

INITIAL STATEMENT OF REASONS

**CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS
CALIFORNIA CODE OF REGULATIONS
TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
Chapter 3.2. California Occupational Safety and Health Regulations**

Subchapter 1. Regulations of the Director of Industrial Relations

**Article 3. Citation, Notice, Special Order, Order to Take Special Action, Notice of
No Violations After Investigation: Procedures**

**Section 332.4 Posting of Citation, Special Order, Order to Take Special Action,
and Notice of No Violation After Investigation.**

Article 4. Proposed Penalty Procedure

Section 334 Classification of Violations and Definition.

Section 335 Factors Considered in Assessing Civil Penalties.

Section 336 Assessment of Civil Penalties.

Subchapter 2. Regulations of the Division of Occupational Safety and Health

**Article 1.5. Employer's Declaration of Abatement and Other Documentation of
Abatement—Employee Notification—Posting Requirements**

**Section 340.4. Declaration of Abatement, Other Documentation, Employee
Notification and Posting Requirements.**

Egregious & Enterprise-Wide Violations and Penalty Calculations.

The California of the Department of Industrial Relations (DIR) protects and improves the health, safety, and economic well-being of over 18 million wage earners and helps their employers comply with state labor laws. As a department within the Labor & Workforce Development Agency, DIR's mission is to improve working conditions for California's wage earners and to advance opportunities for employment in California. DIR administers and enforces laws governing wages, hours and breaks, overtime, retaliation, workplace safety and health, apprenticeship training programs, and medical care and other benefits for injured workers.

The DIR Director proposes amendments to regulations concerning Enterprise-wide and Egregious violations of employee safety and health requirements. Labor Code sections 6317 and 6317.8, which were amended and added to the Labor Code in 2021 after the signing of Senate Bill 606 (SB 606), require, among other things, that the Division of Occupational Safety and Health (Division) issue citations for "Enterprise-wide" and "Egregious" violations. While these new classifications of violations are defined in Labor Code sections 6317 and 6317.8, regulatory action is necessary to incorporate these classifications into the existing framework for citation classification and penalty calculation, and to provide definitions and procedures that will allow employers to comply with the statutes' requirements.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAWS AND REGULATIONS

Section 18 of the Federal Occupational Safety and Health Act of 1970 authorizes states to administer their own occupational safety and health programs, commonly known as State Plans. FedOSHA approves and monitors these State Plans and provides up to 50 percent of an approved State Plan's operating costs. To acquire and maintain FedOSHA approval, states must demonstrate that their enforcement and occupational safety and health program is "at least as effective as" the federal counterpart. California is among the 29 states and other U.S. jurisdictions that have established State Plans for occupational safety and health. The Division, an agency within DIR, administers California's occupational safety and health program. The proposed amendments are necessary to ensure that California's enforcement program remains at least as effective as the federal program. Labor Code section 142.3 also requires that California's standards be at least as effective as federal occupational safety and health standards.

In 2021, the Governor signed SB 606 into law, amending Labor Code section 6317 to create a new classification of citations for Enterprise-wide violations, and adding Labor Code section 6317.8, which creates a new classification of citations for Egregious violations. The proposed regulations implement, clarify, interpret, and define Labor Code sections 6317 and 6317.8.

Although there are no federal statutes or regulations that address Egregious or Enterprise-wide violations, FedOSHA instructions on their Egregious Procedure and Corporate-wide Settlement Agreements reflect how FedOSHA would address such violations. Labor Code section 6317 is similar, though not identical, to FedOSHA's policy governing Corporate-Wide Settlement Agreements (CSAs). Under Labor Code section 6317, Enterprise-wide violations occur when an employer has more than one worksite and either (1) the employer has a written policy and procedure that violates safety and health standards, or (2) there is

evidence of a pattern or practice of the same violation(s) at more than one of the employer's worksites. (Lab. Code, § 6317(b)(1).)

Under Labor Code section 6317.8, an Egregious violation is defined as a Willful violation where one or more of the seven enumerated criteria under Labor Code section 6317.8 is also present. Labor Code section 6317.8 largely mirrors FedOSHA's violation-by-violation penalties procedure (also known as FedOSHA's Egregious Procedure), which is aimed at deterring Egregious violations by increasing penalties by multiplying the base penalty by the number of employees who were exposed to the violation. Under FedOSHA's Egregious Procedure, each instance of noncompliance is considered a separate violation, and each instance will accordingly accrue a separate penalty. (OSHA Instruction, CPL 02-00-080, Handling of Cases to be Proposed for Violation-By-Violation Penalties, Oct. 21, 1990.)

California Code of Regulations, Title 8, section 334 enumerates and defines classifications of violations. Section 334 defines and sets forth the classifications of Regulatory, General, Serious, Repeat, and Willful violations to define the types of citations the Division issues for occupational safety and health violations. Labor Code sections 6317 and 6317.8 create the categories of, and define, Egregious and Enterprise-wide violations as additional classifications.

California Code of Regulations, Title 8, section 335 sets forth the various factors to be considered when calculating penalties for citations issued by the Division. The new categories of citations (Enterprise-wide and Egregious) will be subjected to the penalty calculation factors set forth in section 335.

California Code of Regulations, Title 8, section 336 explains how to calculate civil penalties for the various classifications of workplace violations. In addition to the factors found in section 335, section 336 includes bases for increasing or decreasing the proposed penalty for a citation. Section 336 provides specific penalty calculation formulas and rules governing each classification of citation (Regulatory, General, Serious, Repeat, Willful, and Failure to Abate).

SUMMARY OF SECTIONS AFFECTED

Amend: California Code of Regulations, Title 8, Sections 332.4, 334, 335, 336, and 340.4.

AUTHORITY AND REFERENCE

The legal authority and reference for this proposed rulemaking are based on implied and express authority pursuant to the following:

Labor Code section 142.3 requires the adoption of occupational and health standards that are at least as effective as federal occupational safety and health

standards. Further, under Labor Code section 55, the Director of DIR may make rules and regulations that are reasonably necessary. The proposed regulations implement, interpret, and make specific Labor Code sections 6317 and 6317.8.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

Currently, there are no federal statutes or regulations for Egregious or Enterprise-wide violations. FedOSHA has a penalty calculation policy for Egregious violations (known as FedOSHA's Egregious Procedure). In the absence of any federal statute or regulation on Egregious and Enterprise-wide violations, the proposed amendments do not duplicate or conflict with any federal statute or regulation and are not mandated by any federal statute or regulation.

