

Cal/OSHA Enforcement Surge: Compliance and Legal Strategies

Wednesday

November 12, 2025



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Introductions



Kerri Greene

Principal Consultant, BSI Consulting

Kerri has 32 years of experience as an EHS regulator and consultant and excels in training, EHS management, and Cal/OSHA compliance for public entities.



Lisa Baiocchi

Senior Associate Attorney, The Prince Firm

Lisa represents clients in all aspects of Cal/OSHA and Fed/OSHA administrative processes and defense, assists employers with crisis response and enhancing safety programs, and manages pre- and post-appeal abatement issues before Cal/OSHA.



Joe Moulton, CSP, CHMM

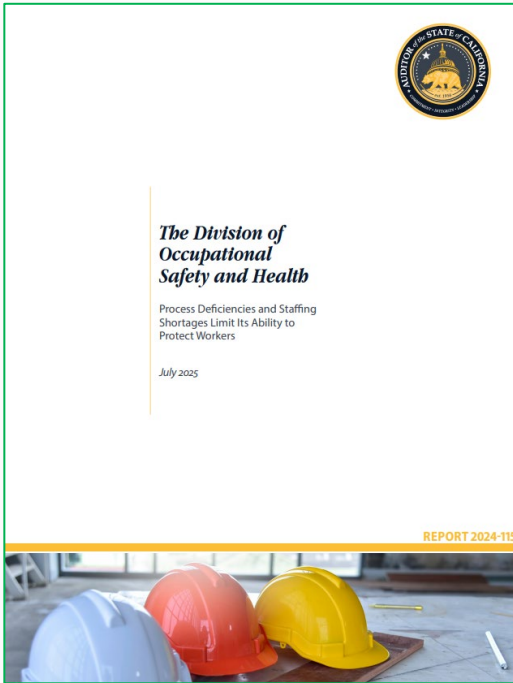
Principal Consultant, BSI Consulting

Joe is an EHS Principal Consultant with over 20 years of experience in regulatory compliance and risk mitigation.



