

NOTICE OF PROPOSED ACTION

**CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS –
OFFICE OF THE DIRECTOR / DIVISION OF
OCCUPATIONAL SAFETY AND HEALTH
TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
GENERAL INDUSTRY STANDARDS, SECTIONS 332.4, 334, 335, 336, 340.4**

EGREGIOUS AND ENTERPRISE-WIDE VIOLATIONS

NOTICE IS HEREBY GIVEN that pursuant to the authority of the Director of the California Department Industrial Relations, the Division of Occupational Safety and Health (Division) proposes to amend regulations to incorporate Egregious and Enterprise-wide 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 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.

The majority of the proposed changes serve to implement and clarify two new classifications of violation for which an employer can be cited set forth under Labor Code sections 6317 and 6317.8, and to explain how penalties will be calculated for these violations. The remainder of the proposed changes are updates based on changes to the law over time and to ensure that the regulations are at least as effective as their Federal Occupational Safety and Health Administration (FedOSHA) counterparts.

PUBLIC HEARING

A public hearing has been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearing will continue until all oral comments are received, and will be held as follows:

Date: DECEMBER 03 2026
Time: 10:00 AM
Location: 1515 Clay Street, 13th Floor, Room 1304
Oakland, California 94612

OR

Join via ZOOM: <https://tkoworks.zoom.us/j/89594181435>

Call-in Number: 1 669 900 6833

Conference ID: 895 9418 1435 #

Pre-hearing registration will be conducted 30 minutes prior to the hearing. Registration will consist of a sign-in sheet at the room where the public hearing will take place. Those who are participating online may email their information, including their name, position, and company or organization they are affiliated with to sb606rulemakingcomments@dir.ca.gov. Those registered will be heard in order of their registration. We will first hear from those in-person followed by those who register online. Preregistration is optional. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their oral comments. The time allowed for each person to present oral comments may be limited if a substantial number of people wish to speak.

Individuals presenting oral comments are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral comments.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or their authorized representative, may submit written comments relevant to this proposed regulatory action. All written comments must be received no later than November 30, 2026, or may be submitted at the public hearing on December 3, 2026. Written comments may be submitted by mail, email, or fax as follows:

By mail to: Department of Industrial Relations
Division of Occupational Safety and Health
1515 Clay Street, STE. 1901
Oakland, CA 94612

ATTN: Egregious/Enterprise-Wide Citations Rulemaking –
Lisa Wong, Staff Counsels

By email to: sb606rulemakingcomments@dir.ca.gov

PERMANENT ADOPTION OF REGULATIONS

Following the public comment period, the Director may adopt the proposals, as described below, or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this notice and will be mailed to those persons who have submitted written or oral testimony related

to this proposal or who have requested notification of any changes to the proposal. The Board will accept written comments on the modified regulations during the 15-day period.

AUTHORITY AND REFERENCE

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. The proposed regulations implement, interpret, and make specific Labor Code sections 6317 and 6317.8, which require, among other things, that the Division issue citations for “Enterprise-wide” and “Egregious” violations as defined in Labor Code sections 6317 and 6317.8. Labor Code section 55 provides that the Director of DIR may make rules and regulations that are reasonably necessary.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking amends and adds to the language of the Director’s Title 8 regulations with respect to classifications of citations issued by the Division and calculation of penalties for two new types of citations. This rulemaking also includes several updates and corrections to the affected regulations to correct outdated references and errors and to ensure that they are at least as effective as analogous federal regulations. The proposed changes will allow the Division to issue Egregious and Enterprise-wide citations under the framework set forth in Labor Code sections 6317 and 6317.8.

SUMMARY OF EXISTING LAW AND EXISTING 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. 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 subject 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 THE 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).

A synopsis of the proposed changes is as follows:

Section 332.4. POSTING OF CITATION, SPECIAL ORDER, ORDER TO TAKE SPECIAL ACTION, AND NOTICE OF NO VIOLATION AFTER INVESTIGATION.