FedOSHA does have a policy on Corporate-Wide Settlement Agreements that relates to Egregious violations. Labor Code section 6317.8 largely mirrors FedOSHA's Egregious Procedure for calculating violation-by-violation penalties, which is aimed at deterring Egregious violations by increasing penalties by multiplying the base penalty by the number of employees who were exposed to the violation. Under FedOSHA's Egregious Procedure, each instance of noncompliance is considered a separate violation, and each instance will accordingly accrue a separate penalty. (OSHA Instruction, CPL 02-00-080, Handling of Cases to be Proposed for Violation-By-Violation Penalties, Oct. 21, 1990.) The proposed regulatory text for Egregious violations defines the new classification of citations that can be issued and sets forth a method for calculating penalties for each instance of an employee exposed to an Egregious violation.

Labor Code section 6317 is similar, though not identical, to FedOSHA's policy governing CSAs. CSAs are legal agreements reached between FedOSHA and employers that either have shown a pattern of non-compliance or that have similar violations of the Federal Occupational Safety and Health Act at multiple establishments or worksites. (OSHA Instruction, CPL 02-00-167, Guidelines for Administrating Corporate-Wide Settlement Agreements, Sept. 3, 2021.) Under Labor Code section 6317, Enterprise-wide violations occur when an employer has more than one worksite and either (1) the employer has a written policy and procedure that violates safety and health standards, or (2) there is evidence of a pattern or practice of the same violation(s) at more than one of the employer's worksites. (Lab. Code, § 6317(b)(1).) The proposed regulatory text for Enterprise-wide violations sets forth the definition of Enterprise-wide violations pursuant to section 6317 and adds Enterprise-wide violations to the regulations governing classification of citations and calculation of penalties for alleged violations.

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

The proposed regulatory text for Enterprise-wide violations sets forth the definition of Enterprise-wide violations pursuant to section 6317 and adds Enterprise-wide

violations to the regulations regarding classification and calculation of penalties for alleged violations.

Under Labor Code section 6317.8, an Egregious violation is defined as a Willful violation where one or more of the enumerated criteria in Labor Code section 6317.8 also is present. The proposed regulatory text for Egregious violations clarifies, interprets, and defines the statutory language of Labor Code section 6317.8. The proposed regulations further set forth how penalties will be calculated for each instance of an employee exposed to an Egregious violation.

Lastly, the proposed amendments also include changes to subsections of Title 8, sections 332.4 and 340.4, that do not stem from SB 606. In this regard, the proposed amendments (1) clarify, in section 332.4, the locations in which an employer must post information pertaining to citations issued by the Division; (2) correct section 335(d) to reflect that the lookback period for determining how (if at all) a penalty should be adjusted to account for an employer's history is five years, not three, so that it is consistent with the lookback period for Repeat violations; (3) correct section 336(d)(5) by deleting a reference to a subsection that was stricken in 2017; and (4) correct section 340.4(c)(1) so that it matches the time period set forth in Labor Code section 6320 (10 working days, not 10 calendar days).

Amend Section 332.4: Postings

The current language provides that the Division's citations, special orders, orders to take special action issued to employers, and notices of no violation after investigation are required to be posted at or near the referenced site of the violation or condition.

The amendment provides that such postings be provided "in a conspicuous place or in places where notices to employees are customarily posted or provided" in addition to being posted at or near the site of the violation or condition. The amendment further provides that such postings be "in a manner that provides effective notice, unless the employer can demonstrate such posting is infeasible."

The purpose of the proposed amendment is to provide further guidance to the regulated community regarding their obligations associated with posting information regarding violations. The amendment is necessary to ensure that notice is provided to employees while addressing the realities of posting at certain jobsites. The change acknowledges that posting at or near the site of a violation and condition may not always serve the purpose of the regulation to provide notice. Adding the requirement in addition to the site of violation or condition at a location that will more likely be noticed and expected will increase the chances of employees noting or reading the mandated postings. In addition, the amendments require that such postings provide effective notice to avoid postings

at or near the site of violation and condition under circumstances where employees will in effect not be provided notice or the site no longer exists. Further, the amendments provide employers flexibility when posting would be unfeasible at certain sites or under certain circumstances.

Amend Section 334: Classification of Violations and Definitions

Amend Subsections 334(c)(3) and 334(c)(3)(A)(5)(c)

The term “subdivision” is being replaced with “subsection”. This proposed change is non-substantive and without regulatory effect.

Amend Subsection 334(c)(4)

The term “he” is being replaced with “they” and “the employer” to render the provision gender neutral. This proposed change is non-substantive and without regulatory effect.

Amend Subsection 334(e)

The term “he” is being replaced with “the employer” to render the provision gender neutral. This proposed change is non-substantive and without regulatory effect.

Add Subsection 334(f): Egregious Violation

The purpose of this new subsection is to set forth and provide a definition for Egregious violations as defined under Labor Code section 6317.8. Consistent with Labor Code sections 6317.8(a)-(c), new subsection (f) defines Egregious violation as a “Willful violation” where one or more additional factors can also be shown to apply or have applied within a five-year lookback period.

Subsection (f)(1)(A) provides that an employer history of violations with final determinations that consists of “one or more Repeat, Willful, or Egregious violations,” five or more Serious violations,” or “ten or more General or Regulatory violations” along with the Willful violation being assessed affords grounds for an Egregious citation.

Subsection (f)(1)(B) provides that an employer who “intentionally disregarded their helath and safety responsibilities” coupled with the Willful violation being assessed serves as another basis for an Egregious citation.

Subsection (f)(1)(C) provides that when an 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” along with the Willful violation being assessed allows the Division grounds to find an Egregious citation.

Subsection (f)(1)(D) provides additional grounds for an Egregious citation where (1) either the Willful violation being assessed involves, or the cited worksite has a history of, violations that “resulted in one or more worker fatalities, a worksite catastrophe, or five or more occupational injuries or illnesses,” including Serious injuries, or (2) the employer has an experience modifier that is greater than 125%. Catastrophe is defined as 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.”

Finally, the added subsection (f)(2) sets forth that an Egregious violation will remain in effect for “five years from the latest of the date of the final order affirming the citation, or the date the citation becomes final by operation of law.”

Labor Code section 6317.8 defines an Egregious violation based on seven criteria, enumerating conduct and circumstances within a five-year period of the issuance of a citation for a Willful violation of a Title 8 occupational safety and health standard. The purpose of subsections (f)(1)(A) through (f)(1)(D) is to interpret these seven criteria in a manner that will allow for clarity and implementation. The proposed text is necessary to effectuate, interpret, and clarify Labor Code section 6317.8, which created the category of Egregious violations as a new classification of citations for which the Division must issue citations.

