



RECYCLING LABOR SERIES

On the line in California

The state may have a reputation for progressive recycling policies, but industry workers still face numerous hazards.

Here are two of their stories.

By Susie Neilson

December 11, 2019



Credit: Yutao Chen

Editor's note: This is part of a series about ongoing risks and evolving labor issues in the recycling industry. Read more about persistent safety hazards and how MRF operators are responding. Also check out a close look at the rise of advanced technology, including robotics, in U.S. facilities.

Victoria Leon was used to the fast pace of the conveyor belt at the Waste Management C&D recycling facility where she and her husband worked in San Leandro, California. Each time they saw an item of value — a sheaf of cardboard, a pristine piece of paper — they'd throw it into one of several bins, to be compressed into bales and sold.

But on one day in July 2016, a large piece of wood rolled by, jamming the belt. As Victoria leaned over to pry the wood free, she experienced a burning pain in her lower back. It spread down both of her legs, which felt numb and heavy.

The feeling was familiar to Victoria. Back in 2014, when she was 34, she injured her back at work while pushing a wheelbarrow full of dirt and glass. She'd gone to the company's doctor and after several appointments he'd declared her fit for work. Now, the pain had returned.

Victoria's occupation, recycling, is no stranger to injury. Since 2010, workers in California waste and recycling facilities have been crushed by equipment, poisoned by noxious gases, electrocuted, burned and contracted hernias and brain injuries, according to the state's Department of Industrial Relations.

These workers have sustained hundreds of eye injuries, over a thousand back problems, and more than a few amputated fingers, toes and limbs. Many have been stuck by contaminated needles or cut on broken glass. Some are permanently disabled. Some have died.

Status quo

When it comes to recycling, California's commitment stands out: as of 2019, 7 out of 10 of the state's largest cities have implemented or worked on some kind of "zero waste" policy. California is also viewed as having some of the most progressive worker safety standards in the country.

Still, companies that employ the state's approximately 12,500 recycling workers (a category that includes both MRFs and the broader scrap recycling industry) face hazards that academic experts and worker safety advocates say are both unacceptable and preventable. The problem: California often lacks the resources necessary to actually enforce its strong regulations. For instance, resources at the California Division of Occupational Safety and Health (Cal/OSHA) are stretched, making it difficult for the agency to hold businesses accountable.

"California certainly has better statewide labor enforcement capacity compared to many other states, because [Secretary of the California Labor and Workforce Development Agency] Julie Su has made it a priority during her time in both the Newsom and Brown administrations," said Jessie Hammerling, a researcher at the UC Berkeley Labor Center. "However, there's certainly room for improvement, given the weak federal infrastructure for labor regulation in the U.S., and the fact that enforcement has historically been under-resourced, even in places like California."

Debbie Berkowitz, director of the National Employment Law Project, said she thinks most injuries in recycling are "easily preventable." Berkowitz' grandfather was killed in a scrap metal recycling center. When she was working at the federal Occupational Safety and Health Administration (OSHA), concerns

came up regularly about recycling being “one of the more dangerous industries.”

“Unfortunately, a lot of companies ... in this industry, seem to put safety last on the list of things they think about,” Berkowitz said.

Workers who sort recyclables are often the lowest paid in the industry and their job requires constant, direct interaction with potentially hazardous materials. Some said they’ve been asked to use dangerous machinery they may not have been trained to operate.

Those at scrap metal or C&D recycling facilities must handle sharp sheets of metal or blocks of concrete. Sorters at MRFs handling residential or commercial recyclables often have to bend over conveyor belts for extended shifts. They may plunge their hands into soggy piles that have been known to hide dead cats, used syringes or toxic chemicals.

ALSO IN THIS SERIES



High risk, hidden workforce

By Cole Rosengren • Dec. 11, 2019

With fluctuating injury rates, and ongoing fatalities, MRFs remain a key safety challenge. Operators discuss efforts to change that through better training, tighter protocols and a lower dependence on temporary labor.

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“You can’t run an operation like this and not have people get injured,” said Richard Valle, president of Tri-CED Community Recycling in Union City, the state’s largest nonprofit recycling center.

