

# 2024 Cal/OSHA Webinar series

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## Annual Cal/OSHA Enforcement and Regulatory Update: Are you Ready for 2025?

December 5, 2024

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- Previously, Rachel was a partner and led the national OSHA Practice at an AmLaw 100 law firm.



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- Counsels employers on compliance with employment laws and OSHA regulations



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# Andrea O. Chavez

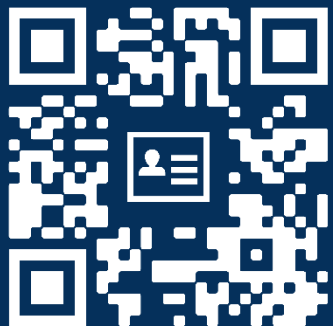
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**Andrea O. Chavez** is a Senior Counsel in the Los Angeles office. Her practice focuses on Cal/OSHA, labor law, California employment law advice and counseling, and complex employment litigation.

- Litigated California's first citations under the Cal/OSHA Aerosol Transmissible Disease standard on behalf of a leading healthcare system.
- Defended and settled wage-and-hour class actions brought under federal and state law involving overtime calculations, meal and rest periods, vacation policies, unlawful deductions from wages, bonuses, exempt classification, and California Private Attorneys General Act actions.

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A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic red-orange towers and suspension cables are prominent against a clear blue sky with a few wispy clouds. The bridge spans across the dark blue water of the Golden Gate Strait. In the foreground, a rugged, brownish-orange cliffside is visible on the left. The city skyline of San Francisco is faintly visible in the distance across the water. A white sailboat is seen on the water near the bridge's base.

# Enforcement Update

# Cal/OSHA Staffing Update

- Cal/OSHA has been filling its ranks across all vacancies (safety engineers, managers, legal, etc.)
  - Vacancy rate 18 months ago was 35%; as of November 2024, vacancy rate is 24%
  - Bureau of Investigations filled 8+ positions
  - Process Safety Management has doubled
  - Consultation onboarded all 19 vacancies for consultants
- Cal/OSHA continues to prioritize hiring and otherwise filling vacancies

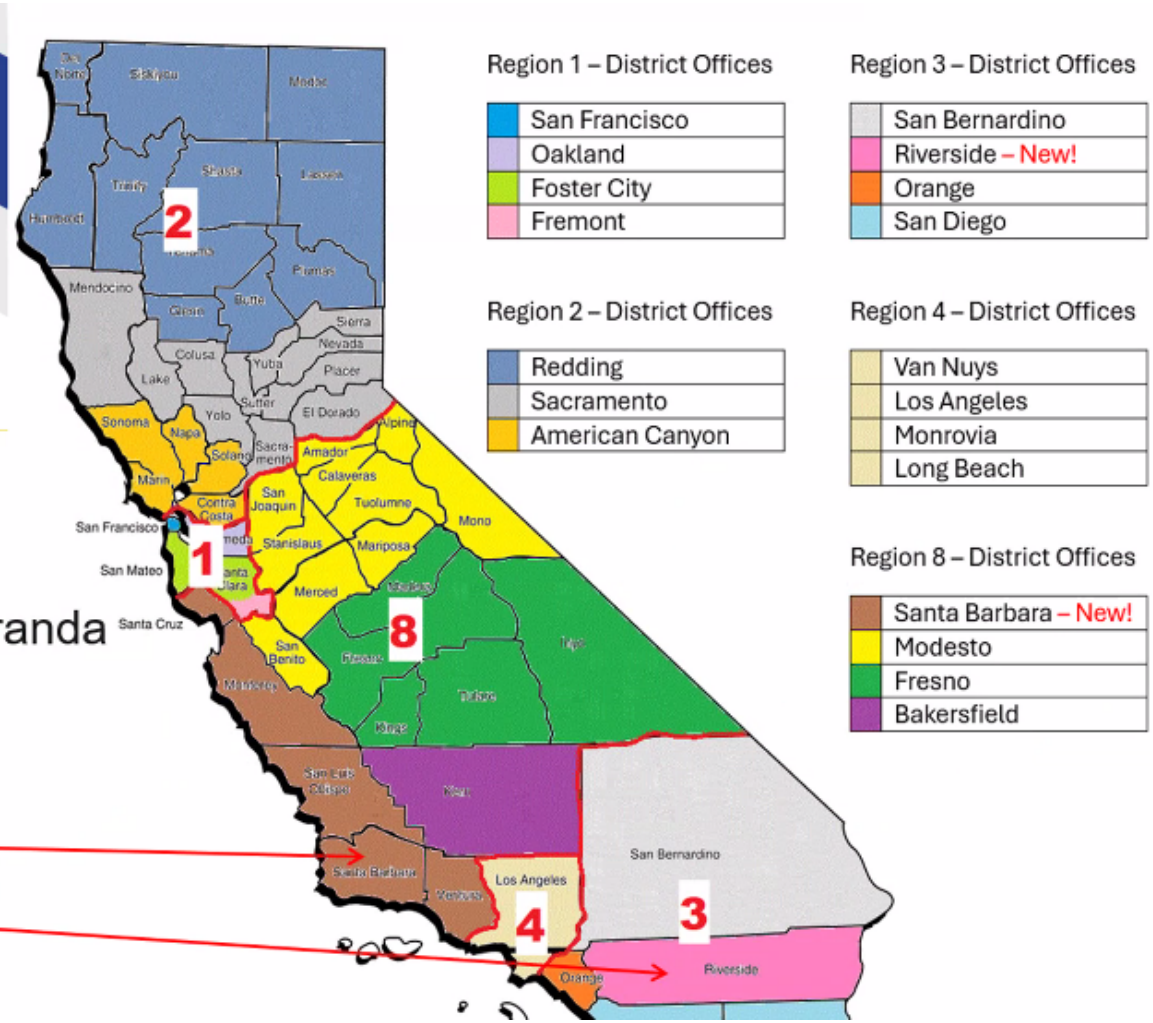
# Cal/OSHA Enforcement Expansion

- New Region 8 under Regional Manager Eddie Miranda
- Agricultural Enforcement Task Force
  - Will run like LETF or High Hazard Unit as its own state-wide unit focusing on safety of farm workers, agricultural employers
  - Will have 5 district offices with multiple field offices, under Regional Manager Edgar Gonzalez

# Updated Enforcement Map

## Updated Enforcement Map

- 1 New Region
  - Region 8 - Central CA
  - Regional Manager - Eddie Miranda
- 2 New District Offices
  - Santa Barbara
  - Riverside



# Cal/OSHA Update on Avian Flu

- DIR in coordination with CDPH and other agencies are monitoring
- Updated resources and collaboration in process
- Dedicated webpage
- Cal/OSHA will respond to any serious injuries or worker complaints as required
- Outreach to employers conducted by Consultation Unit

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic red-orange towers and suspension cables are prominent against a clear blue sky with a few wispy clouds. The bridge spans across the dark blue water of the Golden Gate Strait. In the foreground, a rugged, brownish-orange cliffside is visible on the left. The city skyline of San Francisco is faintly visible in the distance across the water. A white sailboat is seen on the water near the bridge's base.