Proposed subsections 334(f)(1) and (2) clarify the five-year lookback period and the length of time for which an Egregious citation will remain in effect. These two subsections interpret and clarify Labor Code section 6817.8(c). Subsection 334(f)(1) further provides that the lookback period relevant to the employer or their actions under criteria (f)(1)(A) through (f)(1)(D) are limited to the preceding five years pursuant to Labor Code section 6317.8.

Add Subsection 334(g): Enterprise-wide Violation

The purpose of this new subsection is to set forth and provide a definition for Enterprise-wide violations as defined under Labor Code section 6317(b)(1), which creates the Enterprise-wide category of violation.

Proposed subsection 334(g) provides that there is a rebuttable presumption that a violation is Enterprise-wide “if an employer has employees at multiple worksites” and either the “employer has a [violative] written policy or procedure that applies to more than one worksite” or there is “evidence of a pattern or practice of the same violation or violations involving more than one of the employer’s worksites.”

The proposed language is necessary to interpret and clarify what an Enterprise-wide violation is. The proposed language is further necessary to provide particularity with regard to which worksites would be affected by an Enterprise-

wide citation (that is, only those worksites where there are employees working, as opposed to existing worksites where there are no employees working).

Additionally, the new subsection includes an exception taken directly from Labor Code section 6317, which states that a “written policy or procedure that violates an emergency regulation shall not form the basis for an Enterprise-wide citation within 30 days after the vote of the standards board to adopt or amend the emergency regulation.” This language is necessary to avoid any uncertainty that this exception from the Labor Code applies.

Amend Section 335: Penalty Factors

Subsection 335(d) explains the History of Previous Violations (“History”) rating for an employer in the context of a citation for violating an occupational safety or health standard. This includes the direction to consider the past three years of an employer’s previous violations in assessing penalties. The purpose of the proposed amendment is to update the lookback period from three years to five years. This is necessary to ensure that the language describing the lookback period in subsection 335(d) is consistent with the language describing the lookback period for Repeat violations found in subsection 334(d).

In addition, under the parameters for “POOR,” “a” is being replaced with “one or more” to clarify that relevant history can contain more than one Serious, Repeat, or Willful violations. This proposed change is non-substantive and without regulatory effect.

Subsection 335(d) further includes definition for the term “establishment” that is based on an obsolete section (former subsection 334(d)). The purpose of the proposed amendment is to revise the definition of “establishment” independent of any other section or subsection. The proposed language is based on the definition of “establishment” under Government Code section 14300.46 and Title 8, section 340, to ensure consistency.

The proposed amendment to the definition of “establishment” is necessary to replace an obsolete cross-reference, and to meet the original regulatory intent to provide a definition to avoid any uncertainty during interpretation.

Amend Section 336: Assessment of Civil Penalties

Amend Section 336

In the proposed amendment to the introductory language, the words “Egregious” and “Enterprise-wide” are being added to the list of citation classifications for which penalties are assessed. The purpose of this amendment is to clarify that penalty calculations for these new types of citations will follow the same general framework as penalty calculations for existing types of citations. This is necessary

to include the new classifications created by Labor Code sections 6317 and 6317.8.

Add definition of “Accident-Related” to subsection 336(c)(2)

The Division issues Serious citations when there is a realistic possibility that death or serious physical harm could result from the actual hazard created by a violation. (Cal. Code of Regs., tit. 8, section 334(c).) The Labor Code and Title 8 further sets forth specific treatment of Serious violations that do, in fact, cause death or serious injury, illness, or exposure under subsection 336(c)(2). When the Division has issued Serious citations where death or serious injury, illness, or exposure has occurred, these citations are characterized as Serious, Accident-Related citations.

The proposed amendment to subsection 336(c)(2) adds a definition of “Accident-Related” as a Serious violation that “results in death or serious injury, illness, or exposure” under Title 8 to conform to practice. Currently, no such specific language is found in Title 8. The addition of a formal definition for Serious, Accident-Related citations is necessary to remove any uncertainty and provide clarity when the Division issues such Serious citations.

Amend Subsection 336(d)

The purpose of this amendment is to add “Enterprise-wide” to the list of classifications of violations the subsection governs. This is necessary to clarify that the penalty adjustments addressed in this section apply to this new classification.

Update Subsection 336(d)(5)

The purpose of this amendment is to remove an obsolete cross-reference to “subsection (c)(2) of this section”, which no longer exists. This is necessary to update the language of this subsection for clarity.

Add Subsection 336(d)(13)

The purpose of this amendment is to add a subsection to include Enterprise-wide citations in subsection 336(d), which governs further adjustments to proposed penalties. These adjustments include reductions based on an employer's Good Faith, Size, and History of violations. The proposed amendment specifies that for Enterprise-wide violations, “the penalty shall not be subject to adjustment” as set forth under subsection 336(d), other than for Size.

The language is necessary to be in line with the existing penalty calculation framework that sets forth provisions barring such penalty reductions where the penalty for the specific classification of violations is intended to serve as a deterrent. For example, subsection 336(d)(12) similarly bars such reductions for Repeat violations. Serious, Accident-Related, violations are likewise not reduced other than for Size.

Amend Subsection 336(e)(1)

As currently written, subsection 336(e)(1) creates a presumption that, when an employer is being cited for a General violation, they will correct the alleged General violation by a date set by the Division. In exchange, to encourage this abatement, the Division will reduce the proposed penalty by 50%. The current language also sets forth the exceptions, where no abatement credit is granted, in addition to those classifications of citations where the 50% reduction presumption does not apply.

The purpose of the proposed amendment is to specify that "Enterprise-wide General" violations are not subject to this abatement presumption. Further, the proposed amendment adds "Egregious General" violations to the list of classifications of violations that are not subject to any abatement credit at all.

The amendments are necessary to be consistent with the existing penalty calculation framework, where classifications of violations are treated in an escalating manner to encourage compliance. Enterprise-wide General violations are presumed to have a widespread impact, exposing a higher number of employees to hazards at issue. Excluding Enterprise-wide General violations from the abatement presumption that allows a 50% reduction in proposed penalty is in line with this escalation. Likewise, adding Egregious General violations to the list of classifications that are not subject to the application of abatement credit maintains consistency with the increase in proposed penalties.

Amend Subsection 336(e)(2)

This subsection addresses abatement credit for Serious violations, which is not subject to a presumption and is only allowed if the employer timely abates the hazard. The purpose of this amendment is to add "Enterprise-wide General" as a classification of citation for which abatement credit is not allowed unless the employer has either abated the violation during the course of the inspection or has timely submitted an abatement declaration.

