



# DEADLY SKYLINE

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An Annual Report on Construction Fatalities in New York State

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**About the New York Committee for Occupational Safety and Health (NYCOSH):** NYCOSH is a membership organization of workers, unions, community-based organizations, workers' rights activists, and health and safety professionals. NYCOSH uses training, education, and advocacy to improve health and safety conditions in our workplaces, our communities, and our environment. Founded in 1979 on the principle that workplace injuries, illnesses, and deaths are preventable, NYCOSH works to extend and defend every person's right to a safe and healthy workplace.

NYCOSH appreciates the assistance provided by many during this project, including but not limited to, the Bureau of Labor Statistics (BLS), Occupational Safety and Health Administration (OSHA), the New York State Department of Labor, New York City Department of Health, and the New York City Department of Buildings (NYC DOB).

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# Introduction

Construction worker deaths in New York City continue to rise even as death rates decline statewide. This spike is not happening in a vacuum: the NYC Department of Buildings is understaffed, OSHA inspections are well below pre-pandemic numbers, and workers often face dangerous conditions. Safety issues for migrant workers are particularly dire—more than one-quarter of all construction deaths are Latinx workers.

Construction continues to be one of the most dangerous industries in the country and workers risk their lives every day to build New York. In *Deadly Skyline*, the New York Committee for Occupational Safety and Health (NYCOSH) highlights fatality trends in New York's construction industry and makes recommendations on how the state and city can make worksites safer for construction workers.

This year's *Deadly Skyline* report is based on 2022 data, the most recent data available by the United States Department of Labor's Bureau of Labor Statistics (DOL BLS).

## Methodology

NYCOSH develops the *Deadly Skyline* report using data reported by: The Bureau of Labor Statistics; the New York City Department of Buildings; the New York State Department of Labor and the Workplace Fatalities Registry; the Occupational Safety and Health Administration (OSHA); and numerous media reports.

NYCOSH is grateful to all the workers who have joined us in various safety, health, and empowerment trainings over the past year, including new immigrants who have come to our offices for essential safety trainings. To all of New York's construction workers who risk their lives every day on the job, we dedicate this report to you.

# Summary of Findings

**New York City's construction fatality numbers continue a deadly upward trend.** Twenty-four construction workers died in 2022, compared to 20 in 2021 (a 20% increase) and 13 in 2020 (an 85% increase in two years).

**New York State's construction industry remained highly dangerous for workers in 2022, though fatality numbers dropped.** The number of construction workers who died in New York State decreased from 61 workers killed in 2021 to 50 in 2022, an 18% decrease.

**The construction fatality rate increased in New York City and decreased in New York State.** New York City's rate increased from 11.2 deaths per 100,000 in 2021 to 11.5 per 100,000 in 2022, a 2.7% increase. New York State's rate decreased from 12.1 per 100,000 in 2021 to 9.6 per 100,000 in 2022 — a 21% decrease.

**Latinx workers were more likely to die on the job in NYS.** Latinx workers make up a disproportionately high percentage of worker fatalities in New York. An estimated 10% of New York State's workers are Latinx, but in 2022, 25.4% of worker fatalities were of Latinx workers.

**Non-union job sites remained especially dangerous for workers.** NYCOSH analyzed OSHA's 39 New York State-based construction fatality investigations in 2022 and found that in New York City, 90% of the construction workers who died were non-union and 79% of workers who died on private worksites were non-union.

**OSHA construction fines for fatality cases decreased, ending a five-year trend of increases.** The average fine amount in 2022 was \$59,075, down from 67,681 in 2021 — a 13% decrease. This reverses a trend for the past five years of increasing OSHA fine amounts for construction fatalities.

**OSHA inspections are still below pre-pandemic numbers.** OSHA conducted 3,183 inspections in 2022, a 24% increase from 2,568 in 2021, but a 29% decrease from pre-pandemic numbers (year 2019, 4,455 inspections).

**OSHA continued to issue little public information in 2023.** OSHA's press releases have steadily declined for the past five years; they released 58 press releases in 2016 and just 13 in 2023. Pre-pandemic (2019), they issued 21.

**Contractors' OSHA violations coincide with construction worker fatalities, yet violations do not prevent contractors from receiving government subsidies.** NYCOSH analyzed OSHA-inspected construction fatality cases in New York State in 2022 and found that on job sites where workers have died, employers had coinciding OSHA violations 100% of the time. For example, if a worker died from a fatal fall, the employer was then fined for a failure to provide training and a failure to implement fall protection systems (like a harness or guard rail). Despite these violations and fatalities, employers are not legally prevented from receiving subsidy dollars.

