

The NYCOSH logo is positioned in the upper left corner of the page. It consists of the letters 'NYCOSH' in a bold, dark green, sans-serif font. The letters are slightly shadowed and appear to be floating above a faint, stylized city skyline.

NYCOSH

The background of the entire page is a photograph of a construction site. In the foreground, several construction workers are silhouetted against a bright, hazy sky. They are standing on a steel framework of a building under construction. A large, dark, conical object, possibly a piece of equipment or a container, is being lowered by a crane from above. In the background, a dense city skyline is visible, with numerous skyscrapers of varying heights and architectural styles. The overall scene is one of industrial activity and urban development.

DEADLY SKYLINE

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 is one of the most dangerous industries in the country and workers risk their lives every day to build New York. In this year's "Deadly Skyline" report, 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 2021 data, the most recent data available by the United States Department of Labor's Bureau of Labor Statistics (DOL BLS). This report covers the second year of the COVID-19 pandemic in New York State after the shutdown of construction sites due to COVID ended.

Tracking Construction Worker Fatalities

NYCOSH has been advocating for timely and accurate tracking of construction worker fatalities since this report was first published in 2014. In February 2022, the Workplace Fatalities Registry bill, sponsored by Senator Jessica Ramos in the Senate (S8828) and Assemblywoman Carmen De La Rosa (A5965A), was implemented. The legislation requires employers to submit key information to

the New York State Department of Labor when a construction worker dies on the job, including the date of the incident and the cause of death. This information is now available to the public via a searchable database and is referenced in the report.

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, 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 in 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 State's construction industry remained highly dangerous for workers in 2021, and fatality numbers peaked. The number of construction workers who died in New York State increased drastically, from 41 deaths in 2020 to 61 deaths in 2021 — a 49% increase.

New York City's construction fatality numbers spiked. Twenty construction workers died in 2021, compared to 13 in 2020 — a 54% increase.

The construction fatality rate increased substantially in New York City and slightly in New York State. New York City's rate increased from 7 deaths per 100,000 in 2020 to 11.2 per 100,000 in 2021, a 60% increase. New York State's rate increased from 11.1 per 100,000 in 2020 to 12.1 per 100,000 in 2021, a 9% increase.

Non-union job sites remained especially dangerous for workers. NYCOSH analyzed OSHA's 39 construction fatality investigations in 2021 and found that in New York State, 82% of workers who died on private worksites were non-union. In the 15 OSHA-investigated sites in New York City, 80% of the construction workers who died were non-union.

Latinx workers were more likely to die on the job in NYS in 2021. 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 2021, 25.5% of worker fatalities were of Latinx workers — a 42% percent increase from 18% in 2020.

OSHA construction fines for fatality cases continued to increase. The average fine amount in 2021 was \$67,681, up from \$44,779 in 2020.

OSHA continued to conduct fewer inspections than pre-pandemic numbers. OSHA conducted 2,568 inspections in 2021, an increase from 2,080 in 2020, but a 42% decrease from pre-pandemic numbers (2019).

OSHA continued to issue fewer press releases in 2021. OSHA's press releases have steadily declined for the past five years; they released 58 press releases in 2016 and just 13 in 2022. Pre-pandemic (2019), they issued 21.

Contractors' OSHA violations coincide with construction worker fatalities, but violations do not prevent contractors from receiving government subsidies. NYCOSH analyzed OSHA-inspected construction fatality cases in New York State in 2021 and found that on job sites where workers have died, employers had coinciding OSHA violations 96% of the time.

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 that 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.](#)

Former Manhattan District Attorney Cyrus Vance Jr. historically led the way on prosecuting criminal construction contractors. District Attorneys in the New York Metropolitan Area, like the Brooklyn DA, also have brought charges against bad actors. Across the state, district attorneys should follow suit 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 the reporting of workplace crimes increases, District Attorney's 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 must also 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 can 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 have had real consequences for workers throughout New York State and all across the country. OSHA has been underfunded throughout Democratic and Republican administrations since its founding. NYCOSH is no longer advocating for small increases to OSHA's budget but is advocating for OSHA to double its budget in 2023.

