

# Attachment A

Economic and Fiscal Impact Statement (STD 399)  
Proposed 8 CCR § 331.8

## **ECONOMIC IMPACT STATEMENT**

### **Section A.3. – Enter the total number of businesses impacted.**

The total number of businesses impacted is approximately 60. It is not possible to precisely predict which labor and worker organizations would accompany the Division of Occupational Safety and Health (DOSH or Cal/OSHA, also referred to as the “Division”) on the walkaround inspections based on the new rule, but 60 is reasonable based on current data. For example, public data suggests that there are 46 union and employment alliances and advocate organizations in California. [Source: <https://www.causeiq.com/directory/union-and-employment-advocates-list/california-state/><sup>1</sup>] This number excludes labor unions. However, most labor unions would not be impacted by this rulemaking because current Division procedures already allow union representatives to accompany inspections of workplaces where there is a collective bargaining agreement in place. One industry where there is heavy participation of organizations representing employee interest is agriculture. Currently, there are 14 organizations (in addition to one labor union) with which the Department of Industrial Relations has partnered to share information about workers’ rights. [Source: Department of Industrial Relations, <https://www.dir.ca.gov/dlse/Agriculture-Community-Based-Organization-List.htm>] Based on the division’s experience and available data as to the number of employee representation organizations generally, 60 is a reasonable estimate of the number of organizations whose employees may accompany the Division on an inspection as a result of the proposed rule.

### **Section B. Estimated Costs.**

Although the proposed regulation imposes no new compliance actions or requirements on any business or individual, there may be an opportunity cost associated with a third party’s time spent attending a walkthrough inspection. This opportunity cost represents the value of the third party’s time and is not a direct cost borne by employers or individuals.

According to the federal Occupational Safety and Health Administration (OSHA), third party representatives tend to be employees of labor organizations and have job duties that include

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<sup>1</sup> Cause IQ’s data is sourced from tax-exempt organizations’ tax forms filed with the IRS. The data referred to here corresponds to organizations that identified themselves as relating to “Employment Alliances and Advocacy.” This data set was preferred over the EDD’s data because it seems to more accurately reflect the type of organization which may be impacted by the proposed rule, namely labor advocacy organizations that are not formal labor unions with collective bargaining agreements in place. The reason for this is that labor unions are already entitled to accompany the Division during workplace inspections where they represent the employees, without the need for a rule change. The EDD data searched was under NAICS code 813930 which includes labor organizations this was overly broad and far beyond the expected magnitude of impact. The Cause IQ data appears more in line with a reasonable number of organizations which could be expected to participate in representing employees during workplace inspections.

providing employee representation. [Source: Federal Register, Vol. 89, No. 63 (April 1, 2024) p. 22596, Section 10 (Societal Costs), last paragraph of the middle column, available at:

<https://www.govinfo.gov/content/pkg/FR-2024-04-01/pdf/2024-06572.pdf>] Thus, attending workplace inspections would fall within the existing job duties of the third party representative and would not constitute a new task or requirement.

The Division is unable to provide a precise estimate of this opportunity cost due to a lack of data regarding the frequency of third-party participation in inspections that would occur as a result of the proposed regulation. However, strictly for the purposes of providing a cost estimate as required for this Economic and Fiscal Impact Statement, the Division has made the following assumptions:

- The third party attending a walkthrough inspection is a Labor Relations Specialist (U.S. Bureau of Labor Statistics “BLS” Occupational Code 13-1075).
- The fully loaded salary of a Labor Relations Specialist is \$75.74 [ $\$53.34 * 1.42 = \$75.74$ ]. According to BLS, the average salary of a Labor Relations Specialist in California in 2023 was \$53.34. [Source: U.S. Bureau of Labor Statistics, May 2023 Occupational Employment and Wage Statistics (the most recent data available at the time of analysis). Navigate to [https://www.bls.gov/oes/2023/may/oes\\_ca.htm](https://www.bls.gov/oes/2023/may/oes_ca.htm) and scroll down to Occupation Code 13-1075. The average hourly wage is in the third column from the right.] This salary is multiplied by a factor of 1.42 to account for benefits (based on the ratio of average total benefits to average wages and salaries among private workers in the Pacific West,  $\$14.57 \div \$34.46 = 0.42$ ). [Source: U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation, December 2023. <https://www.bls.gov/web/ecec/ecec-private-dataset.xlsx>]
- The third party will attend between zero and 6,000 inspections, which is approximately the average number of inspections over the past three years. The average number of Cal/OSHA inspections between 2020 and 2022 (the most recent year available) is 5,980, which is rounded to 6,000 for these estimates. [Source: Department of Industrial Relations, Cal/OSHA Inspection Overview, which tallies all inspections statewide. <https://www.dir.ca.gov/dosh/statistics/Inspection-overview.html>]

For the point estimate of opportunity costs, the Division assumes that the third party will attend ten percent, or 600, workplace inspections. This assumption is strictly for the purposes of providing an estimate for the Economic and Fiscal Impact Statement, as the Division cannot predict ex ante how many inspections a third party may attend.

- Based on the Division’s experience and analysis of past inspections, the average inspection takes 4 hours, which may include a pre-inspection meeting, a walkthrough of the facility, and witness interviews.

Given these assumptions, the opportunity cost to a third party attending a walkthrough inspection may be valued at ~\$303 per inspection. [ $\$75.74 \text{ per hour times } 4 \text{ hours per inspection} = \$302.96$ ]

The total opportunity cost ranges from \$0 (if no inspections are attended) up to \$1.8 million (if all 6,000 inspections are attended), with an annual estimate of \$182,000 (if 600 inspections are attended), based on the Division's expectations. For the lifetime of the proposed rule, assumed to be ten years, the total cost would be \$1,820,000.

The estimated annual cost to a small business (100% of the total) which may be impacted would be \$3,033. This amount is calculated by dividing the total annual costs (\$182,000) by the total number of impacted small businesses (60). There will be no anticipated costs on typical (non-small) business. There would be no initial costs for any type of business because participating in a workplace inspection would be optional and consistent with work already performed.

## **FISCAL IMPACT STATEMENT**

### **Section A. 5. Fiscal Effect on Local Government**

The proposed rule would not have a fiscal impact on local governments because there would be no change to their obligations nor would the rule result in an increase or decrease in the number of workplace inspections.

### **Section B.3. Fiscal Effect on State Government**

The proposed rule would not have a fiscal impact on State government because there would be no change in obligations nor would the rule result in an increase or decrease in the number of workplace inspections.