The amendment is necessary to specify that "Enterprise-wide General" violations are allowed abatement credit only if the employer timely abates. Abatement credit incentivizes employers to mitigate or eliminate the cited hazards by offering reduced penalties. Enterprise-wide violations are presumed to have a widespread impact, exposing a higher number of employees to the hazards at issue. Abatement here serves to incentivize abatement to protect more workers.

The amendment further serves to clarify the language to avoid a double negative. The current language states that "the Division shall not grant a 50% abatement credit unless the employer has done wither one of the following" with regard to abatement. The proposed language clarifies the language by replacing the existing quoted text with "the Division shall grant a 50% abatement

credit if the employer has done either one of the following." The amendment is necessary for clarity.

Amend Subsection 336(e)(2)(A) & (B)

These two subsections set forth the criteria for an employer to receive abatement credit. The purpose of the amendment is to remove the word "Serious," so that Enterprise-wide General citations can be brought under the umbrella of classifications for which abatement credit is available under this subsection.

Amend Subsection 336(e)(3)(B)

Subsection 336(e)(3) specifies which Serious violations are not subject to an abatement credit.

The purpose of the first amendment, which replaces the term "designated" with "classified" in relation to Serious violations, is to render the language consistent in terminology with Title 8 in general. This is necessary to provide clarity.

The purpose of the second amendment is to add Egregious Serious citations to the types of citations that are not subject to an abatement credit (currently, only Repeat Serious and Willful Serious). This is necessary to reflect that the new classification of Egregious violations is considered to be on the same level of severity as Repeat Serious and Willful Serious.

Amend Subsection 336(f)

This subsection governs penalty calculations for the failure to abate violations. The purpose of the proposed amendment is to clarify that for Enterprise-wide violations, if an employer does not timely abate the violation at any worksite covered by the Enterprise-wide citation, a separate penalty will be assessed for each worksite where the employer did not timely abate the violation.

The proposed amendment is necessary to clarify how to calculate penalties for failure to abate in the case of Enterprise-wide violations. Unlike all other classifications, Enterprise-wide citations will involve multiple covered worksites. Language specifying that penalties for failure to abate Enterprise-wide violations will be assessed based on "each worksite where the employer failed to timely abate" is necessary to clarify that each covered worksite that failed to abate will be assessed a separate penalty under this subsection.

Amend Subsection 336(f)(5)

The purpose of the proposed amendment is to explain how to calculate penalties when, at a subsequent inspection, it is found that some covered worksites of an Enterprise-wide violation have been abated while others have not. The proposed text clarifies that the daily penalty for failure to abate "shall be calculated in proportion to the extent that the Enterprise-wide violation has been abated." In

response to stakeholder comments, a concrete example was included as part of the proposed text: “if the Enterprise-wide violation is based on ten(10) worksites and only eight (8) of the ten (10) worksites abated, the daily penalty shall be calculated based on the two (2) worksites that failed to abate.”

The first part of the proposed amendment is necessary to set forth how to calculate the penalty for failing to abate upon a subsequent inspection, unlike subsection 336(f), which addresses failure to timely abate in the context of an ongoing inspection. The language of the proposed amendment is consistent with the proposed text in subsection 335(f).

The proposed example is necessary to assist the regulated public with understanding the method for calculating the daily penalty for failure to abate in the context described in the first part of the proposed amendment.

Amend Subsection 336(h)

The purpose of the proposed amendment is to add “including those classified as Enterprise-wide and Repeat” to this subsection, so that the regulated public can understand how to calculate penalties for Willful violations. This amendment is intended to clarify that a Willful violation can also be issued under the new Enterprise-wide classification and the existing Repeat classification, and that citations can be issued for both Enterprise-wide Willful or Repeat Willful violations.

The amendment is necessary to avoid any uncertainty regarding the fact that Willful violations can also be found to be Enterprise-wide, and to clarify that the existing classification of Repeat can also apply to Willful citations.

Add Subsection 336(i)

The purpose of the proposed amendment is to explain how to calculate the penalties for Egregious violations. The proposed text provides that “the Division shall issue a separate citation with a separate Proposed Penalty calculated pursuant to subsection (h) of this section for each instance of an employee exposed to that violation.” Further, “each instance” is defined to mean “a single employee’s exposure to the violation.” The proposal then provides an example, “if a violation exposes ten (10) employees to the hazard, there are then (10) instances with ten (10) separate penalties.”

The proposed amendment is necessary to explain the method for calculating proposed penalties for the new Egregious classification. In keeping with both the statutory language and legislative intent of Labor Code section 6317.8, penalties for Egregious violations are to be calculated on a per instance basis, yielding higher Proposed Penalties and creating a deterrent effect for the most egregious employer conduct. The definition of “each instance” is necessary to avoid uncertainty. Likewise, the example is necessary to provide further clarification.

Add Subsection 336(k)

The purpose of the proposed amendment is to explain how to calculate the penalties for Enterprise-wide violations.

Subsection(k)(1) explains that the Proposed Penalty will be “multiplied by the number of worksites covered by the Enterprise-wide citation at the time of the inspection.” This language is necessary to set forth the most basic component of how to calculate Enterprise-wide violations as set forth in Labor Code section 6317.

Subsection 336(k)(2) then provides that when “multiplying the Proposed Penalty by the number of worksites covered, only the classification or characterization that applies to each and every violation shall be used for the computation of the Proposed Penalty.” This proposed text is necessary to clarify that when calculating penalties for violations occurring at multiple worksites, only the classification and characterization that applies to every single violation should be used. Uniformity of the classification or characterization that is applicable to all citations where there is a pattern or practice of violative conditions is necessary to simplify the choice of which penalty to use as the single multiplier for the number of worksites covered.

As necessary to further ensure clarity, Subsection 336(k)(2) then provides that “[a]ny Repeat, Willful, or Egregious classification, Accident-Related characterization, or any abatement credit, that does not apply to each and every violation, shall not be used to calculate the Proposed Penalty.”

The proposed amendment includes the following example: “[A]n employer has three covered worksites. At one worksite, there is a Serious, Accident-Related violation. At the other two worksites, there are two Serious violations respectively. To calculate the Proposed Penalty, the Serious classification is used of the computation. However, if at all three covered worksites there are Serious, Accident-Related, violations, respectfully, the Serious, Accident-Related, classification and characterization are used to calculate the Proposed Penalty.” This example is necessary to facilitate understanding and uniform interpretation of how to calculate Enterprise-wide violations.