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

Historically low inspection numbers in 2021 are a tragedy for private workers in New York State. Because the agency failed to issue an infectious disease standard or other protection for its workers, agency staff were unable to conduct the necessary number of inspections to protect New York's workers. The agency must proactively protect its staff so they can do their jobs in protecting New York's private sector workers.

Increase funding to the New York City Department of Buildings.

The NYC DOB has 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 NYC DOB needs increased funding to do its job. To be effective, the agency must be funded according to its additional responsibilities and so they can enforce new regulations within their mandate.

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 be 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 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, a fear that 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

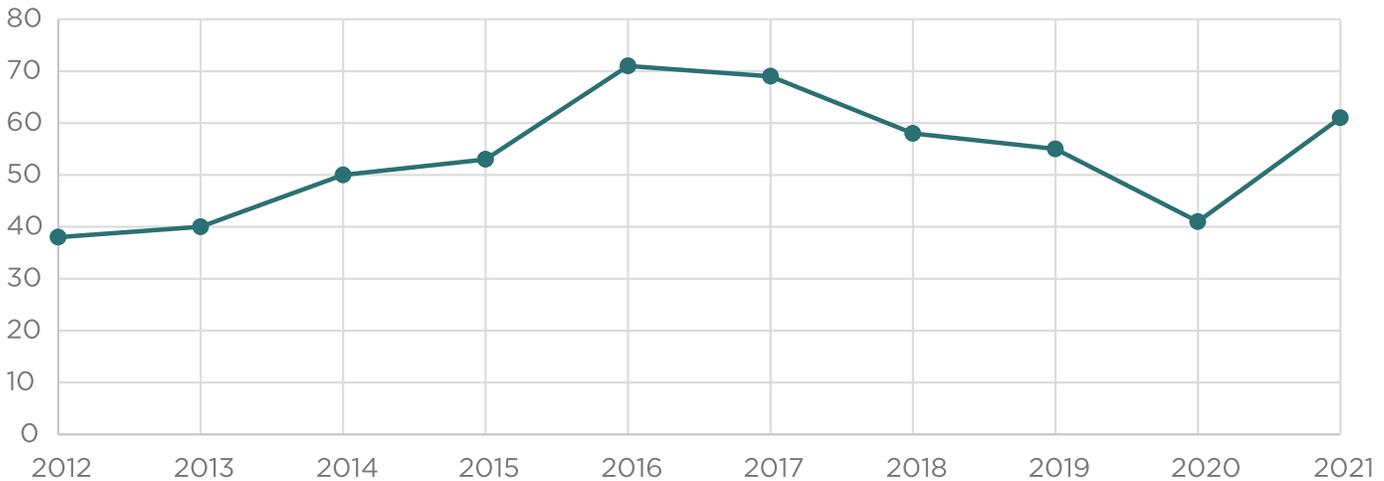
1 New York's construction fatalities increased drastically in New York State and New York City.

Construction fatality numbers increased in New York State

New York State's construction industry remained highly dangerous for workers in 2021. The number of construction workers who died in New York State increased drastically, from 41 deaths in 2020 to 61 deaths in 2021 — a 49% increase.

New York State's construction industry employs approximately 379,100 workers.¹ Between 2012 and 2021, 351 workers died in New York State construction-related accidents. During the past 10 years, an average of 53.6 workers has died each year in NYS. The lowest number of fatalities in a 10-year period was in 2012 with 38 fatalities; the highest was in 2016 with 71.

