

2025 Cal/OSHA & California Labor & Employment Law Summit

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Cal/OSHA Appeals Board and Enforcement Updates: What to Expect in 2026

OCTOBER 2025

*Conn Maciel Carey LLP's California Practice Group
with Special Guests*

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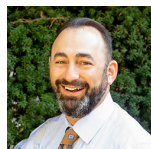
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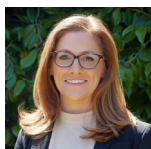
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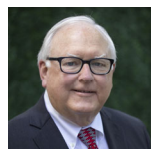
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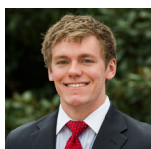
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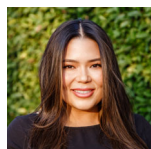
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Rachel L. Conn is a Partner and Chair of **Conn Maciel Carey's** California Practice. She is based out of the firm's San Francisco office.

- Focuses on OSH compliance and litigation, including inspections, audits, investigations, and enforcement actions involving Cal/OSHA, fed OSHA, and other State OSH Plans.
- Represents employers and trade associations in Cal/OSHA and fed OSHA rulemakings.
- Previously, Rachel was a partner and led the national OSHA Practice at an AmLaw 100 law firm.

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Eric J. Conn is Chair of **Conn Maciel Carey LLP's** national OSHA Practice, where he focuses on all aspects of occupational safety and health law:

- Practiced for 11 years alongside the 1st General Counsel of the OSH Review Commission.
- Represents employers in inspections, investigations, and enforcement actions involving OSHA, CSB, MSHA, and EPA.
- Manages investigations of serious workplace accidents.
- Handles all aspects of OSHA litigation, from citation contests and appeals to criminal investigations and prosecutions.
- Curator of the award-winning OSHA Defense Report blog.
- 1 of 9 OSHA-specialist attorneys rated "Band 1" nationwide by *Chambers*

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Megan Stevens Shaked is a Partner in **Conn Maciel Carey LLP's** San Francisco office, where she focuses her practice on a wide range of workplace safety and employment challenges employers face:

- Represents employers in inspections, investigations and enforcement actions involving Cal/OSHA
- Defends employers in employment litigation and administrative actions in California
- Counsels employers on compliance with employment laws and OSHA regulations

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Fred Walter is Of Counsel with the OSHA • Workplace Safety Practice Group at **Conn Maciel Carey LLP's** San Francisco office, where he provides the full range of workplace safety and health law services, with a special focus on employers' interactions with Cal/OSHA:

- More than 35 years of experience with employers, general counsel, safety directors, risk managers, human resources administrators, and safety professionals defending OSHA and Cal/OSHA citations.
- Represents employers in defense of "serious and willful misconduct" claims and provides crisis management services.

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Daniel Deacon is a Partner at **Conn Maciel Carey LLP** in the OSHA • Workplace Safety Practice Group:

- Represents employers during inspections and investigations conducted by the federal and state OSHA.
- Advises and counsels employers in responding to notices of employee safety complaints and OSHA citations.
- Helps employers develop safety and health programs and policies.
- Regularly conducts presentations on a variety of OSHA and related legal issues.


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Andrea O. Chavez is a Senior Counsel in **Conn Maciel Carey LLP's** Los Angeles office. Her practice focuses on Cal/OSHA, labor law, California employment law advice and counseling, and complex employment litigation.

- Litigated California's first citations under the Cal/OSHA Aerosol Transmissible Disease standard on behalf of a leading healthcare system.
- Defended and settled wage-and-hour class actions under federal and state law involving overtime calculations, meal and rest periods, vacation policies, unlawful deductions from wages, bonuses, exempt classification, and California Private Attorneys General Act actions.

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Agenda



- 1 Enforcement Review
- 2 Rulemaking Overview
- 3 Appeals Board Decisions
- 4 Federal Update
- 5 West Coast Update

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A photograph of the Golden Gate Bridge in San Francisco, viewed from a low angle on the water, with the bridge's red structure and suspension cables prominent against a blue sky and water.

Enforcement Priorities

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Enforcement



- Staffing/Budget cuts
- BOI
- Inspections
 - Silica (102 inspections opened since 2024: 89 closed; 83 had violations issued; 23 OPU)
 - Bird Flu (as of Aug. '24 60 inspections: 21 closed; 2 had violations issued under ATD zoonotic)
 - Indoor Heat (329 inspections: 224 closed; 66 had violations issued)

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Bureau of Investigations (BOI)



- Specialized investigative unit within Cal/OSHA dedicated to investigating the most serious workplace injuries and fatalities.
- Expansion
 - 8 investigators co-located with enforcement offices throughout the state in Redding, Sacramento, Oakland, Modesto, Fresno, Bakersfield and San Diego.
 - 7 attorneys along with a new attorney supervisor position focused on advancing BOI cases and supporting the unit's work.

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New High Hazard List 2025-2026



- New High Hazard list- <https://www.dir.ca.gov/dosh/high-hazard-unit.html>
- The High Hazard Unit inspects employers with the highest incidence of occupational injuries and illnesses and workers' compensation losses.
- Employers may also be selected and targeted by utilizing data sources such as, but not limited to, workers' compensation loss data, history of Cal/OSHA citations, and other data sources as provided in Labor Code section 6314.1.
- The annual High Hazard Industry List is based on "days away, restricted or transferred" (DART) rates for private sector employers. Employers in high hazard industries may be subject to an inspection by High Hazard Unit.

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New High Hazard List 2025-2026



Industry Group	NAICS	Industry	DART	Establishments	Employees						
Agriculture	11211	Beef cattle ranching and farming, including feedlots	6.3	667	4863	32199	All other wood product manufacturing	9.6	322	4971	
	1123	Poultry and egg production	5.2	162	2506						
Construction	23813	Framing contractors	7.1	934	24148	32212	Paper mills	7	0	0	
Manufacturing	31122	Starch and vegetable fats and oils manufacturing	5.8	60	1473	324191	Petroleum lubricating oil and grease manufacturing	5.6	36	643	
	3113	Sugar and confectionery product manufacturing	4.5	228	6893	327331	Concrete block and brick manufacturing	4.4	41	1128	
	311511	Fluid milk manufacturing	4.2	91	7058						
	3116	Animal slaughtering and processing ⁽¹⁾	4.2	360	22840	3312	Steel product manufacturing from purchased steel	4.5	83	2087	
	311812	Commercial bakeries	6.1	535	15704	331511	Iron foundries	4.7	31	549	
	31183	Tortilla manufacturing	4.4	104	5908	331512	Steel investment foundries	5.2	9	1105	
	31194	Seasoning and dressing manufacturing	7.2	192	5868	332321	Metal window and door manufacturing	5.3	182	6057	
	31199	All other food manufacturing	4.4	541	16946	33311	Agricultural implement manufacturing	4.8	180	4426	
	312111	Soft drink manufacturing	7.9	149	9122	33392	Material handling equipment manufacturing	6.1	154	2945	
	3212	Veneer, plywood, and engineered wood product manufacturing	4.3	94	3052						

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New High Hazard List 2025-2026