# Rulemaking Overview

# Rulemaking Overview

- Informal Rulemaking: Advisory Committees, Advisory Meetings, Discussion Drafts
- Formal Rulemaking:
  - Regular and Emergency
  - Must follow Administrative Procedure Act
  - Approved by Office of Administrative Law
- Cal/OSHA, Cal/OSH Standards Board, Cal/OSH Appeals Board

# Advisory Committee Updates

- Held on August 22, 2024, and November 14, 2024
- Over 20 rulemakings in the queue:
  - First Aid – Consistency with ANSI standard. Make it easier for employers to purchase a compliant kit (rather than getting all things on list). Goal to have it ready for rulemaking early 2025. \*Doesn't include opioid reversal medication.
    - Opioid reversal (Petition 602)- Stds Bd. recently granted and in response to increased overdoses at work. Would require medication at worksites and training.
  - Couple bills requiring Cal/OSHA to review and revise HIPP and Wildfire Smoke. Goal to have those drafts posted and schedule advisory committee meetings.
    - PSM and Refineries (Petition 601)- Stds Bd. recently granted. Requests “petroleum” be stricken so PSM applies to all refineries, including renewables.

# Advisory Committee Updates

- Held on August 22, 2024, and November 14, 2024
- Over 20 rulemakings in the queue:
  - Silica: 2<sup>nd</sup> 15-day change posted. Comment period ended. Goal for vote at December Standards Board meeting. This will incorporate emergency regulations into the permanent regulation.
  - Workplace Violence Prevention for General Industry. Cal/OSHA received comments on draft and will schedule advisory committee (Cal/OSHA looking at latter half of January).
  - Aerosol Transmissible Diseases, Walking-Working Surfaces, PELs, and more.

# Workplace Violence Prevention: Cal/OSHA Regulation

## WVP Overview

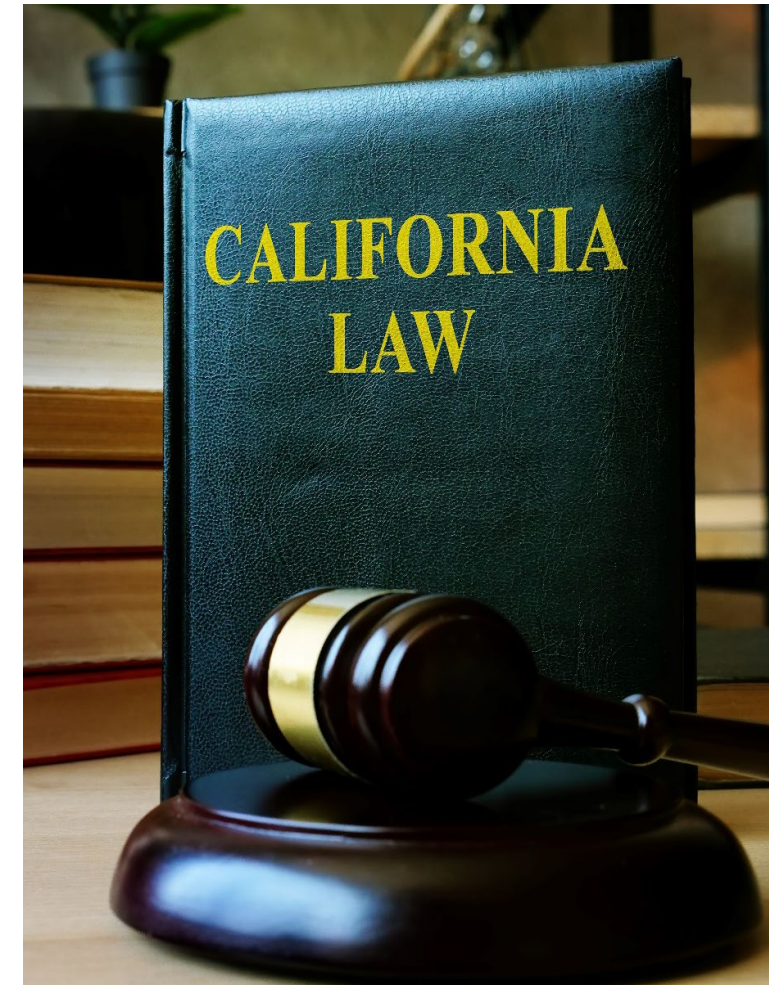
- How we got here (Cal/OSHA's work pre-SB 553)
- Where we're going:
  - Ongoing regulatory process
  - Changes expected to present law
  - Relevant dates/timeline



# Workplace Violence Prevention: Cal/OSHA Regulation

## How did we get here? (SB 553, 2023)

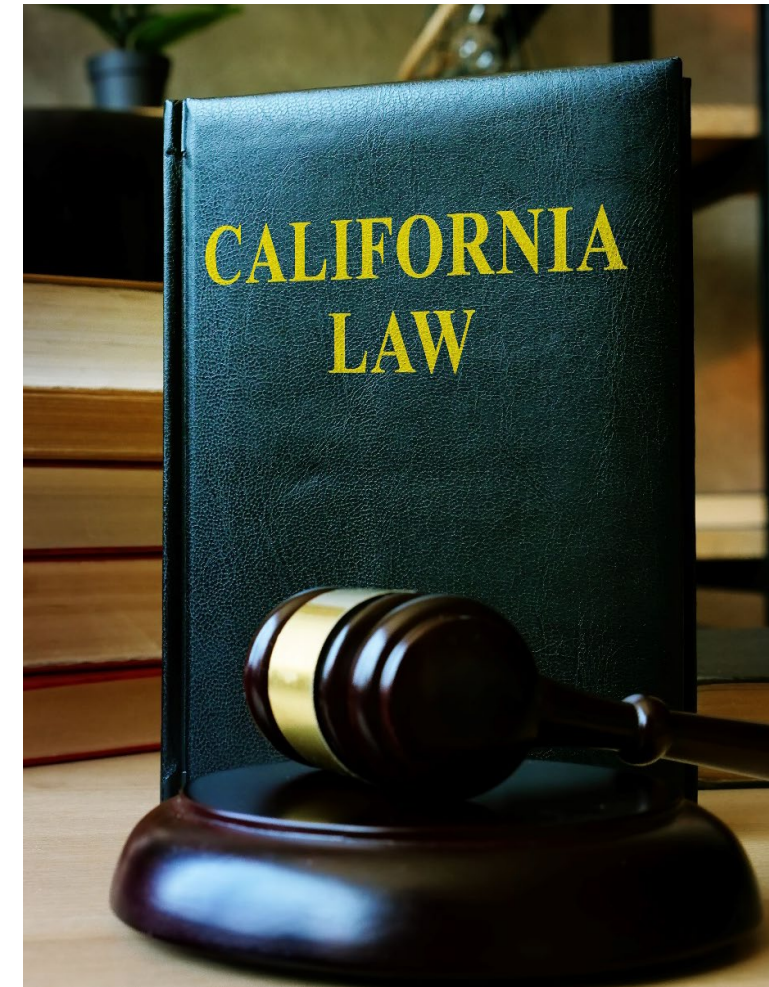
- Labor Code calls for the Division to propose no later than Dec. 31, 2025, and the Standards Board to adopt no later than Dec. 31, 2026, standards regarding the required plan
- Standard must include, at a minimum, requirements outlined in Sec. 6401.9 and “any additional requirements the Division deems necessary and appropriate to protect employees’ health and safety”
- Prior to SB 553, Cal/OSHA published a discussion draft in May 2022



# Workplace Violence Prevention: Cal/OSHA Regulation

## How did we get here? (SB 553, 2023)

- During 2023 legislative process, negotiations were focused on a United Farm & Commercial Workers (UFCW) draft, and Cal/OSHA's May 2022 draft.
- Cal/OSHA kept saying: "A revised draft is coming"... But it never materialized.
- July 15, 2024, revised discussion draft published, with comments accepted through Sept. 3, 2024. Information [here](#).
- Advisory Committee meeting expected in late 2024.