Fatalities in Construction in NYS from 2012 to 2021



Source: U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries, 2012-2021

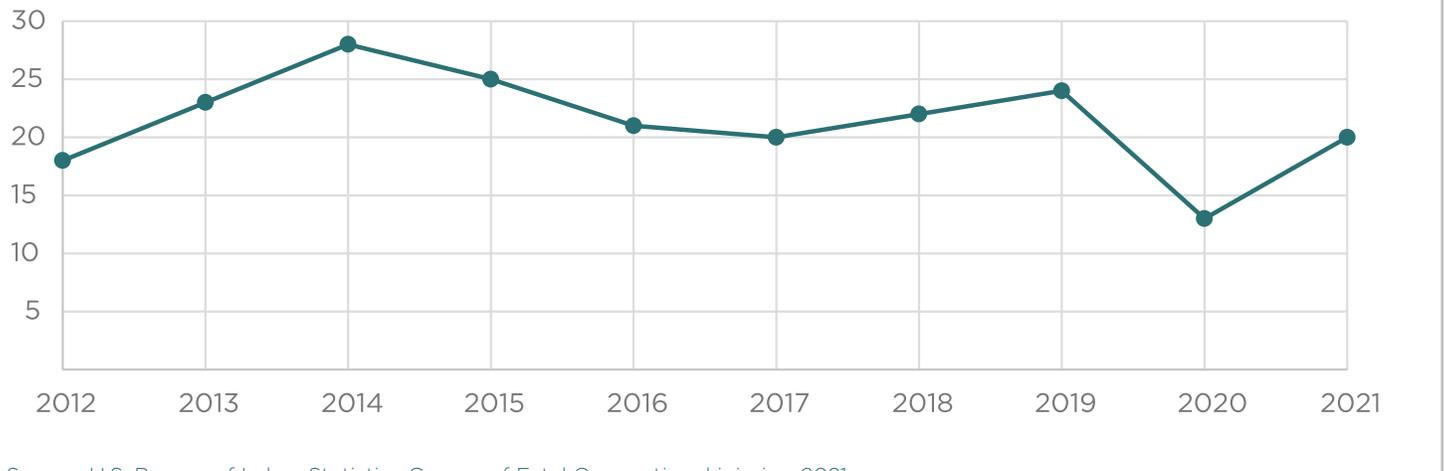
¹ New York State Department of Labor, Current Employment Statistics, 2021, dol.ny.gov/current-employment-statistics-0

Construction fatalities spike in New York City

New York City's construction fatality numbers spiked. Twenty construction workers died in 2021, compared to 13 in 2020 — a 54% increase. In the past 10 years, 214 construction workers died in New York City for an average of 20

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

Fatalities in Construction in NYC from 2012 to 2021



Source: U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries, 2021.

Findings

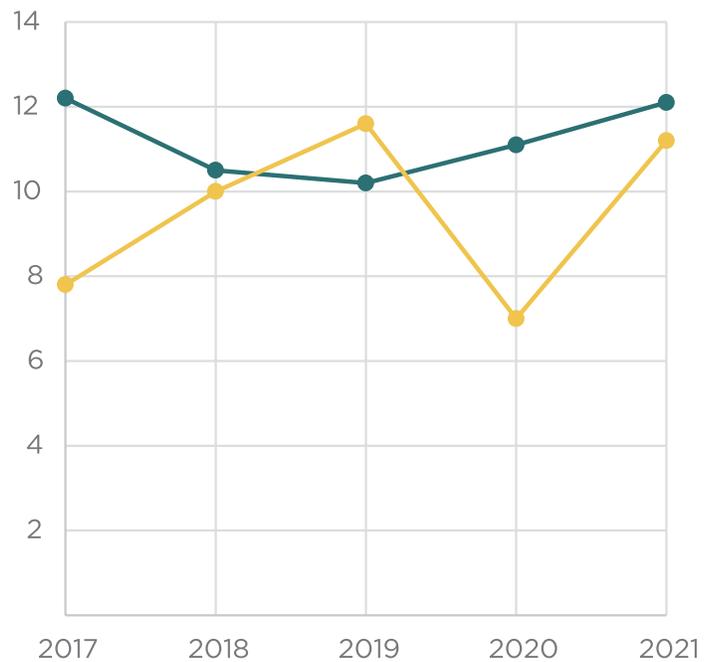
New York State and New York City saw increased fatality rates.

The construction fatality rate increased substantially in New York City and slightly in New York State. New York City's rate increased from 7 deaths per 100,000 in 2020 to 11.2

per 100,000 in 2021, a startling 60% increase. New York State's rate increased from 11.1 per 100,000 in 2020 to 12.1 per 100,000 in 2021 — a 9% increase.