But, according to Valle, you can minimize the risks. He reports Tri-CED has only had one serious injury in 40 years. He attributes this to a “philosophy of incorporating safety into our operations,” including weekly safety meetings and unlimited personal protective equipment.

Tri-CED Community Recycling in Union City, California | Credit: Yutao Chen

Regulatory limitations

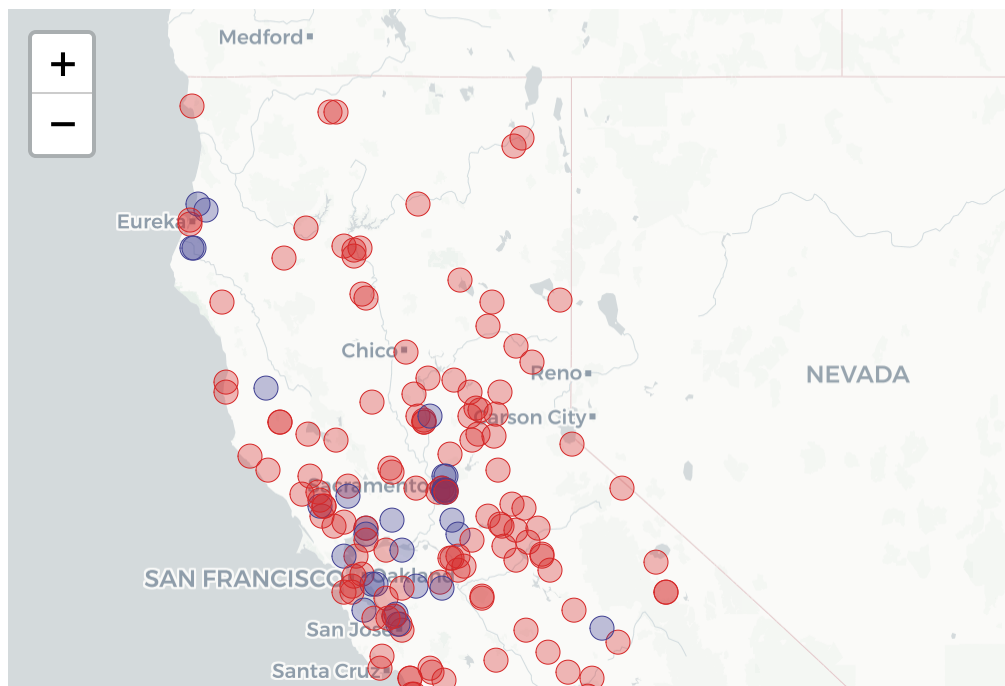
California’s recycling workers have two systems for filing safety-related complaints. For on-the-job injuries, they file a workers compensation claim, a form that helps them obtain medical care. They can also call Cal/OSHA to report workplace hazards. But both systems are challenged, according to experts.

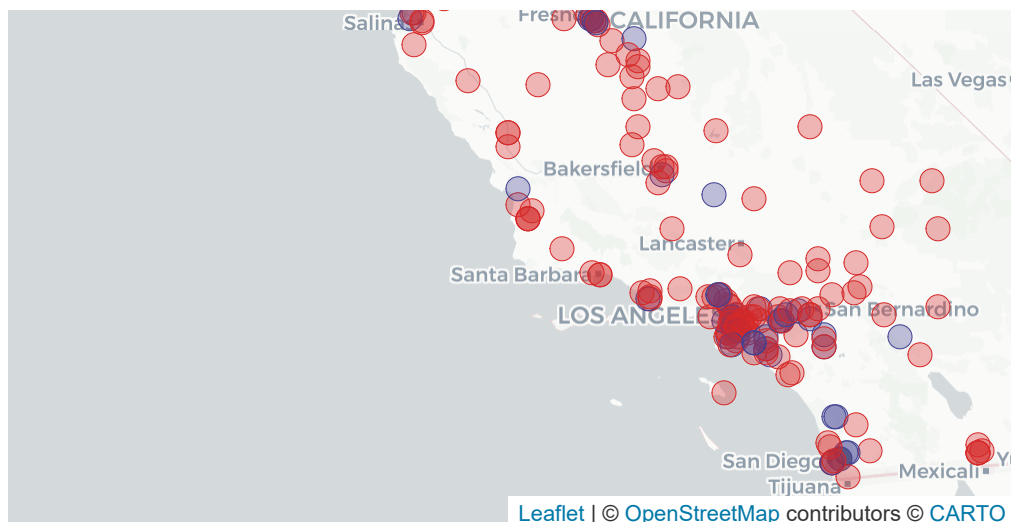
From 2014 through 2018, government inspectors only visited one in five MRFs (as defined by California's Department of Resources Recycling and Recovery) and a fraction of other recycling operations throughout the state. When inspectors do pay these facilities a visit, they often find dangerous conditions: during that same period, 412 inspections yielded over 300 life-threatening safety violations. Inspectors found three life-threatening violations for every four inspections, and over three violations per inspection on average.

