

FY 2015 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report

California Division of Occupational Safety and Health (Cal/OSHA)



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I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this report is to assess the California Occupational Safety and Health Administration's (Cal/OSHA) performance for Fiscal Year (FY) 2015 and its progress in resolving outstanding recommendations from the FY 2014 Follow-up Federal Annual Monitoring Evaluation (FAME) Report.

In FY 2015, Cal/OSHA improved and strengthened its program by taking corrective action to complete 12 of the 20 findings from the FY 2014 Follow-up FAME report. Several of these findings related to issues in the enforcement program. Cal/OSHA was able to expand staffing levels for enforcement from 182 in FY 2014 to 240 positions in FY 2015. In addition, Cal/OSHA has instituted a streamlined hiring process that helps to fill vacancies as quickly as possible. (Finding FY 2014-16). It is expected that over the next year or so, as the additional inspectors are hired and trained, this expansion in staffing levels will lead to improvement in a number of enforcement measures, such as complaint response time and citation lapse time. Cal/OSHA developed and implemented a State Internal Evaluation Program (SIEP), which includes a statewide audit of district office performance every six months that will result in an audit report. (FY 2014-20). Cal/OSHA provided training to inspectors on recognizing hazards and identifying violations and managed to lower the percent of non-compliance cases to below the further review level for both health and safety (FY 2014-03). Cal/OSHA has a working process for determining targeted industries and threshold injury and illness rates for programmed inspections (FY 2014-15).

During FY 2015, Cal/OSHA provided training on proper documentation of retaliation complaint case files and was able to close three of the six findings from FY 2014 that related to their workplace retaliation program (FY 2014-11, FY 2014-12, and FY 2014-13). In addition, Cal/OSHA corrected the issue of recording non-enforcement activity, such as crane permitting and mining and tunneling pre-job conferences, as an inspection in OIS, and improperly charging the time spent on these activities under their State Plan grant. (FY 2014-14 and FY 2014-17). Finally, Cal/OSHA corrected two other issues of improper use of the State Plan grant funds. Cal/OSHA now separately tracks inspections conducted under exempt NAICS and ensures they are paid out of state overmatch funds (FY 2014-18), and the time spent by senior engineers in supporting CSHO inspections is no longer being counted under compliance officer FTEs reported in the grant application (FY 2014-19).

Three findings in FY 2014 were not fully resolved, but Cal/OSHA made enough progress to warrant converting these findings to observations in this FY 2015 FAME report, subject to further monitoring by OSHA's Regional Office. Cal/OSHA trained staff on the importance and procedure for sending next-of-kin letters and in FY 2015 only 4 out of 24 (16.7%) of case files reviewed did not contain a next-of-kin letter (down from 44.4% in FY 2014) (FY 2014-01/FY 2015-OB-02). During FY 2015, Cal/OSHA began formal rulemaking to change their Policies and Procedures Manual to expand the elements of repeat violations from regional employer history to statewide employer history. Since this rulemaking would sufficiently address the finding, but is still pending, this issue is being converted to an observation for further monitoring (FY 2014-05/FY 2015-OB-04). Finally, finding FY 2014-

07 involves two state-initiated standards, bakery ovens and crane load testing standards. Cal/OSHA and OSHA have been in longstanding discussion about how Cal/OSHA's bakery oven standard is not at least as effective. The next step is for OSHA to provide a response after further monitoring. California's Occupational Safety and Health Standards Board (OSHSB) and OSHA are also in discussion about how to revise the crane load testing standard to make it at least as effective. For these reasons, this finding has been converted to an observation subject to further monitoring.

Cal/OSHA also had several examples of positive growth in their program that went above and beyond taking corrective action to address the FY 2014 findings. One relates to the passage of *The Abatement Credit Assembly Bill* on January 2, 2015. This bill strengthens the requirement for employers to abate serious violations quickly and most notably, provides that the requirement to abate is not automatically stayed while a case is pending before the California Occupational Safety and Health Appeals Board (OSHAB). Another example is Cal/OSHA's issuance of the Agricultural Personnel Transport Carriers Standard, which regulates the safe operation of agricultural tractor-mounted personnel transport carriers as an innovative way to transport groups of agricultural workers safely to and from their workplace in the field, while reducing the risk of heat-related illness.

Five FY 2014 findings remain unaddressed and open in FY 2015, three new findings are established, and two FY 2014 observations are converted to findings. Nine of these ten FY 2015 findings are based on the following issues:

- Cal/OSHA's high citation lapse time for safety inspections;
- failure to notify complainants of inspection results;
- a low average number of willful, repeat or unclassified violations per inspection;
- lack of worker representative involvement in opening conferences and lack of worker interviews;
- two documentation issues in workplace retaliation cases;
- improper entry of retaliation case information into WebIMIS;
- failure to update the CAL/OSHA Retaliation Complaint Investigation (RCI) Manual and the Policies and Interpretations Manual to be at least as effective as OSHA's whistleblower manual; and
- failure to change the RCI to accept discrimination complaints file orally, by fax or by email.

The one remaining finding relates to the fact that Cal/OSHA is still working on changing its residential construction fall protection standard to be at least as effective as OSHA's standard. Cal/OSHA has shown a willingness to work with OSHA on changing this standard and has made some progress on moving forward with this change in FY 2015, but the finding will be continued until fully resolved.

B. State Plan Introduction

The Department of Industrial Relations (DIR) administers the California State Plan. Within DIR, the Division of Occupational Safety and Health (DOSHS), commonly referred to as Cal/OSHA, is the principal executor of the plan. The Director of DIR and State Plan

Designee is Christine Baker. Juliann Sum is the Chief of Cal/OSHA. Ms. Sum is currently 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. Vicky Heza was the Consultation Program Manager during FY 2015.

An independent Occupational Safety and Health Standards Board (OSHSB) under DIR, promulgates occupational safety and health standards for the state of California. Seven board members are appointed by the governor, and then led by David Thomas, Chairperson, and Marley Hart, Executive Officer.

DIR also has an independent OSHA Appeals Board (OSHAB) that adjudicates contested cases. Art Carter is the Chairperson and Han Ha is the Acting Executive Director. Under the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE) investigates allegations of retaliation. The Labor Commissioner is Ms. Julie Su and Senior Deputy Labor Commissioner is Joan Healy.

There are 26 enforcement offices located throughout the State Plan. Seventeen of these offices are separated into four geographical regions, each headed by a regional manager. In addition, there are two High Hazard Units (HHUs) located in Oakland (HHU North) and Santa Ana (HHU South) that cover all high-hazard industries. The Process Safety Management (PSM) Unit has two offices located in Concord (PSM North) and Santa Ana (PSM South). 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. They may also serve as expert witnesses. 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 located in Oakland (LETF North) and Santa Ana (LETF South) that target employers in the underground economy in partnership with other state agencies.

C. Data and Methodology

OSHA has established a biennial cycle for the FAME process by alternating a comprehensive FAME, which includes a mandatory on-site case file review, with a follow-up FAME, which tracks progress on findings from the previous comprehensive evaluation. FY 2015 was a comprehensive FAME and an on-site review of case files was conducted to determine if the state is following its policies and procedures and to verify outstanding items from the FY 2014 Corrective Action Plan (CAP).

The original case file selection strategy to evaluate the enforcement program included a random sample of 127 inspections opened and closed during FY 2015, that were divided into programmed and un-programmed according to the ratio of inspections conducted. A random sample of 24 fatality inspections was also compiled for review. The review was halted after the 80 cases (including 16 fatality cases) indicated an in-compliance rate of 78% and the methodology was reassessed. Further investigation revealed that debt collection information was not being input into the new OIS. Therefore, Cal/OSHA had many inspections where penalties had been collected, but not entered into OIS, and therefore could not be closed and counted in the pool for the sample selection. (A more detailed explanation of this high in-

compliance rate is provided under Section V – Other Special Measure of Effectives and Areas of Note.)

In order to review cases with citations, a new list was compiled consisting of 100 inspections opened in FY 2014 and FY 2015 that met the following criteria: 1) citations issued; 2) uncontested or contest resolved; and 3) abatement completed. The remaining eight fatalities from the original 24 that had not yet been reviewed were included as well. An additional 35 older cases that had remained open for more than a year were also reviewed to ensure there were no outstanding problems with abatement.

OSHA also evaluated Cal/OSHA's workplace retaliation program and selected 27 of the 244 workplace retaliation cases closed during FY 2015 for review based on the following criteria: 1) cases to assess verification and completion of FY 2014 FAME findings; 2) cases with determinations of litigation/merit, dismissed/non-merit, settled, settled other and withdrawn; and 3) at least three cases investigated by each of the five investigators.

Information and data referenced in this FAME report were derived from State Activity Mandated Measures (SAMMs) attached as Appendix D, the State Plan FY 2015 23(g) Grant Application, Integrated Management Information System (IMIS) reports; OSHA Information System (OIS) reports, discussions with Cal/OSHA staff during the quarterly meetings, and the comprehensive on-site case file review.

D. Findings and Observations

Cal/OSHA's FY 2014 Follow-up FAME report had a total of 20 findings and recommendations and four observations. In FY 2015, 12 of these findings were completed, three are converted to observations, and five remain open. In addition, two of the observations were completed and two were converted to findings in this FY 2015 FAME report.

This FY 2015 FAME report contains a total of 10 findings and recommendations: five are carried over from FY 2014, two are the converted observations from FY 2014, and three are new findings. The FY 2015 FAME report also contains five observations: three are converted from FY 2014 findings, and two are new observations.

Specific details of the findings and recommendations are provided in Appendix A of this report, observations are provided in Appendix B, and the status of the FY 2014 Findings and Recommendations are provided in Appendix C.

II. Major New Issues

Fall Protection

In December of 2010, OSHA issued *Compliance Guidance for Residential Construction* (STD 03-11-002)(effective in June of 2011), cancelling OSHA's interim enforcement policy (STD 03-00-001) on fall protection for certain residential construction activities and requiring employers engaged in residential construction to comply with 29 CFR 1926.501(b)(13). This new guidance informed State Plans that, in accordance with the OSH Act, they must each have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as OSHA's program. Cal/OSHA's residential construction fall protection standard was identified by OSHA as having significant differences from the federal standard that were cause for concern. In Cal/OSHA's FY 2011 and FY 2013 FAME reports, the residential construction fall protection issue was discussed in the narrative of the report. In the FY 2014 Follow-up FAME report, this issue rose to the level of an observation subject to increased monitoring (FY 2014-OB-01).

