

NOVEMBER 15, 2022

Enforcing Workplace Health and Safety Standards

PRESENTED TO:

Assembly Committee on Labor and Employment
Hon. Ash Kalra, Chair



LEGISLATIVE ANALYST'S OFFICE

Overview of Cal/OSHA

Responsibilities. The California Division of Occupational Safety and Health (Cal/OSHA) is responsible for enforcing workplace safety and health standards on behalf of the federal Occupational Safety and Health Administration (OSHA).

Cal/OSHA Funding. The 2022-23 Budget Act provided \$224 million for Cal/OSHA's enforcement and outreach activities. Primary funding for these activities comes from an assessment totaling \$125 million on employers' workers' compensation insurance premiums and a grant from the federal OSHA totaling \$36 million.

Cal/OSHA Staffing. The 2022-23 Budget Act authorized 963 positions at Cal/OSHA headquarters and Cal/OSHA's 17 district offices. Over the past several years, Cal/OSHA has operated with a relatively high vacancy rate (above 20 percent) among its inspection staff, especially among inspection staff in its Bay Area region offices.

Cal/OSHA Activities. Cal/OSHA's primary activities related to enforcement and outreach include:

- Investigating employee complaints of serious and nonserious violations.
- Conducting planned inspections in "high-hazard industries."
- Issuing permits for certain high-risk projects.
- Providing employer consultations to address safety and health concerns on-site.



Overview of Cal/OSHA

Cal/OSHA Standards Board Sets Specific Standards. The state enforces specific workplace safety and health standards adopted by the Cal/OSHA Standards Board. Key standards include:

- Outdoor heat illness standard.
- Workplace violence prevention in health care standard.
- COVID-19 prevention temporary standard.

Cal/OSHA Also Enforces General Standards. State law also allows Cal/OSHA to address and enforce serious safety and health issues for which the state has not adopted a specific standard. This provision of state law—known as the “general duty” clause—requires employers to regularly identify and mitigate known workplace hazards.



COVID-19 Response and Enforcement

(Continued)

Cal/OSHA Issued Industry Guidance and Adopted Emergency Standards.

Cal/OSHA took steps early during the pandemic to provide specific COVID-19 workplace guidance for high-priority frontline industries. In November 2020, Cal/OSHA adopted emergency temporary standards related to COVID-19. The temporary emergency standards have been updated three times. The current standard remains in effect through the end of 2022.

Cal/OSHA Enforcement of COVID-19 Standards. The Division began responding to complaints of workplace illness shortly after the pandemic began. Information about citations issued is available publicly on the Division's website.



COVID-19 Enforcement Statistics

Cause of Investigation/Citation Cause	Number	Share
Accident	554	28%
Complaint	546	28%
Fatality / Catastrophe	482	25%
Referral, Planned, or Unplanned	366	19%
Total	1,948	

Industries With the Most Citations	Industries With the Most Fines
1. Hospitals	1. Hospitals
2. Nursing Homes	2. Sit-down Restaurants
3. Grocery Stores	3. Grocery Stores
4. Prisons and Jails	4. Nursing Homes
5. Fast-food Restaurants	5. Temp Employment Agencies
6. K-12 Schools	6. Poultry Processing Facilities



California's Indoor Heat Standard

Legislature Directed Cal/OSHA to Regulate Indoor Heat Exposure.

Chapter 839 of 2016 (SB 1167, Mendoza) required the Cal/OSHA Standards Board to issue indoor heat illness prevention regulations by January 1, 2019. The board delayed meeting this deadline. As of this writing, the board has prepared but not adopted final regulations in accordance with SB 1167.

Federal OSHA Recently Emphasized Indoor Heat as Major Concern.

In April, 2022, Federal officials at OSHA issued a National Emphasis Program (NEP) to protect workers from indoor and outdoor heat-related hazards. The NEP sets out a targeted enforcement model that includes indoor workplaces such as bakeries and tortilla producers; chemical, glass, and metals manufacturing; delivery drivers; skilled nursing facilities; auto repair and auto dealerships; and restaurants.

Unclear to What Extent State Enforcing Indoor Heat Standards Under General Duty Clause. Given the forthcoming state indoor heat standard and the recent federal emphasis on indoor heat exposure, the state could take steps to address known indoor heat hazards under the general duty clause. The extent to which Cal/OSHA currently addresses indoor heat under the general duty clause is unknown.



California's Workplace Violence Standards

Workplace Violence Prevention Standard Since 2017 in Healthcare Industry. Chapter 842 of 2014 (SB 1299, Padilla) directed the Cal/OSHA Standards Board to adopt workplace violence prevention standards for hospitals and other healthcare facilities, including acute psychiatric hospitals. The state adopted these standards in 2017. The standards encourage healthcare facilities to expand their existing illness and injury prevention plans to address workplace violence. The standard also requires facilities to document and report incidences of workplace violence.

Standards Board Developing Industry-Wide Workplace Violence Prevention Standard. In 2014, the Standards Board received a petition from school teachers, including special education teachers, to expand the health industry workplace violence prevention standard to educational facilities. A discussion draft of the general standard is currently available on the Cal/OSHA website.