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Background

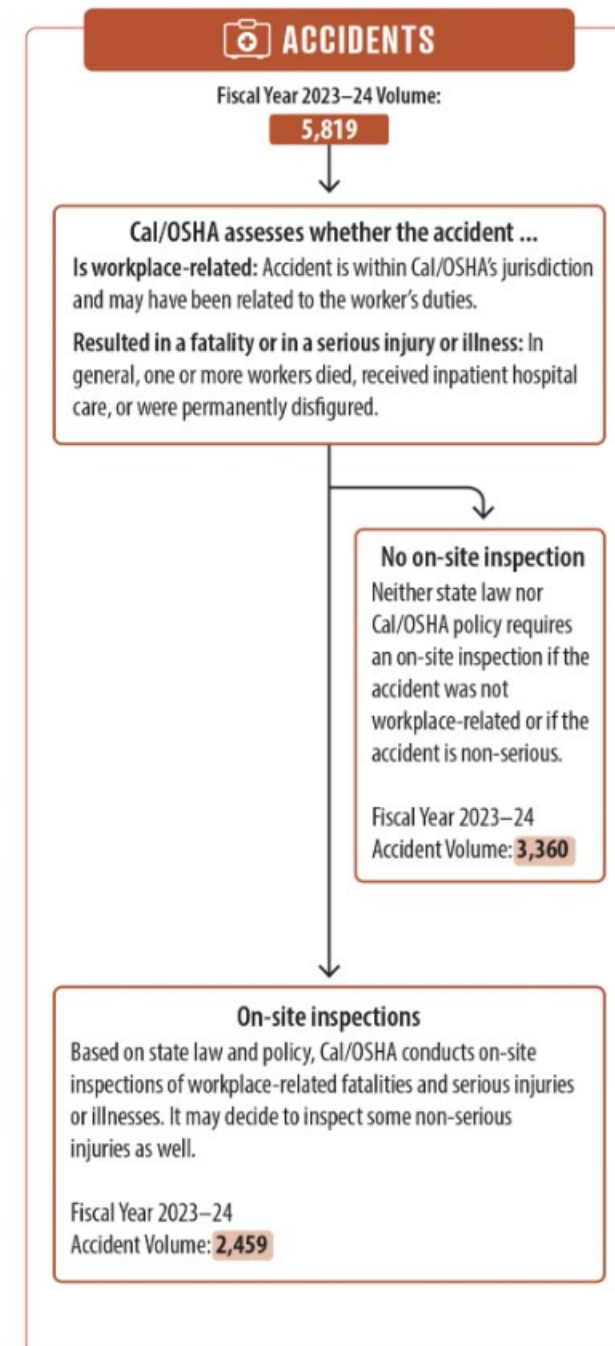
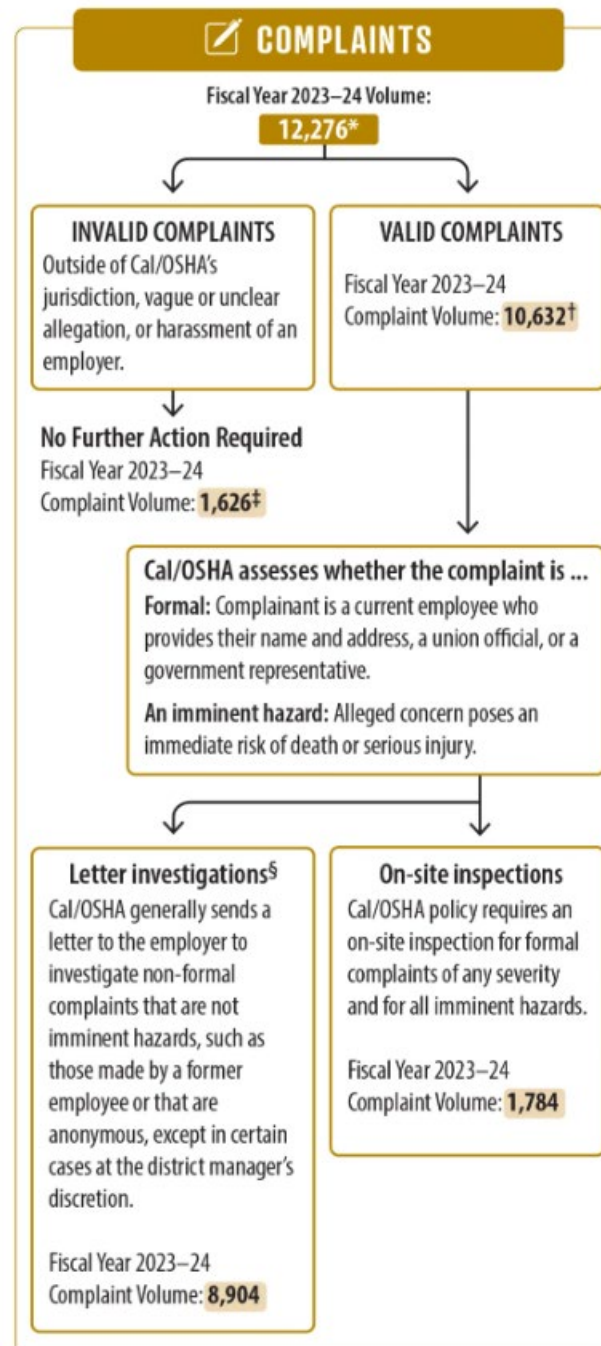


[The Division of Occupational Safety and Health: Process Deficiencies and Staffing Shortages Limit Its Ability to Protect Workers](#)

- California Assemblymember Liz Ortega (D-San Leandro) requested audit in 2024
 - Audit was conducted by Grant Parks of the State Auditor's office
- Findings released July 2025
- Reviewed 60 case files from 2019-2024
- Hearings held with leaders of Cal/OSHA before the state legislature
 - Chief of Cal/OSHA grilled by legislators

Background

- Findings:
 - Not enough inspections
 - 80% conducted by letter
 - 32% of positions unfilled
 - Inadequate paper trails
 - Lack of abatement documentation
 - Not enough citations, not enough serious citations
 - Penalties were not high enough





Poll

Have you had a Cal/OSHA interaction in the past?