On November 3, 2015, OSHSB hosted an advisory committee meeting to address the topic of revising Cal/OSHA's residential construction fall protection standard. This meeting was in response to OSHA's letter dated February 4, 2015, articulating how Cal/OSHA's residential fall protection standard is not at least as effective as OSHA's standard. Several key issues were outlined in this letter, including the discrepancy between OSHA's six foot trigger height for the requirement to use conventional fall protection, and Cal/OSHA's varying trigger heights between 7.5 feet and 20 feet for different situations. Stakeholders, including OSHA, presented their viewpoints on the current state standard and the benefits and problems with adopting a six foot trigger height and making the other changes required to become at least as effective as OSHA. At the conclusion of the meeting, the advisory committee agreed to continue working on a change, and recommended they meet with their stakeholders at a later date to decide how to handle the specific revisions.

On January 21, 2016, at a Standards Board meeting, OSHA restated the required changes to make the Cal/OSHA standard at least as effective, including changing the trigger height to six feet. Stakeholders again weighed in and Cal/OSHA recommended the state standard be revised to comply with OSHA's requested changes. The OSHSB members voted to approve the plan to revise the standard to satisfy OSHA's concerns, including implementation of a six foot trigger height. On April 11, 2016, the OSHSB held another advisory committee meeting and proposed a draft fall protection standard. OSHA continues to be in dialogue with Cal/OSHA and OSHSB on remaining concerns with the proposed changes. Given the longstanding nature of this issue, it has been elevated to a finding in this FY 2015 FAME report (FY 2015-01).

Finding 2015-01 (2014-OB-01): Cal/OSHA’s regulations for residential construction fall protection are not at least as effective as federal OSHA’s regulations as required by 29 CFR 1953.5(a).

Recommendation FY 2015-01 (2014-OB-01): Cal/OSHA 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 federal OSHA’s regulation. In addition, Cal/OSHA and its stakeholders should coordinate with federal OSHA to work out any differences before finalizing the amended regulation.

III. Assessment of State Plan Performance

A. STATE PLAN ADMINISTRATION

1. Training

The number of personnel who completed the training requirements for new compliance officers more than doubled and the volume of advanced technical training was the highest since 1990. Compliance staff is encouraged to obtain certification as a Certified Safety Professional (CSP) or Certified Industrial Hygienist (CIH) by funding tuition, books, and providing for study time.

2. Funding

The initial award to fund the program was \$74,669,620 (\$26,425,400 federal and \$26,425,400 State Plan funds). The State Plan added an additional \$21,581,020 in overmatch funds. On August 25, 2015, the State Plan received a one-time only increase of \$100,000 to purchase equipment and supplies for their enforcement field staff. An on-site financial review conducted April 1-14, 2015 by OSHA Region IX’s accounting office did not result in any corrective actions. Cal/OSHA corrected several issues related to improper charges under the 23(g) State Plan grant and was able to complete three findings. Specifically, Cal/OSHA is now properly accounting for spent on: crane permitting and mining and tunneling pre-job conferences, inspections under exempt NAICs, and senior engineer support of CSHO inspections. (FY 2014-17, FY 2014-18, and FY 2014-19).

3. Staffing

In response to the FY 2014 Follow-up FAME report, the governor approved funding for 43 new positions in enforcement and enforcement-support units beginning July 1, 2015. There were also staffing increases in the Process Safety Management (PSM) unit. Overall authorized positions increased almost 32% by expanding from 182 to 240 enforcement positions. At the end of FY 2014, Cal/OSHA had a total of 182 allocated enforcement positions (165 were filled, and 17 were vacant). By the end of FY 2015, Cal/OSHA had a total of 240 allocated enforcement positions (189 were filled or on-board, and 51 were vacant). While retirement continues to drive turnover, these vacancies are continuously being filled through a new streamlined hiring process that Cal/OSHA worked out with their

Department of Industrial Relations and Human Resources department. (FY 2014-16 is completed).

4. State Internal Evaluation Program (SIEP)

During FY 2015, Cal/OSHA developed and implemented a SIEP. The SIEP consists of an internal review of randomly selected case files to assess Cal/OSHA's performance on case lapse time, response time to address complaints, union/non-union involvement in inspections, worker interviews, and next-of-kin letters. The first evaluation included review of over 14,000 inspections. Case files and the OSHA Information System (OIS) were updated to correct any errors identified and managers were notified of the discrepancies. In addition, numerous classes were held to retrain compliance staff and managers to prevent these types of discrepancies from occurring. This action completes Finding FY 2014-20.

B. ENFORCEMENT

A total of 7,419 enforcement inspections were conducted in FY 2015. This number was generated when the measures in Appendix D were calculated and can fluctuate based on the day the report was generated. The number of inspections surpassed the projected goal of 7,100 by 104.5% (SAMM 7). There were an additional 136 inspections conducted that were entered into IMS after the roll-out of the OIS that are not reflected in the report.

1. Complaints

Complaints are categorized as serious or non-serious, and formal or non-formal. Complaints submitted by current workers (identified by name and address), union representatives, and representative of a government agency are considered formal complaints. Complaints submitted by those not falling into the above categories are considered non-formal complaints. All formal complaints are required to be investigated.

Formal serious complaints are mandated by California Labor Code Sections 6309, 6310 and 6312, to have an inspection initiated within three working days, while formal non-serious complaints must be responded to within 14 calendar days. According to the Policy and Procedures (P&P) Manual, C-7A, non-formal serious complaints must be responded to within three working days, and non-formal non-serious complaints must be responded to within 14 calendar days. Due to these State Plan-specific mandates, the response time as measured by SAMM 1 (average number of days to initiate complaint inspections) and SAMM 2 (average number of days to initiate complaint investigations) is not accurate since OIS data does not distinguish between serious and non-serious response times. Cal/OSHA's result for SAMM 1a was 9.91 and the result for SAMM 2a was 8.65. To accurately reflect the State Plan's response time, Cal/OSHA provided the following data in April of 2016: The average number of days to initiate a serious complaint inspection was 2.85 and the average number of calendar days to initiate a non-serious complaint inspection was 20.67.

Observation FY 2015-OB-01: There are state-specific mandates for complaint response times that categorize complaints as serious or non-serious, and formal or non-formal. The response time as measured by SAMM 1 and 2 is not accurate since OIS data does not separate serious and non-serious response time. Cal/OSHA has not determined nor provided complaint response times on a regular basis.

Federal Monitoring Plan FY 2015-OB-01: OSHA will continue to monitor and track Cal/OSHA's development of an effective method for collecting complaint response time data in a timely manner.

In addition, during the on-site review, 43 case files were identified as having complainant contact information included and not including notation that the complainant was contacted by phone. Of these 43 case files, six (14%) did not contain documentation that the complainants were notified of inspection results. This issue was reduced to an observation in FY 2014, but is again elevated to a finding in this year's report.

Finding FY 2015-02 (FY 2014-OB-02): Six of 43 (14%) cases reviewed lacked documentation that complainants were notified of the results of inspections or inquiries.

Recommendation FY 2015-02 (FY 2014-OB-02): Cal/OSHA should ensure complainants are consistently notified of the results of the complaint inspections or inquiries by inserting documentation into the case file.

2) Fatalities

According to SAMM 10, 91.53% of fatalities were responded to within one day. The exception report identified nine fatalities that were not responded to within one day. Eight of these nine fatalities were initially reported as serious accidents, and the workers passed away at a later date. Once Cal/OSHA was notified that the accident resulted in a fatality, the investigation was initiated within one day. The date in OIS was not amended to reflect the date of the actual fatality or notification to Cal/OSHA, which resulted in these eight fatalities showing up as untimely. The remaining fatality involved an individual who died within his home, outside the workplace. This case should have not been classified as a fatality in OIS since Cal/OSHA does not have jurisdiction outside the worker-employer relationship. Taking into account the circumstances surrounding these nine fatalities, all fatality investigations were considered to have been initiated within one day.

Twenty-four (24) fatality case files were reviewed during the on-site case file review. OSHA identified three case files that did not have either a final or initial next-of-kin letter, and one case file that did not have any next-of-kin letter. Over the past year, Cal/OSHA managers have been trained to ensure next-of-kin letters are mailed and have made significant improvement in this area. Finding FY 2014-01 indicated that the next-of-kin letter was missing in 44.4% of the cases reviewed, and in FY 2015, this percentage dropped to 16.7%. Based on this improvement and the fact that Cal/OSHA's training efforts are likely to cause continued improvement, Finding FY 2014-01 was converted to an observation subject to further monitoring during FY 2016.

Observation FY 2015-OB-02 (FY 2014-01): Final letters notifying the next-of-kin of the results of the fatality inspection were not sent in 16.7% (4 out of 24) of the case files reviewed.

Federal Monitoring Plan FY 2015-OB-02 (FY 2014-01): OSHA will continue to monitor to ensure that final letters are being sent to the next-of-kin after completion of the investigation, as required by P&P Manual C-170 and 170A.

3) Targeting and Programmed Inspections

Cal/OSHA conducts programmed inspections in the following four focused areas:

- The High Hazard Unit (HHU) inspects industries that have a days away, job transfer, or restriction (DART) rate that is twice the rate of the national average, which in FY 2015, was 4.0.
- The Labor Enforcement Task Force (LETF) inspects employers in the underground economy (for example, employers who are often circumventing labor laws to gain a financial advantage over their competitors). LETF’s inspections could fall within high-or low-hazard industries.
- 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.
- Mining and Tunneling (MT) Unit inspects tunnels under construction six times per year, as mandated by California’s Labor Code 7,953.

Table 1, below, shows the percent of safety and health inspections, completed by each of these four units, resulting in serious, willful, repeat or unclassified (S/W/R/U) violations.

**Table 1
Percent of Programmed Inspections with Serious, Willful, Repeat, or Unclassified Violations**

	Safety	Health
High Hazard Unit	62.1	40.0
Labor Enforcement Task Force	33.5	28.8
Process Safety Management Unit	46.5	100.0
Mining/Tunneling Unit	7.8	0

Both the LETF and MT inspections are mandated by state law and use a different targeting

approach from the HHU and PSM inspections. LETF is used to focus on hard-to-reach workers in the underground economy in an effort to level the field for employers by ensuring all labor laws are complied with. For example, the task force recently cited three employers for serious workplace safety violations involving unguarded table saws. The businesses were also ordered to stop all work until they secured workers' compensation insurance. The total labor law penalties levied were \$158,320. This program is entirely funded from State Plan overmatch grant funds and is done in conjunction with other state agencies.