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

● New York State
● New York City



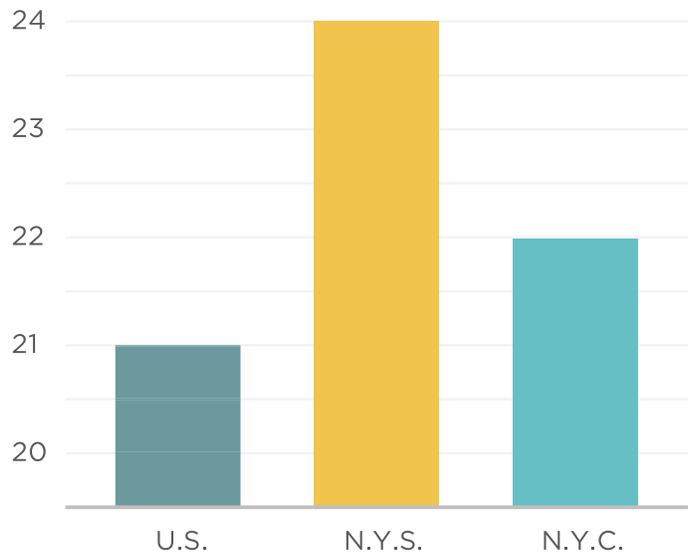
Source: U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries, 2017-2021.

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 951 out of 5,190 worker fatalities in 2021 (19%) despite construction workers making up just 4% of the nation’s workforce.²

In 2021, construction deaths accounted for 22% of all worker deaths in New York City³ and 24% of all worker deaths in New York State,⁴ compared to 21% nationwide.⁵

Percent of Construction Worker Fatalities Among All Worker Fatalities in U.S., NYS, and NYC, 2021 BLS Data



Source: U.S. Bureau of Labor Statistics
Census of Fatal Occupational Injuries, 2021.

In 2021, the New York State fatality rate for workers across all industries was 2.9 per 100,000, and the rate for construction workers was 21.1 per 100,000 workers. In New York City, the 2021 fatality rate for all workers was 2.0 per 100,000⁶ vs. 11.2 per 100,000 for construction workers.⁷

²“Census of Fatal Occupational Injuries Summary,” 2021. U.S. Department of Labor, Bureau of Labor Statistics, www.bls.gov/news.release/pdf/cfoi.pdf

³“Fatal Occupational Injuries in New York City.” U.S. Bureau of Labor Statistics, www.bls.gov/iif/oshwc/cfoi/tgs/2020/iiffw68.htm

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

⁵“Fatal Occupational Injuries in New York City.” U.S. Bureau of Labor Statistics, www.bls.gov/news.release/pdf/cfoi.pdf

⁶“Fatal Occupational Injury Rates by State of Incident and Industry, 2020.” Bureau of Labor Statistics, www.bls.gov/iif/state-data/fatal-injury-rates-by-state-and-industry-2021.htm

⁷Ibid

Findings

2 New York City Department of Buildings must hire for vacant positions.

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

While the New York City Department of Buildings (NYC DOB) has consistently increased its budget in the past several years, given budget restrictions, the DOB appears to have decreased spending in 2021.

The NYC budget for Fiscal Year 2022 included \$222.5 million for NYC DOB,⁸ but the proposed 2023 budget includes just \$207.5 million, an 8% reduction. Further worrisome is the 25% vacancy rate at the agency, reported by *The New York Times* in 2022.⁹

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 2021 and found that in New York State, 82% of workers who died on private worksites were non-union. In the 15 OSHA-investigated sites in New York City, 80% of the construction workers who died were non-union.

Non-union contractors have little oversight outside of government regulatory agencies. 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.

⁸ council.nyc.gov/budget/wp-content/uploads/sites/54/2021/06/DOB-Budget-Note.pdf

⁹ Rubinstein, Dana, and Emma G. Fitzsimmons. "Why City Workers in New York Are Quitting in Droves." *The New York Times*, 13 July 2022, www.nytimes.com/2022/07/13/nyregion/labor-shortage-nyc-jobs.html

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.