Impacts

- Increased enforcement
 - More inspections
 - More citations
 - More serious classifications
 - Higher penalties
- Attempts to increase Cal/OSHA staffing
 - This is hampered by retirements, resignations and a complicated hiring process

STAGE ONE

- Cal/OSHA receives notification of potential workplace hazards and determines whether to conduct an on-site inspection.

The two main types of cases that Cal/OSHA investigates are:

COMPLAINTS

Workers, union officials, or anyone else can report a workplace health or safety concern to Cal/OSHA.

Example: Employer has not provided training for how to use machinery, putting workers at risk.

ACCIDENTS

Employers and first responders are required to report fatalities and serious injuries or illnesses to Cal/OSHA.

Example: Employee was injured by machinery and treated at a hospital.

STAGE TWO

- Cal/OSHA may conduct an on-site inspection to determine whether workplaces are free from occupational safety and health hazards.



KEY STEPS IN THE ON-SITE INSPECTION PROCESS:

- At least one Cal/OSHA inspector visits the worksite, usually unannounced.
- Inspectors conduct interviews, take photos, gather other evidence, and request documents from employers.
- Inspectors analyze the evidence and determine whether the employer has violated any workplace regulations.

STAGE THREE

- Cal/OSHA issues citations, assesses fines, and takes other actions to ensure that employers address any violations Cal/OSHA identified.



Cal/OSHA issues citations and fines.



Employers can appeal the citations and fines.



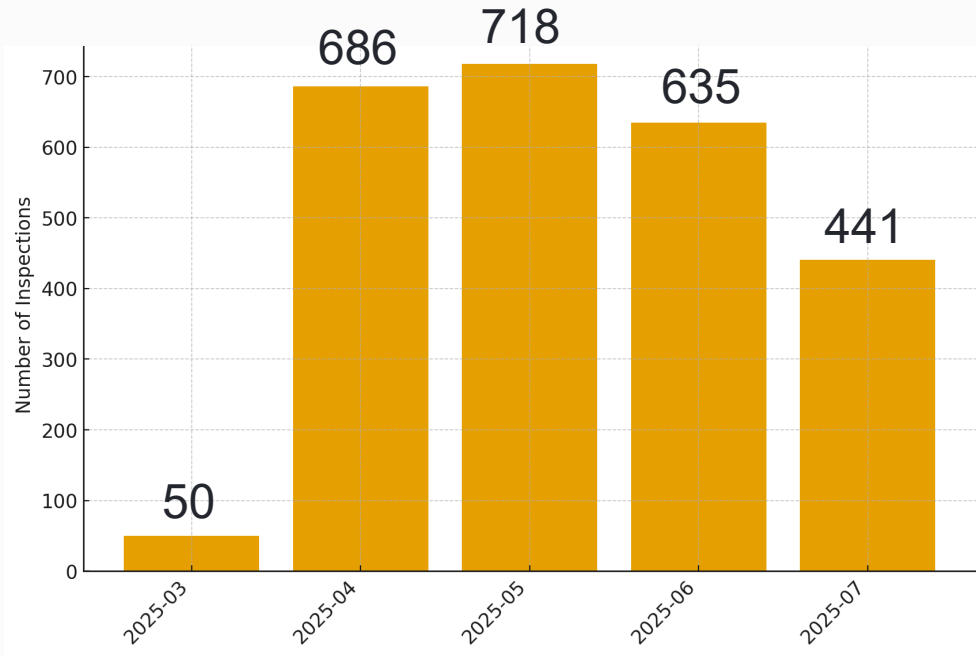
Cal/OSHA's bureau of investigations separately investigates some accidents for potential criminal conduct and can refer them to local prosecutors.