Wholesale Trade	42314	Motor vehicle parts (used) merchant wholesalers	4.3	215	2120	Administrative and Support and Waste Management and Remediation Services	56179	Other services to buildings and dwellings	4.1	2377	13113
	4233	Lumber and other construction materials merchant wholesalers	5	2076	23078		6219	Other ambulatory health care services	6	1383	34790
	4241	Paper and paper product merchant wholesalers	4.8	1043	12381		6221	General medical and surgical hospitals	4.2	624	387471
	4442	Lawn and garden equipment and supplies stores	4.3	1376	12893		6223	Specialty (except psychiatric and substance abuse) hospitals	4.1	171	23740
Retail Trade	44511	Supermarkets and other grocery (except convenience) stores	4.9	7887	313106	Healthcare and Social assistance	6231	Nursing care facilities (skilled nursing facilities)	4.7	2122	138598
	4811	Scheduled air transportation	6.3	277	49739		6233	Continuing care retirement communities and assisted living facilities for the elderly	8.3	4515	99183
Transportation & Warehousing	492	Couriers and messengers	9.8	2905	135362	Accommodation and Food Services	6243	Vocational rehabilitation services	4.4	999	31405
	493	Warehousing and storage	5.7	2634	246309		72111	Hotels (except casino hotels) and motels	4.6	6216	200320
Real Estate and Rental and Leasing	5321	Automotive equipment rental and leasing	5.7	1992	23711	Other Services (except Public Administration)	7223	Special food services	5.7	5435	77990
							8122	Death care services	4.8	990	12004

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Complaints Received and Citations Issued



CY ¹	# of Complaints Received ¹	# of VALID ² complaints Received	# of Citations ³ Issued ⁴	Total # of Serious/ Willful/ Repeat Citations Issued ⁴	Total Initial Penalty	Total Current Penalty
2015	10,844	8,741	17,080	3,695	\$37,148,853	\$21,583,612
2016	12,027	9,503	20,340	4,688	\$49,718,988	\$27,456,615
2017	12,835	10,439	20,804	5,263	\$58,054,654	\$31,750,260
2018	12,045	9,600	20,253	5,223	\$58,040,303	\$32,478,446
2019	11,700	9,581	18,593	4,740	\$51,755,849	\$30,879,997
2020	18,045	14,982	13,398	3,453	\$36,190,099	\$21,952,872
2021	12,081	10,064	11,618	3,256	\$42,758,215	\$26,301,429
2022	12,326	9,813	13,779	3,105	\$37,858,969	\$27,797,578
2023	12,383	10,206	14,045	3,079	\$37,576,597	\$29,814,592
2024	12,808	10,761	12,834	2,993	\$37,554,726	\$32,245,338

¹ Totals may include duplicate employers (i.e. 2 employees call in complaints for the same employer), invalid complaints, and unprocessed complaints.

² A complaint is valid if it alleges a workplace hazard or a violation of a Title 8 Safety Order which has a reasonable basis in fact and does not represent willful harassment of the employer.

³ Citation count includes all citation items issued in the specified calendar year. The citations could be a result of an inspection opened the previous calendar year.

⁴ Citations may subsequently have been reclassified or deleted as part of a decision by an administrative law judge or a settlement.

Source:

<https://www.dir.ca.gov/dosh/statistics/Complaints-and-citations.html>

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Cal/OSHA Inspection Overview

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Cal/OSHA Inspection Type	2015	2016	2017	2018	2019	2020**	2021**	2022	2023	2024
- Accident	2,291	2,350	2,422	2,449	2,249	2,062	2,136	2,220	2,214	2,161
- Complaint	2,040	2,228	2,148	2,174	2,046	1,350	1,274	1,456	1,575	1,367
- Fatality/Catastrophe	190	186	197	214	216	454	419	242	273	278
- Other Unprogrammed Inspections	845	726	674	741	661	464	405	599	479	437
- Referral	603	530	708	443	467	765	559	599	590	375
Total Inspections ¹	7,690	7,862	7,910	7,816	7,558	6,021	5,494	6,428	6,820	6,367
Total Programmed ² Inspections	1,721	1,842	1,761	1,795	1,919	926	701	1,312	1,689	1,749
Total Unprogrammed ³ Inspections	5,969	6,020	6,149	6,021	5,639	5,095	4,793	5,116	5,131	4,618

*Note: This data is subject to change as information is updated and discrepancies are addressed.

¹ Inspections include Comprehensive, Partial, and Records Only inspections. Does not include inspections marked "No Inspection".

² Programmed inspections are planned inspections of worksites which have been selected based upon objective criteria.

³ Unprogrammed inspections are initiated as a result of a notification of a fatality, accident, complaint, or referral.

** The COVID-19 global pandemic caused by the novel coronavirus SARS-CoV-2 occurred during this time.

Source:
<https://www.dir.ca.gov/dosh/statistics/Inspection-overview.html>

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Inspection Types by Industry

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Inspection¹ Types Opened per North American Industry Classification System (NAICS) Sector² - Top Ten Sectors

Report Run Date: 4/29/2025

Covers activities entered in OIS between 1/1/2015 and 4/28/2025

Results based on OIS data entry. May include OIS data entry errors.

*Note: Due to processing lag time these numbers may not be accurate. This data is subject to change as case files are adjudicated and as errors are corrected.

Inspection Type and Calendar Year (CY)	11		23		31-33		42		44-45		48-49		56		62		72		81		All Other Sectors ³	
	Sector Total ⁴	% of Sector ⁵	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector	Sector Total	% of Sector
Accident/Fatality	23	21%	129	33%	93	48%	23	48%	31	51%	46	72%	60	50%	11	28%	15	24%	22	28%	77	46%
Complaint	16	15%	74	19%	36	19%	10	21%	23	38%	10	16%	13	11%	13	33%	14	23%	17	22%	48	28%
Follow-Up	0	0%	4	1%	6	3%	1	2%	1	2%	0	0%	3	3%	0	0%	0	0%	1	1%	0	0%
Referral	1	1%	67	17%	7	4%	1	2%	0	0%	0	0%	22	18%	0	0%	0	0%	0	0%	9	5%
Unprogrammed Related	0	0%	47	12%	5	3%	3	6%	2	3%	3	5%	9	8%	0	0%	1	2%	0	0%	10	6%
Programmed	67	63%	70	18%	47	24%	10	21%	4	7%	5	8%	12	10%	16	40%	32	52%	38	49%	25	15%
Q1 - 2025 YTD	107	100%	391	100%	194	100%	48	100%	61	100%	64	100%	119	100%	40	100%	62	100%	78	100%	169	100%

¹ Inspections include Comprehensive, Partial, and Records Only inspections. Does not include inspections marked "No Inspection".

² The industries listed represent the 10 NAICS sectors where Cal/OSHA inspection activity is most concentrated based on enforcement data. NAICS divides the economy into 20 sectors. Industries within these sectors are grouped according to the production criterion. More information can be found at <https://www.census.gov/naics/>

³ Remaining sectors are grouped under "All Other Sectors" (NAICS sectors 21, 22, 51, 52, 53, 54, 55, 61, 71, 92) due to lower inspection volume distributed across these industries.

⁴ Total inspections opened for the listed sector.

⁵ Percentage of total inspections opened for the time period for the listed sector.

Source: Cal/OSHA Advisory Committee Meeting Report May 22, 2025

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State Audit



- Understaffing was a primary factor leading inspectors to skip in-person inspections of worksites even in cases where auditors found it was likely warranted.
- Auditors found staff didn't always investigate a complaint or inspect a worksite when they should have.
- Nearly 1/3 of DOSH's 800-plus positions were vacant last year, a rate that is even worse in some district offices and among some of the staff responsible for inspections and enforcement.
- The audit also questioned Cal/OSHA's practice of reducing the fines it issued to employers after citing them for safety violations.