# Recommendations

## **Require and Fund Adequate Safety Education and Training**

### **Require construction training and certification for New York State’s construction workers.**

Construction safety training programs provide workers with rigorous training and on-the-job learning with technical instruction, leading to safer job sites. Just as New York City enacted the Construction Safety Training Law, Local Law 196, other municipalities in New York State need to create similar training requirements. We also need funding mechanisms to ensure low-income workers are not excluded from accessing these trainings.

## **Extend and Defend Protective Legislation**

### **Preserve New York’s Scaffold Safety Law.**

New York State’s Labor Law §240 (commonly referred to as the Scaffold Safety Law) protects construction workers by giving fallen construction workers and their families the right to sue an employer or the building site owner if they are injured or killed in falls from an elevation. This legislation is essential to protecting workers’ safety and health on the job.

### **Utilize Carlos’ Law to increase penalties against criminal contractors.**

In 2022, New York passed Carlos’ Law to increase penalties that can be levied against corporate entities. The current maximum amount is now \$500,000, but district attorneys must utilize this new law to increase fine amounts.

## **Expand Regulations, Monitoring & Enforcement**

### **Expand criminal prosecutions of contractors statewide.**

Across the state, district attorneys should follow the lead of Manhattan and Brooklyn District Attorneys and exercise their power to hold criminal contractors accountable when the failure to protect workers rises to the level of a criminal offense. In addition, as reporting of workplace crimes increase, District Attorneys’ offices should build up their staffing and capacity to prosecute these cases so there are not limitations based on numbers of workers affected or amount of money owed. Small, bad actors also must be held accountable.

### **Use existing city power to suspend or revoke licenses and construction permits for criminal contractors.**

New York City and other municipalities have broad power within their licensing and permitting processes to keep criminal contractors from operating unsafely and endangering workers and the public. In companies where the owners, managers, or corporations were convicted of felonies related to worker deaths, these companies — and successor companies controlled by the same management — must face consequences. Their applications for licensing to work on residential construction or permitting for commercial projects must be denied. City policies should hold employers accountable in cases of criminal conviction in a worker death so construction employers face real consequences for their negligence.

### **Double OSHA's budget.**

The stagnant hiring and coinciding decreasing inspection numbers by OSHA has had real consequences for workers throughout New York State and all across the country. The agency has been underfunded throughout Democratic and Republican administrations since its founding. OSHA should double its budget in 2024.

### **OSHA *still* must issue a permanent infectious disease standard for all workers, including its own.**

While the COVID-19 pandemic may be in an endemic stage, the failure of the agency to issue a permanent infectious disease standard at the federal level is concerning. Workers must be protected from infectious diseases, and OSHA must do its part to proactively protect the nation's workforce with this standard.

### **Increase funding to the New York City Department of Buildings.**

The NYC DOB plays a critically important role in construction safety and preventing workplace fatalities in New York City. Construction fatality rates are increasing in New York City, and the NYC DOB needs increased funding to do its job.

### **Mandate subsidy procurement reform and responsible contracting in New York State and New York City.**

Some of the most egregious violators of health and safety standards and wage and hour laws continue to receive New York State and New York City funding for their development projects. To ensure that low-road contractors are not subsidized by government dollars, New York City and State should pass subsidy procurement reform that disallows bad actors

to receive public funding, and mandates that all public funds are tied to prevailing wages, training programs, and a local hiring program that works for the people who build this city. Further, the City and State should ensure that developers receiving subsidies do not hire subcontractors that have had egregious violations.

### **Protect Latinx and immigrant workers proactively.**

In New York State, Latinx workers are more likely to die on the job than non-Latinx workers and Latinx and immigrant workers are more likely to be exploited. Immigrant workers are less likely to report violations out of fear of retaliation, which has become increasingly justified as immigrant workers are targeted by federal immigration agencies. However, proactive steps by New York State and New York City can ensure that Latinx and immigrant construction workers are fairly protected by the law.