Impacts

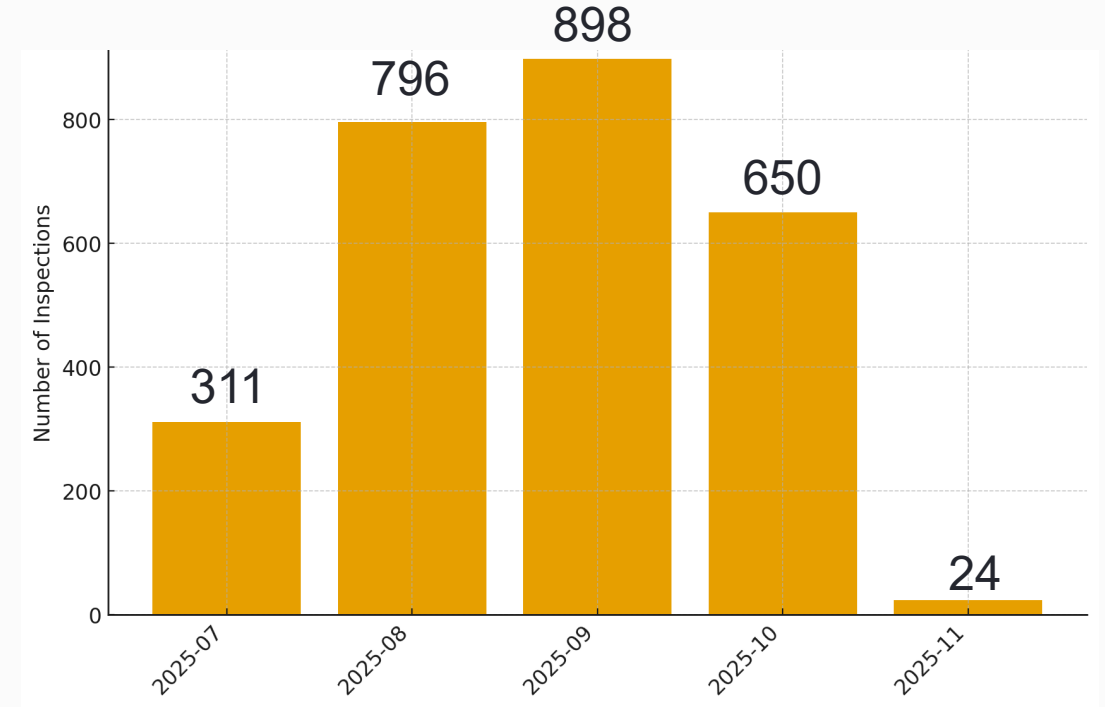
- Audit Recommendations:
 - Require thorough rationale for not conducting on-site inspections
 - More emphasis on factors other than source of complaint
 - Better supporting documentation for citations
 - Better evaluation of Employer's IIPP
 - More employee interviews
 - Update antiquated, hand-written paperwork system
 - Better documentation and proof of abatement
 - Documentation of rationale for penalty calculations and settlement justifications
 - More thorough BOI review and recommendations to D.A.
 - Improve staffing levels

Trending Cal/OSHA Interactions

Monthly Inspections Before Audit
3/7/25 to 7/17/25



Monthly Inspections After Audit
7/17/25 to 11/6/25



- Analyzed 112 day period before and after the audit release
- Increase of 150 inspections in time period after the audit
- Too early to tell increase of citations (6 month lag time)





Poll

Have you ever appealed or gone to a hearing for a Cal/OSHA citation?