Of course, Cal/OSHA can't visit every facility in the state, nor should it be expected to. "Cal/OSHA is a complaint-, accident- and report-driven system, [and] that's a good thing," said Garrett Brown, a former Cal/OSHA inspector and official.

CALIFORNIA MRFS

Each circle represents a facility. Facilities that have been inspected from 2014-2018 are in blue and those that have not been inspected are in red. Hover over each for details.





Credit: Data collected by Susie Neilson; map created by Nami Sumida/Waste Dive

Due to current staffing levels, Cal/OSHA can barely keep up with the complaints and accident reports it receives, Brown said, let alone conduct routine inspections of higher-risk industries like recycling. It has little time to inspect for longer-term hazards, such as dust, chemicals, ergonomic issues and bloodborne pathogens — hazards recycling workers face regularly.

As of February 2019, according to documents released to Brown through a public records request, Cal/OSHA had a ratio of 1 inspector to 88,656 workers — worse than Washington state's 1 to 25,000, Oregon's 1 to 22,000, and the federal ratio of 1 to 66,000. Based on this current ratio, compared with Berkowitz' federal analysis, it would take Cal/OSHA more than 150 years to visit every workplace in California at least once.

The company doctor

After Victoria suffered her second injury in July 2016, her supervisor sent her to a company doctor at Concentra. She was

given some Advil, prescribed three physical therapy sessions and cleared to go back to work, according to her medical files.

“They said I was 100%,” Victoria said. “But I didn’t feel 100%.”

Working on the line hurt, and she was unable to keep up with the speed. Workers at Waste Management’s Davis Street Transfer and Material Recovery Facility in San Leandro are expected to sort 50 items a minute for at least seven hours a day, according to Victoria and her husband Sergio Gonzalez.



Victoria Leon | Credit: Yutao Chen

According to Karen Stern, director of communications for Waste Management of Northern California, pick counts are “much lower” at the C&D facility and “there are clear instructions to ask for help when there is a heavy object.”

Victoria kept asking to see the doctor again. Months went by. Finally, her supervisor granted her wish. This time she was sent to an urgent care clinic in San Leandro.

“As soon as [the doctor] walked in, she was like, “oh, I know why you have the pain on your back,” Victoria recalled. ““It’s because your head weighs more than 30 pounds. You don’t know how to stand up, you don’t know how to sit down.’ I was in shock, I was like, wait a minute. She hasn’t put a hand on me, how does she know what’s wrong with me?”

Later, Victoria said, it seemed like the doctor thought she was “faking it.”

Victoria’s medical report from this visit notes that her back is essentially fine, with minor inflammation. And it calls her injury “non-industrial” — in other words, not work-related. “Patient Instructed [sic] to see private physician at own expense,” the report reads.

After her appointment, Victoria returned to work, but she still wasn’t 100% — she didn’t even feel 50%. So she paid out of pocket to see her private doctor, part of the Kaiser Permanente network. She asked for an MRI repeatedly, and the doctor finally complied.

The MRI found what the first doctor had not: Victoria’s spine was arthritic, and curved abnormally. Several of her discs were torn — injuries that a doctor would later diagnose as work-related.

Some of these symptoms are common in people in their 50s or older. At the time of diagnosis, Victoria was 36.

This doctor recommended modified activity for Victoria and helped her complete a workers’ compensation claim. The insurance company denied Victoria’s claim.

“If you don’t feel like you can do this job, then leave,” she remembers her supervisor saying. “Come back when you’re ready to work.”