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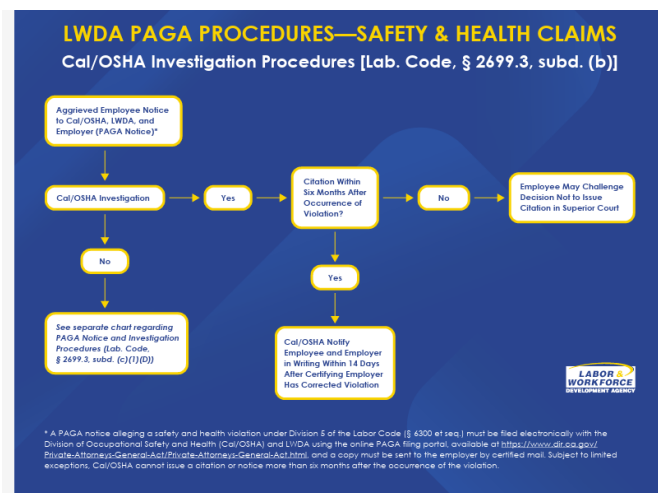


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Rise of PAGA Cal/OSHA Claims

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- For health and safety violations, Cal/OSHA must investigate any PAGA notice within six months of the alleged violations and can issue a citation to the employer.
- If Cal/OSHA issues a citation, the employee cannot file a PAGA lawsuit; if it does not issue a citation, the employee can appeal the decision in court or file a PAGA lawsuit.



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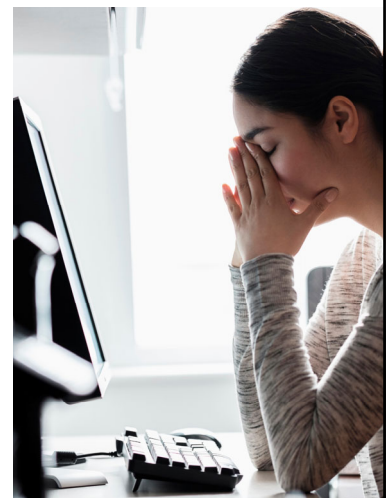


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Draft Workplace Violence Prevention Regulation

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- Cal/OSHA is developing a draft workplace violence prevention regulation, as mandated by SB 553
 - Adoption required by December 31, 2026
- Currently on third iteration draft
- Public comments were due July 14, 2025
- Advisory meeting on November 12, 2025



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Draft Workplace Violence Prevention Regulation



■ Employee Headcount

- Current law exempts employers with fewer than 10 employees “at a place” at any time, and that have compliant IIPP
- Draft: exemption applies only if employer has <10 total employees, and compliant IIPP
 - Security, janitorial, and domestic workers (Labor Code §1451) covered regardless of headcount

■ Definitions

- Provides examples of “engineering controls,” “work practice controls,” and “workplace violence hazards”
- “Authorized employee representative” means recognized bargaining representative

■ Electronic Messaging Carve-Out

- Clarifies that employers are not responsible for employee texts, electronic messages, or personal social media posts threatening violence unless brought to the employer’s attention or reasonably knowable

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Draft Workplace Violence Prevention Regulation



■ Workplace Violence Reporting

- Employers must accept, *evaluate*, and respond to:
 - Anonymous reports, and
 - Reports from authorized employee representatives
- Reporting process must not discourage reporting and must allow non-supervisor reporting for Type 3 violence (employee-on-employee)

■ Communication

- Employers must communicate with employees and *authorized representatives* about: 1) how to make reports, 2) how investigations occur, and 3) how results of investigations and corrective actions will be communicated

■ Inspections

- Requires new inspections and documentation whenever new substances, processes, procedures, or equipment introduce a new workplace violence hazard

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Draft Workplace Violence Prevention Regulation



- **Shoplifter Rule**
 - Removes prior restriction prohibiting employers from requiring or encouraging employees to confront suspected criminals or violent persons
- **Post-Incident Response**
 - Specifies required employer actions after incidents, including:
 - Medical care or first aid
 - Trauma counseling for affected employees upon request
 - Post-incident debriefing
 - Identify persons involved
 - Gather employee feedback on causes and prevention
 - Identify and evaluate contributing hazards and corrective actions
 - Special rule for special education settings: repetitive Type 2 violence (by students, patients, etc.) may be exempt from some requirements
- **Training**
 - Must train on all elements of the plan
- **Recordkeeping**
 - Employers must keep records of threats and reported concerns (including anonymous), evaluations and corrective actions taken, and post-incident follow-up documentation

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Workplace Violence Investigations



- **Expansive investigations**
 - Interviewing all employees involved, witnesses, relevant management, and other employees without direct connection to the incident to understand the overall environment
 - Asking management about *each* aspect of their workplace violence prevention plan
 - Examining prior incidents, and evaluating investigations and corrective actions taken
 - Inspectors differ as to what entails workplace violence, *e.g.*, some considered words without a clear threat of physical force to be workplace violence
- **For abatement, requiring specific procedures on how employers at the same workplace will communicate during an emergency, and how employees will be informed of the details of the emergency**

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City of Marysville Police Department Citation



- Police department cited after the fatal wounding of an officer under:
 - Injury and Illness Prevention Program (IIPP) (e.g., lack of effective SWAT training)
 - Personal Protective Devices (e.g., inappropriate design of body armor)
 - Workplace Violence Prevention regulations (e.g., lack of a written plan, including ineffective procedures to identify hazards during warrant execution)
- Law enforcement agencies certified by the Commission on Peace Officer Standards and Training (POST) Program and compliant with IIPP regulations are exempt from SB 553 if all facilities meet IIPP requirements
- While details regarding POST certification are unknown, citing IIPP violations may provide a workaround to also cite under workplace violence

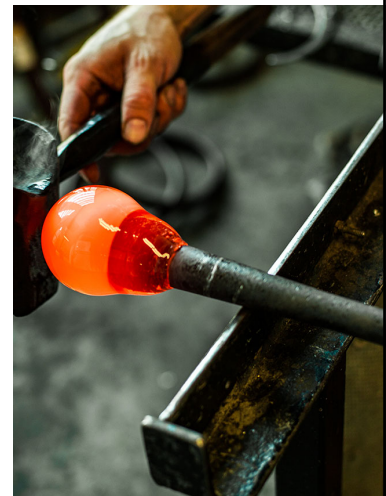
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Draft Revisions for CA Outdoor and Indoor Heat Illness Prevention Regulations

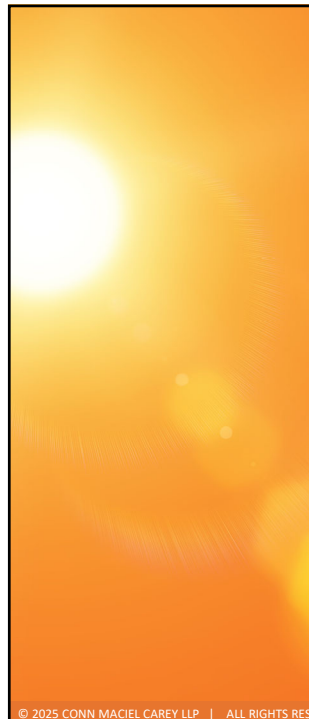



- May 7, 2025: Cal/OSHA released a draft proposal to revise the outdoor and indoor heat illness prevention regulations
- AB 2243 requires the Division to submit a rulemaking proposal for the heat illness and wildfire smoke standards by Dec. 1, 2025
- Heat illness remains a high priority for Cal/OSHA
 - Inspectors consistently request indoor and outdoor heat illness prevention plans
 - According to a study by the Workers Compensation Research Institute, the outdoor heat standard has led to a significant reduction in work-related injuries on hot days in high-exposure industries
 - Reduced injuries by 15-17% in construction, 24-27% in agriculture, and 19-25% in transportation