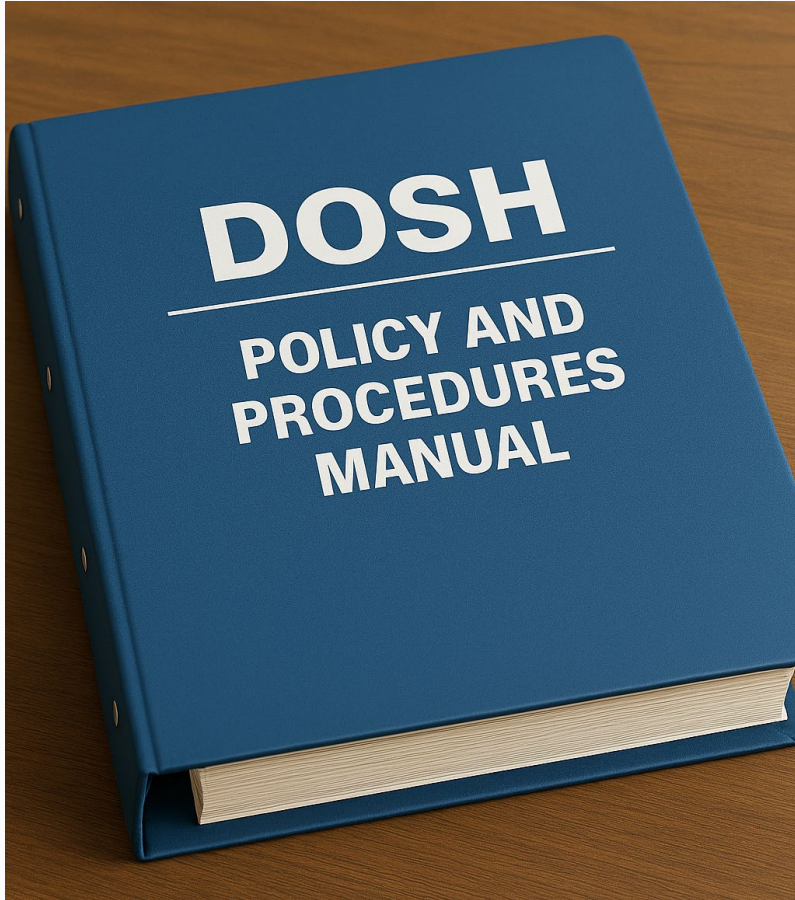
Impacts

- More aggressive inspections
 - Inspections have increased, but hiring has not
- Demand for more abatement documentation and specific actions
 - More Expedited Proceedings
- Refusal to negotiate Serious Accident Related citations
 - If there was a serious injury, the Division won't budge, regardless of evidence
- Inability to negotiate penalty reductions or stipulated penalties
 - As a result, inspectors, district managers and attorneys are overloaded

Impacts

- Legal Unit appears to be in charge of everything
 - All settlements involving Serious Accident Related citations must be approved
 - District Managers have no power or authority
- Many attorneys have quit because of current conditions
- Inspectors are being pulled into “new” units, many without explanation
- Many experienced District Managers retiring in the next two years

Prepare



- Be familiar with Cal/OSHA policy and procedures:
 - [Division of Occupational Safety and Health - Policy and procedure manual Volume II - Cal/OSHA compliance](#)
 - [INSPECTION PROCEDURES P&P C-1A](#)
 - [P & P C- 1B1 DOCUMENTING THE EXISTENCE OF A VIOLATION](#)
 - [DOCUMENTING THE CLASSIFICATION OF A VIOLATION](#)

Prepare

- Know the federal and state enforcement emphasis programs (EEP):
 - [Primary Metals Emphasis Program \(CPL 03-00-018B\)](#)
 - [Guidelines for Accessing Communication Towers by Hoist](#)
 - [Cranes and Derricks in Construction](#)
 - [Trenching and Excavations SEP](#)
 - [Heat SEP](#)
 - [Silica SEP](#)

Inspector can ask for documents related to EEPs even if the incident and inspection was unrelated to these issues

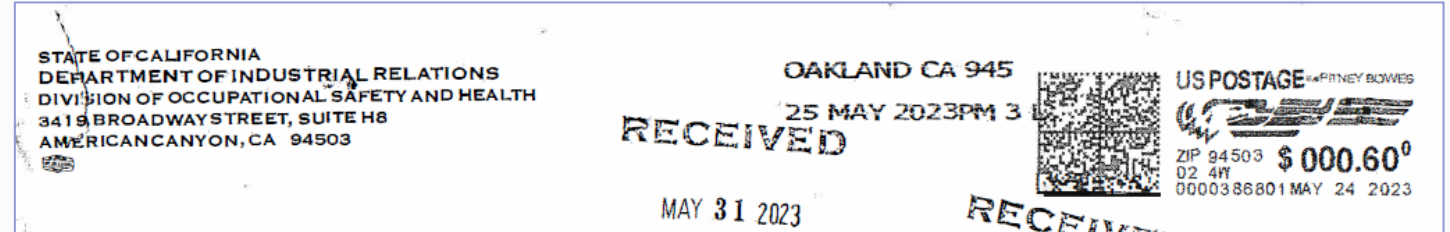


Poll

Do you feel confident that your employees would know what to do if Cal/OSHA visited or communicated with their site?