The purpose of the proposed amendment in subsection 336(k)(3) is to explain that when multiplying the penalty for an Enterprise-wide violation by the number of worksites covered, “(1) there will be a presumption that Severity and Extent are Medium and Likelihood is Moderate and (2) the adjustment factors of Good Faith, Size, and History will be assessed based on the worksites covered.” The proposed language is necessary, as it is a continuation of the need to ensure a single multiplier. Under Section 336, several factors are assessed that affect the

proposed penalty for all classifications. Likewise, these factors affect the proposed penalty for each violation, causing potential differences in penalty calculations despite the enterprise-wide nature of the violation of the same standard at an employer's multiple worksites. The proposed amendment creates uniformity and aids in achieving a single multiplier that can apply across the board for all covered worksites.

A further purpose of new subsection 336(k)(3) is to provide the Division with discretion in calculating penalties, and states that the Division "may, in its discretion, depart from the preceding criteria based on the facts and information gathered during the investigation." The proposed amendment is necessary to provide flexibility, and acknowledges the reality that unknown factors can serve to increase or decrease the penalties.

Finally, subsection 336(k) sets forth a penalty cap of \$162,851. This is necessary to be in line with penalty calculations for Repeat, Willful, and Egregious violations, which are capped at \$162,851 at the time of this draft.

Amend Subsection 336(m)(1)

This is the renumbered subsection 336(k)(1), which sets forth the classifications that are excluded from any potential reduction in penalties based on the Division's discretion to mitigate the cumulative effect of penalties based on multiple violations that arose from a single hazard. The purpose of the proposed amendment is to clarify that Egregious citations are included in the list of excluded classifications.

The proposed amendment is necessary to preserve the intent of existing subsection 336(k) and to clarify that Egregious citations are considered to be on the same level of severity as Serious, Willful, and Repeat violations.

Amend Section 340.4: Declaration of Abatement

The purpose of this amendment is to correct subsection 340.4(c)(1) to reflect the language in the section of the Labor Code cited as the authority for this regulation. Subsection 340.4(c)(1) currently refers to a period of "10 *calendar* days," while Labor Code section 6320 (the authorizing statute) envisions a period of "10 *working* days." This amendment is necessary to correct the language of the regulation and to ensure that the regulated community is not faced with conflicting directions regarding the length of time for an employer to submit abatement certification.

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: [NONE]
- Costs or savings to any state agencies: [NONE]

- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: [NONE]
- Other nondiscretionary costs or savings imposed on local agencies: [NONE]
- Costs or savings in federal funding to the state: [NONE]

BUSINESS IMPACT STATEMENT

The proposed amendments address the two new classifications added by Labor Code sections 6317 and 6317.8. Although the proposed regulation may affect all employers, the Director has concluded that the business impact of the proposed amendments will not be significant.

Any additional costs to representative businesses would result from noncompliance with existing standards. The total statewide compliance cost over the lifetime of the regulation is \$0, because the proposal does not create any new compliance actions or requirements, nor does it amend any existing compliance actions or requirements. The effect of the proposal is to adjust the penalty structure for health and safety violations under existing regulations. Division staff note that the intention of the proposal is to incentivize compliance with existing standards. Therefore, any compliance costs incurred by businesses abating noncompliance would have been captured and reported in the 399 forms for the relevant standards when those standards were adopted, and it would not be appropriate to attempt a double-counting of those costs.

Businesses that are cited under the new definitions of Egregious and Enterprise-wide violations may incur higher penalties than they would incur under the existing regulation. Due to the case-dependent nature of penalty assessment, reliable data pertaining to future citations and penalties is unavailable. To estimate an economic cost of potentially higher penalties, Division staff attempted to create a counterfactual scenario from historical data by reckoning which cited violations would have qualified as Egregious or Enterprise-wide had the proposed language been in effect when the citations were issued, and what the incremental penalty would have been above the actual assessed penalty.

Egregious Violations

As described in the 399 attachment, Division staff assumes that every Willful violation issued under the existing regulations would have been classified as an Egregious violation under the proposal. Under existing regulations, a business receiving a Willful violation citation is assessed a single penalty. Under the proposal, Egregious violators will still receive Willful violation citations, however the penalty will be assessed for each employee exposure to the safety or health hazard. For example, a business found to have 10 employees exposed to a safety

or health hazard assessed a \$10,000 penalty under the existing regulation would be assessed \$100,000 (\$10,000 x 10) under the proposal.

The potential increase in magnitude of penalties under the proposal is intended to incentivize compliance with existing health and safety standards. That is, some businesses will choose to meet compliance once the proposal is implemented, thereby eliminating the possibility of receiving a citation for an Egregious violation. Division staff attempted to account for this potential change in compliance by using a “materiality threshold” to identify those businesses choosing to meet compliance. A materiality threshold is an accounting concept that indicates at which point an expense becomes material to a business, and typically ranges from one percent to five percent of assets, receipts, or payroll. For the purposes of this 399 analysis, the Division assumes that penalties for Egregious violations exceeding five percent of average industry receipts will be considered material, resulting in the business choosing to change its behavior and fulfill its compliance obligations.^{1,2} It is important to note that businesses do not know what the base penalty will be prior to citation issuance, but rather are only aware of the mechanisms utilized in assessing penalties as outlined in the regulation. This 399 analysis represents a speculative counterfactual for the purposes of projecting an estimated impact.

To estimate the incremental increase in penalties associated with Egregious violations, Division staff began with the list of Willful violations generated from the OIS query. See Table 2.³ The OIS query includes the penalty assessed and the number of exposures to each violation. Division staff multiplied the initial penalty by the number of exposures to approximate the would-be penalty under the proposed definition of an Egregious violation (Table 2, column F).

Next, Division staff applied the materiality threshold to identify which businesses would likely pay the penalty. To do this, staff first pulled industry-wide receipts from the U.S. Census Bureau’s Statistics of US Businesses (SUSB), 2022 (the most recent year of data available at the time of analysis).⁴ For each six-digit NAICS listed in Table 2 (column B), the industry-wide receipts are divided by the number of establishments in the NAICS to estimate the average receipts per establishment.⁵ Businesses for whom the proxy Egregious violation penalty (Table 2 column F) is above the five-percent materiality threshold (Table 2 column H) are assumed to

¹ Using a one-percent threshold, or using payroll as the basis, will increase the number of businesses filtered out and subsequently reduce the estimated economic cost.