# Draft WVP Standard: New Examples

- Inserted examples of “engineering controls” and “work practice controls” added to the text. ((b)(2)/(7))
- Inserted examples of workplace violence hazards also added. ((c)(9)(A))
  - “working alone”
  - “presence of money or valuable good”
  - “working late at night or early morning”
  - “selling, distributing, or providing alcohol, marijuana, or pharmaceutical drugs.”



# Draft WVP Standard: Communication and Records



- Employers must communicate with “authorized employee representatives,” as well as employees, regarding how to report incidents, how incidents will be investigated, and the results of workplace violence investigations ((c)(6)).
- Employers must create and maintain records of workplace violence complaints and keep the identity of reporting employees confidential unless the employee *expressly* requests their identity be shared ((c)(6)(A)).
- Employers must keep a record of correction measures considered or implemented to address workplace violence hazards. ((c)(6)(B)).
- Employees can remove themselves from any unsafe condition when necessary, without fear of reprisal. ((c)(10)(C)).

# Draft WVP Standard: Inspections & “Confronting”

- **Inspections:** Existing law requires inspections: (1) when WV Plan established; (2) after each incident; (3) when employer learns of a new hazard.
  - **New inspection requirement:** Inspections must also be conducted “when new substances, processes, and procedures, or equipment are introduced to the workplace that represent a new hazard.” ((c)(9))
- **New prohibition on “confrontation” policies:** Employers cannot require or encourage employees to “confront” persons suspected of committing a criminal act or persons suspected of engaging in workplace violence. However, there is an exception for “Dedicated security personnel.”
  - Topic heavily discussed during legislative process – likely to be hotly disputed during regulatory process.

# Draft WVP Standard: New Post-Incident Procedures



- Identifying and evaluating whether appropriate corrective measures developed under the Plan were effectively implemented and if any new or additional corrective measures are recommended ((c)(11)(F)).
- Soliciting from employees involved in the incident their opinions regarding the cause of the incident, and whether any measure would have prevented the incident ((c)(11)(G)).
- For each workplace violence incident, prepare a written investigation report, which must include all the following:
  1. Description of how the employer complied with all the above requirements.
  2. All information the employer received or produced regarding subsections (c)(11)(E) through (c)(11)(G).
  3. Results and recommendations of the incident investigation.

# Draft WVP Standard: New Post-Incident Procedures



## Additions in draft include specific procedures for post-incident response and investigation, including:

- Providing immediate medical care or first aid to employees who have been injured in the incident. ((c)(11)(A)).
- For employers with more than 25 employees, making available individual trauma counseling to employees affected by the incident. ((c)(11)(C)).
- Identifying all employees involved in the incident (names, and other personal identifiable information can **not** be included in the written investigation report). ((c)(11)(B)).
- Conducting a post-incident debriefing as soon as possible after the incident with employees, supervisors, and security involved in the incident. ((c)(11)(D)).
- Identifying and evaluating any workplace violence hazards that may have contributed to the incident ((c)(11)(E)).

# Draft WVP Standard: New Post-Incident Procedures

## Authorized Employee Representative Additions:

- Employers must communicate with “authorized employee representatives,” as well as employees, regarding:
  - How to report incidents;
  - How incidents will be investigated; and
  - Results of workplace violence investigations & corrective actions



# Draft WVP Standard: Timeline Refresher

**Remember: Present text of Labor Code Section 6401.9 remains in effect during process.**

- Expect an advisory committee early 2025?
- Likely a new draft text released before that advisory committee
- Final text must be proposed by Division staff by December 2025
- Final Standards Board must vote by December 2026
- New text in effect approximately early 2027

... But Cal/OSHA does sometimes miss deadlines.

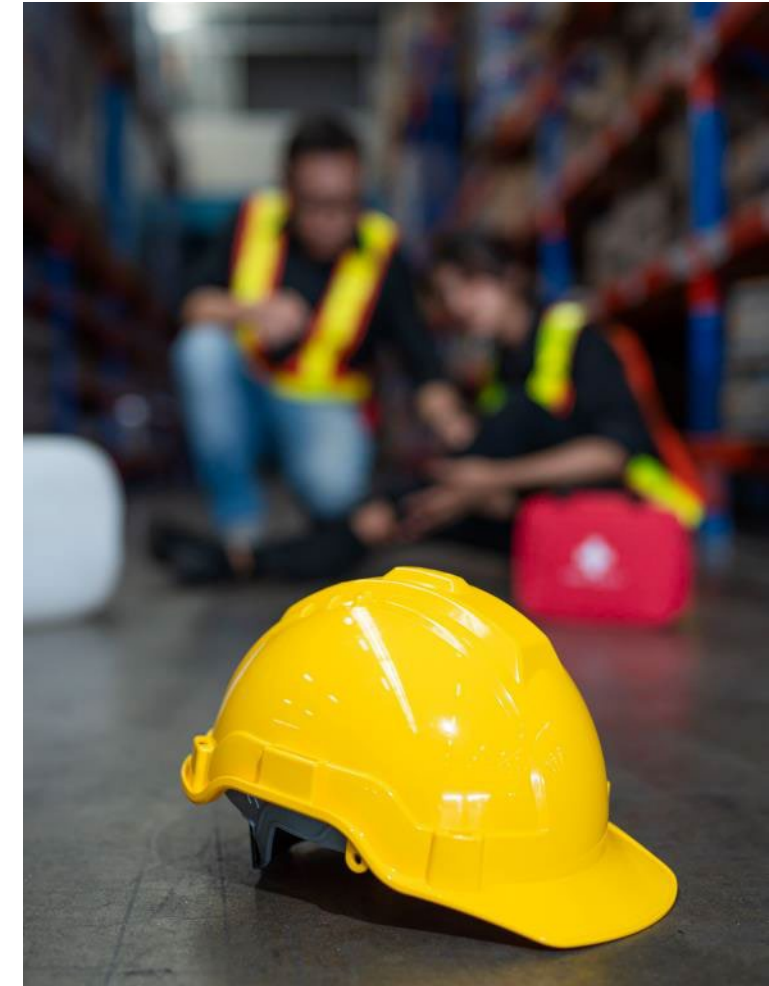
# Enterprise-Wide and Egregious Violations

- 2021- Governor Newsom signed SB 606 into law as Labor Code secs. 6317 and 6317.8.
  - Amendments to:
    - 8 CCR 334-Classifications of Violations & Definitions.
    - 8 CCR 336-Assessment of Penalties.
  - Revisions to add “egregious” classification and “enterprise-wide” violation.
  - Proposed regulatory changes to implement the new law are being drafted by the Division
- An egregious violation is a *willful violation plus an egregious in the last 5 years* or one or more of the following:
    1. The employer, intentionally, through conscious, voluntary action or inaction, made no reasonable effort to eliminate the known violation.
    2. The employer has a history of one or more Serious, Repeat, or Willful violations or more than 20 General or Regulatory violations per 100 employees.
    3. The employer intentionally disregarded their health and safety responsibilities...
    4. The 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.