Amend to require that mandated notices must be posted in a conspicuous place or in places where notices to employees are customarily posted or provided, and in a manner that provides effective notice, unless the employer can demonstrate such posting is infeasible.

Section 334. CLASSIFICATION OF VIOLATIONS AND DEFINITIONS.

Amend to add definitions for two new classifications of citations: Egregious violations and Enterprise-wide violations.

Section 335. FACTORS CONSIDERED IN ASSESSING CIVIL PENALTIES.

Amend to correct the lookback period from three years to five years and to add a definition of "establishment" for the purposes of assessing an employer's History of Previous Violations, which is one of the factors considered in determining the penalty for a citation.

Section 336. ASSESSMENT OF CIVIL PENALTIES.

Amend to add a definition of the “Accident-Related” characterization for Serious violations that result in death or serious injury, illness, or exposure. Amend to remove a cross-reference to a subsection that no longer exists. Amend subsections related to abatement that Egregious and Enterprise-wide violations impact. Amend several subsections to explain the method for calculating penalties for Egregious and Enterprise-wide citations.

Section 340.4. DECLARATION OF ABATEMENT, OTHER DOCUMENTATION, EMPLOYEE NOTIFICATION AND POSTING REQUIREMENTS.

Change reference to “calendar days” to “working days” to conform to Labor Code section 6320.

The Director has evaluated the proposed changes pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a comprehensive system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement, under Labor Code sections 6317 and 6317.8, that the Division issue Egregious and Enterprise-wide citations, and (2) the requirement that the Division engage in rulemaking to effectuate Labor Code sections 6317 and 6317.8.

This proposal is required to implement changes to Labor Code sections 6317 and 6317.8, and the proposed amendments are at least as effective as the equivalent federal policies with respect to violation-by-violation penalties and corporate-wide settlement agreements.

ANTICIPATED BENEFITS OF THE PROPOSED ACTION

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.

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
- Costs to housing: NONE

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS IMPACT

The Director has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

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 ($\$10,000 \times 10$) 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

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.

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 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).

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.

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	O. Incremental Penalties	P. Incremental
				E. Initial	G. Initial		H.	I. Initial	J. Average	K. Estimated	L. Estimated		Average Receipts	(L - Sum of Initial	Savings
A. Year	B. Random Establishment ID	C. Primary NAICS	D. Standard	Penalty	F. Standard	Penalty	Standard	Penalty	Penalty	Number of Locations	Enterprise-Wide Penalty	M. Average Receipts	(L / M) x 100	(L - Sum of Initial Penalties)	(\$0 - N)
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

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

BUSINESS IMPACT

The Director has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting 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 the 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.

The Division has determined that the proposed regulatory action will not affect:

- The creation or elimination of jobs within California.
- The creation of new businesses or the elimination of existing businesses within California; or
- The expansion of businesses currently doing business within the state.

SMALL BUSINESS DETERMINATION

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.

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

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)"

compliance with their obligations to ensure safe and healthy workplaces. Citations for Egregious violations will compel, or strongly incentivize, the most 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 must determine 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 the action is proposed, that would be as effective and less burdensome to affected private persons than the proposed action, or that would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. 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 section 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.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Division has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons,

the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, and including any substantial changes to this proposal for at least 15 days prior to agency adoption of the proposed amendments, may be obtained upon request at the following location or from the contact people listed below:

Department of Industrial Relations
Division of Occupational Safety and Health
1515 Clay Street, STE. 1901
Oakland, CA 94612

The full text of any changes to the proposed regulations made pursuant to Government Code section 11346.8 will be available for at least 15 days before the Division adopts the resulting regulations.

In addition, the Notice of Purposed Action, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Department of Industrial Relations' website at the following address: www.dir.ca.gov/dosh

Questions regarding the regulatory process or clarification on the substance of this regulatory proposal may be directed to:

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