² The business choice to “choose compliance” occurs prior to an inspection and is based on the business’ expectation of potential penalties assessed, were there to be an inspection.

³ Business names have been anonymized.

⁴ Source: U.S. Census Bureau Statistics of U.S. Businesses, 2022, the most recent data available. <https://www.census.gov/programs-surveys/susb.html> (accessed 5/18/2025)

⁵ Receipts specific to each businesses are not available, so the average receipts per industry is used as a proxy.

have chosen to fulfill their compliance obligations, and would therefore not be cited in the counterfactual scenario.⁶

Estimated penalty impact is computed as the incremental penalties charged above what would have been charged under the existing regulations. For the purposes of reporting an economic cost in this section, incrementally higher penalties are estimated separately from incremental savings.

Based on these calculations, the Division estimates a total Egregious Violation Penalty impact of \$1,151,072 across all impacted businesses (See Table 2).

⁶ It is important to distinguish the incentivized ex ante compliance in the counterfactual from an ex post abatement process in reality. This discussion is not intended to misstate the mechanisms of the proposal. Specifically, in reality businesses will choose whether to comply with existing safety and health standards prior to an inspection occurring. Once a citation has been issued and the penalty assessed, there is no opportunity for the business to "choose compliance" instead, and the business must pay the penalty. The exercise for the 399 analysis is to harness existing data to inform an otherwise wholly speculative projection of citation issuance.

Table 2: Estimation of Annual Penalty Impact of Egregious Violations

2023										
A. Random Record ID	B. Primary NAICS	C. Initial Penalty	D. Number of Exposures	E. Proxy for Egregious Violation Penalty (C x D)	F. Average Receipts	G. Egregious Penalty as a percent of Average Receipts (E / F) x 100	H. Estimated Egregious Penalties Assessed	I. Incremental Penalty Paid (H - C)	J. Incremental Savings (\$0 - C)	
93963	236116	\$10,985	13	\$142,805	\$17,210,943	0.8%	\$ 142,805	\$ 131,820		
99868	236220	\$10,981	36	\$395,316	\$14,938,681	2.6%	\$ 395,316	\$ 384,335		
90217	236220	\$10,981	30	\$329,430	\$14,938,681	2.2%	\$ 329,430	\$ 318,449		
98860	236220	\$10,981	1	\$10,981	\$14,938,681	0.1%	\$ 10,981	\$ 0		
93144	423830	\$90,000	1	\$90,000	\$11,133,065	0.8%	\$ 90,000	\$ 0		
96743	423450	\$108,000	2	\$216,000	\$30,510,443	0.7%	\$ 216,000	\$ 108,000		
93964	238220	\$67,500	2	\$135,000	\$2,794,474	4.8%	\$ 135,000	\$ 67,500		
97156	541714	\$10,981	6	\$65,886	\$14,606,017	0.5%	\$ 65,886	\$ 54,905		
93899	236220	\$10,981	1	\$10,981	\$14,938,681	0.1%	\$ 10,981	\$ 0		
93701	561910	\$11,250	10	\$112,500	\$5,784,600	1.9%	\$ 112,500	\$ 101,250		
98533	561910	\$11,250	10	\$112,500	\$5,784,600	1.9%	\$ 112,500	\$ 101,250		
93341	561910	\$13,500	10	\$135,000	\$5,784,600	2.3%	\$ 135,000	\$ 121,500		
94673	561910	\$121,500	10	\$1,215,000	\$5,784,600	21.0%	assumed to meet compliance			-\$ 121,500
99467	561910	\$121,500	10	\$1,215,000	\$5,784,600	21.0%	assumed to meet compliance			-\$ 121,500
91173	561910	\$101,250	10	\$1,012,500	\$5,784,600	17.5%	assumed to meet compliance			-\$ 101,250
99542	561910	\$121,500	10	\$1,215,000	\$5,784,600	21.0%	assumed to meet compliance			-\$ 121,500
96667	561910	\$121,500	10	\$1,215,000	\$5,784,600	21.0%	assumed to meet compliance			-\$ 121,500
95363	561910	\$101,250	10	\$1,012,500	\$5,784,600	17.5%	assumed to meet compliance			-\$ 101,250
94688	237990	\$10,985	64	\$703,040	\$7,918,949	8.9%	assumed to meet compliance			-\$ 10,985
98820	236220	\$10,981	45	\$494,145	\$14,938,681	3.3%	\$ 494,145	\$ 483,164		
2023 Total								\$ 1,872,173	-\$ 699,485	
2024										
95106	488310	\$72,000	1	\$72,000	\$14,932,945	0.5%	\$ 72,000	\$ 0		
96313	236220	\$24,000	18	\$432,000	\$14,938,681	2.9%	\$ 432,000	\$408,000		
92448	237110	\$135,000	3	\$405,000	\$5,942,759	6.8%	assumed to meet compliance			-\$ 135,000
92710	237110	\$135,000	1	\$135,000	\$5,942,759	2.3%	\$ 135,000	\$ 0		
98581	111332	\$12,500	48	\$600,000	\$2,164,357	27.7%	assumed to meet compliance			-\$ 12,500
90124	561730	\$90,000	35	\$3,150,000	\$1,010,711	311.7%	assumed to meet compliance			-\$ 90,000
97849	561730	\$125,000	35	\$4,375,000	\$1,010,711	432.9%	assumed to meet compliance			-\$ 125,000
93143	561790	\$78,750	4	\$315,000	\$780,393	40.4%	assumed to meet compliance			-\$ 78,750
94382	561790	\$78,750	5	\$393,750	\$780,393	50.5%	assumed to meet compliance			-\$ 78,750
98971	561790	\$78,750	4	\$315,000	\$780,393	40.4%	assumed to meet compliance			-\$ 78,750
91641	561790	\$10,985	3	\$32,955	\$780,393	4.2%	\$ 32,955	\$21,970		
99407	622110	\$112,500	110	\$12,375,000	\$208,799,421	5.9%	assumed to meet compliance			-\$ 112,500
95541	236220	\$30,000	1	\$30,000	\$14,938,681	0.2%	\$ 30,000	\$ 0		
97304	492110	\$112,500	99999	\$11,249,887,500	\$11,161,080	100795.7%	assumed to meet compliance			-\$ 112,500
2024 Total								\$ 429,970	-\$ 823,750	
Average (2023, 2024)								\$ 1,151,072	-\$ 761,618	

Enterprise-Wide Violations

As described in the 399 attachment, Division staff assumes that citations involving each of three written plans (IIPP, HIPP, WV), filtered to focus only on those businesses who were cited for the same violation in at least two different inspections and to exclude businesses believed to have only one location, are a reasonable proxy for the multi-site circumstances intended by the proposal. See Table 3 for the list of eight businesses (4 in 2023 and 4 in 2024) that meet these conditions.