# Enterprise-Wide and Egregious Violations

5. Within the five years preceding a citation for an egregious violation, the employer committed five or more violations that became final determinations.
6. The violations resulted in worker fatalities, a worksite catastrophe, or five or more injuries or illnesses. For purposes of this paragraph, 'catastrophe' means 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.
7. Within the 12 months immediately preceding the underlying violation, 10% of all employees at the cited worksite sustained workplace injuries or illnesses.

Note: New section 336(i) will require the Division to issue a separate citation and proposed penalty for each exposed worker, up to \$158,727.



# Enterprise-Wide and Egregious Violations

- Provides for a rebuttable presumption that a violation is “**enterprise-wide**” when either of the following is true:
  - The employer has a **written policy or procedure that violates section of the Health and Safety Code or Labor Code, or**
  - The Division finds evidence of “**a pattern or practice of the same violation or violations involving more than one of the employer’s worksites.**”
- Initial penalty shall be multiplied by number of affected worksites, up to \$158,727.
- Daily penalties for failing to abate an enterprise-wide violation. No penalty adjustments/abatement credits.

## COVID-19 Update

- COVID-19 Permanent Rule begins to sunset end of February 2025 with recordkeeping ending February 2026.
- Cal/OSHA has indicated that it will publish a discussion draft and schedule advisory committee for a proposed permanent infectious disease or ATD standard after the existing COVID-19 regulation sunsets.

A photograph of the Golden Gate Bridge in San Francisco, California, viewed from a high angle. The bridge's iconic red-orange towers and suspension cables are prominent against a clear blue sky with a few wispy clouds. The bridge spans across the dark blue water of the bay, with a small white sailboat visible in the distance. The foreground shows the rugged, brownish-orange rock of the bridge's base.

# **Workplace Violence Prevention: Cal. Labor Code Requirements**

# SB 553 – CA Workplace Violence

Signed by Gov.  
Newsom

Sept. 20, 2023

July 1, 2024

**All employers are required  
to establish, implement,  
and maintain an effective  
Workplace Violence  
Prevention Program**

## Exempted Workplaces under Labor Code Sec. 6401.9:

1. Facilities covered by and that comply with Cal/OSHA's Violence Prevention in Health Care std.
2. Facilities operated by the California Department of Corrections and Rehabilitation
3. Law enforcement agencies
4. Teleworking employees
5. Workplaces not publicly accessible, with < 10 employees present at once, that comply with IIPP

# SB 553 – CA Workplace Violence Overview

- Establish, implement, and maintain an *effective* written workplace violence prevention plan
- Workplace violence hazard identification (inspections), evaluation, and correction
- Violent incident log and investigation
- Training
- Recordkeeping



# Practical Implementation Advice

## WVPP

- Consider the use of job titles, not names
- Have you identified the right people
  - Consider impact of other laws
- Maintain separate from IIPP
- What is considered an “incident”?
  - Remember, an incident triggers the need for an investigation, inspection, and log entry



# Practical Implementation Advice

## WVPP

- Customize for each worksite
  - Potential for enterprise-wide citations
- Align with your IIPP & EAPs
- Revise as needed
  - Effective plans = compliance



# Practical Implementation Advice

## WVPP

- In multi-employer worksites, have you coordinated with other employers?
  - Reporting protocol
  - Communicating threats effectively
  - Site-wide notifications during WVP emergencies

## Logs

- Ensure that they are being consistently filled out



# Practical Implementation Advice

## Inspections

- Maintain WVP inspection records separate from other inspections
- Depending on your level of risk, consider separate security assessments

## Training

- Beware of generic training
  - Must be able to customize
  - Ensure you are meeting the interactive requirement



# WVP-Cal/OSHA Enforcement

## Four Levels of Review:

- 1) Review for all elements
- 2) Review to ensure it includes enough detail
- 3) Does it address the potential hazard?
- 4) At multi-employer sites, compare plans side-by-side

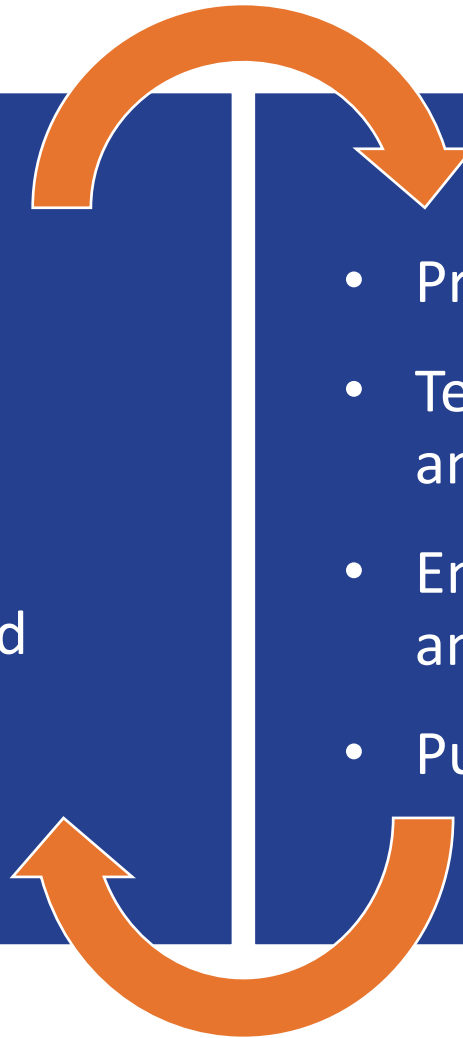
***\*Beware of potential inconsistent enforcement***



# Intersection of Laws

- Workers Compensation
- Privacy laws
- The ADA and related state laws
- Other discrimination issues
- Premises liability
- Negligent hiring, supervision, and retention
- Accommodation for domestic violence victims

- Privilege and confidentiality
- Temporary restraining orders (TROs) and injunctions
- Employee searches (physical and electronic)
- Public records search



A wide-angle photograph of the Golden Gate Bridge in San Francisco, California, taken during the "golden hour" of sunset. The bridge's iconic red-orange towers and suspension cables are silhouetted against a sky that transitions from a pale yellow near the horizon to a deep, clear blue at the top. The bridge spans across the dark blue waters of the Golden Gate Strait. In the foreground, the rugged, brownish-orange rock of the bridge's anchorage is visible on the left. A small white sailboat is seen on the water in the distance. The overall scene is serene and iconic.