Prepare – letter or email communications

- Create procedures for response to Cal/OSHA site visits and communications via phone or email
 - Complaint letters
 - Document requests
- Communicate the procedures to key staff
 - Reception
 - Managers
 - Mail room



Prepare - On-site visit by inspector

- Employer rights and responsibilities
- Representative of management available during an inspection
- Posting Cal/OSHA communications as required:
 - Complaint letters
 - post in a prominent location in the workplace where it is readily accessible for employee review for at least three (3) working days or until the hazard is corrected, whichever is longer
 - Citation and Notification of Penalty
 - post at or near the place of the violation for three working days, or until the unsafe condition is corrected, whichever is longer

Prepare – On-site visit by inspector

- The compliance officer(s) will conduct interviews with a reasonable number of employees during the inspection, may use a translator (if needed), and may request consent from the employees to record the interviews
- Employees have a right to:
 - a private interview
 - may request a labor/employee representative to be present during the interview
 - may also refuse the interview
 - may refuse to be recorded

Keep your house in order

- Hazard assessments completed
- Document programs
- Silo your programs
- Procedures – in place and match current conditions
- Conduct inspections
- Complete corrective actions
- Training – completed and documented
- Documented disciplinary actions

DOCUMENT REQUEST



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STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH



www.dir.ca.gov/DOSH

DOCUMENT REQUEST

EMPLOYER: _____ DATE: _____ Postmark by: _____

EMPLOYER CONTACT: _____ Cal/OSHA Inspector: _____

As discussed during the inspection on _____, it has been determined that copies of the following documents are required for review. Please provide the Cal/OSHA inspector with the required copies by the "postmark" date noted above. If the copies are not provided by that date, it will be interpreted as an admission that the documents do not exist, and possible citations and monetary penalties could result.

	Federal ER ID No./	
<input type="checkbox"/> Licenses & Permits: <input type="checkbox"/> Business License <input type="checkbox"/> State ER Tax ID No. <input type="checkbox"/> CSLB <input type="checkbox"/> Garment Reg. <input type="checkbox"/> Farm Labor Contractor		Rec'd _____
<input type="checkbox"/> Facility Layout (floor plan, evacuation routes, etc)		Rec'd _____
<input type="checkbox"/> OSHA Log 300 (from _____ to _____) 8 CCR 14301		Rec'd _____
<input type="checkbox"/> OSHA 5020 (Employer's First Report of Injury)		Rec'd _____
<input type="checkbox"/> DWC Form 1 (Worker's Compensation Claim)		Rec'd _____
<input type="checkbox"/> Worker's Compensation Insurance Carrier		Rec'd _____
<input type="checkbox"/> Injury and Illness Prevention Program (written safety program) 8 CCR 3203		Rec'd _____
<input type="checkbox"/> Safety Inspection Records		Rec'd _____
<input type="checkbox"/> Employee Training Records		Rec'd _____
<input type="checkbox"/> Safety Committee Meeting Minutes		Rec'd _____
<input type="checkbox"/> Heat Illness Prevention Program 8 CCR 3395		Rec'd _____
<input type="checkbox"/> First Aid Kit approval 8 CCR 3400		Rec'd _____
<input type="checkbox"/> Emergency Action Plan 8 CCR 3220		Rec'd _____
<input type="checkbox"/> Fire Prevention Plan 8 CCR 3221		Rec'd _____
<input type="checkbox"/> Hazard Communication Program 8 CCR 5194		Rec'd _____
<input type="checkbox"/> Material Safety Data Sheets, for _____		Rec'd _____
<input type="checkbox"/> Respiratory Protection Program 8 CCR 5144		Rec'd _____
<input type="checkbox"/> Hearing Conservation Program (Noise) 8 CCR 5097		Rec'd _____
<input type="checkbox"/> Exposure Control Plan / Bloodborne Pathogens 8 CCR 5193		Rec'd _____
<input type="checkbox"/> Workplace Exposure Records/Monitoring Results		Rec'd _____
<input type="checkbox"/> Chemical Hygiene Plan 8 CCR 5191		Rec'd _____
<input type="checkbox"/> Carcinogen Registration 8 CCR Article 110		Rec'd _____
<input type="checkbox"/> Permits / Variances, for _____		Rec'd _____
<input type="checkbox"/> Maintenance Records of Equipment		Rec'd _____
<input type="checkbox"/> Safety Instructions / Equipment Manuals		Rec'd _____
<input type="checkbox"/> _____		Rec'd _____
<input type="checkbox"/> _____		Rec'd _____


If you require an extension of time in order to satisfy this request, please contact the Cal/OSHA inspector identified with your inspection at the phone numbers above **before** the deadline.