The proposed Enterprise-wide violation does not represent a violation of a new substantive occupational safety and health obligation; businesses will continue to be cited for violations following the guidance in existing regulations. The proposal changes the penalty structure such that under the new Enterprise-wide category, penalties will be assessed for each location a business operates. For example, a business operating two locations found to violate a safety or health hazard and assessed a \$10,000 penalty under the existing regulation would be assessed a \$20,000 penalty ($\$10,000 \times 2$) under the proposal if it meets the enterprise-wide conditions.⁷

To estimate the incremental increase in penalties associated with Enterprise-wide violations, Division staff began with the filtered OIS query described above. This query includes all relevant citations – in 7 out of 8 cases, there were two related citations, and in one case there were three. Staff computed the average penalty assessed (reported in Table 3, column J) across the citations for each business, and multiplied that average by the estimated number of locations each business operates (Table 3, column K) to estimate a proxy enterprise-wide penalty.⁸ Estimated penalty impact is computed as the incremental penalties assessed above what would have been assessed under the existing regulations. For the purposes of reporting an economic cost in this section, incrementally higher penalties are estimated separately from incremental savings.

⁷ Note that businesses may be cited for violations at each location under the existing regulation provided that an inspection takes place at each location with a finding of a violation. Under the proposal, there is a presumption of enterprise-wide scope for certain violations, meaning that the business may be cited for violations at each location without a separate inspection at each location.

⁸ Number of locations were identified via Google searches and the Restricted Quarterly Census of Employment and Wages (QCEW) dataset which includes detailed establishment-level information such as data on specific employers (business units), detailed geographic identifiers (business locations), full industry codes (NAICS codes), and longitudinal data that allow researchers to track businesses over time.

Based on these calculations, the Division estimates a total Enterprise-Wide Violation Penalty impact of \$30,460 across all impacted businesses (See Table 3).

Total Penalty Impact = \$1,151,072 + \$30,460 = \$1,181,532 annually

Table 3. Estimation of Annual Penalty Impact of Enterprise-wide Violations

			First Violation		Second Violation		Third Violation						N. Egregious Penalty as a percent of Average Receipts (L / M) x 100	O. Incremental Penalties (L - Sum of Initial Penalties)	P. Incremental Savings (\$0 - N)
B. Random		C. Primary	E. Initial		G. Initial		H.	I. Initial	J. Average	K. Estimated	L. Estimated	M. Average			
A. Year	Establishment ID	NAICS	D. Standard	Penalty	F. Standard	Penalty	Standard	Penalty	Penalty	Number of Locations	Enterprise-Wide Penalty	Receipts			
2023	86290	445110	3203(a)(4)	\$200	3203(a)(4)	\$200	3203(a)	\$335	\$184	264	\$52,800	\$12,620,565	0.4%	\$52,065	
2023	88508	623312	3203(a)	\$900	3203(a)	\$280	--	--	\$590	12	\$7,080	\$1,908,796	0.4%	\$5,900	
2023	87061	444110	3203(a)	\$22,500	3203(a)	\$425	--	--	\$11,463	233	\$2,670,763	\$45,254,767	5.9%	assumed to meet compliance	-\$22,925
2023	84242	561311	3203(a)	\$800	3203(a)	\$185	--	--	\$493	8	\$3,940	\$3,704,378	0.1%	\$2,955	
													2023 Total	\$60,920	-\$22,925
2024	87649	441310	3203(a)	\$1,125	3203(a)	\$280	--	--	\$703	594	\$417,285	\$2,261,234	18.5%	assumed to meet compliance	-\$1,405
2024	81940	722513	3203(a)(7)	\$710	3203(a)(7)	\$675	--	--	\$693	2	\$1,385	\$1,330,932	0.1%	\$0	
2024	89179	722511	3203(a)(4)	\$600	3203(a)(4)	\$600	--	--	\$600	2	\$1,200	\$1,483,994	0.1%	\$0	
2024	84154	722513	3203(a)	\$450	3203(a)	\$450	--	--	\$450	2	\$900	\$1,330,932	0.1%	\$0	
2024 Total													\$0	-\$1,405	
Average (2023, 2024)													\$30,460	-\$12,165	

SMALL BUSINESS IMPACT STATEMENT

About 98.6 percent of impacted businesses are small businesses. California Government Code § 11346.3 defines small businesses as businesses with fewer than 100 employees that are not dominant in their field and are independently owned and operated. Based on the California Employment Development Department's (EDD) Size of Business Data for the second quarter of 2024 (the most recent data available at the time of analysis), out of 1,867,597 total business establishments in the state, 1,841,716 businesses (or 98.6 percent) have fewer than 100 employees.⁹ Because the proposed amendments will affect all business regardless of size, the Director has concluded that there will not be a significant adverse effect on small business for the reasons described above.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Director has determined that the proposed regulatory action will not have a significant adverse effect on private individuals. The proposed amendments simply add new categories of citations to the existing framework for issuing citations and calculating penalties for those citations.

ECONOMIC IMPACT ANALYSIS / ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The Director has made an initial determination that this proposed regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states or the creation, elimination, or expansion of business in California, and will not affect creation or elimination of jobs in the State of California. The proposed regulatory amendments are not projected to exceed the major regulation threshold because they do not have potential costs exceeding ten million dollars in any single year or fifty million dollars in any 12-month period. This regulatory proposal is intended to provide worker safety at places of employment in California. Additionally, the proposed changes will not create any new compliance obligations that will result in the creation or elimination of jobs.

HEALTH AND WELFARE BENEFITS FOR CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

This proposed regulatory action will benefit the welfare of California residents and worker safety by providing clarity and consistency to employers to incentivize compliance with their obligations to ensure safe and healthy workplaces. Citations for Egregious violations will compel, or strongly incentivize, the most

⁹ Source: EDD Size of Business Data, Table 1, second quarter of 2024. (Accessed 5/18/2025.) Navigate to <https://labormarketinfo.edd.ca.gov/LMID/Size-Data-for-CA-Quarterly.html> and click "Qtr 2" in the row titled "Number of Businesses, Number of Employees, and Payroll by Size of Business (Table 1)"

severe violators to comply with their occupational safety and health obligations due to the increased potential penalties, while employers across the State will likewise be compelled to ensure their written policies and actual practices are in compliance at all worksites within their control. These additional enforcement tools will further encourage employers in the entire State to ensure workplace safety, which benefits workers, their families, and the general welfare and well-being of residents of the State. California residents in general will benefit from improved occupational safety and health compliance in industries that have more of a direct impact or general environmental impact, e.g., increased compliance with occupational safety obligations that prevent fires or explosions at refineries (which would otherwise have an environmental and health impact on immediate residents).