# Additional CA Legislative Updates

# Additional California Legislative Updates

## AB 1976 - First Aid Kits: Naloxone Hydrochloride

Adds Labor Code Section 6723- Enacted

- By 12/1/27, Cal/OSHA must submit a proposal to the Standards Board to require first aid materials in the workplace to include naloxone hydrochloride.
- Must provide guidance on proper storage in accordance with manufacturer's instructions.
- Standards Board must consider revisions by 12/1/28.
- Individual who administers naloxone hydrochloride in a suspected opioid overdose emergency shall not be liable for civil damages as provided in H&S 1799.13.

## Cal/OSHA Petition 602: Opioid Reversal Medication

- Calls for amendments to section 3400 (Medical Services and First Aid) and Construction Safety Order section 1512 (Emergency Medical Services) to require opioid overdose reversal medication at job sites along with worker training.
- Division staff acknowledged that while it does not make sense to require such medication in all first aid kits, having such medication available to some extent does make sense considering the public data on overdoses.



# Opioid Reversal Medication

- Some studies have shown that deaths have a high correlation to sustaining an injury at work.
- A study in the state of Utah from 2008-2009 found that 57% of opioid-related overdose deaths occurred after a work injury, with 13% of overdose deaths preceded by a work injury within the past 3 years. *“Comparison of opioid-related deaths by work-related injury,”* American Journal of Industrial Medicine.
- Rates of opioid overdoses tend to be highest among industries and occupations with elevated occupational injuries.

# Opioid Reversal Medication

## Support for Naloxone in the Workplace:

- Easy to administer.
- Not harmful if it is given to a person who is not experiencing an opioid overdose.
- Workers will know where it is located.
- Helps to decrease overdoses in the workplace.

## Opposition/Potential Risks:

- Employers required to address non-occupational hazard.
- Workers must be trained to administer it & how to identify an overdose.
- Potential exposure to bloodborne pathogens, etc.
- Liability if they do not administer?
- Liability if not properly stored?
- Enough supply?

# Opioid Reversal Medication

- **Cal/OSHA Hazard Alert Letter (2/24)**

- **Program Elements:**

- Risk and readiness assessment.
    - Recordkeeping to document incidents while maintaining the privacy of those involved.
    - Procedures to prepare for and respond to an incident onsite.
    - Procedures for debriefing an overdose incident.
    - Obtaining a sufficient quantity of naloxone and storing it in a secure, yet unlocked, place that is readily accessible to employees.
    - PPE, including non-latex gloves and a breathing mask for rescue breathing and CPR, stored with the naloxone for easy access.

# Opioid Reversal Medication

- **Cal/OSHA Hazard Alert Letter (2/24)**

- **Training:**

- Signs and symptoms of an opioid overdose.
    - What naloxone is, and what it does and does not do.
    - Where the naloxone is stored and how to administer the form of naloxone available at the workplace.
    - Procedures for responding to a possible opioid overdose, including managing the airway and breathing of a person experiencing an overdose.
    - How to check for hazards before entering the area where the overdose has occurred.
    - Calling 911. They might have other medical issues that require further treatment by paramedics.

# Opioid Reversal Medication

- Cal/OSHA Hazard Alert Letter (2/24)

- Training (cont.):

- Naloxone only works for about 30 to 90 minutes, so it may wear off before the effects of the opioid overdose does. A second dose of naloxone may be needed.
- Where required, train and certify workers in CPR and first aid.
- Necessary PPE and how to use it properly.
- Support resources available to employees for substance misuse.

# Opioid Reversal Medication

- Cal/OSHA Hazard Alert Letter (2/24)

- Training (cont.):

- Bloodborne pathogens.

- At the scene of an opioid overdose, there may be used syringes, blood, or body fluids containing blood.
- If the injectable form of naloxone is used, employees will need to know how to dispose of the syringe or injector afterwards.
- If using the injectable form of naloxone, also provide a portable sharps disposal container.

- While naloxone would not fall under the requirements of the HazCom Standard, employers and employees should refer to the safety data sheet (available online or from the manufacturer if not included with the naloxone) for safety information.

# CA Legislative Update

## AB 2975 – Weapon Detection Screen Policy- Hospitals- Enacted

- By 3/1/27, Standards Board to amend 8 CCR 3342 to include:
  - Requirement that hospitals implement a weapons detection screening policy that requires the use of weapons detection devices.
  - Training personnel responsible for implementing the weapons detection screening policy that includes a minimum of 8 hours of training.

## AB 3258 – Refineries- Enacted

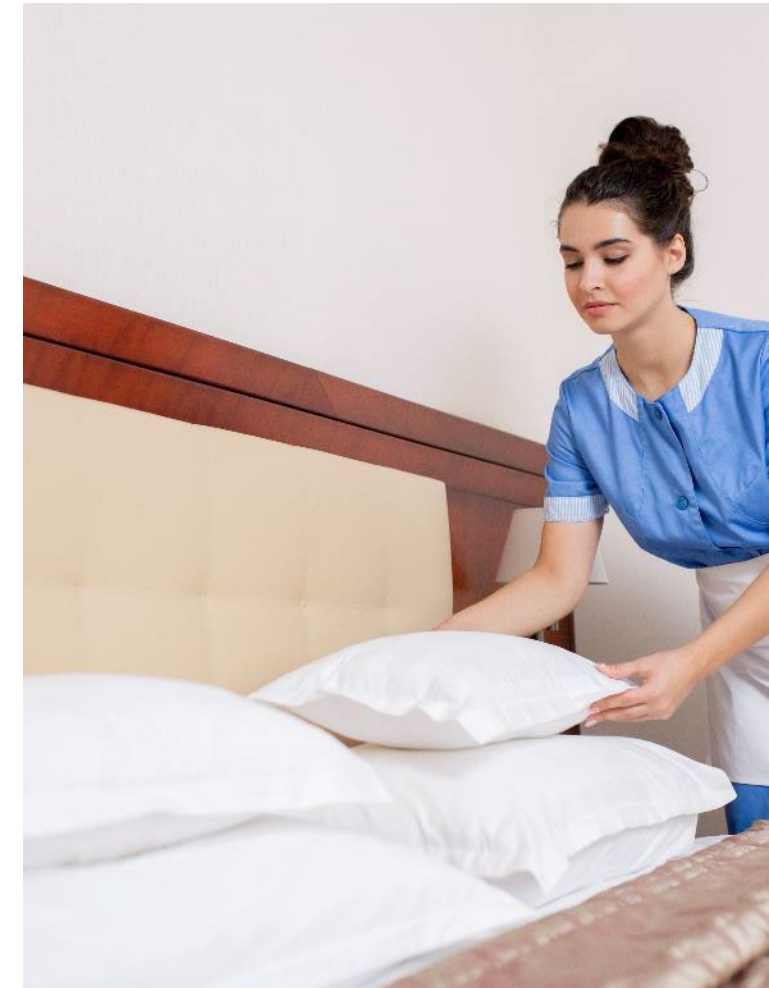
CA Refinery and Chemical Plant Worker Safety Act of 1990

- Remove references to petroleum refineries and petroleum refinery employers and, instead, refers to refineries and refinery employers.
- Define “refinery” to mean an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel, as defined, through the processing of crude oil or alternative feedstock.