MT inspections are routinely scheduled in an effort to avoid injuries and deaths in two highly hazardous industries. The high enforcement presence results in a low rate of injuries/illnesses/fatalities and serious citations as employers are aware that they will receive frequent inspections. Since the success of each targeting scheme must be evaluated differently to indicate success, only the results from the HHU and PSM – which target industries for inspection based on their rate of injuries and illnesses in a manner similar to OSHA – will be used for comparison.

In FY 2014, Cal/OSHA's percent of programmed inspections resulting in S/W/R/U violations was well below the national averages for both safety (26.7%) and health (9.09%) (national averages were 57% for safety and 53.7% for health)(FY 2014-02). In FY 2015, the evaluation focused only on HHU and PSM Unit data, since the units use the more traditional methods of targeting. In FY 2015, Cal/OSHA's percent of programmed inspections completed by the HHU and PSM Unit resulting in S/W/R/U violations was 58.9% for safety and 57.1% for health. Therefore Finding FY 2014-02 is completed.

The case file review showed that crane permitting and mining and tunneling pre-job conferences were no longer being entered into OIS which completes Finding FY 2014-14.

In FY 2014, 41.9% of all health inspections were in compliance, resulting in a finding. (FY-2014-03). OSHA's recommendation was to ensure inspections were conducted at the most hazardous worksites. In FY 2015, health inspections that were in-compliance decreased to 34.07% and were within the further review range of $33.58\% \pm 20\%$ (SAMM 9). Significant improvement has been achieved in this area; therefore, Finding FY 2014-03 was completed. Each year, DIR evaluates their targeting program as outlined in their P&P Manual, C-19.

4) Citations and Penalties

Citation lapse time for safety was 60.6 days, a decrease of 10 days from the previous year and outside the further review level of $42.78 \pm 20\%$ (SAMM 11). Citation lapse time for health was 55.8 days, a decrease of 21 days from previous year and within the further review level of $53.48 \pm 20\%$. (See Table 2). Therefore, finding FY 2014-04 remains open.

**Table 2
Citation Lapse Time**

	FY 2013	FY 2014	FY 2015	FY 2015 National Data
Safety	72.5 days	70.4 days	60.6 days	42.78 ± 20%
Health	75.9 days	76.0 days	55.8 days	53.48 ± 20%

Finding FY 2015-03 (FY 2014-04): Cal/OSHA’s citation lapse time for safety inspections is more than 20% above the national average (SAMM 11).

Recommendation FY 2015-03 (FY 2014-04): Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.

During FY 2015, Cal/OSHA was denied entry at one establishment operated by a sole proprietor. The State Plan did not have jurisdiction and therefore, a warrant was never sought. The inspection was coded as “no inspection” in OIS.

Cal/OSHA’s average number of willful, repeat, or unclassified violations issued per inspection was 0.70 violations per inspection in FY 2015. This is 63% below the national average of 1.92 (SAMM 5).

Finding FY 2015-04: The average number of willful, repeat, or unclassified violations issued per inspection was 0.70 violations per inspection. This is 63% below the national average of 1.92 (SAMM 5).

Recommendation FY 2015-04: Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated.

In FY 2015, meetings were held with stakeholders regarding Cal/OSHA’s policy of determining repeat violations by considering the employer’s history within the region. Cal/OSHA began formal rulemaking in August 2015 to change the Policies and Procedures Manual to consider an employer’s history statewide, instead of within the region. This proposed regulation is in the Office of Administrative Law. No additional action needs to be taken by Cal/OSHA; therefore, this finding was changed to an observation until the change has been adopted.

Observation FY 2015-OB-03 (FY 2014-05): When determining repeat violations, Cal/OSHA did not consider the employer’s enforcement history statewide. Instead, the employer history was only considered with each of the six regions as indicated in Cal/OSHA’s P&P Manual, C-1B.

Federal Monitoring Plan FY 2015-OB-04 (FY 2014-05): OSHA will continue to monitor progress in the change in the Cal/OSHA’s P&P Manual, C-1B.

The new definition of a serious violation was incorporated into Cal/OSHA's P&P Manual, which addressed and closed Observation FY 2014-OB-03.

5) Abatement

On January 1, 2015, Assembly Bill (AB) 1634 went into effect and granted authority to modify civil penalties for abatements or to give credit for abatement for serious violations. The employer must also meet the following criteria:

- Complete abatement at the initial inspection;
- Complete abatement at a subsequent inspection before the citation has been issued;
- Submit a signed affidavit that includes evidence showing the violation has been corrected with the measures listed in the citation. The information must be submitted within 10 working days after the end of the abatement period.

In addition, under AB 1634, the filing of a petition for reconsideration of an administrative law judge's order or a decision involving a serious violation does not automatically stay the abatement of the violation while the case is before OSHAB. It is expected that this bill will be instrumental in getting serious hazards abated quickly, thus providing for increased protection for workers.

Based on the abatement data, abatement has not been received for 418 of conducted inspections, which represents only 5% of all inspections conducted during FY 2015. Employers have abated serious violations in 95% of all inspections. AB 1634 has had a positive effect on abatement of serious violations. The majority of employers comply with AB 1634 to receive the 50% abatement credit; therefore, reducing the civil penalty by 50%.

6) Worker and Union Involvement

The SAMM data showed that the percentage of initial inspections with worker walk-around representation or worker interviews was 99.7% (SAMM 13). However, OSHA's on-site case file review did not support this data. Rather, the case file review showed 36 inspections with documentation indicating workers were represented by a union, but only 25 (69.4%) of those inspections actually involved the union. In other words, 30% of the case files reviewed had no union involvement in any aspect of the inspection as required.

Of the 205 case files reviewed, approximately 80% (163) indicated that workers were interviewed. Of the 163 inspections where workers were interviewed, 88% (143) had case file documentation of the interviews. Evidence of union involvement should be included in the case files.

Finding FY 2015-05 (FY 2014-06): Worker representatives were not involved in the opening conference nor were workers interviewed in 22 of the 205 (10.7%) inspections reviewed.

Recommendation FY 2015-05 (FY 2014-06): Cal/OSHA should conduct opening conference with unions (either with the employer or separately) and ensure these conferences are appropriately documented. Cal/OSHA should also ensure that worker interviews are conducted and documented.

C. REVIEW PROCEDURES

In California, if the employer does not file an appeal with the OSHA Appeals Board (OSHAB), an informal conference will be conducted within 10 working days following the issuance of the citation. If the informal conference cannot be held within 10 working days, the reasons for this shall be documented in the case file, and an informal conference will be held at the earliest opportunity. If an appeal is filed with OSHAB, an informal conference can be held up to the day of the appeal hearing

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 that could not have been reasonably anticipated. At least 30 days prior to the hearing, OSHAB will send out a Notice of Hearing to the parties involved. The employer is responsible for notifying workers of the pending hearing by posting the notice near the site of the alleged violation, in a conspicuous place, or where the workers report or carry out their duties. The ALJ will file a written determination within 35 days after the hearing. Any party to an appeal has the right to petition OSHAB to reconsider an order or decision of an ALJ.

Any party to an appeal who disagrees with a decision after reconsideration or the denial of a petition for reconsideration may apply to the California Superior Court for a writ of mandate pursuant to the Code of Civil Procedure section 1094.5.

OSHAB consists of three members appointed by the governor for staggered four-year terms. One member is selected from the field of management, one from the field of labor, and one from the general public. The chairman is selected by and serves the governor.

In FY 2015, Cal/OSHA retained 89.48% of penalties issued after appellate processes were completed. This is well above the reference range of 57.76%-78.15% (SAMM 12).

D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPC) ADOPTION

The OSHSB is the only agency that can promulgate occupational safety and health standards for California. When a new or revised standard is proposed, OSHSB requests an advisory opinion from OSHA. OSHA reviews the new or revised standard to ensure it is at least as effective as the federal regulation and issues an advisory opinion. The FY 2014 FAME report

included a finding indicating that the proposed Bakery Oven and Crane Load Testing Standards did not appear to be at least as effective as federal OSHA standards. OSHSB disagrees with OSHA regarding the Bakery Oven Standard and believes that it is at least as effective as OSHA's standard. This issue was referred to OSHA's National Office for a final decision. Until that decision is reached, no further action is expected from the State Plan.

In response to the FY 2014 FAME report, OSHSB indicated that the Crane Load Testing Standard will be completed by April 2016; however, the crane load testing has now been incorporated into the Cranes and Derricks in Construction rulemaking and is expected to be completed in the near future. Based on this information, Finding FY 2014-07 was converted to an observation (FY 2015-OB-05).

Observation FY 2015-OB-04 (FY 2014-07): State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as the Bakery Oven and Crane Load Testing.

Federal Monitoring Plan FY 2015-OB-05 (FY 2014-07): OSHA will continue to monitor Cal/OSHA's standards to ensure they are at least as effective as OSHA standards and initiate actions to update deficient standards.

Standards Changes

OSHSB continues to work cooperatively with OSHA on two older standards changes (Fall Protection and the Commercial Diving) and has completed one change in the maritime industry to ensure drinking water cups are available for dispensing containers.

Three of the four standard changes required within the past two fiscal years have been responded to and addressed by Cal/OSHA in a timely manner (see Table 3). The final rule for Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment is being worked on by OSHSB and will be ready for hearing in FY 2016.

**Table 3
Federal Standards Adoption**

Federal Standard	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
29 CFR 1910, 1926 Final Rule for Electric Power Generation, Transmission and Distribution, Electrical Protective Equipment (04/11/2014)	4/22/2014	Yes	No	10/22/2014	12/17/2015
29 CFR 1904 Occupational Injury & Illness Recording & Reporting Requirements NACIS	11/03/2014	Yes	No	05/03/2015	N/A (Existing state regulation is considered)

Update & Reporting Revisions (09/19/2014)					at least as effective as the federal regulation)
29 CFR 1926 Cranes & Derricks in Construction – Operator Certification Final Rule (09/26/2014)	10/15/2014	No	N/A	N/A	N/A
29 CFR 1926.1200 Confined Space in Construction (05/04/2015)	6/11/2015	Yes	Yes	12/11/2015	12/30/2015

Federal Program Changes (FPCs)

From FY 2014 through FY 2015, there were 15 Federal Program Changes (see Table 4). Action is outstanding in three entries: the *NEP for Amputations* requires adoption, the *Procedures for the Hazard Communication Standard* require adoption, and *The Whistleblower Investigation Manual* requires either a link to the manual or a copy of the document. The other 12 changes were appropriately addressed. Over the past three years, Cal/OSHA has shown progress in responding to FPCs in a more timely manner. Therefore, observation FY 2014-OB-04 related to untimely adoption of Standards and Federal Program Changes was closed.