# Findings

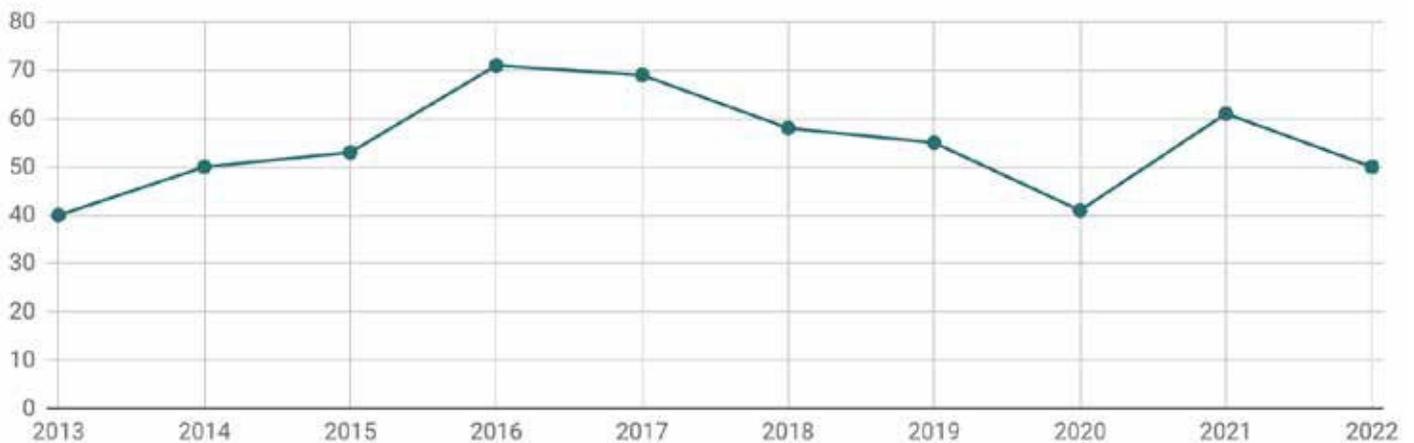
## 1 New York State's construction industry remained highly dangerous for workers in 2022, though fatality numbers dropped.

### Construction fatality numbers decreased in New York State

New York State's construction industry remained highly dangerous for workers in 2022. The number of construction workers who died in New York State decreased, from 61 workers killed in 2021 to 50 in 2022, an 18% decrease.

New York State's construction industry employs approximately 355,100 workers.<sup>1</sup> Between 2013 and 2022, 548 workers died in New York State construction-related accidents. During the past 10 years, an average of 54.8 workers have died each year in NYS. The lowest number of fatalities in a 10-year period was in 2013 with 40 fatalities; the highest was in 2016, with 71.

### Fatalities in Construction in NYS from 2013 to 2022



Source: U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries, 2022

<sup>1</sup>New York State Department of Labor, Current Employment Statistics, 2022, [dol.ny.gov/current-employment-statistics-0](https://dol.ny.gov/current-employment-statistics-0)

### New York City's construction fatality numbers spiked for the second year in a row

New York City's construction fatality numbers spiked for the second year in a row. Twenty-four construction workers died in 2022, compared to 20 in 2021 (a 20% increase) and 13 in 2020 (an 85% increase in two years). In the past 10 years,

220 construction workers died in New York City, averaging 20 construction worker fatalities per year. The lowest number of fatalities in a 10-year period in New York City was 2020, with 13 fatalities; the highest was in 2014, with 28.