An estimated 10% of New York State's workers are Latinx, but in 2021, 25.5% of worker fatalities were of Latinx workers — a 42% percent increase from 18% In 2020.

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.



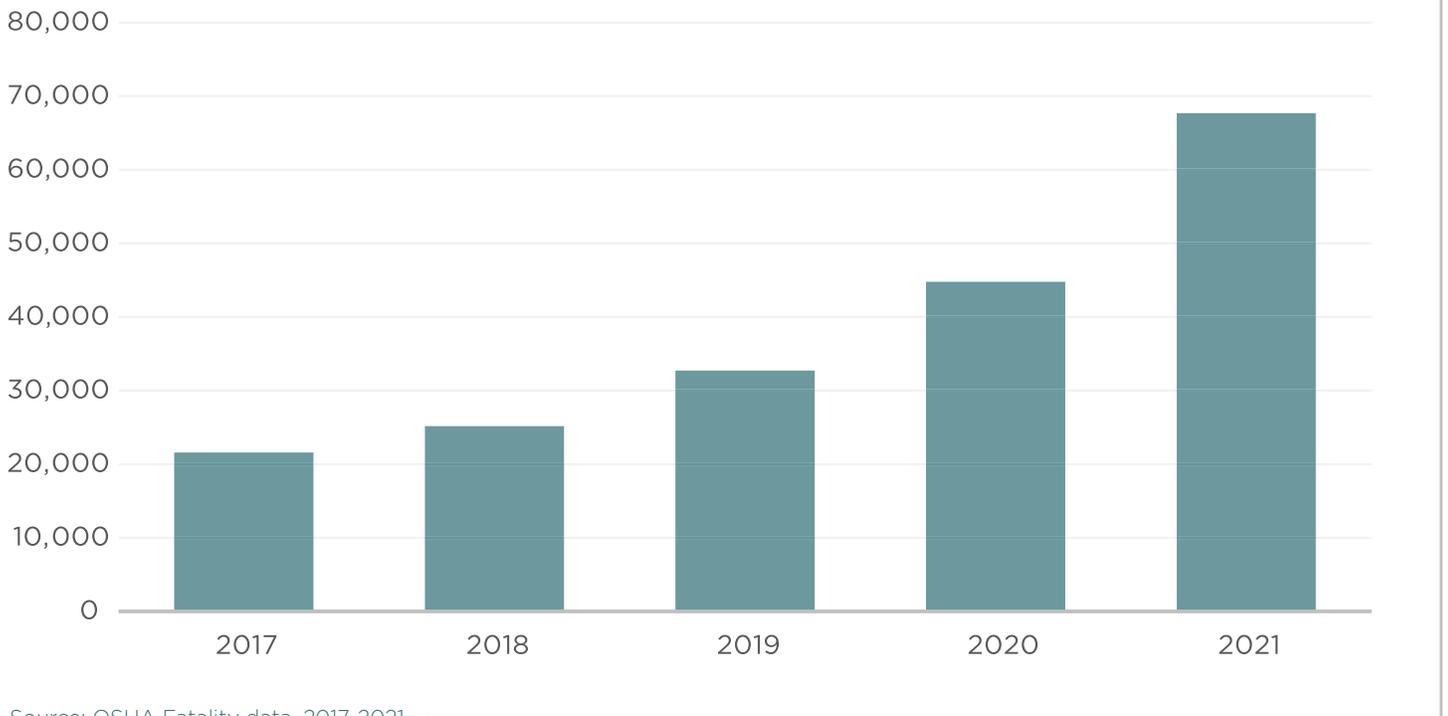
Findings

5 OSHA construction fines for fatalities have increased.

OSHA first increased the fine amounts it can levy on Aug. 1, 2016, then again in 2023. OSHA's maximum penalties violations will increase nearly 8% from 2022 — \$14,502 per violation to \$15,625 per violation for other-than-serious and serious violations and from \$145,027 per violation to \$156,259 per willful or repeated violations.