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Draft Revisions for CA Outdoor Heat

- **Definition Update**
 - “High heat area” = Any area where temperature equals or exceeds 95°F (aligns with high-heat procedures)
 - *i.e.*, employees working in high-heat areas must be closely observed by a supervisor or designee for the first 14 days of employment
- **Acclimatization**
 - For new employees and returning employees assigned to work areas *over 80°F*, the employer must either implement the high-heat procedures for 5 working days or implement the following work schedules:


New Employees:	Returning Employees (absent >14 days):
<ul style="list-style-type: none"> - Day 1: ≤ 20% of usual work duration - Day 2: ≤ 40% of usual work duration - Day 3: ≤ 60% of usual work duration - Day 4: ≤ 80% of usual work duration 	<ul style="list-style-type: none"> - Day 1: ≤ 50% of usual work duration - Day 2: ≤ 60% of usual work duration - Day 3: ≤ 80% of usual work duration


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Draft Revisions for CA Outdoor Heat

- **EXCEPTION** to acclimatization requirement for new or returning employees working in areas over 80°F:
 - requirements do not apply if the employer can demonstrate the employee consistently worked under the same or similar conditions as the employer’s working conditions within the prior 14 days





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Draft Revisions for CA Indoor Heat



■ Acclimatization

- For new employees and returning employees in a work area where the plan is applicable (i.e., over 82°F), the employer must:
 - Apply the “Assessment & Control Measures” from §3396(e)(2) for 5 days (excluding engineering controls in §3396(e)(2)(A)) or
 - Follow the phased acclimatization schedules from the draft outdoor heat illness regulation
- Note: Same exemption rules for outdoor heat apply to indoor environments

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Draft Revisions for CA Outdoor & Indoor Regulations



- The plan must be distributed to new employees upon hire, during heat illness prevention training, and to every employee at least once a year. Employers are not required to distribute the plan to an employee more than twice a year.
 - *Electronic distribution (in lieu of hardcopies) of the employer’s program would be permitted for employees able to receive electronic copies.*



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Draft Revisions for Wildfire Smoke



Key Proposed Changes:

- Revises AQI table: PM2.5 level of 301+ now classified as “hazardous” (previously 301–500)
- Employers must provide respirators to all employees when PM2.5 AQI is:
 - ≥ 151 and ≤ 300 for agricultural employers
 - ≥ 151 and ≤ 500 for all other employers
- Respirator use is required when PM2.5 AQI:
 - > 300 for agricultural employers
 - > 500 for all other employers
- Respiratory Protection Program & Fit Testing:
 - Only required if PM2.5 AQI exceeds 500

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Takeaways from LA fires: DIR Guidance



- DIR posted guidance (Feb. 2025) for employers and workers on how to navigate the risks associated with fire debris removal and cleanup
- Health and safety protections offered regarding:
 - Physical Hazards
 - Hazard Communication
 - Cleanup, Debris Removal, and Restoration
- *Employment Crossover*: California provides various workers protections in hazardous situations (wages, anti-retaliation, and more)

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Enterprise-Wide and Egregious Violations

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- 2021- Governor Newsom signed SB 606 into law as Labor Code secs. 6317 and 6317.8.
- Amendments to:
 - 8 CCR 334-Classifications of Violations & Definitions.
 - 8 CCR 336-Assessment of Penalties.
- Revisions to add “egregious” classification and “enterprise-wide” violation.
- Proposed regulatory changes to implement the new law are being drafted by the Division
- An egregious violation is a *willful violation plus an egregious in the last 5 years* **or** one or more of the following:
 1. The employer, intentionally, through conscious, voluntary action or inaction, made no reasonable effort to eliminate the known violation.
 2. The employer has a history of one or more Serious, Repeat, or Willful violations or more than 20 General or Regulatory violations per 100 employees.
 3. The employer intentionally disregarded their health and safety responsibilities...
 4. The employer’s conduct, taken as a whole, amounts to clear bad faith in the performance of their duties to comply with occupational safety and health standards.

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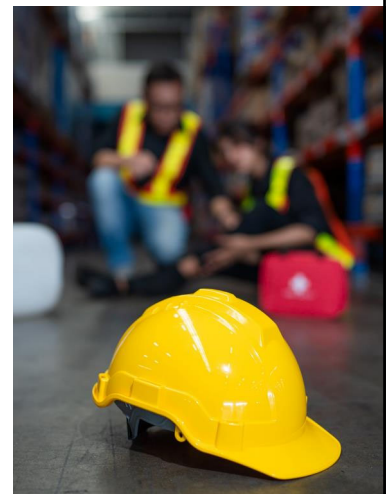
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Enterprise-Wide and Egregious Violations

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5. Within the five years preceding a citation for an egregious violation, the employer committed five or more violations that became final determinations.
6. The violations resulted in worker fatalities, a worksite catastrophe, or five or more injuries or illnesses. For purposes of this paragraph, ‘catastrophe’ means the inpatient hospitalization, regardless of duration, of three or more employees resulting from an injury, illness, or exposure caused by a workplace hazard or condition.
7. Within the 12 months immediately preceding the underlying violation, 10% of all employees at the cited worksite sustained workplace injuries or illnesses.

Note: New section 336(i) will require the Division to issue a separate citation and proposed penalty for each exposed worker, up to \$158,727.



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Enterprise-Wide and Egregious Violations



- Provides for a rebuttable presumption that a violation is “**enterprise-wide**” when either of the following is true:
 - The employer has a **written policy or procedure that violates section of the Health and Safety Code or Labor Code, or**
 - The Division finds evidence of “**a pattern or practice of the same violation or violations involving more than one of the employer’s worksites.**”
- Initial penalty shall be multiplied by number of affected worksites, up to \$158,727.
- Daily penalties for failing to abate an enterprise-wide violation. No penalty adjustments/abatement credits.

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Enterprise-Wide and Egregious

- Advisory Meeting August 19, 2024
- Revised proposed regulatory text
- Advisory Meeting March 25, 2025 (comments accepted through April 8)
- Anticipated formal rulemaking with hearing

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Enterprise-Wide and Egregious



Revised proposed regulatory text ahead of March 25, 2025 meeting:

- Egregious:
 - Clarifying number of serious violations to trigger: 5 or more serious violations per 100 employees (rather than a single S)
- Enterprise-wide
 - Clarifying first of two triggers: employer has written policy/procedure that applies to more than 1 worksite that violates section 25910 of the H&S Code or any standard, rule, order, or regulation established pursuant to Ch. 6 of Div. 1, or Div. 5 of Labor Code

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Enterprise-Wide and Egregious



Other takeaways from March 25, 2025 meeting:

- Discretion of CSHO and Division management how Enterprise-Wide violation penalties can be stacked
- Division reviewing potential impact on small employers
- Division cited author's intent to address low number of CSHOs as compared to the large number of employers and the availability of this as a tool to address violations discovered at one worksite to all non-compliant worksites

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Lead (Construction Industry)

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- Cal/OSHA clarified its lead exposure prevention guidance for the construction industry (May 2025)
- Amended lead standards went into effect on Jan. 1, 2025



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Appeals Board Update

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Late Appeals



Appeals Board continues to hold that late appeals will almost never be allowed, but that fact-specific inquiry required.