### Fatalities in Construction in NYC from 2013 to 2022



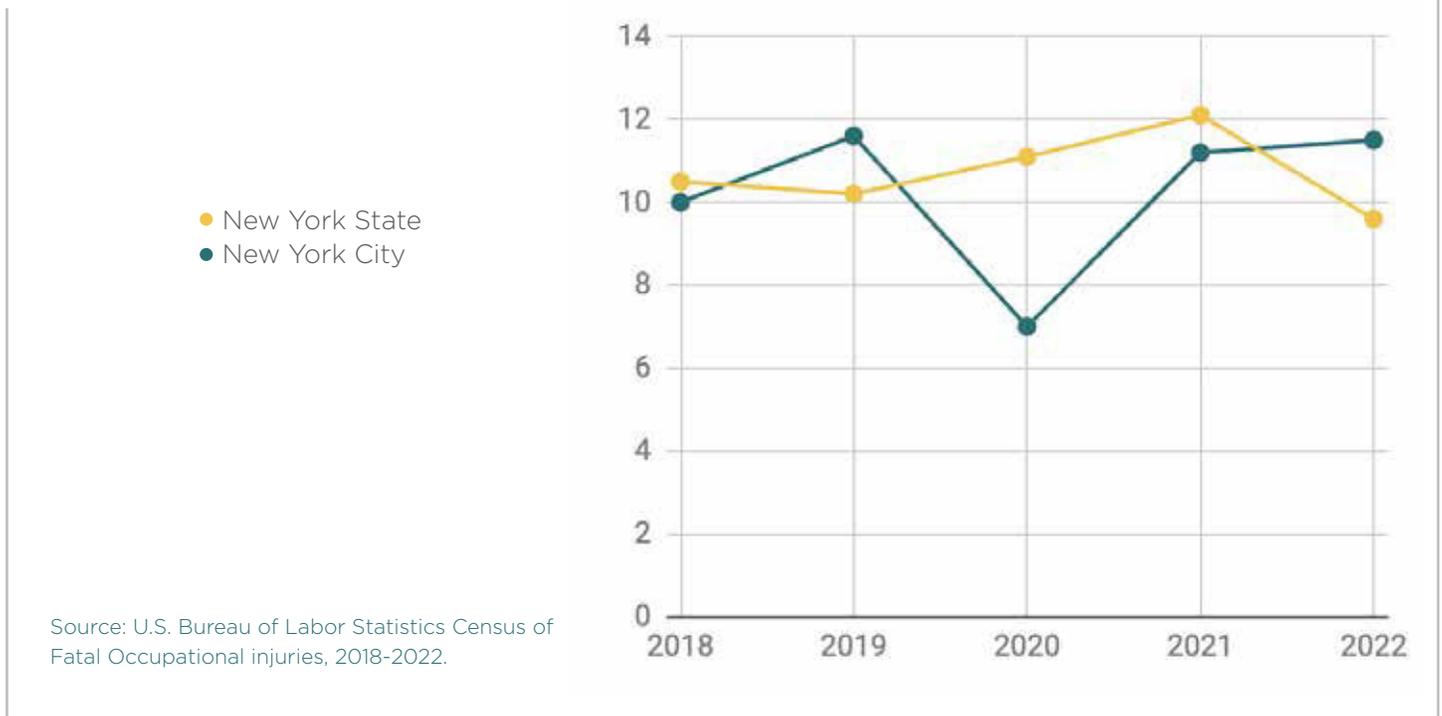
Source: U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries, 2013-2022.

# Findings

## The construction fatality rate increased slightly in New York City and decreased in New York State.

New York City's rate increased from 11.2 deaths per 100,000 in 2021 to 11.5 per 100,000 in 2022, a 2.7% increase. New York State's rate decreased from 12.1 per 100,000 in 2021 to 9.6 per 100,000 in 2022 — a 21% decrease.

### Construction Fatality Rates in New York State vs. New York City (per 100,000 workers)



**Among all work-related fatalities across New York City, New York State, and the United States as a whole, NYS has the highest proportion of construction-related worker fatalities.**

Construction is one of the most dangerous industries for workers in the United States, with the construction industry accounting for 1,056 out of 5,486 worker fatalities in 2021 (19.2%) despite construction workers making up just 4% of the nation’s workforce.<sup>2</sup>

In 2022, construction deaths accounted for 22% of all worker deaths in New York City<sup>3</sup> and 24% of all worker deaths in New York State<sup>4</sup>, compared to 21% nationwide.<sup>5</sup>

**Percent of Construction Worker Fatalities Among All Worker Fatalities in U.S., NYS, and NYC**



Source: U.S. Bureau of Labor Statistics  
Census of Fatal Occupational Injuries, 2022.

In 2022, the New York State fatality rate for workers across all industries was 2.9 per 100,000, and for construction workers was 9.6 per 100,000 workers. In New York City, the 2022 fatality rate for all workers was 2.3 per 100,000<sup>6</sup> vs. 11.5 per 100,000 for construction workers.<sup>7</sup>

<sup>2</sup>“Census of Fatal Occupational Injuries Summary, 2022.” U.S. Department of Labor, Bureau of Labor Statistics, [bls.gov/news.release/cfoi.nr0.htm](https://www.bls.gov/news.release/cfoi.nr0.htm)

<sup>3</sup>“Fatal Occupational Injuries in New York City.” U.S. Bureau of Labor Statistics, [bls.gov/iif/oshwc/cfoi/tgs/2020/iiffw68.htm](https://www.bls.gov/iif/oshwc/cfoi/tgs/2020/iiffw68.htm)

<sup>4</sup>“Fatal Occupational Injuries in New York (Including N.Y.C).” U.S. Bureau of Labor Statistics, [bls.gov/iif/oshwc/cfoi/tgs/2018/iiffw69.htm](https://www.bls.gov/iif/oshwc/cfoi/tgs/2018/iiffw69.htm)