# CA Legislative Update

## AB 1350 – Household Domestic Service-Enacted

- Beginning July 1, 2025, amends Labor Code 6303 as follows:
  - Deletes from “employment” exclusion of “household domestic service.”
  - Expands definition to include:
    - Household domestic service performed on a permanent or temporary basis. Does not include:
      - Individuals who, in their own residence, privately employs persons to perform ordinary domestic household tasks, including housecleaning, cooking, and caregiving.
  - Cal/OSHA is reviewing to assist public in understanding



A wide-angle photograph of the Golden Gate Bridge in San Francisco, California. The bridge's iconic red-orange towers and suspension cables are prominent against a clear blue sky with a few wispy clouds. The bridge spans across the dark blue water of the Golden Gate Strait. In the foreground, a rugged, brownish-orange rock cliffside is visible on the left. The city skyline of San Francisco is faintly visible in the distance across the water. A white sailboat is seen on the water near the bridge's base.

# New Regulations

# Cal/OSHA's Indoor Heat Illness Standard

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**2016**

Gov. Brown directed Cal/OSHA to create a rule to protect employees from heat illness in indoor workplaces.

**March 2024**

The Board “voted” to approve the regulation.

**May 2024**

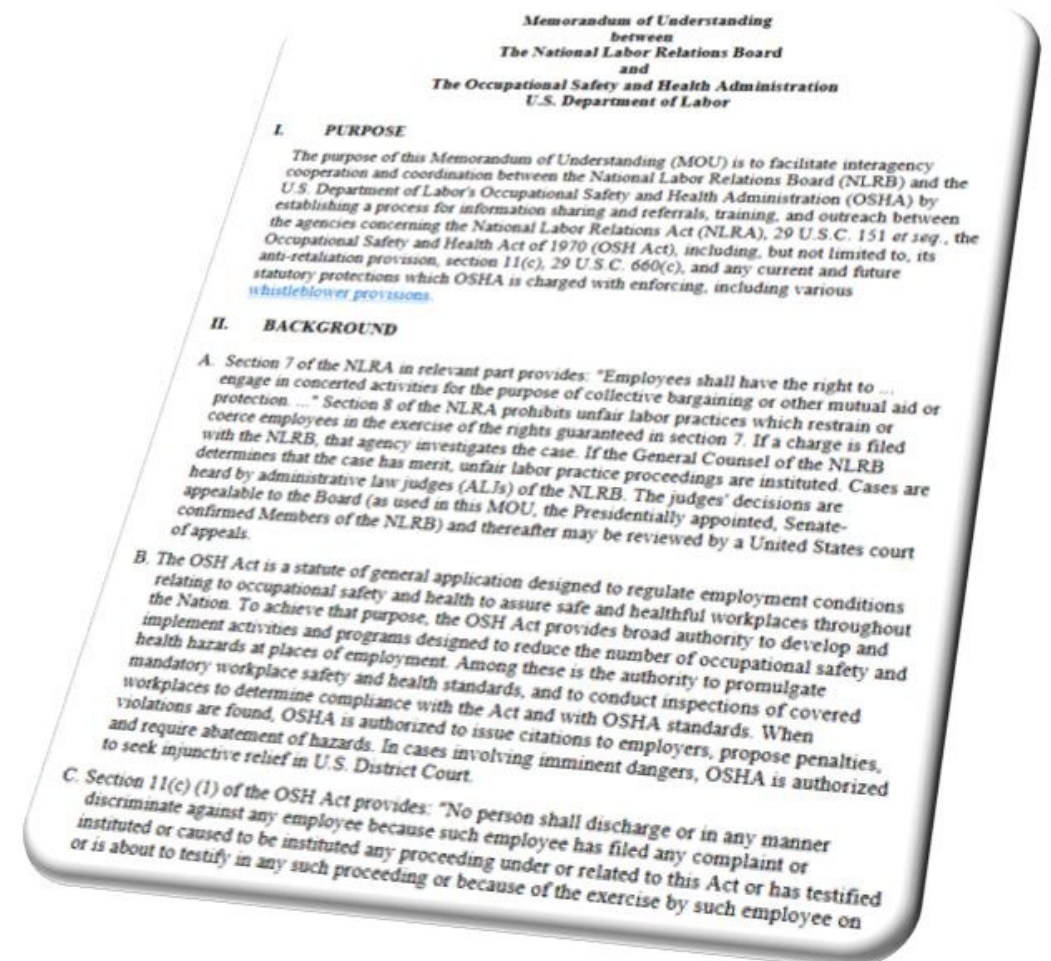
OAL issued a decision disapproving the standard and returned it to the Board.

**June 20, 2024**

The Board unanimously voted to approve a revised version of the regulation.

**July 23, 2024**

Effective date.



# Cal/OSHA's Indoor Heat Illness Standard Applicability

- Applies to indoor workplaces when the indoor temperature is equal to or greater than 82°F.
- The standard does not apply to:
  - Prisons, local detention facilities, and juvenile facilities.
  - Places of employment where workers are teleworking that are not under the control of the employer.
  - Emergency operations that are directly involved in the protection of life or property.
  - Incidental heat exposures where a worker is exposed to temperatures at or above 82°F and below 95°F for less than 15 minutes in any 60-minute period.
    - This exception does not apply to:
      - Vehicles without effective and functioning air conditioning.
      - Shipping or intermodal containers during loading, unloading, or related work.

# Cal/OSHA's Indoor Heat Illness Standard Requirements

## Indoor Heat Illness Prevention Plan

- Employers must establish, implement, and maintain an effective written Indoor Heat Illness Prevention Plan that includes at minimum procedures for providing drinking water, cool-down areas, cool-down rest periods, acclimatization, heat measurements, emergency response, and control measures.
- Must be in English, and the language understood by the majority of employees.
- Cal/OSHA published a model combined written indoor and outdoor heat illness prevention plan.

## Drinking Water

- Employers must provide potable water that is fresh, suitably cool, and free of charge.
- The water must be located as close as possible to work areas and cool-down areas.
- A sufficient quantity of water must be provided or there must be effective procedures for replenishment.
- Frequent water consumption must be encouraged.

# Cal/OSHA's Indoor Heat Illness Standard Requirements

## Cool-Down Areas and Cool-Down Rest Periods

- Employers must encourage workers to take preventative cool-down rest periods of no less than 5 minutes and allow those who request such periods to take them.
- Employers must monitor workers during these rest periods for symptoms of heat-related illness.
- Cool-down areas must be 1) kept at a temperature below 82°F, 2) shielded from other high-radiant heat sources, 3) blocked from direct sunlight, 4) large enough to accommodate the number of workers on breaks, and 5) as close as possible to the work areas.