Some recent examples:

- Board reversed on its own motion a decision to deny an appeal filed one day late. When totality of the facts considered, employer had demonstrated good cause for late appeal. *RJS Electric* (April 23, 2025)
- Employer demonstrated good cause for late appeal. *Golden Gate Bridge* (July 28, 2025)



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Amendments



Appeals Board continues to allow liberal amendment of citations by the Division:

- Division made multiple motions to amend citation during proceedings, but only last motion, made after the hearing concluded, was granted.
- Last motion requested that if the ALJ did not find a violation of the original cited subsection, the citation should be amended to allege three other potential subsections.
- Board upheld the amendments, finding that the employer suffered no prejudice since the amendments were based on the same AVD.

Sutter Bay Medical Foundation dba Sutter East Bay Medical Foundation (January 9, 2025)

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Implied Consent to Inspection



- Appeals Board broadens Cal/OSHA's ability to claim consent:
 - Whether an employer consents to inspection is "fact specific inquiry and requires examination of the particular circumstances under which the consent was granted."
 - Workers compensation insurance broker's statements and conduct supported a finding that it had authority to consent.
 - Even if the broker did not have authority, CSHO's "belief" that the broker had authority "was reasonable and based upon good faith."

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Why Is This Information Available?



Per Cal/OSHA, the list of the top 10 most frequently cited standards is published to:

[A]lert employers about these commonly cited standards so they can take steps to find and fix these recognized hazards and prevent workplace injuries and illnesses – and keep Cal/OSHA from showing up. Far too many preventable workplace injuries, illnesses, and deaths are related to these top 10 most frequently cited standards.

<https://www.dir.ca.gov/dosh/statistics/Frequently-cited-standards.html>

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Top Cal/OSHA Violations 2024



1	Injury & Illness Prevention Program 3 CCR 3203	6	Lockout/Tagout 8 CCR 3314
2	Outdoor Heat Illness Prevention Outdoor 8 CCR 3395	7	Portable Fire Extinguishers: 8 CCR 6151
3	IIPP – Construction 8 CCR 1509	8	Respiratory Protection 8 CCR 5144
4	Reporting Serious Injuries/Illnesses 8 CCR 342	9	Occupational Exposures to Respirable Crystalline Silica 8 CCR 5204 (General Industry)
5	Hazard Communication 8 CCR 5194	10	Emergency Eyewash/Shower 8 CCR 5162

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Fed/OSHA Top Violations 2024

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1	Fall Protection General Requirements (19.26.501)	6	Powered Industrial Trucks General Industry (1910.178)
2	Hazard Communication General Industry (1910.1.200)	7	Fall Protection Training Construction (1926.503)
3	Control of Hazardous Energy (LOTO) General Industry (1910.147)	8	Scaffolding Construction (1926.451)
4	Ladders Constructions 1926.1053	9	Eye and Face Protection Construction (1926.102)
5	Respiratory Protection General Industry 1910.134	10	Machine Guarding General Industry (1910.212)

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A photograph of the Golden Gate Bridge in San Francisco, viewed from a low angle looking up at the bridge's towers and suspension cables. The bridge is red, and the water below is blue. The sky is a clear blue with some light clouds. A semi-transparent white banner is overlaid across the middle of the image.

2024/2025 Top Predictions

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2025/2026 Top Predictions



2025 Predictions

- Continue to see IIPP and HIPP dominate
 - Will Indoor Heat Illness make the list?
- Rise in late/failure to report

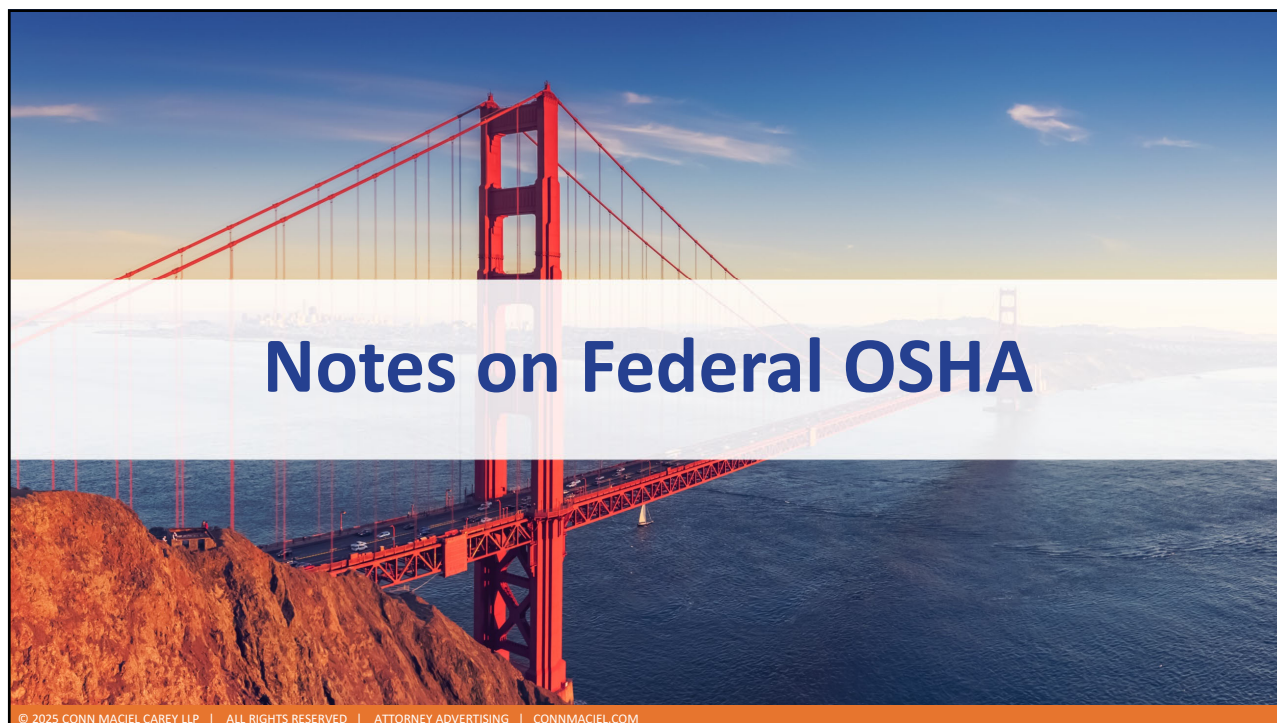
Potentials for 2026

New/revised regulations/statutes

- Indoor heat
- Lead
- Silica
- Workplace Violence Prevention

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Assistant Secretary of Labor for OSHA - Nominee

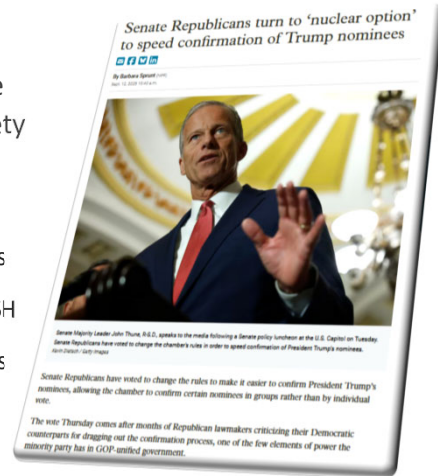
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- 2/12/25 - Trump nominated **David Keeling** for **Assistant Sec'y of Labor for OSHA**
- 36-yr career at UPS from union package handler to Global VP of Health and Safety
- **Confirmation Hearing – 6/5/25**