<sup>5</sup>“Fatal Occupational Injuries in New York City.” U.S. Bureau of Labor Statistics, [bls.gov/news.release/pdf/cfoi.pdf](https://www.bls.gov/news.release/pdf/cfoi.pdf)

<sup>6</sup>“Fatal Occupational Injury Rates by State of Incident and Industry, 2022.” U.S. Bureau of Labor Statistics, U.S. Bureau of Labor Statistics, [bls.gov/iif/state-data/fatal-injury-rates-by-state-and-industry-2022.htm](https://www.bls.gov/iif/state-data/fatal-injury-rates-by-state-and-industry-2022.htm)

<sup>7</sup>Ibid

# Findings

## 2 New York City Department of Buildings must hire for vacant positions and increase its budget.

### Increased resources are needed for the New York City Department of Buildings.

The New York City Department of Buildings (NYC DOB) had consistently increased its budget in the past several years, but given budget restrictions, the DOB appears to have decreased spending in FY 2023 and FY 2024. According to a “Report on the Fiscal 2024 Preliminary Plan and the Fiscal 2023 Preliminary Mayor’s Management Report for the Department of Buildings”:

DOB’s Fiscal 2024 budget is \$51 million less than its Fiscal 2023 Adopted Budget, driven by a vacancy reduction plan in the Program to Eliminate the Gap (PEG) that eliminates 94 positions (excluding safety titles like inspectors) for an annual savings of \$11.9 million; a \$15.1 million reduction in DOB NOW technology services contracts; and \$12.3 million in reductions from lapsed Fiscal 2023 COVID-19 and expense funding that removed 42 positions.

In October 2022, DOB had the fourth highest vacancy rate of all City agencies, at 22.7%. DOB had the highest vacancy rate out of any City agency with at least 500 employees.<sup>8</sup>

The NYC budget for Fiscal Year 2022 included \$222.5 million for NYC DOB<sup>9</sup>, but the 2023 budget included \$193.9 million; the proposed 2024 budget is \$188 million. The 22.7% vacancy rate reported by the City’s own agency is also concerning.

<sup>8</sup> [council.nyc.gov/budget/wp-content/uploads/sites/54/2023/03/DOB-2.pdf](https://council.nyc.gov/budget/wp-content/uploads/sites/54/2023/03/DOB-2.pdf)

<sup>9</sup> [council.nyc.gov/budget/wp-content/uploads/sites/54/2021/06/DOB-Budget-Note.pdf](https://council.nyc.gov/budget/wp-content/uploads/sites/54/2021/06/DOB-Budget-Note.pdf)

## 3 Non-union job sites are especially dangerous for workers.

### 2021 data showed high percentages of fatalities on non-union job sites.

NYCOSH analyzed OSHA's 39 construction fatality investigations in 2022 and found that in New York State, 79% of workers who died on private worksites were non-union. In the 19 OSHA-investigated sites in New York City, 90% of the construction workers who died were non-union.

Non-union contractors have little oversight outside of government regulatory agencies, and with OSHA's underfunding, worksites are not receiving the number of inspections necessary to ensure safety standards are followed. Union job sites have shop stewards and a trained workforce that are more likely to recognize and report safety violations. Union workers also have the protection of their union against employer retaliation after reporting hazards.

## 4 Latinx workers are more likely to die on the job in New York State.

### Latinx workers make up a disproportionately high percentage of worker fatalities in New York.

Latinx workers make up a disproportionately high percentage of worker fatalities in New York. An estimated 10% of New York State's workers are Latinx, but in 2022, 25.4% of worker fatalities were of Latinx workers.<sup>10</sup>

NYCOSH reports have consistently shown that Latinx and/or immigrant workers are repeatedly exploited by employers who willfully violate safety and health protections on the job. These immigrant workers are less likely to report violations out of fear of retaliation from employers and government agencies.