But Victoria didn’t want to leave her job. She loved it. Even though it was dirty, messy, and dangerous; even though she found dead animals on the conveyor belt sometimes, and came home dizzy and smelling like garbage. And her job at Waste Management paid \$2 an hour better than a previous restaurant job.



Victoria Leon and her husband Sergio Gonzalez, who met working at a recycling facility, now have a child together | Credit: Yutao Chen

Eventually Victoria contacted a lawyer, who took her to Mechel Henry, an Oakland-based spine specialist. Dr. Henry is a certified qualified medical evaluator (QME), meaning she is approved by the California Division of Workers Compensation to evaluate injured workers.

Dr. Henry’s medical report expanded on the injuries Victoria’s own doctor had found. Contrary to the first doctor, it concluded:

“The injury has caused permanent partial disability. No medical records show outside nonindustrial apportionment is indicated. 100 percent is industrial.”

In other words: the private doctor concluded Victoria’s back injuries had occurred on the job, and that she could no longer perform her regular duties. She had lost 40% of her upper-body strength.

Victoria later settled with Waste Management for a single payout of \$34,000, which she used to improve her family’s home. To receive the settlement, she had to sign a hastily-written letter saying she would never work at Waste Management again.

Nearly three years after her injury, her back still hurts.

Victoria’s lawyer did not respond to requests for an interview.

While Waste Management said it does not comment on employee matters as a policy, Stern confirmed the length of Victoria’s employment — along with her husband Sergio — and emphasized company safety messaging.

“Worker safety is a priority and the tenure of our MRF workers speaks to this,” Stern wrote via email. “We have a MRF worker who has been on the line 19 years ... plus employees at Davis Street with more than 30 years tenure who started at the MRF and moved into different positions.”

Ian Cooper, an Oakland-based workers’ compensation attorney with more than 20 years of experience, has represented recycling workers with back problems and severe brain injuries, among other ailments. He said that workers often come to him after

waiting six months or longer for medical treatment, partially due to a shortage of QMEs.

“This is not about bad employers and good employees,” he said. “This is much more complicated than that. Many fantastic employers want their employees to be healthy so they can come back and work.”

Limited-English workers face even more difficulty obtaining workers compensation, he said, particularly if they are undocumented. It’s common for California recycling workers to fall into one or both categories.

“[I’ve had cases where] an undocumented person files a claim and soon after, the employer says, “we need this information, [and] if we don’t get it we have to let you go,” Cooper said. “That raises questions about retaliation.”

ALSO IN THIS SERIES



Robots move in

By Katie Pyzyk • Dec. 11, 2019

More MRFs are turning to automation to fill gaps and boost efficiencies, especially in light of market changes, but a full replacement of human labor isn’t here yet. [Read more →](#)

Rob Nothoff, director of LAANE, a worker’s rights organization in Los Angeles, said employer retaliation is “common” for California recycling workers. Several years ago, Nothoff interviewed recycling workers throughout the city and learned that many lacked basic

safety equipment, like gloves. When they voiced safety concerns, they risked getting fired. Or their supervisors placed them in the worst spot on the line — the spot where material flow was the heaviest.

California recycling workers across the two most common classification codes filed nearly 6,600 injury claims between 2010 and 2019, according to the Department of Industrial Relations in response to a public records request. This total is likely higher when factoring in injuries filed under a different classification code that may have occurred at recycling facilities.

John Gordon, a research program specialist at the Department of Industrial Relations who supplied the dataset, said that it is not meant to be an accurate count of injury. “We don’t do a lot of processing or validation of what’s coming in,” he said.

What’s more, even if the database contained every formal injury complaint, it could still likely undercount injuries, experts say.

Many workers do not file complaints when they get hurt, according to Kevin Riley, a researcher at the UCLA Labor Occupational School of Health (LOSH). In a 2015 study, he examined low-wage workers in three cities: Los Angeles, Chicago and New York. Riley found that vulnerable workers — undocumented, limited-English speaking and/or low-wage — were less likely to report injuries. When they did, they were often met with hostility from their employers. An estimated 10% of workers didn’t report. Of the ones that did, almost half of employers made them work anyway and 13% were fired.