## Acclimatization

- Employers must observe new workers and newly assigned workers working in hot areas during a 14-day acclimatization period and during a heat wave where no effective engineering controls are in use.

# Cal/OSHA's Indoor Heat Illness Standard Requirements

**Assessment and Control Measures (triggered when the temperature or heat index reaches 87°F (or 82°F for workers wearing clothing that restricts heat removal or working in high-radiant-heat areas))**

- For the assessment, employers must:
  - Measure the temperature and heat index and record whichever is higher.
  - Identify and evaluate environmental risk factors for heat illness.
  - No assessment is required if the employer assumes the work area will meet temperature and heat index trigger levels.
    - Go straight to implementing control measures.

# Cal/OSHA's Indoor Heat Illness Standard Requirements

**When the trigger levels are reached, employers must implement control measures in the following order to reduce the temperature and heat index to below the trigger level:**

1. Engineering controls.
2. Administrative controls.
3. Personal heat-protective equipment.

## **Emergency Response**

- Employers must implement effective emergency response procedures including, effective communications, responding to signs and symptoms of possible heat illness, contacting emergency medical services, and ensuring clear and precise directions in an emergency.

# Cal/OSHA's Indoor Heat Illness Standard Requirements

## Training

- Employers must provide training to both workers and supervisors.
- Employees must be trained on:
  - Environmental and personal risk factors for heat illness.
  - Procedures for complying with the regulation.
  - The importance of frequent water consumption.
  - The importance and methods of acclimatization.
  - Signs and symptoms of the different types of heat illness.
  - The importance of workers immediately reporting signs and symptoms of heat illness.
  - The employer's procedures for responding to signs and symptoms of heat illness, such as first aid.
  - Emergency response procedures, including contacting emergency medical services with clear directions to the worksite.



# Cal/OSHA's Indoor Heat Illness Standard

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## Cal/OSHA Main Takeaways From Recent Presentation:

### No Grace Period—It's Go Time!

- The new regulation is already in effect, and as of now, there is no grace period.
- Take steps to comply right away!

# Cal/OSHA's Indoor Heat Illness Standard

## Cal/OSHA Main Takeaways From Recent Presentation:

- Feasibility of Control Measures: It's All About the Details
  - Determining whether a control measure is feasible depends on various factors like workspace size, environment, and the type of work being performed.
  - While you're not required to document this feasibility assessment, it's a good idea.
  - Cal/OSHA noted that if you get cited for not implementing feasible controls and you appeal, having documentation can help show you've done your due diligence.

# Cal/OSHA's Indoor Heat Illness Standard

## Cal/OSHA Main Takeaways From Recent Presentation:

### ■ Multi-Employer Worksite Rules Are Still in Play

- The usual rules for multi-employer worksites still apply, so make sure you're taking the necessary steps to protect not only your own workers but also those from other employers on your worksite.

### ■ Covered Workplaces

- Places like offices or retail stores with air conditioning are covered under the standard if the only time temperatures might hit 82°F is during an air conditioning malfunction.
- Cal/OSHA's consistent response was, "If the temperature is not anticipated to exceed 82°F, the facility is not covered by the standard."
- Cal/OSHA's answer seems to suggest that if an air conditioning system fails and it is anticipated that the workplace could exceed 82°F, then the regulation would apply.

## Lead

- February 15, 2024: The Board approved revisions to regulations for occupational exposure to lead
  - Construction industry is governed by 8 C.C.R. section 1532.1
  - General industry is governed by 8 C.C.R. section 5198
- Expected to go into effect on January 1, 2025

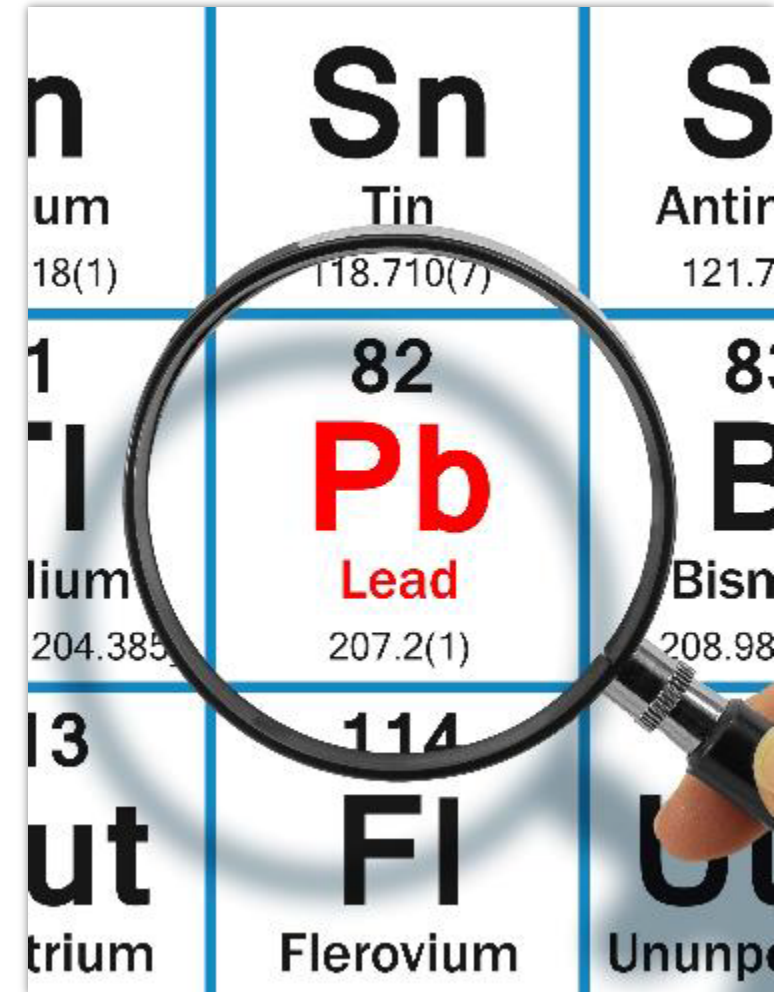


# Lead

- The revisions lower the thresholds that activate various employer requirements, including a written compliance program, exposure monitoring, and medical surveillance.
- These thresholds are the Permissible Exposure Limit (PEL) and Action Level (AL), based on an airborne concentration of lead at 8-hour time-weighted average concentration.
- Now need to take into consideration the additive effect of lead with other exposures to other chemicals like mercury, cadmium, arsenic, etc.