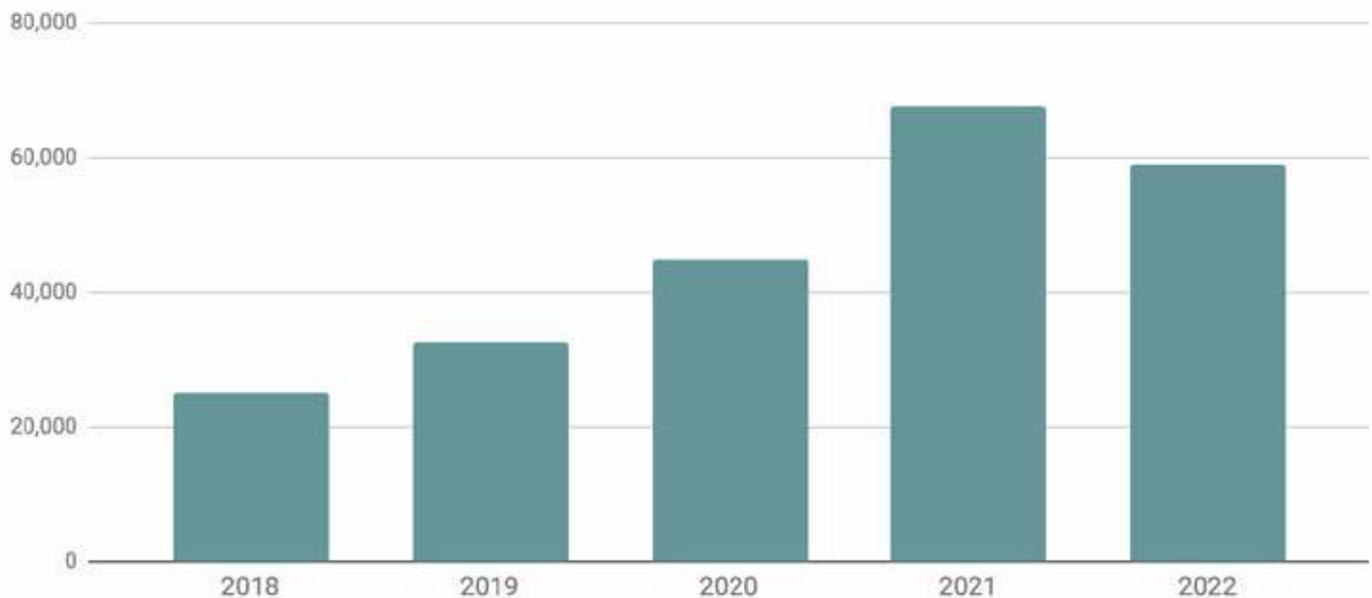
<sup>10</sup> [bls.gov/iif/state-data/fatal-occupational-injuries-in-new-york-state-including-new-york-city-2022.htm](https://bls.gov/iif/state-data/fatal-occupational-injuries-in-new-york-state-including-new-york-city-2022.htm)

# Findings

## 5 OSHA construction fines for construction fatalities have decreased slightly.

OSHA construction fines for fatality cases decreased slightly, ending a five-year trend of increases. The average fine amount in 2022 was \$59,075, down from \$67,681 in 2021 — a 13% decrease. This reverses a trend for the past five years of increasing OSHA fine amounts for construction fatalities.

**Average OSHA Fines for Construction Fatality Cases**



Source: OSHA Fatality data, 2018-2022

# 6 OSHA inspection numbers are increasing but still below pre-pandemic numbers.

OSHA conducted 3,183 inspections in 2022, a 24% increase from 2,568 in 2021, but a 29% decrease from pre-pandemic numbers (4,455 inspections in 2019).

## OSHA Inspections in NY



Source: Department of Labor, Occupational Safety and Health Administration.

Inspections are one effective tool for making safer workplaces; in one study by the U.S. Department of Labor, firms that were inspected one or two times experienced a reduction in