INSPECTION NO. _____ INSPECTOR ID. _____ OPT RPT NO. _____

Cal/OSHA 1AY(08/08)


Enforcement Response Strategies


- Notice of Intent to Issue Serious Citation (aka, the 1BY)
 - Should you respond?
 - Repercussions of responding

STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS Division of Occupational Safety and Health Fremont District Office 39141 Civic Center Drive, Suite 310 Fremont, CA 94538 Tel. # (510) 794-2521 Fax # (510) 794-3889	GAVIN NEWSOM, Governor 
Employer's Signed Response to Notice of Intent to Classify Citation As Serious <small>(Please attach additional information and evidence as necessary to support your response and a copy of the Division's "Notice of Intent to Classify Citation As Serious")</small>	
<p>I have reviewed the forgoing statement and declare that it is true and correct to the best of my knowledge and that all submitted information, including supporting evidence, is accurate. I understand that pursuant to Labor Code section 6432, this statement and any additional statements and supporting evidence submitted by me can be used by the Division in support of any citation issued.</p> <p>Employer: _____ Signature: _____ Date: _____ Name: _____ Title: _____</p>	
<p style="text-align: center;">OFFICE USE ONLY</p> <p>The above statement and attached document has been received and considered prior to issuance or non-issuance of proposed serious citation.</p> <p>Compliance Safety and Health Officer: _____ Date: _____ District Manager: _____ Date: _____</p> <p>Comments: _____</p>	

Response Strategies

- Citations
 - Does the cited standard apply?
 - Is the standard being appropriately interpreted?
 - Are some of the citations duplicative?
 - Is there a reasonable affirmative defense?
 - Have the citations been issued as “corrected during inspection”?

STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS Division of Occupational Safety and Health Fremont District Office 39141 Civic Center Drive, Suite 310 Fremont, CA 94538 Tel. # (510) 794-2521 Fax # (510) 794-3889	GAVIN NEWSOM, Governor 
NOTICE OF INTENT TO CLASSIFY CITATION AS SERIOUS	

State of California Department of Industrial Relations Division of Occupational Safety and Health Sacramento District Office 1750 Howe Avenue, Suite 430 Sacramento, CA 95825 Phone: (916) 263-2800 Fax: (916) 263-2798	
CITATION AND NOTIFICATION OF PENALTY	

Response Strategies

- Informal conference
- To appeal or not to appeal
 - Low cost penalties, low headache to pay and move on
 - Risk of repeat citations and higher, repeat penalties
- Appeal citations within required timelines

STATE OF CALIFORNIA

GAVIN NEWSOM, *Governor*

DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Occupational Safety and Health
Fremont District Office
39141 Civic Center Drive, Suite 310
Fremont, CA 94538
Tel. # (510) 794-2521 Fax # (510) 794-3889



NOTICE OF INTENT TO CLASSIFY CITATION AS SERIOUS

State of California
Department of Industrial Relations
Division of Occupational Safety and Health
Sacramento District Office
1750 Howe Avenue, Suite 430
Sacramento, CA 95825
Phone: (916) 263-2800 Fax: (916) 263-2798



CITATION AND NOTIFICATION OF PENALTY



Discussion and Questions





Thank you!

Kerri Greene

Principal Consultant

Kerri.Greene@bsigroup.com

510.995.5404

Joe Moulton

Principal Consultant

Joe.Moulton@bsigroup.com

510.681.9728

the**prince**firm | CAL/OSHA
FOR EMPLOYERS

Lisa Baiocchi

Senior Associate

lisab@lisaprincelaw.com

707.978.7900

<https://lisaprincelaw.com/>



For more information: consulting@bsigroup.com