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Cal/OSHA Comes Closer to Finalizing Egregious and Enterprise-Wide Classifications

BY RACHEL L. CONN

California's Division of Occupational Safety and Health (Cal/OSHA or the Division) has proposed extensive amendments to its citation, classification, penalty, and abatement regulations to implement Senate Bill 606.

Labor Code sections 6317 and 6317.8, which were amended and added to the Labor Code in 2021 after the signing of SB 606, include, among other things, new classifications for "enterprise-wide" and "egregious" violations. Cal/OSHA has now started the formal rulemaking process to incorporate these classifications into the existing regulations for citation classification and penalty calculation.

The main purpose for these amendments is to align Cal/OSHA with fed OSHA. In their Initial Statement of Reasons, Cal/OSHA notes that although there are no federal statutes or regulations that address egregious or enterprise-wide violations, fed OSHA instructions on their Egregious Procedure and Corporate-wide Settlement Agreements reflect how fed OSHA would address such violations.

Although the draft revisions are proposed, employers with multiple California locations should review them closely. If adopted, the rules would increase the importance of enterprise-level safety because a policy, practice, or unresolved hazard at more than one worksite could materially multiply the scope and cost of a citation. In addition, employers will need to manage their violation history carefully, as that may contribute to the issuance of egregious citations.

Egregious Violations

The proposed revisions define an egregious violation as a willful violation accompanied by specified aggravating circumstances. Specifically, these circumstances include that within a five-year look back period, one or more apply:

1. Employer history of:
   - One or more Repeat, Willful, or Egregious violations; or
   - Five or more Serious violations; or
   - Ten or more General or Regulatory violations
2. Intentional disregard of safety responsibilities;
3. Conduct amounting to clear bad faith; or

4. A willful or prior violation associated with fatalities, a catastrophe, five or more occupational injuries or illnesses, or an experience modification rate above 125%.

The most consequential feature is the proposed instance-by-instance penalty structure. Under this new framework, when Cal/OSHA classifies a willful violation as egregious, the Division would issue a separate citation and separately calculated penalty for each employee exposed. Thus, a single hazardous condition affecting ten employees could generate ten penalties. An egregious citation would also remain in effect for five years from the date it becomes final.

Enterprise-Wide Violations

The proposed regulation revisions would establish a rebuttable presumption that a violation is enterprise-wide when an employer has employees at multiple worksites and either: (1) a written policy or procedure applying to more than one worksite violates an applicable requirement; or (2) Cal/OSHA has evidence of a pattern or practice of the same violation at more than one worksite. A limited exception would prevent a non-compliant policy from supporting an enterprise-wide citation during the first 30 days after the Standards Board votes to adopt or amend an emergency regulation.

For penalty purposes, the proposed penalty would be multiplied by the number of worksites covered by the citation, subject to the maximum penalty of $162,851. The proposal also would generally limit adjustments for enterprise-wide violations to the employer-size reduction, restrict access to the ordinary 50% abatement credit, and permit separate failure-to-abate penalties for each covered worksite that does not timely correct the condition.

Revised Abatement Certification and Employee-Notice Requirements

The rulemaking also includes revisions to the abatement and employee notice requirements. Employers would need to certify abatement within 10 working days (instead of 10 calendar days). In addition, citation posting requirements would include posting in a conspicuous place or in places where notices to employees are customarily posted…in a manner that provides effective notice, unless the employer can demonstrate posting is infeasible.

What California Employers Should Do Now

While the proposed revisions are entering the formal rulemaking stage, employers can do several things in preparation for the final amendments:

- **Review multi-site policies.** Identify written programs and procedures that apply across California locations and confirm that they comply with Cal/OSHA requirements. At the least, this should include such programs as the Injury and Illness Prevention Program, Workplace Violence Prevention Program, and the Heat Illness Prevention Program.
- **Confirm implementation at the site level.** Compliant written policies alone may not prevent allegations of violations in pattern or practice. Check to ensure policies and enforcement are consistent throughout worksites.
- **Inspection Readiness.** Managing inspections will now become more critical than ever. Ensure all sites have

proper inspection readiness procedures in place.

- **Audit five years of citation history.** Review citation history to determine if there is additional exposure for egregious citations.

The proposed revisions will shift Cal/OSHA enforcement toward broader, enterprise-level accountability and potentially much larger aggregate penalties. Employers should not wait for an inspection to determine whether corporate policies are compliant, properly implemented, and supported by proper recordkeeping. A review of statewide programs, prior citations, and abatement actions can help reduce the risk that a localized issue becomes an enterprise-wide—or egregious—enforcement matter.

What's Next

Written comments are due by November 30, 2026 with a public hearing scheduled for December 3, 2026. For more information on the proposed egregious and enterprise-wide classifications or rulemaking, please contact Rachel L. Conn, Chair of the California Practice.