- Committed to finalize Workplace Violence and Heat Illness standards
- Challenging paths ahead for Emergency Response standard and NIOSH
- Greater collaboration, expanded VPP, and engaging at risk employers

- 10/3/25 - **Confirmed by batch vote in the Senate**



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Fed Government Shutdown

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- 1,664 (OSHA employees) - 1,204 (furloughed) = only 460 active EEs at OSHA during the shutdown
- **Not Paused:**
 - Imminent danger inspections
 - Fatalities and catastrophes inspections
 - Inspections of employee complaints of high risk serious hazards
 - Follow-up inspections of unabated high-hazard citations
 - Finalize open inspections before 6-month statute of limitations
 - Contest and Abatement Deadlines
- **Paused:** Programmed inspections, compliance assistance, training, and rulemaking

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Staffing and Budget at OSHA

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2016-2021 Trump

- 1st time in OSHA's history, OSHA did not have a Senate-approved Assistant Sec'y for OSHA for a full presidential term
- By the end of his 1st term, OSHA had the fewest CSHOs in the agency's history and a slew of vacant leadership roles

Biden's OSHA

- Prioritized filling political leadership positions at OSHA
- Immediately installed a Deputy Assistant Sec'y (Day 1)
- Confirmed a Sec'y and Solicitor of Labor in Year 1
- Confirmed an Assistant Sec'y of Labor for OSHA in 6 mos.
- Regrew CSHO ranks and filled vacant management roles

2025 - Under Trump

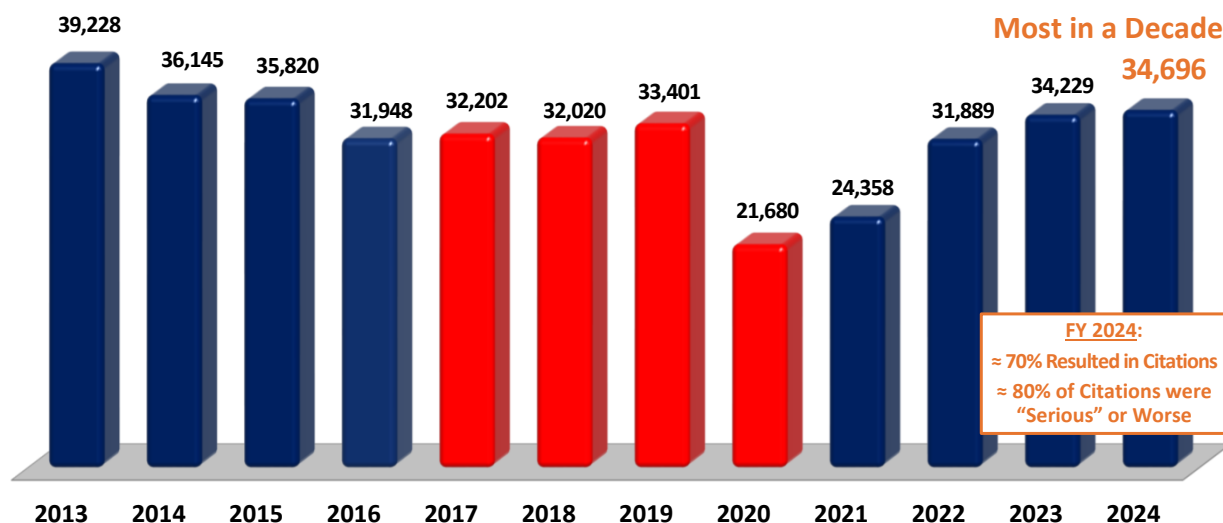
- Already-confirmed Labor Secretary
- Immediately installed a Dep. Ass't Sec'y
- Confirmed OSHA Head 3½ yrs quicker
- Day 1 EOs affecting OSHA staffing:
 - Halt federal hiring, except military
 - Return to work in-person full time
 - Office closures / Shutter Area Offices
 - "Fork in the Road" severance email

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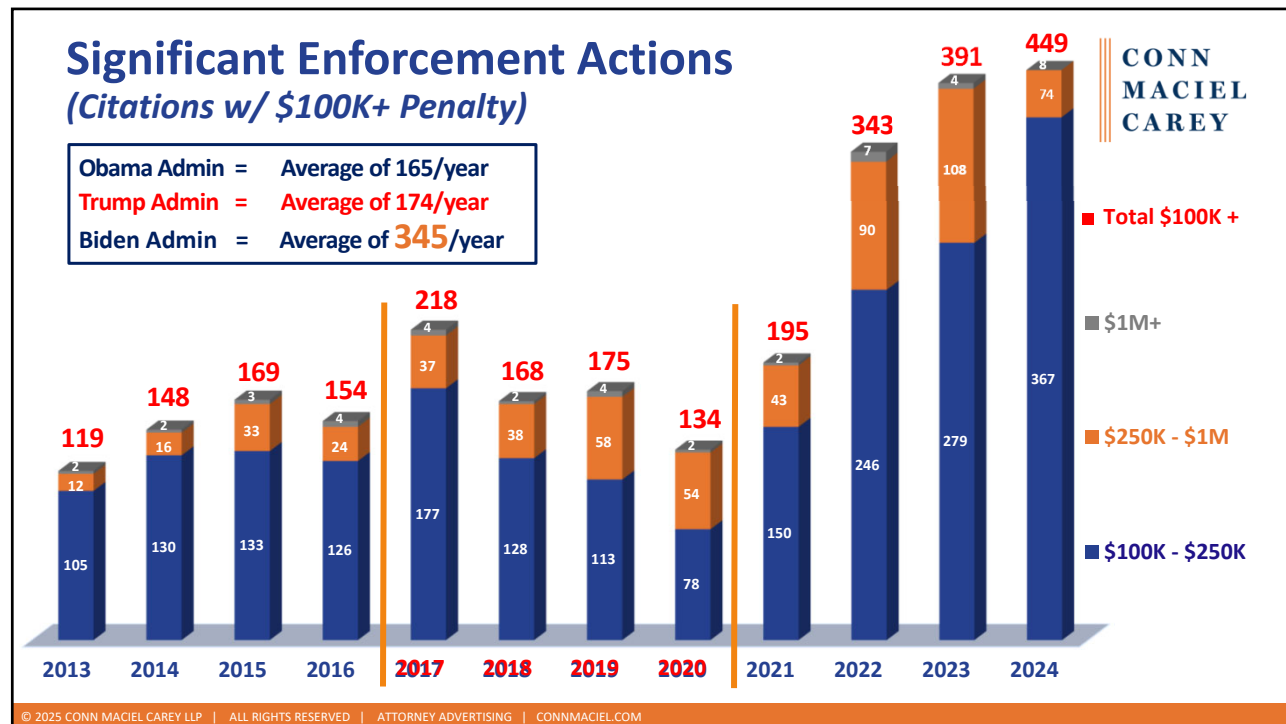
Total Fed OSHA Inspections by Fiscal Year

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Biden Era OSHA Rulemakings

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Worker Walkaround Rule - FINAL

- 3rd parties (e.g., plaintiffs' attorney/union) to access private workplaces to participate in OSHA inspections
- Trump may rescind or stop defending the legal challenge

