In fact, I argue that the aggregate hard data would suggest the exact opposite. Which definitely begs the question, "**Why are you really promoting this, Cal/OSHA?**"

## Cal/OSHA Inspections Against Public Sector 2014-2015

https://www.osha.gov/pls/imis/industry.search?sic=&sicgroup=&naicsgroup=&naics=&state=CA&officetype=State&offi

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### Industry SIC Search Results

SIC	NAICS	Date Range	Office	State	Other Options
All	All	09/25/2014 to 09/25/2015	All	CA	Local Govt

Please note that inspections which are known to be incomplete will have the identifying Activity Nr shown in italic. Information for these open cases is especially dynamic, e.g., violations may be added or deleted.

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[10](#) ... >

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#	Activity	Opened	RID	St	Type	Sc	SIC	NAICS	Vio	Establishment Name
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https://www.osha.gov/pls/imis/industry.search?p\_logger=1&sic=&naics=&State=CA&officetype=State&Office=All&end

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### Industry SIC Search Results

SIC	NAICS	Date Range	Office	State	Other Options
All	All	09/25/2014 to 09/25/2015	All	CA	State Govt

Please note that inspections which are known to be incomplete will have the identifying Activity Nr shown in italic. Information for these open cases is especially dynamic, e.g., violations may be added or deleted.

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#	Activity	Opened	RID	St	Type	Sc	SIC	NAICS	Vio	Establishment Name
<input type="checkbox"/>	1	<a href="#">1091190.015</a>	09/11/2015	0950621	CA	Fat/Cat	Partial		213111	Ca Transportati Office Of



## NEWS RELEASE

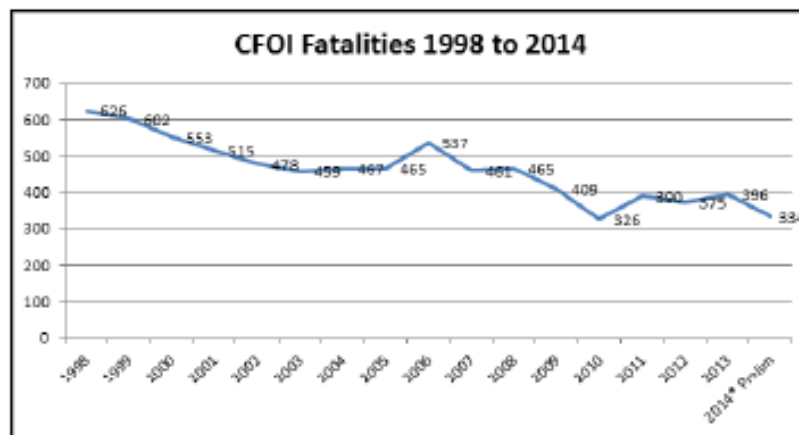
News Release No.: 2015-83

Date: September 17, 2015

### Preliminary Data on Workplace Fatalities in California Reflect Downward Trend

Oakland—The Department of Industrial Relations (DIR) today posted [preliminary workplace fatality statistics](#) for California in 2014. The [Census of Fatal Occupational Injuries](#) (CFOI) data reflect a total of 334 fatal work injuries statewide in 2014, a decrease of 16% from the 396 workplace deaths reflected in the final 2013 data. Deaths for Hispanic or Latino workers also decreased 35% from 194 in 2013 to 127 in 2014. [Preliminary data for the United States](#) show an increase of 2% from 4,585 in 2013 to 4,769 in 2014.

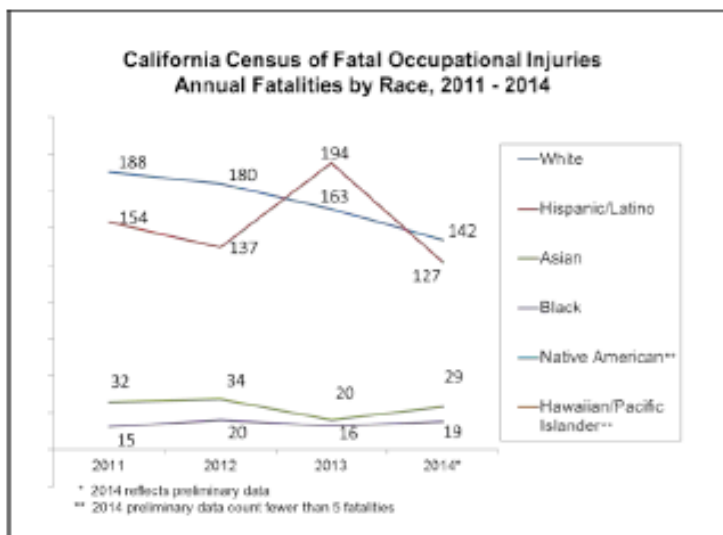
"The downward trend in workplace fatalities for Latinos and all workers in California is encouraging," said DIR Director Christine Baker. "It is our hope that this trend continues, and that employers continue to provide their workers the training, equipment and safety measures to protect all workers in our state."



Key findings of the preliminary 2014 CFOI in California:

- The total number of workplace fatalities are the lowest reported since 2010, and remain below the pre-2008 recession average.

- Over one third (35%) of all California workplace deaths identified in 2014 occurred in transportation incidents. Traffic accidents that occur on public roads are under the jurisdiction of the California Highway Patrol.
- One in five (22%) of all California workplace deaths identified in 2014 were attributed to violent acts and 21% due to trips, slips and falls.
- Fatal workplace injuries among Latino workers represent 38% of all cases identified in 2014, compared to 49% counted in final data the year before.



In April, DIR published a [report](#) examining fatal occupational injury trends among Latinos from 2009 – 2013. The report made recommendations for specialized, language-appropriate training for workers prior to performing hazardous work.

"These preliminary statistics on California workplace fatalities provide us with valuable information to protect workers. With evidence and data, we continually refine and strengthen workplace safety and health regulations, training materials, and outreach and education efforts for employers and workers," said Cal/OSHA Chief Juliann Sum. Cal/OSHA is a division in DIR.

Tables and charts reflecting preliminary data for 2014 (and prior years' final data) for California are posted [online](#). Preliminary numbers for 2014 reflect available statistics at time of this publication. Changes and additions to the preliminary 2014 California CFOI counts are expected and could result from the identification of new cases and the revision of existing cases based on source documents received after the release of preliminary results. Final 2014 CFOI data will be released in the late spring of 2016.

## PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the proposed amendments, on the following date:

**Date:** Friday, October 2, 2015  
**Time:** 10:00 a.m. to 5:00 p.m.  
**Place:** Elihu Harris State Office  
Building – Room 1304  
1515 Clay Street  
Oakland, CA 94612



## WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Rulemaking by mail or personal delivery to Greg Santiago, 1515 Clay Street, Suite 1901, Oakland, CA 94612 or Denise Cardoso at the same address. Written comments also may be sent to Greg Santiago or Denise Cardoso via (1) e-mail to [RepeatRulemakingComments@dir.ca.gov](mailto:RepeatRulemakingComments@dir.ca.gov) or (2) facsimile to (510) 286-7039. To be considered, written comments must be received no later than **5:00 p.m., Friday, October 2, 2015.**

***Remember! Get involved... at least air your concerns...***