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code Section 11346.5(a)(13), the Director has determined that there is no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency that would be more effective in carrying out the purpose for which this rulemaking is proposed, would be as effective and less burdensome than the proposed rulemaking, or would be more cost-effective to affected private persons and equally effective in implementing the purposes of the proposed rulemaking. The alternative would be not to amend sections 334, 335, and 336 to effectuate SB 606. This alternative has been rejected as being unreasonable, because it would not achieve the objectives of SB 606. Moreover, it would leave the Division unable to enforce the new provisions of the Labor Code by issuing citations for Enterprise-wide and Egregious violations, because there is no enforcement mechanism included in the language of SB 606.

The majority of the proposed changes to sections 334, 335, and 336 are required by changes to Labor Code sections 6317 and 6317.8, while the remaining proposed amendments to these sections are corrections to conform to changes in the lookback period for history and to correct other outdated references; the proposed changes to sections 332.4 and 340.4 are required to conform to existing law.

There is no reasonable alternative that would be both less burdensome than, and equally effective as, the proposed amendments in effectuating the statutory mandate of SB 606.

ANTICIPATED BENEFITS OF THE PROPOSAL

The majority of the proposed changes serve to implement and clarify the two new classifications of violation for which an employer can be cited, as set forth in Labor

Code sections 6317 and 6317.8. The changes explain how penalties will be calculated for these new classifications of citations, and ensure the application of the existing framework of factors to consider in classifying violations and calculating penalties for the two new classifications.

The clarification provides necessary specificity that will facilitate employers' compliance to ensure a safe and healthy workplace, which in turn directly benefits all workers in the State. This will contribute to ongoing efforts to ensure workplace safety that have individual and greater public economic impact and benefits. Implementation of these sections of the Labor Code will benefit workers by enhancing penalties for the most severe and repeated violations, which will serve as a deterrent against such violations and an incentive to comply with workplace safety and health protections.

The remainder of the proposed changes are corrections to the regulatory language based on changes to the law over time, and ensure that the regulations are at least as effective as their FedOSHA counterparts. These changes will benefit workers by raising the level of California protections. They will also benefit employers by providing clarity and a uniform standard where federal and California requirements differed.

DOCUMENTS AND RESOURCES RELIED UPON

1. California Legislative Information, Senate Bill No. 606, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB606
2. California Legislative Information, Labor Code section 6317, Jurisdiction and Duties, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6317&lawCode=LAB
3. California Legislative Information, Labor Code section 6317.8, Jurisdiction and Duties, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=6317.8&lawCode=LAB
4. California Code of Regulations, Title 8, section 332.4, Posting of Citation, Special Order, Order to Take Special Action, and Notice of No Violation After Investigation, https://www.dir.ca.gov/title8/332_4.html
5. California Code of Regulations, Title 8, section 334, Classification of Violations and Definitions, <https://www.dir.ca.gov/title8/334.html>
6. California Code of Regulations, Title 8, section 335, Factors Considered in Assessing Civil Penalties, <https://www.dir.ca.gov/title8/335.html>

7. California Code of Regulations, Title 8, section 336, Assessment of Civil Penalties, <https://www.dir.ca.gov/title8/336.html>
8. California Code of Regulations, Title 8, section 340.4, Declaration of Abatement, Other Documentation, Employer Notification and Posting Requirements, https://www.dir.ca.gov/title8/340_4.html
9. U.S. Department of Labor, Occupational Safety and Health Administration, OSHA Instruction, Directive Number CPL 02-00-167, Guidelines for Administating Corporate-Wide Settlement Agreements, Sept. 3, 2021, https://www.dir.ca.gov/title8/340_4.html
10. U.S. Department of Labor, Occupational Safety and Health Administration, OSHA Instruction, Directive Number CPL 02-00-080, Handling of Cases to be Proposed for Violation-by-Violation Penalties, Oct. 21, 1990, <https://www.osha.gov/enforcement/directives/cpl-02-00-080>
11. Labor and Workforce Development Agency, Department of Industrial Relations, Division of Occupational Safety and Health, Policy and Procedures Manual, P&P C-10A, Handling of Cases to be Proposed for Violation-by-Violation Penalties, 1994, <https://www.dir.ca.gov/DOSHPol/P&PC-10A.pdf>
12. U.S. Department of Labor, Occupational Safety and Health Administration, OSHA Instruction, Directive Number CPL 02-00-169, Severe Violator Enforcement Program (SVEP), Sept. 15, 2022, http://www.osha.gov/sites/default/files/enforcement/directives/CPL_02-00-169.pdf
13. Labor and Workforce Development Agency, Department of Industrial Relations, Division of Occupational Safety and Health, Policy and Procedures Manual, P&P C-200, Severe Violator Enforcement Program (SVEP), Nov. 29, 2023, <http://www.dir.ca.gov/DOSHPol/P&PC-200.pdf>
14. U.S. Department of Labor, Occupational Safety and Health Administration, Field Operations Manual (FOM), Chapter 6, Penalties and Debt Collection, <https://www.osha.gov/fom/chapter-6>
15. Labor and Workforce Development Agency, Department of Industrial Relations, Division of Occupational Safety and Health, Policy and Procedures Manual, P&P C-10, Completion of Proposed Penalty Worksheet, Jul. 6, 2004, <http://www.dir.ca.gov/DOSHPol/P&PC-10.pdf>
16. August 19, 2024 Advisory Committee Meeting, List of Advisory Committee Members, Attendance Sheets, and Minutes.
17. March 25, 2025 Advisory Committee Meeting, List of Advisory Committee Members, Attendance Sheets, and Minutes.

These documents are available for review by appointment Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Department of Industrial Relations, Division

of Occupational Safety and Health, 1515 Clay Street, Suite 1901, Oakland, California.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

PETITION

This proposal was not the result of a petition.

ADVISORY COMMITTEE

This proposal was developed with the assistance of advisory committees. The Division held two Advisory Committee Meetings on August 19, 2024 and March 25, 2025. A list of advisory committee members, attendance sheets, and minutes are included as Documents Relied Upon.

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code section 11359 or Health and Safety Code section 18930(a)(9) is not required.