Expanded E-Recordkeeping Rule - FINAL

- Restored Obama-era requirements for certain larger employers to also submit 301-level data
- Trump dialed this back in his 1st term (likely again)

Indoor/Outdoor Heat Illness – NEAR FINAL

- Advanced to NPRM, full comment period, public hearing

Employers

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Washington DLI Background

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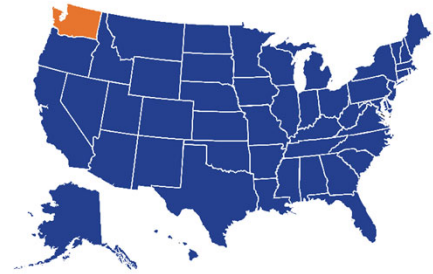
- DOSH exceeded its inspection goal of 5,100 and conducted 5,884 inspection in FY 2024.
- 2.3% of the nation's workforce (approx. 3.43 million)
- Almost 3x as much enforcement activity than the national average
- Significant budget funded by workers' compensation
- Average of 1.61 Serious violations and 1.91 General violations per inspection
- Two Step Appeal Process

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Unique WA DLI Rules, Interpretations, and Directives

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1. Accident Prevention Program
2. Safety Committee/Meeting
3. Fall Protection
4. Heat Illness (2023)
5. Wildfire Smoke (2024)
6. Safety Standards for Quotas for Warehouse and Distribution Centers (2024)
7. Process Safety Management (updated in 2024)
8. Cranes and Rigging (updated in 2025)
9. Hazardous Drugs
10. Agriculture
11. Bloodborne Pathogens
12. Stay of Abatement/ Two Step Appeal Process
13. Severe Violator Enforcement Program
14. Stute Violations (General Contractor Liability)



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Proposed/Open Rulemaking

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1. Ergonomics
2. Updates to Hazard Communication Standard
3. Lead Updates
4. Longshore and Waterfront Operations & Restrooms in Ports and Railyards
5. Tower Crane Permits
6. Adoption of EPA Rule Worker Protection Standard Application Exclusion Zones (Agriculture)
7. Adoption of Fed. OSHA Worker Walk Around Rule
8. Workplace Violence in Healthcare

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Ergonomics Rulemaking



- State Legislature passed ESSB 5217 in 2023
 - repeals the prohibition on rulemaking to prevent work related musculoskeletal injuries and disorders and allows DLI to adopt one rule for either one industry or one risk classification in a 12-month period, but no rule may be in effect before July 1, 2026
 - Specific to risk classes that see workers' compensation claims for MSDs at least 2 times the overall state rate
 - DLI will publish annually by November a list of industries and risk classifications eligible for rulemaking

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Ergonomics High Priority List



Top 5	NAICS Code	NAICS industry description (and excluded NAICS)
	23814	Masonry Contractors
	31171	Seafood Product Preparation and Packaging
	31181	Bread and Bakery Product Manufacturing
	31211	Soft Drink and Ice Manufacturing
✓	42441	General Line Grocery Merchant Wholesalers
	42481	Beer and Ale Merchant Wholesalers
	44413	Hardware Stores
	44511	Supermarkets and Other Grocery (except Convenience) Stores
	45291	Warehouse Clubs and Supercenters
	48111	Scheduled Air Transportation
	48412	General Freight Trucking, Long-Distance
	48421	Used Household and Office Goods Moving
	492	Couriers and Messengers
	562	Waste Management and Remediation Services (exclude 5629)
	62191	Ambulance Services
	62321	Residential Intellectual and Developmental Disability Facilities
	92216	Fire Protection

Top 5	Risk classifications (4-digit) code	Risk classifications (four-digit) description and excluded sub-classifications
	0302	Masonry Construction
	0507	Roof Work – Construction and Repair
	2002	Freight Handling Services (exclude 2002-31)
✓	2103	Fulfillment Centers
	3403	Aircraft Manufacturing
	3906	Bakeries, Cracker, Pasta, Confection-Manufacturing/Wholesale, NOC (exclude 3906-05)
✓	6108	Nursing and Convalescent Homes
	6402	Supermarkets
✓	6407	Wholesale Stores, NOC incl. wholesale/retail combination
✓	6802	Scheduled Airlines – Ground Crew (exclude 6802-01)
	6904	County and City Fire fighters – Salaried
	7201	State Patient and Health Care Personnel, NOC

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Airlines – Ground Crew Operations



- On Oct. 29, 2024, L&I filed a notice of intent to adopt rules (CR-101) and selected Scheduled Airlines – Ground Crew Operations under Risk Classification 6802 for the first rulemaking effort.
 - Airline ground crews have a MSD workers' compensation claims rate more than 10 times the Washington statewide average for all industries.
- Stakeholder meetings held in January 2025
- DLI has not yet published the proposed rule (CR 102) for public comment
- Earliest Rule will take effect is July 1, 2026

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General Framework of Rule (May 2025)



- **Scope** – who is covered
- **Risk Identification** – screening to identify MSD risks in workplaces
- **Risk Assessment** – evaluation of MSD risks to determine degree of risk, need for risk reduction, and prioritization of risk reduction efforts
- **Risk Reduction** – engineering and administrative controls
- **Evaluation of Effectiveness**
- **Employee Involvement** - include employees in identify hazards and potential solutions
- **Training** – employees and supervisors
- **Recordkeeping**

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OR OSHA Background

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- 3,200 inspections in FY 2024
- 1.2% of nation's workforce (approx. 1.98 million)
- Focus on increasing comprehensive inspections under emphasis programs
- Current Rulemaking
 - Lead (updated PEL) – advisory committee stage
 - Hazard Communication (incorporating revisions from Fed. OSHA update)

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Oregon Farm Labor Housing



- OR OSHA adopted amendments to its Agricultural Labor Housing and Related Facilities rule (eff. 3/31/25)
- Key Changes to Rule:
 - Housing Registration
 - Housing operators who do not produce farm crops are no longer exempt from housing registration process (1/1/26)
 - Must submit water testing results to OR OSHA with annual registration (1/1/26)
 - Site Requirements
 - Housing w/ 500 feet of livestock prohibited with limited exceptions (1/1/28)
 - Must provide access to one electrical outlet per occupant in sleeping rooms (1/1/27)
 - Road forks, driveways, and housing units must be properly marked (1/1/26)
 - Water
 - Water testing must include testing for arsenic and annual testing for nitrates and coliform bacteria (1/1/26)
 - Water testing results must be posted in housing in workers language or by use of a pictogram (1/1/26)
 - Bathing Facilities
 - Private changing rooms in shower area and locking shower stalls must be provided (1/1/28)

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Key Changes Cont.



- Handwashing Facilities
 - Kitchen sinks no longer count toward handwashing ratio (1/1/28)
- Toilets
 - Use of outhouse or pit toilet or privy do not fulfill toilet facility ratio (1/1/26)
 - Toilet ratio changed from 1 for every 15 occupants to 1 for every 10 occupants of each gender (1/1/27)
 - Curtains no longer allowed in toilet stalls – i.e. doors must be provided (1/1/27)
- Living Areas
 - No gas burners allowed in living areas without adequate ventilation (1/1/27)
 - Cots no longer allowed; bed must be a minimum of 4 inches thick (1/1/26)
 - Fumigation no longer allowable practice to clean mattresses (1/1/26)
 - 50 sq. feet of floor space per occupant when double bunks are used – exception for families with children 17 and younger (1/1/28)
- Fire and Carbon Monoxide Detection must be provided (1/1/26)
- Cooking and Eating Facilities
 - Refrigerator (40 degrees) and protected food storage updates
- Heat Illness Prevention
 - Beginning 1/1/27, rooms where people sleep must be capable of maintaining an indoor temperature of 78 degrees or less. When heat index is at or above 95 degrees, sleeping rooms must be at least 15 degrees lower than the outdoor heat index.