The average fine amount in 2021 was \$67,681, up from \$44,779 in 2020. This increase is ongoing movement in the right direction and should continue to increase to effectively create safer jobs.

Average OSHA Fines for Construction Fatality Cases

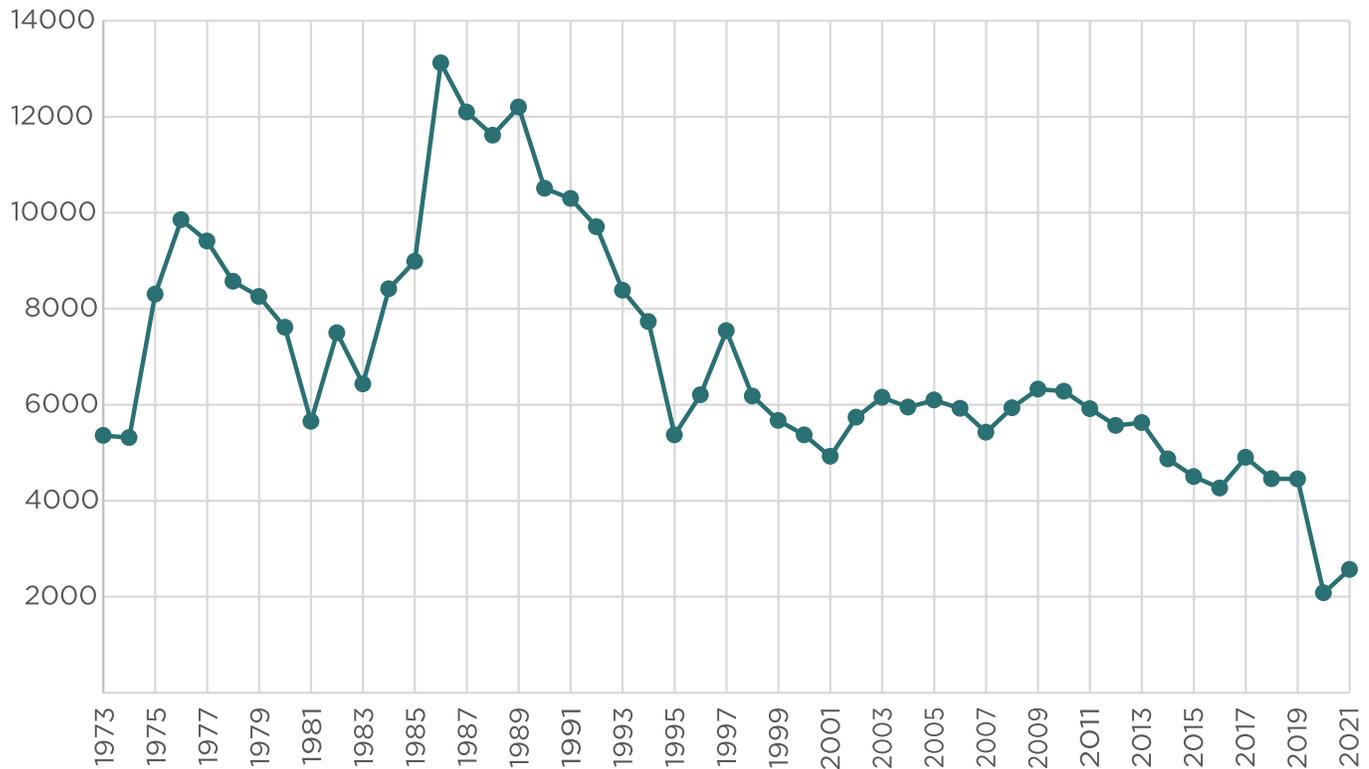


Source: OSHA Fatality data, 2017-2021

6 OSHA continues to conduct lower inspections than pre-pandemic numbers.

OSHA conducted 2,568 inspections in 2021, an increase from 2,080 in 2020, but a 42% decrease from pre-pandemic numbers (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