**Table 4
Federal Program Changes Adoption**

FPC Directive/Subject	State Plan Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Plan Adoption Date
CPL 02-01-055 Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification (09/30/2013)	02/12/2014	No	N/A	N/A	N/A
CPL 03-02-003 OSHA Strategic Partnership Program for Worker Safety and Health (11/06/2013) (Equivalent Document Required)	01/15/2014	No	N/A	N/A	Cal/OSHA does not plan on participating in this program.
CPL 02-14-01 Site-Specific Targeting 2014 (SST-14) (03/06/2014)	06/12/2014	No	N/A	N/A	HHU has a Site Specific Targeting method that

(Equivalent Document Required)					incorporates all criteria in the Federal CPL. See DOSH P&P, C-19: http://www.dir.ca.gov/doshpol/P&P_C-19.html
CPL 02-00-157 Shipyard Employment Tool Bag Directive CPL 02-00-157 (04/01/2014) (Equivalent Document Required)	05/29/2014	No	N/A	N/A	Link Provided
CPL 02-00-158 Inspection Procedures for the Respiratory Protection Standard (06/26/2014) (Equivalent Document Required)	09/04/2014	No	N/A	N/A	Links Provided
CPL 02-01-056 Inspection Procedures for Accessing Communication Towers by Hoist (07/17/2014) (Equivalent Document Required)	09/09/2014	No	N/A	N/A	Reference Provided
TED 01-00-019 Mandatory Training Program for OSHA Compliance Personnel (07/21/2014) (Equivalent Document Required)	09/03/2014	Yes	No	03/03/2015	11/01/2014 Links Provided
CPL 02-01-057 Compliance Directive for the Cranes & Derricks in Construction Standard (10/17/2014) (equivalent Document Required)	03/12/2015	Yes	No	04/17/2015	04/17/2015 Link Provided
CPL 03-00-018 REVISION – National Emphasis	03/11/2015	Yes	No	06/20/2015	04/20/2015 Link Provided

Program – Primary Metal Industries (10/20/2014)					
CPL 02-03-005 Whistleblower Investigations Manual (04/21/2015) (Equivalent Document Required)	06/23/2015	No	No	No Date Provide for Equivalent Document.	No link to Reference Document
CPL 02-02-078 Enforcement Procedures & Scheduling for Occupational Exposure to Tuberculosis CPL 02-02-078 (06/30/2015) (Equivalent Document Required)	07/29/2015	Yes	No	01/29/2016	12/30/2015 Link Provided
CPL 02-02-079 Inspection Procedures for the Hazard Communication Standard (HCS 2012) CPL 02-02-079 (07/09/2015) (Equivalent Document Required)	07/30/2015	Yes	No	01/09/2016	Pending Adoption
TED 04-01-002 OSHA Alliance Program Directive CSP 04-01-002 (07/29/2015)	10/15/2015	No	N/A	N/A	N/A
TED 03-01-004 Special Government Employee Program Policies & Procedures Manual for the OSHA VPP Directive CSP 03-01-004 (07/30/2015)	09/23/2015	No	N/A	N/A	N/A
CPL 03-00-019 National Emphasis Program on Amputations (08/13/2015)	10/15/2015	Yes	No	2/15/2016	Pending Adoption – Adoption Required

State Plan-Initiated Standards/Changes

There were 26 State Plan-initiated changes made over the past two years (see Table 5).

**Table 5
State Plan-Initiated Changes**

Rulemaking (State Plan-Initiated Changes)	Adoption Date	Effective Date
Hand Protection	2/20/2014	7/1/2014
Operating Rules for Compaction Equipment	2/20/2014	4/1/2014
Powered Industrial Trucks-Excessive Loads	3/20/2014	7/1/2014
Update and Harmonization of Crane Hand Signals Standards and Illustration	3/20/2014	7/1/2014
Fed OSHA DFR, Revision to CDAC, Scope: Exception for Digger Derricks	3/20/2014	7/1/2014
Federal Final Rule Globally Harmonized System-Update to Hazard Communication (Safety)	3/20/2014	5/6/2014
Federal Final Rule Globally Harmonized System-Update to Hazard Communication (Health)	3/20/2014	5/6/2014
Update of Reference to California Manual on Uniform Traffic Control Devices for Streets and Highways (CA MUTCD)	5/29/2014	7/1/2014
Tank Storage Subject to Flooding, Precautionary Measures	4/17/2014	10/1/2014
Airborne Contaminants-Naphthalene	5/15/2014	10/1/2014
Guarding of Vertical Food Mixers	6/19/2014	10/1/2014
Safe Patient Handling	6/19/2014	10/1/2014
Lockout Tagout (LOTO)-Group Lockout	7/17/2014	10/1/2014
Landing Operations-Note to section 1903	8/21/2014	1/1/2015
Airborne Contaminants-Hydrogen Chloride	10/16/2014	1/1/2015
Personal Protective Devices and Safeguards	10/16/2014	4/1/2015
Update of Title 8 General Industry National Fire Protection Association (NFPA) Fire Protection Standards	10/16/2014	4/1/2015
Heat Illness Prevention	2/19/2015	5/1/2015
Cranes and Derricks in Construction Operator Certification Effective Dates and Phase-In (Federal Time Extension)	3/19/2015	4/30/2015
Stationary and Mobile Compaction Equipment and Balers	3/19/2015	7/1/2015
Electrical Equipment in Hazardous (Classified) Locations	5/21/2015	10/1/2015
Storage Battery Systems and Changing and Charging Storage Batteries	6/18/2015	10/1/2015
Multi-Story Skeletal Steel Construction-Metal Decking Replacement (Horcher)	7/16/2015	8/27/2015
Water Supply-Access to Drinking Cups (Horcher)	7/16/2015	8/27/2015
Private Fire Brigades-Protective Footwear	7/16/2015	10/1/2015
Agricultural Personnel Transport Carriers	8/20/2015	1/1/2016

E. VARIANCES

A variance is a regulatory action that permits an employer to deviate from the requirements of an OSHA standard under specified conditions. OSHSB grants permanent variances. In

FY 2014-2015, OSHSB granted eight variances (see Table 6).

Table 6
OSHSB-Granted Variances

File Number	Applicant Company Name	Docketing Date	Safety Order	Section	Subject	Decision
13-V-217	ICON Aircraft, Inc.	1/16/2014	General Industry	5153(c)(1)	Recirculation of exhaust air from spray operations	Granted
11-V-152	Grimmway Enterprises	2/20/2014	General Industry	3441(a)(2)(B)	Personal Carrier	Granted
12-V-256	Southern California Edison	3/20/2014	High Voltage Electrical Safety Orders	2940.2(a), 2940.6(h), 2940.7(b)(5)(A), 2940.7(b)(6), 2941(f), 2944(f)	Live-line bare-hand work techniques on energized high voltage systems	Granted
14-V-007	California Department of Transportation	7/17/2014	General Industry	3277(f)(1)	Fixed ladders	Granted
14-V-113	Walsh/Shea Corridor Constructors	11/20/2014	Tunnel Safety Orders	8427(b)	Use of French decompression tables 2, 3, 4, and 5 instead of U.S. Navy dive tables.	Granted
14-V-195	Transphorm Inc.	1/15/2015	General Industry	5430	Heating dip tank liquids	Granted
14-V-230	Chuchian Inc.dba Sun Date	1/15/2015	General Industry	3657(e), 3657(j)(7)	Use of lift trucks to provide access to date palm crowns	Granted
14-V-348	Par Electrical Contractors, Inc.	4/16/2015	General Industry	3638(a)(1)	Equipment Instructions and Marking	Conditionally Granted

F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

In FY 2014, Cal/OSHA completed 426 inspections in state and local government workplaces and surpassed the projected goal of 400 inspections. However, they fell just below the further review level (6.4%) for SAMM 6, by conducting 6% of total inspections in state and local government workplaces. In FY 2015, Cal/OSHA completed 452 inspections in state and

local government workplaces, again surpassing the projected goal of 410 inspections. In FY 2015, Cal/OSHA exceeded the further review level (+/- 5% of 5.77%) for SAMM 6, by conducting 5.9% of total inspections in state and local government workplaces. Penalties were assessed against state and local government employers in the same manner as for private sector employers.

G. WORKPLACE RETALIATION PROGRAM

Claims of whistleblower retaliation for reporting occupational safety and health issues are investigated by the Division of Labor Standards Enforcement (DLSE). DLSE had two supervisors and five investigators in FY 2015. During FY 2015, DLSE did not have a manual governing the review and processing of workplace retaliation complaints, but they are in the process of creating one. In lieu of a manual, DLSE reported that it instructed staff to follow various training guidance, including instructions from a December 12-13, 2013, *Retaliation Complaint Investigation Training (RCIT)* course. In addition to providing training, the RCIT included several chapters, template letters, forms, and a “Retaliation Complaint Processing Flowchart” which summarized its investigatory process. These materials, previously approved by OSHA for guidance and training, need to be updated.

A total of 244 workplace retaliation cases were closed in FY 2015. Twenty-seven (27) of those cases were reviewed during the on-site review. Based on the evidence in the case files, DLSE is applying their statutes (California Labor Code, Sections 6310 and 6311) correctly. Overall, three findings were completed from last year’s FAME, three findings remain open, and two new findings were identified.

During the on-site review, OSHA discovered that DLSE did not retain a copy of the settlement agreements in three “settled other” and one “settled” claim. In an additional two “settled” cases, the settlement agreements were not signed by DLSE. In one “settled other” case, the agreement was not signed by Respondent, and in another “settled” claim, the agreement was not signed by DLSE or the Respondent. Cases cannot be closed or settled without a signed agreement and it is critical to retain a copy of all settlement agreements with signatures from all parties. This helps to ensure that the agreements provide fair and equitable relief for complainants and are consistent with public policy.