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OR OSHA Penalties – OTS/Serious

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Violations and Penalties – First Instance Violations

FIRST INSTANCE PENALTY TABLE		
Other than serious-rated violation		
Probability	Severity (base penalty)	
	Other than serious	
Low	\$0	
High	\$300	
Serious-rated violation		
Probability	Severity (base penalty)	
	Serious Physical Harm	Death
Low	\$3,530	\$11,769
Medium	\$7,060	\$14,123
High	\$9,415	\$16,475

EMPLOYER SIZE ADJUSTMENT TABLE	
Number of employees	Adjustment reduction
1-10	-75%
11-25	-60%
26-90	-40%
91-130	-30%
131-175	-20%
176-250	-10%
251 or more	No size adjustment

Size adjustments are based on statewide peak employment and only apply to first instance violations.

FIRST INSTANCE SERIOUS PENALTY TABLE						
To be used to calculate penalty adjustments						
Adjustment	Penalty in dollars					
	Low Serious	Medium serious	High Serious	Low Death	Medium Death	High Death
30%	\$4,589	\$9,178	\$12,239	\$15,300	\$16,475**	\$16,475**
20%	\$4,236	\$8,472	\$11,298	\$14,123	\$16,475**	\$16,475**
10%	\$3,883	\$7,766	\$10,356	\$12,946	\$15,535	\$16,475**
Initial Penalty	\$3,530	\$7,060	\$9,415	\$11,769	\$14,123	\$16,475
-10%	\$3,177	\$6,354	\$8,473	\$10,592	\$12,710	\$14,827
-20%	\$2,824	\$5,648	\$7,532	\$9,415	\$11,298	\$13,180
-30%	\$2,471	\$4,942	\$6,590	\$8,238	\$9,886	\$11,532
-40%	\$2,118	\$4,236	\$5,649	\$7,061	\$8,474	\$9,885
-50%	\$1,765	\$3,530	\$4,707	\$5,885	\$7,061	\$8,237
-60%	\$1,412	\$2,824	\$3,766	\$4,708	\$5,649	\$6,590
-70%	\$1,177*	\$2,118	\$2,824	\$3,531	\$4,237	\$4,942
-75%	\$1,177*	\$1,765	\$2,354	\$2,942	\$3,531	\$4,911
-80%	\$1,177*	\$1,412	\$1,882	\$2,354	\$2,825	\$3,295
-85%	\$1,177*	\$1,177*	\$1,412	\$1,765	\$2,118	\$2,471
-90%	\$1,177*	\$1,177*	\$1,177*	\$1,177*	\$1,412	\$1,647
-95%	\$1,177*	\$1,177*	\$1,177*	\$1,177*	\$1,177*	\$1,177*

* The minimum-adjusted penalty for a serious-rated violation is \$1,177.

** The maximum-adjusted penalty amount for a serious-rated violation is \$16,475.

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OR OSHA Penalties – Repeat

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Violations and Penalties – Repeat Violations

REPEAT TABLE (OTHER THAN SERIOUS)	
Repeat occurrence	Other than serious
1 st repeat	\$11,769
2 nd repeat	\$11,769
3 rd repeat	\$11,769
Additional repeats	Discretion of administrator

MULTIPLIER (SERIOUS-RATED VIOLATION)	
Repeat occurrence	First instance serious initial penalty
1 st repeat	x 4 base penalty
2 nd repeat	x 6 base penalty
3 rd repeat	x 8 base penalty
Additional repeats	Discretion of administrator

Repeat violation: An employer's second or subsequent violation involving a substantially similar violation as the earlier violation or violations, cited within the previous three years, will be cited as a repeat violation.

NOTE: The minimum-adjusted penalty for a repeat violation is \$11,769.

The maximum-adjusted penalty amount for a repeat violation is \$164,758.

REPEAT 51 OR GREATER EMPLOYEES						
Serious-rated violation						
Probability	Severity					
	Serious Physical Harm			Death		
	First	Second	Third	First	Second	Third
Low	\$14,120	\$21,181	\$28,241	\$47,077	\$70,615	\$94,153
Medium	\$28,241	\$42,361	\$56,482	\$56,490	\$84,735	\$112,981
High	\$37,659	\$56,488	\$75,318	\$65,900	\$98,850	\$131,799
Additional repeats	Discretion of administrator					

A civil penalty reduction based on size will be applied to employers with 50 or fewer employees. A reduction of \$7,381 will be applied to civil penalties for repeat violations as shown in the table below.

REPEAT 50 OR FEWER EMPLOYEES						
Serious-rated violation						
Probability	Severity					
	Serious Physical Harm			Death		
	First	Second	Third	First	Second	Third
Low	\$11,769	\$13,800	\$20,860	\$39,696	\$63,234	\$86,772
Medium	\$20,860	\$34,980	\$49,101	\$49,109	\$77,354	\$105,600
High	\$30,278	\$49,107	\$67,937	\$58,519	\$91,469	\$124,418
Additional repeats	Discretion of administrator					

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OR OSHA Penalties – Willful



Violations and Penalties – Caused or Contributed to a Work-Related Death and Willful Violations

WILLFUL TABLE		
Other than serious-rated violation		
First	\$11,769	
Additional repeats	Discretion of Administrator	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$26,360	\$79,080
Medium	\$36,904	\$105,440
High	\$52,720	\$137,071

Note: Minimum willful penalty of \$11,769
Maximum willful penalty of \$164,759

Willful violation: A violation that is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a statute, regulation, rule, standard, or order.

440-5652 (12/24/COM)

WILLFUL THAT CAUSED OR CONTRIBUTED TO A WORK-RELATED FATALITY		
Other than serious-rated violation		
All	\$52,720	
Serious-rated violation		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$68,536	\$179,247
Medium	\$100,168	\$205,607
High	\$131,799	\$258,327

REPEAT THAT CAUSED OR CONTRIBUTED TO A WORK-RELATED FATALITY			
Other than serious-rated violation			
All	\$52,720		
Serious-rated violation			
Probability	Severity		
	Serious Physical Harm	Death	
	Low	\$57,992	\$168,703
	Medium	\$89,624	\$195,063
High	\$121,256	\$247,783	

Note: The minimum-adjusted penalty for a repeat or willful violation that caused or contributed to a work related fatality is \$52,720.
The maximum-adjusted penalty for a repeat or willful violation that caused or contributed to a work related fatality is \$293,599

SERIOUS THAT CAUSED OR CONTRIBUTED TO A WORK-RELATED FATALITY		
Probability	Severity	
	Serious Physical Harm	Death
Low	\$21,088	\$31,632
Medium	\$24,251	\$39,013
High	\$27,414	\$45,339

Note: The minimum-adjusted penalty for a serious violation that caused or contributed to a work related fatality is \$21,088.
The maximum-adjusted penalty for a serious violation that caused or contributed to a work related fatality is \$52,720.

Caused or contributed to a work-related fatality violation: The workplace death of an employee that was attributed to a violation or in which the violation was a related factor, as determined by the compliance officer.

For complete rule requirements, refer to OAR 437-001-0135 through 437-001-0203.

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Questions



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