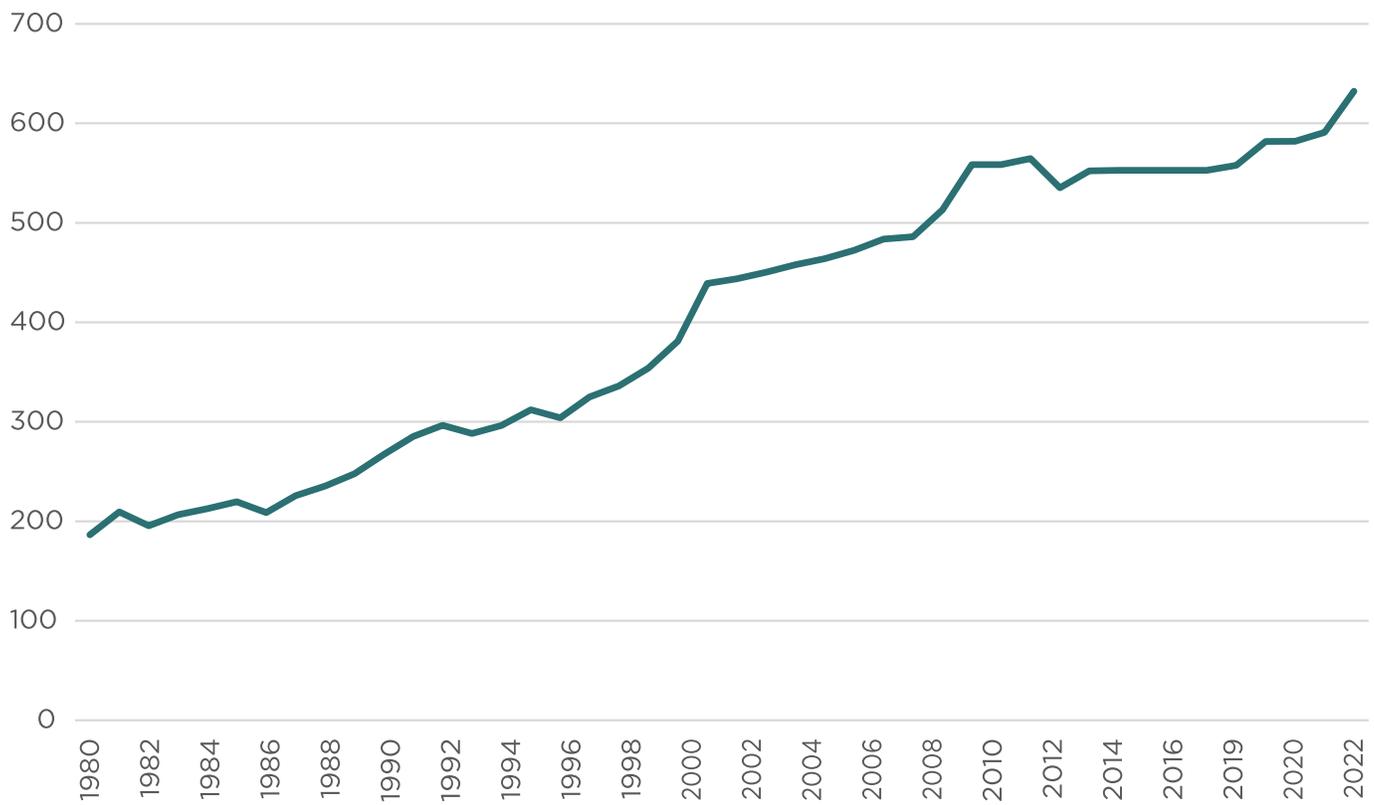
citations by 50%.¹⁰ A decrease in inspections causes an increase in OSHA violations, ultimately leading more workers to die on the job.