Finding FY 2015- 06: Eight of 12 (67%) workplace retaliation case settlement agreements were not signed and retained.

Recommendation FY 2015-06: Cal/OSHA should ensure that settlements for workplace retaliation cases are signed and retained.

In one “settled” and one “settled other” claim, there was no documentation that the waiver of future employment clauses was evaluated. The waiver needs to be evaluated to ensure complainants are not prevented from working in their chosen fields in the locality where they reside. This is important because it ensures that complainants are not signing away their livelihoods by settling their claims. This was a requirement in federal OSHA’s

Whistleblower Investigations Manual (WIM), 02-03-03-005, Chapter 6(XII)(E) which was in effect when these two cases were closed. DLSE's RCIT does not discuss this.

Finding FY 2015-07: In one "settled" and one "settled other" claim, there was no documentation that the waiver of future employment clauses was evaluated to ensure complainants are allowed to secure employment in their locale, as per the Whistleblower Investigations Manual in effect at the time these two cases were closed.

Recommendation FY 2015-07: Cal/OSHA should follow procedures to ensure proper consideration and documentation of factors to evaluate whether a waiver of future employment clauses prevents complainants from working in their chosen fields in the locality where they reside.

Information was not consistently entered into the Web Integrated Management Information System (IMIS) database accurately for fifteen cases reviewed, as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)). These were in effect when these 15 cases closed, but DLSE's RCIT does not discuss this requirement. Incorrect information included: filing dates, docketing dates, date of supervisor approval of the Report of Investigation, and determination type. In 11 of the 15 cases reviewed, docketing occurred several months after they were filed. This can result in information being lost, and prevents effective program management and an accurate evaluation and assessment of the program.

Finding FY 2015-08 (FY 2014-09): Information was not consistently entered into the Web Integrated Management Information System (IMIS) database accurately for 15 cases reviewed as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)), which were in effect when these fifteen cases closed.

Recommendation FY 2015-08 (FY 2014-09): Cal-OSHA should consistently and accurately enter information into Web IMIS.

Finding FY 2014-08 (formally 2013-09) addressed the adoption of a retaliation manual and finding FY 2014-10 (formally 2013-12), addressed Cal/OSHA's failure to accept complaints that are orally filed. These two findings remain open. DLSE has not issued an updated manual equivalent to OSHA's manual, although it has indicated the process of creating one is moving forward. Having a manual that provides clear, updated policy could potentially reduce procedural findings each year.

Finding FY 2015-09 (FY 2014-08): DLSE has not updated its Retaliation Complaint Investigation (RCI) Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's.

Recommendation FY 2015-09 (FY 2014-08): Cal/OSHA's DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's and submit to OSHA for approval.

Finding FY 2015-10 (FY 2014-10): Cal/OSHA's Retaliation Complaint Investigation (RCI) Manual requirements do not reflect that orally filed, faxed, and e-mailed discrimination complaints are acceptable, which does not align with OSHA's Whistleblower Investigation Manual.

Recommendation FY 2015-10 (FY 2014-10): Cal/OSHA's RCI Manual should be changed to reflect that discrimination complaints will be accepted whether orally filed, faxed, or emailed.

During the on-site case file review, OSHA did not find evidence of problems with complainants being informed of their appeal rights in the final letter. Final reports were included in the case file and conclusions were appropriately supported by the evidence in the case file. The review verified Findings FY 2014-11, FY 2014-12, and FY 2014-13 as completed.

OSHA previously raised concern about the DLSE practice of referring all claims filed by workers who alleged retaliation for reporting work related fatalities, injuries, or illnesses to the DIR's Division of Workers' Compensation (DWC). These claims should be handled by DLSE. DLSE began investigating these cases under a pilot program to address this issue until a more permanent solution can be found.

H. COMPLAINTS ABOUT STATE PROGRAM ADMINISTRATION (CASPAS)

Four CASPAs were investigated during FY 2014 including one significant CASPA. All CASPAs have been completed and closed. There were no CASPAs received in FY 2015.

I. VOLUNTARY COMPLIANCE PROGRAM

In FY 2014, one new and 26 renewal establishments in general industry were projected. For construction, one new and four renewal establishments were projected. The goal was surpassed by adding six new sites and renewing 27 sites for general industry, as well as adding two new sites and renewing 12 sites in construction.

In FY 2015, two new and 22 renewal establishments were projected for general industry. For construction, six new establishments were added to Cal/Voluntary Protection Program (Cal/VPP). The goal for new sites was surpassed by adding four and 12 new sites for general industry and construction, respectively. However, only 10 sites were renewed for general industry. The Consultation Program held four workshops to promote Cal/VPP and Cal/VPP Construction.

J. STATE AND LOCAL GOVERNMENT 23(G) ON-SITE CONSULTATION PROGRAM

Twenty-four (24) state and local government on-site consultation visits were projected to occur in FY 2014 and 48 visits were conducted. Thirty-six (36) serious hazards were

identified by consultants, and all serious hazards were abated in less than 14 days of the latest correction due date.

Thirty-two (32) state and local government on-site consultation visits were projected to occur in FY 2015 and 29 visits were conducted. This equates to 2.5 visits per consultant. Consultants identified 82 serious hazards that were abated in less than 14 days of the latest correction due date. According to the program manager, there were not many requests from state and local government workplaces for consultation visits.

Observation FY 2015-OB-05: There is a decreased presence of consultation services in state and local government workplaces.

Federal Monitoring Plan FY 2015-OB-06: OSHA will continue to monitor Cal/OSHA's progress in marketing its state and local government consultation program.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals

Cal/OSHA is in the third year of the five-year strategic plan (FY 2013-FY 2017). Generally, they have met their performance goals with the exception of Performance Goal 3.1 and Performance Goal 3.2. Cal/OSHA should continue its efforts to improve lapse time and response time for fatality inspections.

Five-Year Strategic Goal 1: Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.

Performance Goal 1.1: Target the mobile workforce to reduce fatalities and occupational injuries and illnesses in construction and agriculture by reducing and eliminating hazards in these industries.

Activity Measures:

- Conduct approximately 2,600 inspections combined for both construction and agriculture.
 - **Activity measure was exceeded:** A total of 3,210 combined inspections were conducted; 2,539 in construction and 671 in agriculture.
- Attempt to sustain a higher percentage of the serious classification of citations issued as a result of these inspections.
 - **Activity measure was met:** The percent of serious citations issued to establishments in agricultural SIC/NAICS codes sustained was 91% as compared to 80% in FY 2014. The percent of serious citations issued in FY 2015 to establishments in construction SIC/NAICS codes sustained was 92%, as compared to 82% in FY 2014.

Outcome Measures:

- Abatement of non-contested serious hazards found in these industries will be achieved in 95% of cases.
 - **Outcome measure was met:** Ninety-five percent (95%) of non-contested construction and 97% of agricultural inspections with serious, willful, and/or repeat violations cited during FY 2015 were abated, as of December 17, 2015.
- Reduce fatal injuries in construction and agriculture by 2% as compared to the average for the past three years.
 - **Outcome measure was partially met:** Sixty-one (61) fatalities occurred in the construction industries, and 30 fatalities occurred in the agriculture, forestry, fishing and hunting industries in CY 2013, according to BLS Data. A total of 26 (pending) fatalities occurred in these categories in CY 2014.
- Reduce incidence rates for total recordable occupational injury and illness cases per 100 full time workers in the agriculture and construction industries by 0.2 compared to the average for the past three years.
 - **Outcome measure was not met:** According to the State OSHA Annual Report (SOAR), the incidence rates for total recordable occupational injury and illness cases per 100 full time workers was 4.8 in the construction industries and 5.2 in agriculture, forestry, fishing and hunting industries in CY 2014. The baseline data for the past three years 2012 through 2014 was 4.1 and 5.3 respectively.

Analysis:

The goal of 2,600 inspections in agriculture and construction was surpassed by performing 3,210 inspections. There were a higher percentage of serious citations cited in agriculture and construction as compared to FY 2014. Abatement of non-contested serious hazards was completed in 95% of construction inspections and in 97% of agriculture inspections. Progress was made in securing on-site abatement of hazards.

The average number of fatalities (2011-2013) was 58 in construction and 33 in agriculture, forestry, fishing and hunting. This showed a reduction in the number of fatalities in CY 2013 and CY 2014 in agriculture, forestry, fishing, and hunting, but not in construction, which showed an increase of three fatalities (61) when compared to the average. The projected 2% decrease in fatalities was achieved in agriculture, forestry, fishing, and hunting, but was not achieved in construction. The goal of reducing incidence rates for total recordable injury and illness by 0.2 was not achieved for agriculture or construction.

Performance Goal 1.2: Reduce injuries, illnesses, and fatalities in selected high-hazard industries, with a goal of removing the specific industry as defined by the 3-6 digits NAICS code from the High Hazard List due to decreased injury and illness rates.

Activity Measure:

- Conduct 350 inspections of high-hazard industries from highest priority NAICS codes by the High Hazard Enforcement Unit.
 - **Activity measure was exceeded:** 375 inspections were conducted during FY 2015 by the High Hazard Enforcement Unit.

Outcome Measures:

- Abatement of non-contested serious hazards found in these high-hazard industries will be 97%.
 - **Activity measure was exceeded:** Ninety-eight percent (98%) of non-contested High Hazard Unit (HHU) inspections with serious, willful, and/or repeat violations cited were verified as abated.
- Increase percentage of programmed inspections with Serious/Willful/Repeat (S/W/R) violations by at least 10%.
 - **Activity measure was exceeded:** The Percent of Programmed Inspections with S/W/R violations in FY 2015 increased by 11% for the HHU from 52.26 in FY 2014 to 58.11% in FY 2015.

Analysis:

All of the goals for this measure were surpassed. Specifically, Cal/OSHA conducted 25 more high-hazard inspections than were projected. Cal/OSHA's abatement for non-contested inspection by the HHU with serious, willful, and/or repeat violations was 98% which exceeded the projected goal of 97%. And finally, Cal/OSHA increased its percent of programmed inspections with serious, willful, and/or repeat violations by 11% from 52.26 in FY 2014 to 58.11 in FY 2015.

Performance Goal 1.3: To reduce fatalities and occupational injuries and illnesses in refineries and other industries that fall under the requirements of the PSM standard.