A Better Tomorrow

Many of these workers — like Delfina Casillas — have to find work through staffing agencies that have little incentive to safeguard their rights.

Delfina, who is 59, came to the U.S. 23 years ago. After 11 years of odd jobs, she found work at the waste company Alameda County Industries (ACI) in 2012. The work was arranged by Select Staffing, an agency known to recruit undocumented workers.



Delfina Casillas | Credit: Yutao Chen

ACI workers unionized with the International Longshore and Warehouse Union (ILWU) in 2014 and the company no longer contracts with Select Staffing. Contact information for both Victoria and Delfina was provided by the ILWU.

Back when Delfina started, Select Staffing employees earned \$8 an hour, and received no benefits or healthcare. They also, according to Delfina, got no training whatsoever.

Still, Delfina learned the ropes. She was responsible for grabbing several categories of material at any given time from the conveyor belt — cardboard, paper goods, plastics, metals or cloth — and placing them in nearby bins or chutes. But it never got easy.

She had to grab broken glass and used needles with her bare hands, because the agency didn't provide enough safety gloves. She inhaled so much dust she worried about her health. If she started bleeding, she had to keep working. If she complained, the agency would threaten to fire her.

"At Select Staffing, they used to tell us, "if you don't like [working here], well, there's the door," she said.

ACI declined to grant an interview, saying it was busy with reconstruction efforts. Select Staffing could not be reached for comment.

Overall, Delfina said, she has gotten used to things. She has gotten used to how the smell of spoiled food and worse seeps into her car's steering wheel, following her home. She has gotten used to the early morning hours, the fear of reaching into a pile on the belt and getting stuck with a needle and her back hurting at night. The work pays better than her previous jobs, and it's steady.

"I wanted to have a better tomorrow, even if I have to be working in the trash," she said. "Us, people without papers, come to work in whatever there is."

ILWU now provides some safety training, which has helped, and hourly rates have improved. Delfina makes nearly \$20 an hour and receives one new set of gloves per week and two aprons a year,

though she said everybody wears their equipment out faster than that. “So we have to find our own.”

A Waste Dive review of OSHA data found that, of all facilities inspected — including scrap recycling operations, MRFs and other facilities with recycling operations — 94% of “serious,” or life-threatening, violations came from non-unionized facilities while only 6% came from unionized ones. Though statistics aren’t available on how many recycling workers are unionized, approximately 15% of all California workers are covered by a union contract, according to the Bureau of Labor Statistics.

About Waste Dive’s review of OSHA data

To determine these figures, we captured data from OSHA inspection records site for all waste and recycling facilities in California between January 1, 2014 and December 31, 2018, designated by NAICS code. We then selected and filtered for all inspections related to materials recovery facilities and others with recycling activity, as defined by a dataset from CalRecycle. After selecting this data, we determined how many total violations were attributed to unionized facilities, and how many were not, based on the OSHA inspection records.

In Alameda County, five of the six MRFs are unionized, said Jose Nuñez, an ILWU organizer. But in other counties, unions have yet to penetrate MRFs and other recycling centers for a variety of reasons. And even in Alameda County, most recycling centers not classified as MRFs aren’t unionized.

Moving On

After Victoria was fired, it took her a long time to find work. “I applied everywhere,” she said.

Then she got a call from Tesla. Victoria was glad to get an interview, but she was also nervous. Her medical records listed her as permanently partially disabled, and unfit for certain kinds of manual labor. She wasn’t so worried about how her injury would worsen at Tesla; at that point, she couldn’t afford to be. She was nervous it would harm her chances of getting a job.

But she decided it was better to be honest than risk getting fired later. So when she walked into her interview, “the first thing I said was, “I’m injured,”” Victoria recalled. To her surprise, the company hired her anyway.

Victoria has worked at Tesla for several months. Unlike Waste Management, the factory isn’t unionized, and its worker safety issues have garnered widespread publicity. Yet it feels safer than her Waste Management job. The objects she lifts are lighter. Her managers listen more carefully.

“I’m working 12 hours per day at Tesla,” she said. “I’m not gonna lie, when my shift ends, I’m tired, and it hurts. But I get to finish my 12 hours, and if I’m not so comfortable I tell the manager and he will move me around. So I’m happy there.”