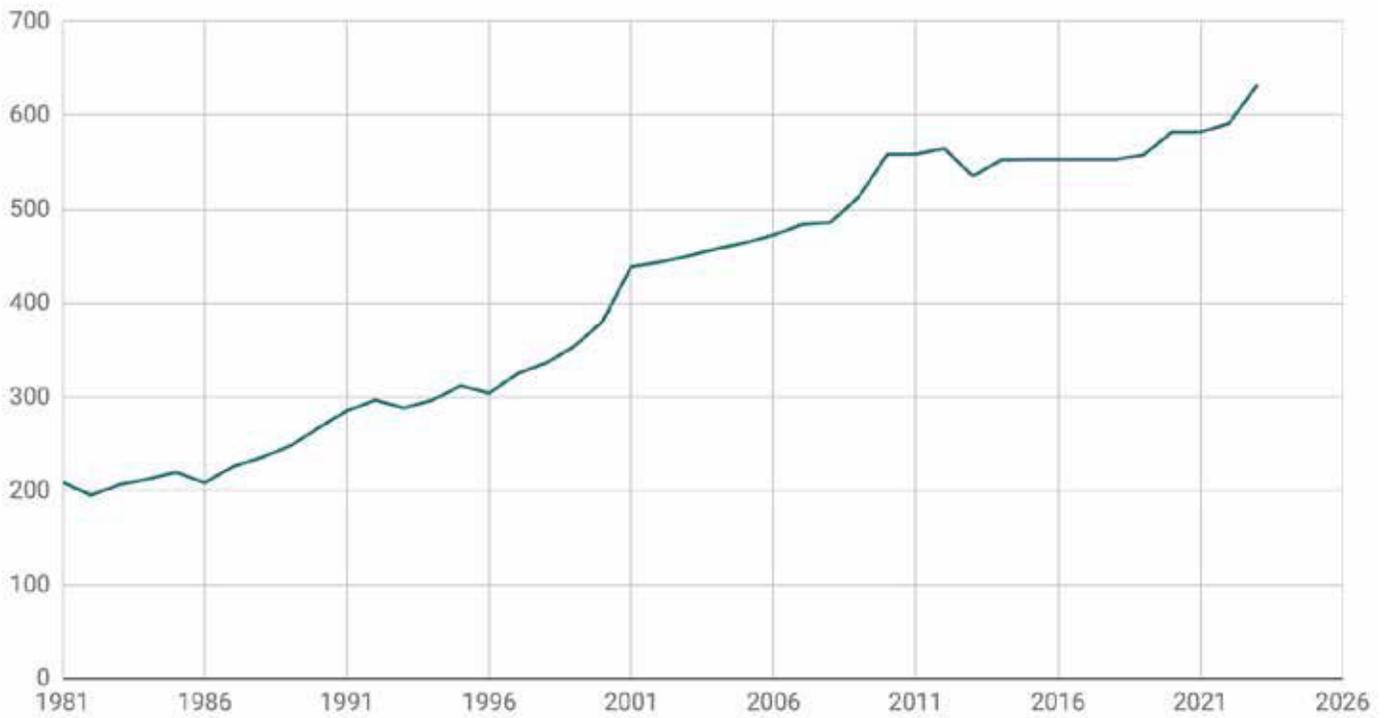
citations by 50%.<sup>11</sup> A decrease in inspections causes an increase in OSHA violations, ultimately leading more workers to die on the job.

<sup>11</sup> Gray, W., & Jones, C. "Are OSHA health inspections effective? A longitudinal study in the manufacturing sector." Review of Economics and Statistics, 73(3), 504-508, 1991, [clear.dol.gov/sites/default/files/OSHAGray1991\\_1.pdf](https://clear.dol.gov/sites/default/files/OSHAGray1991_1.pdf)

# Findings

**OSHA continues to receive modest budget increases, which indicates they should be doing more, as opposed to fewer inspections.**