Activity Measures:

- Conduct 40 programmed inspections at facilities other than petroleum refineries that meet the trigger threshold quantities for the PSM standard, conducted by the PSM Unit.
 - **Activity measure was exceeded:** A total of 44 programmed inspections were conducted at facilities other than petroleum refineries that met the trigger threshold quantities for the PSM standard.
- Participate in five outreach/compliance assistance activities provided to industry/professional groups.
 - **Activity measure was met:** The PSM Unit staff participated in five outreach/compliance assistance activities provided to industry/professional groups.
- Conduct four comprehensive inspections of petroleum refineries, conducted by the PSM Unit.
 - **Activity measure was met:** The PSM Unit staff conducted four comprehensive programmed inspections of petroleum refineries (NAICS 324110).
- Conduct follow-up inspections at establishments other than petroleum refineries for 10% of all inspection types, whether programmed, complaint, accident or referral.
 - **Activity measure was met:** The PSM Unit conducted four follow-up inspections.

Outcome Measures:

- Abate 98% of non-contested serious hazards found in these industries.
 - **Outcome measure was exceeded:** 100% of non-contested Process Safety Management Unit (PSM) inspections with serious, willful, and/or repeat violations cited during FY 2015 were verified as abated.
- Number of fatalities and serious injuries/illnesses attributable to violations of the PSM standard at covered facilities will be maintained at the average level for the past three years.
 - **Outcome measure was met:** There were no fatalities or serious injuries/illness attributable to violations of the PSM Standard (T8 CCR 5189) at covered facilities during CY 2015. This is less than the average level of the last three years which is 0.67.

Analysis:

All goals were met or surpassed. The PSM Unit conducted 44 programmed inspections surpassing their projected goal of 40 inspections. The PSM Unit conducted five outreach/compliance activities, meeting their goal of five activities. The PSM Unit met its goal of conducting four comprehensive programmed inspections of petroleum refineries. The PSM Unit conducted four follow-up inspections at establishments, other than petroleum refineries – meeting their goal. All (100%) of non-contested serious, willful, and/or repeat violations cited were abated. Finally, there were no fatalities or serious injuries/illnesses attributable to a violation under the PSM standard (8CCR5189) which was less than the average of .67 over the last three years.

Five-Year Strategic Goal 2: Promote workplace cultures that increase worker and employer awareness of, commitment to, and involvement in safety and health.

Performance Goal 2.1: To raise awareness of heat illness prevention among workers and employer groups in outdoor places of employment.

Activity Measures:

- Conduct 2,300 inspections of outdoor places of employment where heat hazards are evaluated. (Note: Landscaping is considered an agricultural service and will be counted as part of the agriculture inspections.)
 - **Activity measure was exceeded:** A total of 2,842 inspections were conducted where heat hazards were evaluated; 2,244 and 598 inspections were conducted in the construction and agriculture industries, respectively.
- Conduct a minimum of 75 seminars where heat illness prevention was emphasized.
 - **Activity measure was exceeded:** Over 100 seminars were conducted where heat illness was emphasized during FY 2015. Enforcement staff participated in approximately 200 outreach events where heat illness prevention was addressed and/or publications were distributed, including TV and radio interviews.

- Distribute a minimum of 5,000 units of heat illness prevention outreach materials during inspections and outreach events.
 - **Activity measure was exceeded:** Over 30,000 heat illness prevention materials were distributed by staff during outreach events including TV and radio interviews.

Outcome Measures:

- Abatement of non-contested heat hazards found in outdoor places of employment will be achieved in 93% of cases.
 - **Outcome measure was met:** Ninety-three percent (93%) of non-contested inspections with heat violations cited were abated.
- Maintain the number of heat-related serious illnesses and fatalities occurring in outdoor places of employment, based on Cal/OSHA internal tracking, at the average level for the past three years.
 - **Outcome measure was partially met:** There was one confirmed outdoor heat related fatality in CY 2014 based on Cal/OSHA internal tracking. Preliminary data shows there are no confirmed fatalities for CY 2015. However, there are additional fatalities still under review.

Analysis:

Cal/OSHA surpassed its goal of 2,300 inspections of outdoor places of employment by performing 2,842 inspections where heat hazards were evaluated in construction and agriculture. The goals to conduct more than 75 heat illness prevention seminars, distribute more than 5,000 heat illness prevention outreach materials, and ensure 93% of non-contested inspections with heat violations were abated were all met. The goal to achieve heat fatalities below 2.7, which is the average for CY 2012-2014, was met for CY 2014 with one fatality attributed to heat. The results for CY 2015 were inconclusive as some cases were under review so the results could not be assessed.

Performance Goal 2.2: To promote and interact with high-risk worker organizations about workplace safety and health.

Activity Measures:

- Distribute over 12,000 publications and flyers in English and other languages to employers, supervisors, foremen and workers, detailing the requirements of Cal/OSHA regulations including worker's rights.
 - **Activity measure was exceeded:** Staff distributed significantly over 50,000 publications and flyers while at outreach activities during FY 2015.
- Conduct 100 events with vulnerable workers organized by worker and community organizations, the UC programs, and consulates, conducted by the bilingual outreach team (BOTs) and regular DOSH staff.
 - **Activity measure was met:** Enforcement staff participated in over 100 outreach events that were attended by vulnerable workers.

Outcome Measures:

- Provide at least 1,000 event participants knowledge of workplace health and safety hazards, workers' rights under the law and how to exercise these. An additional 18,000 workers will gain this information from trainings conducted by participants in the DOSH events.
 - **Outcome measure was exceeded:** There were over 1,300 participants in training events conducted in both English and Spanish. Additionally, over 50,000 workers were indirectly affected by the health and safety knowledge gained from the workshops and training.

- The Farm Labor Contractor (FLC) Safety and Health Guide will be re-titled, revised, and translated into Spanish.
 - **Outcome measure was partially met:** The English-language FLC Guide has been revised and reviewed. Approval to post the document is pending departmental authorization. Preliminary translation of the Spanish-language translation was conducted and will be finalized upon final approval of the English language publication, which is now called "Safety and Health in Agricultural Field Operations."

- The Consultation Program will update the Respiratory Protection Fact Sheet.
 - **Outcome measure was met:** The Respiratory Protection Fact Sheet was updated, reviewed, and approved during FY 2015.

Analysis:

Cal/OSHA surpassed their goal of distributing over 12,000 publications on their regulations, participated in over 100 outreach events, and increased the safety and health knowledge of at least 1,000 participants from their workshops and training. The goal of updating the Respiratory Protection Fact Sheet was met. The goal of re-titling and translating the Farm Labor Contractor (FLC) Safety and Health Guide was partly achieved. The FLC Guide has been revised, reviewed, and approval to post the publication is pending. Preliminary translation of the FLC Guide has been done and is awaiting finalization upon the approval of the English publication.

Performance Goal 2.3: To promote voluntary compliance by offering employers a variety of partnerships including recognition and exemption programs.

Activity Measure:

- Cal/VPP and Cal/VPP Construction Units will hold one workshop each to promote Cal/VPP and Cal/VPP Construction.
 - **Activity measure was exceeded:** Four workshops were held during FY 2015 to promote Cal/VPP and one to promote Cal/VPP Construction.

Outcome Measures:

- Two new establishments will be added into the Division's leadership level for fixed site establishments (Cal/VPP) and 22 will be renewed.

- **Outcome measure was partially met:** Four new VPP sites were added into the Divisions leadership level for fixed establishments and 10 were renewed.
- Six new establishments will be added into the Division’s leadership level partnership program for construction VPP worksites.
 - **Outcome measure was exceeded:** Twelve new establishments were added into the Division’s leadership level partnership program for construction VPP worksites.

Analysis:

The goal was partially achieved by conducting five workshops, adding four new VPP establishments, and 12 new establishments in Cal/VPP Construction. However, only 10 establishments were renewed versus the projected goal of 22.

5-Year Strategic Goal 3: Maximize Cal/OSHA’s effectiveness and enhance public confidence.

Performance Goal 3.1: To respond effectively to mandates so that workers are provided full protection under Cal/OSHA by timely issuance of citations, so that hazards could be timely corrected.

Activity Measures:

- Run the “Open Inspections with Citations Pending” report monthly and work with CSHOs to expedite citations issuance.
 - **Activity measures were met:** Staff ran the IMIS Open Inspections with Citations Pending and the OIS Open Inspections reports 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.
- Monitor State Activity Mandated Measures (SAMMs) report and other management reports to track progress of citations lapse time.
 - **Activity measures were met:** SAMMs, IMIS Open Inspections with Citations Pending, and the OIS Open Inspections reports were run on a monthly basis.

Outcome Measures:

- Decrease average number of days for safety citation issuance by 5% and health citations issuance by 3%, as compared with FY 2014.
 - **Outcome measure was not met:** Citation lapse time for safety in FY2014 was 70.46 days. The FY 2015 goal was 66.94 days and the actual FY2015 safety lapse time was 60.68 days. The lapse time for health in FY 2014 was 76.02 days and the FY2015 goal was 73.74 days, and the actual lapse time was 55.83 days.
- Increase the percentage of serious violations abated during inspections by 5%.
 - **Outcome measure was exceeded:** Fifty-five percent (55%) of serious, willful, repeat (SWR) violations cited during FY 2015 were abated on the site. In FY 2014, the SWR violations abated during inspections was 43%.

Analysis:

IMIS and OIS Open inspection reports and SAMM reports were run on a monthly basis to track citation lapse time. The goal of reducing the average number of days for safety citation issuance by 5% and health citation issuance by 3% were not met. The goal of increasing the percentage of serious violation by 5% was surpassed increasing from 43% in FY 2014 to 55% in FY 2015.

Performance Goal 3.2: Respond effectively to mandates so that workers are provided full protection under Cal/OSHA by timely response to work-related fatality/catastrophe reports.

Activity Measure:

- Use internal tracking to monitor on a monthly basis the fatality investigation response time and correct data entry errors that occur.
 - **Activity measure was met:** Staff ran IMIS fatality logs and OIS SAMMS reports to monitor response times to identify and correct data entry errors.

Outcome Measure

- Respond within one day to 100% of the reported fatalities.
 - **Outcome measure was not met:** Ninety-six percent (96%) of fatalities (122 out of 127) were opened within one workday in FY 2015.

