

NOVEMBER 17, 2020

Workplace Safety and Health During COVID-19

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 protecting California workers by enforcing workplace safety and health standards on behalf of the federal Occupational Safety and Health Administration (OSHA). Cal/OSHA is a division within the Department of Industrial Relations, both of which are headquartered in Oakland.

California Operates a “State Plan.” Federal law allows states to assume responsibility to enforce federal workplace safety and health standards. California is 1 of 22 states to operate a state plan. Under federal oversight, these states receive federal grant funds to enforce safety and health standards that are at least as effective at the federal OSHA standards.

Cal/OSHA Funding. The *2020-21 Budget Act* provided \$186 million for Cal/OSHA’s enforcement and outreach activities. These activities are funded primarily by an assessment totaling \$103 million on employers’ workers’ compensation insurance premiums and a grant from the federal OSHA totaling \$36 million. The remainder of Cal/OSHA’s funding comes from various special funds.

Cal/OSHA Staffing. The *2020-21 Budget Act* authorized 757 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: (1) investigating employee complaints of serious and nonserious violations, (2) conducting planned inspections in “high-hazard industries,” (3) issuing permits for certain high-risk projects, and (4) providing employer consultations to address safety and health concerns on-site.



COVID-19 and Frontline Workers

Frontline Workers Face Heightened Exposure Risk at Work. Certain workers—so-called “frontline workers”—regularly interact with the public or work in close proximity with their colleagues. As a result of the coronavirus disease 2019 (COVID-19), these workers now may face heightened risks while performing their work and have had to take extra precautions in light of these heightened risks.

Statewide, About 5.7 Million Californians Typically Work in Frontline Industries. The figure below displays information about workers in the state’s frontline industries, as designated in the California Department of Public Health’s July 14 guidance on coronavirus testing priorities. Leading up to the pandemic, about 5.7 million Californians typically worked in frontline industries, representing about 30 percent of all workers.

| Overview of Frontline Industries in the State | | |
|--|--------------------------|---------------------------|
| Frontline Industry | Number of Workers | Average Annual Pay |
| Healthcare | 1,640,000 | \$50,000 |
| Restaurants and bars | 1,260,000 | 19,000 |
| Grocery, convenience, and drug stores | 720,000 | 26,000 |
| Childcare, homeless, food, and family services | 500,000 | 23,900 |
| Trucking, warehouse, and postal service | 430,000 | 35,000 |
| Agriculture | 330,000 | 24,000 |
| Public safety and corrections | 310,000 | 80,000 |
| Building cleaning services | 230,000 | 16,000 |
| Food and meat processing | 120,000 | 30,000 |
| Public transit | 90,000 | 57,000 |
| Garment manufacturing | 50,000 | 25,000 |
| Totals | 5,680,000 | \$30,000 |



COVID-19 Response and Workload at Cal/OSHA

In Response to COVID-19, Cal/OSHA Issued Industry Guidance and Adjusts Complaint Response. Cal/OSHA has taken two primary steps to respond to the COVID-19 pandemic. First, Cal/OSHA has prepared specific COVID-19 workplace guidance for high-priority frontline industries. Second, in anticipation of increased workload, Cal/OSHA temporarily adjusted how it responds to workplace safety and health complaints. Under the new protocol, in response to complaints, Cal/OSHA conducts fewer inspections and instead responds to a larger share of complaints by sending a letter to the employer. The employer letter directs the employer to address the alleged workplace safety or health violation.

Typical Cal/OSHA Complaint and Complaint Inspection Workload. Cal/OSHA normally receives between 11,500 and 13,000 complaints each year. Typically, Cal/OSHA conducts an inspection in response to about 20 percent of the complaints it receives.

Cal/OSHA Complaints Nearly Doubled During COVID-19... Between February and October, Cal/OSHA received roughly 13,000 complaints, nearly double the usual number it would receive over the same period. Of these, 7,700 complaints were related to COVID-19 safety and health issues.

...But Inspection Rate Lower for COVID-19 Complaints. Cal/OSHA conducted on-site inspections in response to about 6 percent (440) of the COVID-19 complaints it received. This inspection rate is lower than Cal/OSHA's typical inspection rate—about 20 percent. For the roughly 6,500 complaints that did not trigger an inspection, Cal/OSHA sent letters to employers requiring the employer to address the workplace safety and health concerns raised in the complaint.



COVID-19 Safety and Health Citations Issued by Cal/OSHA

Since August, Cal/OSHA Has Issued \$1 Million in COVID-19 Related Citations. Cal/OSHA began issuing citations related to COVID-19 violations in August. Most violations have been issued to employers for not ensuring that workers maintain physical distancing or not properly reporting COVID-19 illnesses in the workplace.

| Cal/OSHA Violations and Citations Related to COVID-19 | | |
|--|-------------------|--------------------|
| <i>March to September 2020</i> | | |
| Industry | Violations | Citations |
| Food processing | 36 | \$480,175 |
| Healthcare | 35 | 261,190 |
| Grocery | 19 | 137,775 |
| Public safety and corrections | 10 | 103,555 |
| Agriculture | 8 | 38,585 |
| Warehousing | 3 | 1,495 |
| Restaurants | 1 | 475 |
| Totals | 112 | \$1,023,250 |

COVID-19 = coronavirus disease 2019 and Cal/OSHA = California Division of Occupational Safety and Health.



Key Questions

- **Inspection Staffing Level and Current Vacancies.** Inspection staff conduct on-site workplace safety and health inspections. In recent years, Cal/OSHA has operated with a relatively high vacancy rate among its inspection staff.
 - Is Cal/OSHA's current staffing level sufficient for the division to adequately address workplace safety and health complaints under normal conditions?
 - Is the current staffing level adequate to address complaints during the current pandemic?
 - How have current vacancies affected Cal/OSHA's ability to respond to COVID-19 complaints?
- **Complaint Response Policy During COVID-19.** Cal/OSHA has streamlined the complaint response protocol due to increased workload and a focus on compliance assistance during COVID-19. As a result, in all but the most serious cases, Cal/OSHA responds to complaints by issuing letters to employers.
 - How does Cal/OSHA determine whether a complaint poses a serious hazard to employees and therefore warrants an on-site inspection instead of a letter?
 - How do employers typically respond to letters? Do employers respond differently to letters than to on-site inspections? If so, in what ways?
 - Cal/OSHA letters include an offer of technical assistance to help employers improve workplace conditions. What share of employers accept this technical assistance?