¹⁰ 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

Findings

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

OSHA Budget (*in Millions)



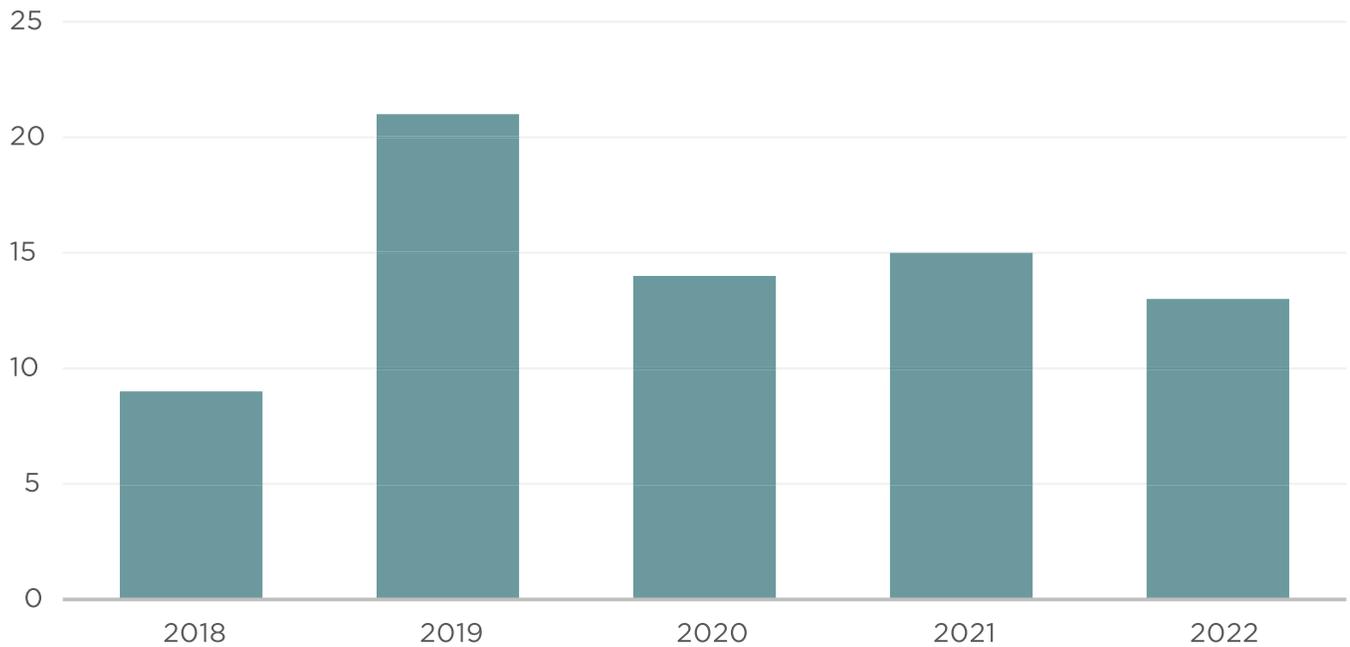
Source: Department of Labor, Occupational Safety and Health Administration

OSHA continues to reduce the number of press releases issued on egregious violators.

In 2022, OSHA issued the fewest press releases since 2019. A review of press releases in the past five years showed that the agency went from releasing 58 press releases in 2016 to just 13 in

2021. The agency issued an equally low number of press releases throughout both the Biden and Trump administrations.

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 that

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

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

On OSHA-inspected job sites where workers have died, employers had coinciding violations 96% of the time.

Employers regularly endanger their workforce by not following regulations, causing workers to die as a result. NYCOSH analyzed OSHA-inspected construction fatality cases in New York State in 2021 and found that on job sites where workers have died, employers had coinciding OSHA violations 96% of the time. For example, if a worker died from a fatal fall, the employer was then fined for a separate

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 workers die in a fatal fall because they were 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, still would be eligible to receive government subsidies for their development projects regardless of their history of serious or willful violations.

Conclusion

Increases in the fatality rate in New York City and New York State indicate that both the city and state need to take a hard look at how to increase worker safety on the job. While this report has long decried the federal government for issuing such small increases to OSHA's budget, this year we also rang the alarm in New York City, which is understaffing and underfunding its building department.

Workplace safety and health are not the result of one policy or one employer, but are created when cities, states, and the federal government work with employers and workers to create a safe and healthy work environment.

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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