Analysis:

As of November 23, 2015, 115 out of 127 fatalities were responded within one day, leaving 12 inspections not responded to within one day. Five of the 12 inspections were initially reported as a non-fatal accident due to the event day on the un-programmed activity report screen in the database not being updated. Two of the 12 inspections reported were not fatalities – one was due to natural causes and in one inspection the jurisdiction was unclear. The remaining five inspections were not opened timely due to heavy workload. The goal was not achieved; however, seven of the 12 inspections counted as untimely were due to mistakes in the database or in judgment. Only five inspections were untimely. Taking these factors into account, 122 inspections were responded to within one day, for a 96% response rate. The goal of responding to all fatalities within one day was not achieved.

V. Other Special Measures of Effectiveness and Areas of Note

Debt Collection

A problem with debt collection was identified during the on-site case file review that was found to be a contributing factor to Cal/OSHA's high in-compliance rate. A high number of closed inspections (78%) pulled during the on-site review were in-compliance. The list was randomly generated from inspections opened and closed during FY 2015. Further investigation revealed that debt collection information was not being input into the new OIS. Therefore, Cal/OSHA had many inspections where penalties had been collected, but not entered into OIS, and therefore could not be closed. This resulted in a situation where the majority of the cases reflected as closed in OIS were the in-compliance cases, and made the in-compliance rate seem artificially high.

Debt collection is handled by DIR's Accounting Division and requires communication between the two divisions. Due to a communication breakdown and the inability of the new OIS to provide the State Plans with specific software with the ability to connect electronically to their individual accounting divisions, penalty updates were not being done.

To rectify the immediate issue of reviewing case files with citations for this FAME report, Cal/OSHA shared a database of cases with OSHA that listed cases that were closed, except for issues of debt collection. This enabled the on-site review to be conducted.

To rectify the long-term issue of not closing out cases where debt had been collected, OSHA's OIS contractor generated a report to be used by state accounting that lists all citations with penalties to be closed. The accounting division generates that report every Monday morning. The report is distributed to the district offices who then update those citations and cases by entering the information and closing the appropriate cases.

Heat Illness Prevention Program

Cal/OSHA has continued its special initiatives including the very successful Heat Illness Prevention Program. The issue was tackled through a multifaceted approach including vigorous enforcement and educational outreach in a number of languages. Cal/OSHA partnered with agricultural and construction industry groups, insurance carriers, and others to participate in more than 200 outreach events where Heat Illness Prevention was covered.

A Safety Awareness campaign was initiated for roofers in March 2015 after identifying a higher incidence rate of serious injuries and fatalities when compared to other industries. Falls are the leading cause of injury and death for roofing workers. Violations of state safety regulations were found at three out of every four roofing accident inspections. Cal/OSHA created a "Roofing maximum Enforcement Program" where 200 targeted inspections were conducted to raise awareness for on-the-job safety in the roofing industry. These inspections generated a focus on fall protection, including personal fall arrest systems, fall prevention systems, and safe access to elevated work locations.

Appendix A – New and Continued Findings and Recommendations
FY 2015 Cal/OSHA Comprehensive FAME Report

FY 2015-#	Findings	Recommendations	FY 2014-#
FY 2015-01	Cal/OSHA’s regulations for residential construction fall protection are not at least as effective as federal OSHA’s regulations as required by 29 CFR 1953.5(a).	Cal/OSHA 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 federal OSHA’s regulation. In addition, Cal/OSHA and its stakeholders should coordinate with federal OSHA to work out any differences before finalizing the amended regulation.	FY 2014-OB-01
FY 2015-02	Six of 43 (14%) cases reviewed lacked documentation that complainants were notified of the results of inspections or inquiries.	Cal/OSHA should ensure complainants are consistently notified of the results of the complaint inspections or inquiries by inserting documentation into the case file.	FY 2014-OB-02
FY 2015-03	Cal/OSHA’s citation lapse time for safety inspections was more than 20% above of the national average (SAMM 11).	Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.	FY 2014-04
FY 2015-04	The average number of willful, repeat, or unclassified violations issued per inspection was 0.70 violations per inspection. This is 63% below the national average of 1.92 (SAMM 5).	Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated.	
FY 2015-05	Worker representatives were not involved in the opening conference nor were workers interviewed in 22 of the 205 (11%) inspections reviewed.	Cal/OSHA should conduct opening conference with unions (either with the employer or separately) and ensure these conferences are appropriately documented. Cal/OSHA should also ensure that worker interviews are conducted and documented.	FY 2014-06
FY 2015-06	Eight of 12 (67%) workplace retaliation case settlement agreements were not signed and retained.	Cal/OSHA should ensure that settlements for workplace retaliation cases are signed and retained.	
FY 2015-07	In one “settled” and one “settled other” claim, there was no documentation that the waiver of future employment clauses was evaluated to ensure complainants are allowed to secure employment in their locale, as per the Whistleblower Investigations Manual in effect at the time these two cases were closed.	Cal/OSHA should follow procedures to ensure proper consideration and documentation of factors to evaluate whether a waiver of future employment clauses prevents complainants from working in their chosen fields in the locality where they reside.	

Appendix A – New and Continued Findings and Recommendations
FY 2015 Cal/OSHA Comprehensive FAME Report

FY 2015-#	Findings	Recommendations	FY 2014-#
FY 2015-08	Information was not consistently entered into the Web Integrated Management Information System (IMIS) database accurately for 15 cases reviewed, as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)), which were in effect when these fifteen cases closed.	Cal-OSHA should consistently and accurately enter information into Web IMIS.	FY 2014-09
FY 2015-09	DLSE has not updated its Retaliation Complaint Investigation (RCI) Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's.	Cal/OSHA's DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's and submit to OSHA for approval.	FY 2014-08
FY 2015-10	Cal/OSHA's Retaliation Complaint Investigation (RCI) Manual requirements do not reflect that orally filed, faxed, and e-mailed discrimination complaints are acceptable which does not align with OSHA's Whistleblower Investigation Manual.	Cal/OSHA's RCI Manual should be changed to reflect that discrimination complaints will be accepted whether orally filed, faxed, or emailed.	FY 2014-10

Appendix B – Observations Subject to Continued Monitoring
FY 2015 Cal/OSHA Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2015-OB-01		There are state-specific mandates for the response times that categorize complaints as serious or non-serious, and formal or non-formal. The response time as measured by SAMM 1 and 2 is not accurate since OIS data does not separate serious and non-serious response time. Cal/OSHA has not determined nor provided complaint response times on a regular basis.	OSHA will continue to monitor and track Cal/OSHA’s development of an effective method for collecting complaint response time data in a timely manner.	New
FY 2015-OB-02	FY 2014-01	Final letters notifying the next-of-kin of the results of the fatality inspection were not sent in in 16.7% (4 out of 24) of the case files reviewed.	OSHA will continue to monitor to ensure that final letters are being sent to the next-of-kin after completion of the investigation, as required by P&P Manual C-170 and 170A.	New
FY 2015-OB-03	FY 2014-05	When determining repeat violations, Cal/OSHA did not consider the employer’s enforcement history statewide. Instead, the employer history was only considered with each of the six regions as indicated in Cal/OSHA’s P&P Manual, C-1B.	OSHA will continue to monitor progress in the change in the Cal/OSHA’s P&P Manual, C-1B.	New

Appendix B – Observations Subject to Continued Monitoring
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Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2015-OB-04	FY 2014-07	State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as the Bakery Oven and Crane Load Testing.	OSHA will continue to monitor Cal/OSHA's standards to ensure they are at least as effective as OSHA standards and initiate actions to update deficient standards.	New
FY 2015-OB-05		There is a decreased presence of consultation service in state and local government workplaces.	OSHA will continue to monitor Cal/OSHA's progress in marketing its state and local government consultation program.	New
	FY 2014-OB-01	Cal/OSHA's regulations for residential construction fall protection are not as effective as federal OSHA's regulations as required by 1953.5(a).		Converted to a Finding
	FY 2014-OB-02	Complainants were not consistently notified of the results of the complaint inspections or inquiries.		Converted to a Finding
	FY 2014-OB-03	The new definition of serious violation was not incorporated into their P&P manual and applied.		Closed
	FY 2014-OB-04	Standards and Federal Program Changes that provide equivalent protection to workers, such as GHS, have not been adopted within the timeframe required.		Closed

Appendix C - Status of FY 2014 Findings and Recommendations
FY 2015 Cal/OSHA Comprehensive FAME Report

FY 2014-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status and Date
FY 2014-01	Final letters notifying the next-of-kin of the results of the fatality inspection were not sent in 44.4% of the case files reviewed.	Final letters shall be sent to the next-of-kin after completion of the investigation as required by P&P Manual C-170 and 170A.	Cal-OSHA provided training to its district managers and office support staff, specifically regarding sending next-of-kin letters once investigations are completed.	4/8/2016	Converted to an Observation 4/8/2016
FY 2014-02	The percent of programmed inspections with serious, willful, or repeat violation was significantly lower than the national average, 26.7% vs. 57.0% for safety and 9.09% vs. 53.7% for health.	Determine the cause of the low number of programmed inspections with serious, willful, or repeat violations, and implement corrective actions to ensure serious hazards are identified and eliminated.	Crane permitting inspections and Mining and Tunneling pre-job conferences are no longer entered as enforcement inspections in OIS. Removing these activities reduces the denominator used to calculate the percentage of programmed inspections with serious, willful, or repeat (SWR) violations. In addition, CSHOs were re-trained to recognize serious hazards and identify SWR violations.	4/8/2016	Completed 4/8/2016
FY 2014-03	The percentage of health inspections that were in compliance was 41.9%, which was higher than the reference/standard of 34.1%.	Ensure health inspection resources are spent in workplaces that are exposing workers to hazards by implementing corrective action to ensure inspections are conducted in the most hazardous worksites.	CSHOs were provided further training to recognize hazards and identify violations. In addition, District Managers were instructed to meet with CSHOs prior to an inspection to discuss potential health hazards in the particular industry and possible related violations.	4/8/2016	Completed 4/8/2016