**OSHA Budget (in Millions)**

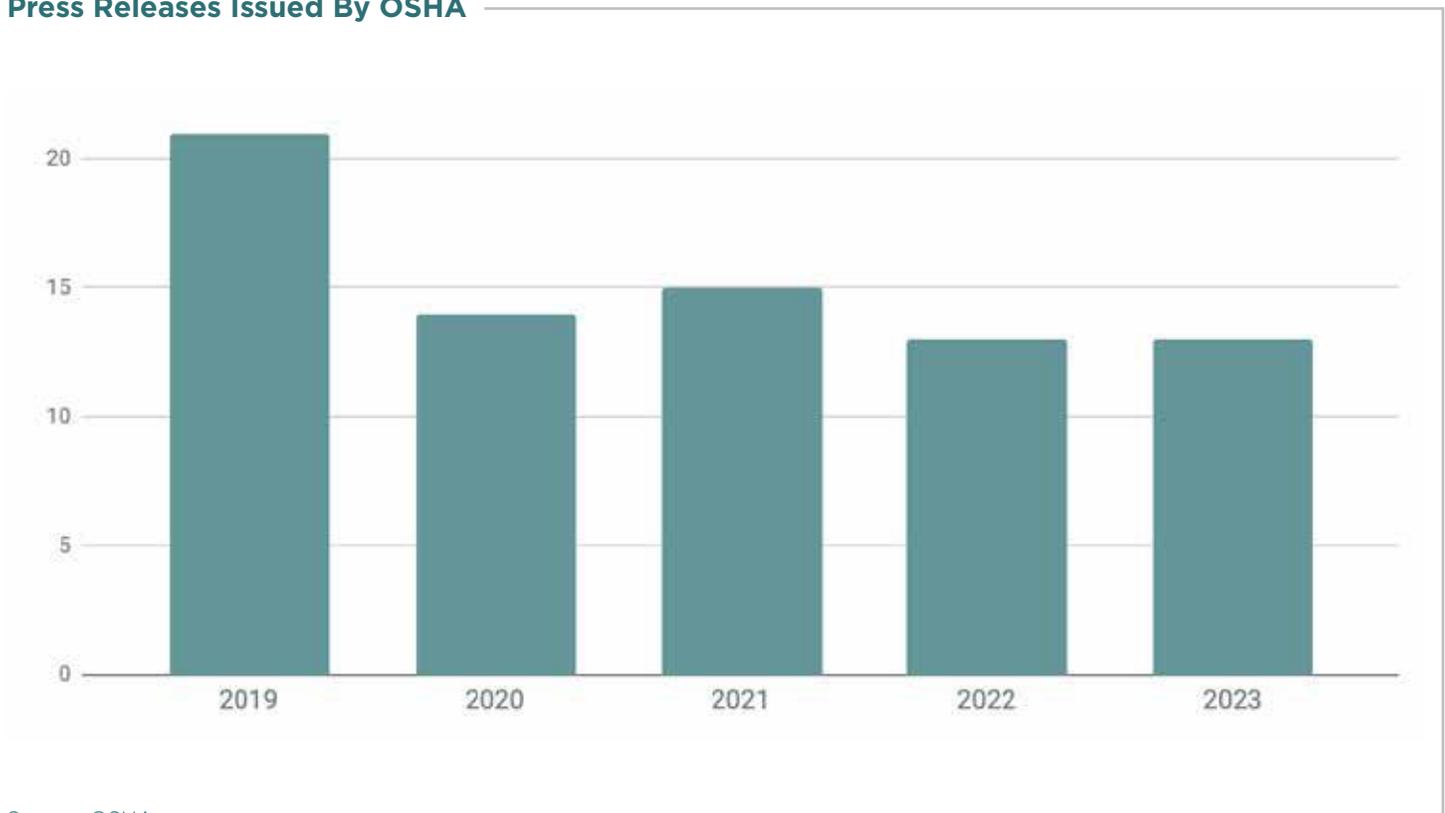


Source: Department of Labor, Occupational Safety and Health Administration

### OSHA continued to issue few press releases in 2023.

OSHA's press releases have steadily declined or remained stagnant for the past five years; they released 58 press releases in 2016 and just 13 in 2023. Pre-pandemic (2019), they issued 21.

#### Press Releases Issued By OSHA



Source: OSHA

Press releases play the role of garnering negative media attention for employers whose wrongdoings lead to worker injuries and deaths, and serve as a warning to other employers who

may be tempted to skirt legal requirements. The agency must hold bad employers accountable, especially when their recklessness causes workers to get injured on the job.

# Findings

7 Employers' OSHA violations coincide with construction worker fatalities, and violations do not prevent them from receiving government subsidies.

## **On OSHA-inspected job sites where workers have died, employers had coinciding violations 100% of the time.**

NYCOSH analyzed OSHA-inspected construction fatality cases in New York State in 2022 and found that on job sites where workers have died, employers had coinciding OSHA violations 100% of the time. For example, if a worker died from a fatal fall, the employer was fined for a failure to provide training and a failure to implement fall

protection systems (like a harness or guard rail). Despite these violations and fatalities, employers are not legally prevented from receiving subsidy dollars.

Given these statistics and the likelihood that safety citations follow construction fatalities, it is likely that worker deaths were preventable.

## **Contractors are receiving New York State and New York City subsidies despite egregious health and safety violations.**

Companies that violate the law and put workers' lives at risk are not legally prevented from receiving subsidy dollars. For example, if a worker dies in a fatal fall because he/she was not wearing a harness, the employer would likely be fined approximately \$67,681 (the

average fine for a construction fatality in New York State). The employer, despite these fines, would still be eligible to receive government subsidies for their development projects regardless of their history of serious or willful violations.

# Conclusion

New York State and New York City continue to have high fatality numbers compared to the rest of the country. In 2022, fatality rates increased slightly in New York City, and rates decreased slightly in New York State. Cuts to New York City Department of Buildings are concerning, as are budget gaps in New York City that are being filled by cutting funding for safety-related city agencies.

NYCOSH urges policy makers to investigate the recommendations that we raise in this report, and to bring in workers and worker advocates to help make policy decisions that impact our future as New York's workforce.



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