**Appendix C - Status of FY 2014 Findings and Recommendations
FY 2015 Cal/OSHA Comprehensive FAME Report**

FY 2014-04	The citation lapse time was 70.4 days for safety inspections and 76.0 days for health inspections and was above the reference/standard of 43.4 days for a safety inspection and 57.0 days for a health inspection.	Work with district and regional managers to improve citation lapse time.	Staffing was increased staffing to better distribute the caseload of complaint-based and accident-based inspections among a greater number of CSHOs. This helps ensure inspections are closed in a timely manner. In addition, district managers have been trained to monitor lapse times in OIS. The health lapse time has been corrected as it is at 55.8 days and within the reference range.		Open 4/8/2016
FY 2014-05	When determining repeat violations, Cal/OSHA did not consider the employer's enforcement history statewide. Instead, employer history is only considered with each of the six regions as indicated in Cal/OSHA's P&P Manual, C-1B.	Consider employer history statewide when citing repeat violations.	Cal/OSHA began formal rulemaking in August 2015 with an anticipated effective date of April 1, 2016. This rulemaking is still pending.	4/8/2016	Converted to an Observation 4/8/2016
FY 2014-06	Worker representatives were not involved in the opening conference nor were workers interviewed in five of the 19 inspections reviewed.	An opening conference shall be held with the union either jointly with the employer or separately and properly documented. Worker interviews shall be conducted and documented.	Cal/OSHA retrained its district managers and CSHOs on including worker representatives in opening conferences, interview workers, and properly documenting these steps.		Open 4/8/2016

Appendix C - Status of FY 2014 Findings and Recommendations
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FY 2014-07	State-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as the Bakery Oven and Crane load testing.	Ensure standards are at least as effective as OSHA standards and initiate actions to update deficient standards.	Bakery Oven – OSHA and Cal/OSHA continue to be in disagreement with this issue and it remains unresolved. Last correspondence was from the Board to OSHA dated September 10, 2010. The Crane Load Testing issue was discussed in various crane advisory meetings (most recently in July 2015). Board staff will initiate further discussions with OSHA to determine if follow up rulemaking is necessary. This will be completed by April 2016.	4/8/2016	Changed to Observation 4/8/2016
FY 2014-08	DLSE did not update its RCI Manual and/or Policies and Interpretations Manual in line with OSHA’s updated WIM.	DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA’s and submit to OSHA for approval.	The Labor Commissioner’s office aligns policies and procedures to be at least as effective as OSHA’s upon receipt of notices regarding OSHA changes. DLSE is in the process of updating the RCI Manual.		Open 4/8/2016
FY 2014-09	Information regarding discrimination cases was not accurately entered into WebIMIS, such as the filing dates, and case determination, as required by the WIM Chapters 2(IV), 5(VII), and 6(IV)(C and D), OSHA’s IMIS User Guide, and RCI Manual 2.3(J), 2.4(C), and 4.9.	DLSE should follow their procedures and OSHA’s procedures to ensure that discrimination case information is accurately entered into WebIMIS.	Cal/OSHA staff has been identified that will update IMIS/OIS to accurately reflect unit activity on the discrimination cases. Additional means of improving this process are also under analysis.		Open 4/8/2016

**Appendix C - Status of FY 2014 Findings and Recommendations
FY 2015 Cal/OSHA Comprehensive FAME Report**

FY 2014-10	The RCI Manual 2.2 discouraged accepting orally filed, faxed, and e-mailed discrimination complaints, in violation of WIM 2.2.	The RCI Manual should be changed to indicate that discrimination complaints will be accepted if orally filed, faxed, or e-mailed.	DLSE currently accepts OSHA claims by phone, fax, and email. Efforts to update the RCI Manual are also in progress.		Open 4/8/2016
FY 2014-11	The closing letters for Dismissed/Non Merit cases did not inform complainants of their appeal rights” as required in the RCI Manual 4.2 (A through K).	DLSE should follow their procedures and OSHA’s procedures to ensure that there is documentation in the case file that closing letters were sent to the parties.	DLSE staff will ensure IMIS/OIS is updated, that documentation is properly included in the case files and that information is distributed to the complainants to prevent this issue in the future.	4/8/2016	Completed 4/8/2016
FY 2014-12	The conclusion in discrimination cases was not always supported by the evidence in the case file, as required by the WIM Chapter 5(IV)(B) and RCI Manual 4.2(B)(1 and 2).	DLSE should follow their procedures and OSHA’s procedures to ensure that there is documentation in the case file that supports the conclusion.	DLSE staff will ensure IMIS/OIS is updated and that case closures are properly coded to prevent this issue in the future.	4/8/2016	Completed 4/8/2016
FY 2014-13	A final report, or IMIS report in lieu of a final report, was not included in the case file, as required by OSHA’s WIM Chapter 5(IV)(B) and “Revised Whistleblower Disposition Procedures”, and RCI Manual 4.2 (A through C) in 4 out of 19 cases reviewed.	DLSE should follow their procedures and OSHA’s procedures to ensure that a final report, or IMIS report in lieu of a final report, be included in the case file.	DLSE staff will ensure IMIS/OIS is updated and that case closures are properly coded to prevent this issue in the future. To assist and ensure alignment of policies and procedures, OSHA has been asked to provide a current version of the disposition procedures.	4/8/2016	Completed 4/8/2016

**Appendix C - Status of FY 2014 Findings and Recommendations
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FY 2014-14	Inspections conducted to issue permits for underground tunneling and cranes were entered as enforcement inspections when there was no enforcement component.	Do not enter non-enforcement inspections into IMIS.	Crane Unit permitting inspections and Mining and Tunneling Unit pre-job conferences have not been recorded as compliance program activity, have not been entered as enforcement inspections in IMIS or OIS since the beginning of FY 2015, and will not be entered as enforcement inspections going forward.	4/8/2016	Completed 4/8/2016
FY 2014-15	The targeting program data were not evaluated for effectiveness in reducing injuries, illnesses, and deaths, on a consistent basis.	Develop procedures and criteria for the analysis of targeting program data pertaining to the violations, percent serious violation, other-than-serious, and incompliance rate to determine the overall effectiveness of targeting programs.	High hazard targeting program data will be evaluated annually using objective criteria such as, but not necessarily limited to, the following: (1) Workers' compensation claims experience of employers that were inspected, compared to similar employers that were not inspected; (2) SAMM Data DOSH will review the annual results and adjust targeting methods accordingly.	4/8/2016	Completed 4/8/2016
FY 2014-16	Funded staffing positions remained vacant.	Take action to fill vacant positions. Develop a staffing plan to ensure positions authorized and funded by OSHA in the annual grant are filled.	DIR and DOSH have streamlined hiring processes and continue to coordinate with the Department of Human Resources to fill vacancies as quickly as possible and are keeping up with new vacancies.	4/8/2016	Completed 4/8/2016

Appendix C - Status of FY 2014 Findings and Recommendations
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FY 2014-17	Time spent by compliance staff conducting activities outside the scope of the 23(g) grant was being funded by the grant.	Remove all non-covered activities and associated time from the grant, such as permitting inspections and pre-tunnel inspections.	Crane Unit permitting activities and Mining and Tunneling Unit pre-job conferences have not been charged to the grant since the beginning of FY 2015 and will not be charged to the grant going forward. No charges in the FY 2016 Grant application were outside the scope of the 23 (g) grant.	4/8/2016	Completed 4/8/2016
FY 2014-18	Inspections conducted in exempt NAICS were not tracked separately, as required by the grant instructions.	Ensure there is a tracking mechanism in place that verifies all activities in exempt NAICS are paid out of state overmatch funds.	Starting in FY 2015, DOSH has been tracking and reversing the charges for these inspections on a quarterly basis.	4/8/2016	Completed 4/8/2016
FY 2014-19	Time spent by Senior Engineers supporting and assisting CSHOs was being allocated towards the Safety and Health Compliance Officer FTE benchmark.	Monitor the time Senior Engineers spend assisting CSHOs with inspections versus the time they spend actually performing inspection work in the field.	Senior Engineers were instructed to complete weekly time reports for the weeks in which they spend time in the field or engage in other inspection-related activities, either conducting their own inspections or assisting CSHOs. Cal/OSHA will continue to monitor in OIS.	4/8/2016	Completed 4/8/2016
FY 2014-20	There was no Internal Evaluation Program as required by the Restriction and Conditions of the grant.	Develop and implement an effective internal self-audit program.	DOSH has developed and implemented a . State Internal Evaluation Program (SIEP) and will (1) conduct a statewide audit of district office performance every six months and (2) prepare an audit report.	4/8/2016	Completed 4/8/2016

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report
FY 2015 Cal/OSHA Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA’s ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the Notes column below for further explanation on the calculation of each SAMM. All of the California State Plan’s enforcement data was captured in OIS during FY 2015. The California State Plan opened 7,419 enforcement inspections, and they were all captured in OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
California – CAL/OSHA			FY 2015	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	9.91	3	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	6.29	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (State Plan formula)	8.65	14	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report
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2b	Average number of work days to initiate complaint investigations (federal formula)	2.29	N/A	State Plan data is pulled only from OIS. 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%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	1	0	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: .70	+/-20% of SWRU: 1.92	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		Other: 2.63	+/-20% of Other: .87	
6	Percent of total inspections in state and local government workplaces	5.86%	+/-5% of 5.77%	State Plan data is pulled from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 6,044	+/-5% of S: 5,700	State Plan data is pulled from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 1,375	+/-5% of H: 1,400	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$6,923.31	+/-25% of \$2,002.86	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report
FY 2015 Cal/OSHA Comprehensive FAME Report

	a. Average current serious penalty in private sector (1-25 workers)	\$4,597.09	+/-25% of \$1,402.49	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	b. Average current serious penalty in private sector (26-100 workers)	\$7,203.18	+/-25% of \$2,263.31	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	c. Average current serious penalty in private sector (101-250 workers)	\$9,947.92	+/-25% of \$3,108.46	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$11,489.70	+/-25% of \$3,796.75	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
9	Percent in compliance	S: 26.99%	+/-20% of S: 28.47%	State Plan data is pulled from OIS.
		H: 34.07%	+/-20% of H: 33.58%	Further review level is based on a one-year national rate, pulled only from OIS.
10	Percent of work-related fatalities responded to in one workday	91.53%	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report
FY 2015 Cal/OSHA Comprehensive FAME Report

11	Average lapse time	S: 60.68	+/-20% of S: 42.78	State Plan data is pulled from OIS.
		H: 55.83	+/-20% of H: 53.48	Further review level is based on a one-year national rate, pulled only from OIS.
12	Percent penalty retained	89.48%	+/-15% of 67.96%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
13	Percent of initial inspections with worker walk around representation or worker interview	99.73%	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	7%	100%	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	21%	+/-20% of 24%	State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average, pulled from WebIMIS.
16	Average number of calendar days to complete an 11(c) investigation	422	90	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.11%	+/-25% of 1.33%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.