# Lead: Permissible Exposure Limit and Action Level

- × **Old Permissible Exposure Limit:** 50 micrograms per cubic meter of air ( $\mu\text{g}/\text{m}^3$ )
- ✓ **New Permissible Exposure Limit:** 10  $\mu\text{g}/\text{m}^3$ 
  - *EXCEPTION:* Until January 1, 2030, no employee conducting abrasive blasting shall be exposed to an airborne concentration of lead greater than 25  $\mu\text{g}/\text{m}^3$
- × **Old Action Level:** 30  $\mu\text{g}/\text{m}^3$  , without regard to the use of respirators
- ✓ **New Action Level:** 2  $\mu\text{g}/\text{m}^3$  , without regard to the use of respirators



# Lead: Separate Engineering Control Air Limit (SECAL)

- SECAL is defined as an airborne concentration of lead calculated as an 8-hour TWA, without regard to respirator use.
- SECALs are specified for particular processes in the regulation.

| Industry                        | Process  | SECAL and Implementation Dates   |
|---------------------------------|--|--|
| Lead acid battery manufacturing | Oxide production; paste mixing; grid pasting and parting; and battery assembly | 50 µg/m <sup>3</sup> on January 1, 2025, then 40 µg/m <sup>3</sup> on January 1, 2030. |
|                                 | Grid production and small parts casting; and plate formation                   | 50 µg/m <sup>3</sup> on January 1, 2025, then 30 µg/m <sup>3</sup> on January 1, 2030. |
| Lead acid battery recycling     | Laboratory processes.  | 50 µg/m <sup>3</sup> on January 1, 2025, then 30 µg/m <sup>3</sup> on January 1, 2030. |
|                                 | Movement of lead ingots and blocks into storage areas.                         |  |
|                                 | Movement of lead ingots and blocks for shipping.                               |  |
|                                 | Maintenance processes.   |  |

# Lead: Presumed Significant Lead Work (PSLW)

1. Altering or disturbing material that is known to contain lead at a concentration equal to or greater than 0.5% by weight or is reasonably anticipated to contain lead at the same concentration.
  - a) Such materials that are reasonably anticipated to contain lead include scrap lead, lead solder, lead bullet fragments and dust, lead sheeting, lead cable housing, and lead billets.
2. Torch cutting any scrap metal.
  - *EXCEPTION:* Does not constitute PSLW when the total combined duration of lead exposure resulting from altering, disturbing, and torch cutting is less than 8 hours during any 30-day period.

# Lead: Protection of Employees Prior to Assessment of Exposure



- Until the employer performs an employee exposure assessment and determines actual employee exposure, the employer shall provide employees performing PSLW with interim protection as follows:
  - Appropriate respiratory protection consisting of, at a minimum, a half-mask respirator with N100, R100, or P100 filters.
    - Greater protection may be appropriate when employees perform tasks such as welding, grinding, torch burning, torch cutting, and cleaning or emptying bullet traps.
- Appropriate protective work clothing and equipment, in a clean and dry condition at least weekly

# Lead: Protection of Employees Prior to Assessment of Exposure



**Medical Surveillance**



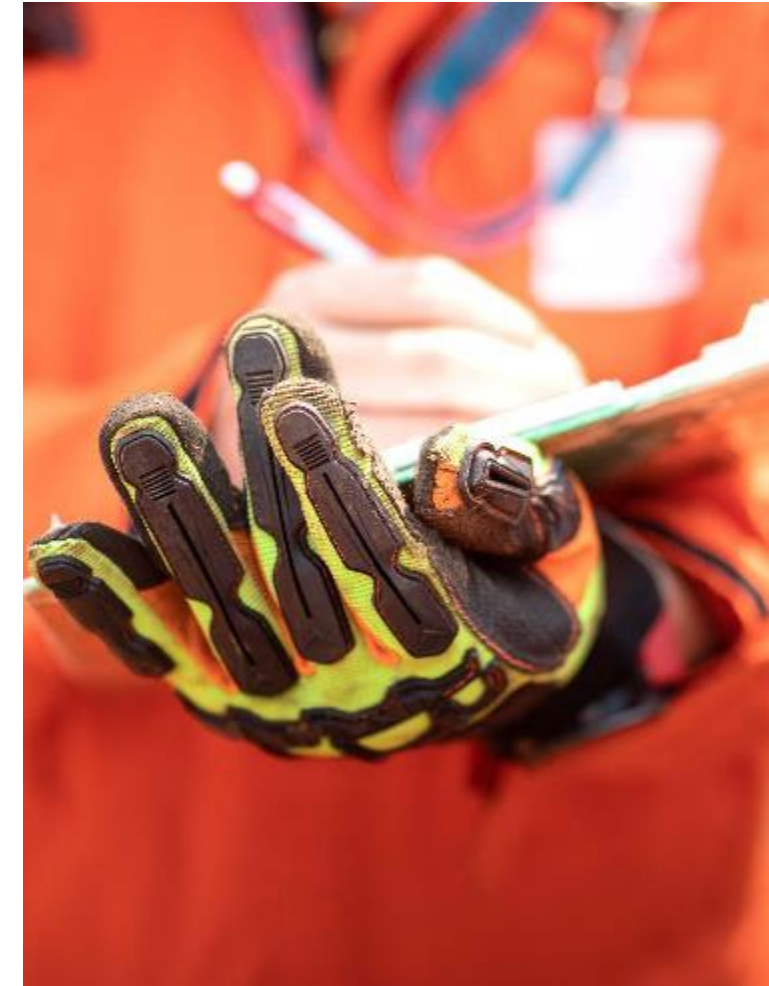
**Training**



**Posted Signs**

# Lead: Additional changes to Existing Requirements

- Initial Determination and Monitoring
- Written Plan
- Compliance Methods: Engineering and Work Practice Controls Administrative Controls; Protective Clothing; Prohibition of Consumption; Worksite Hygiene; Response Plan; Medical Surveillance Program; Temporary Removal; Training Record



# Silica ETS

- Stems from concerns about increased cases of silicosis related to work around engineered stone as well as concerns about lack of compliance with existing regulation.
- On **December 29, 2023**, the Cal/OSHA's emergency temporary standard (ETS) on respirable crystalline silica (Silica) took effect.
- Standards Board voted to adopt proposed readoption of Silica ETS for another 90 days, to **September 24, 2024**.
- ETS expected to be replaced by permanent regulation:
  - 45-day comment period closed **June 20, 2024**, with public hearing at Standards Board meeting same day.
  - 15-day comment period closed **Sept. 28, 2024**.
  - Second 15-day comment period closed **Nov. 13, 2024**

# Silica ETS

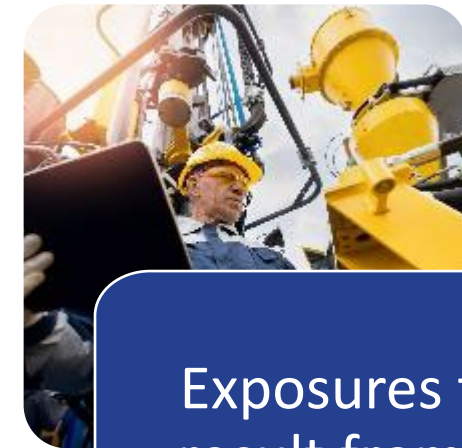
- It makes changes to the California Code of Regulations, Title 8, section 5204, and applies to all California workers occupationally exposed to Silica, except:



Construction work covered under section 1532.3



Agricultural operations covered under section 3436



Exposures that result from the processing of sorptive clays



# Silica ETS: New Requirements

The ETS expanded requirements regarding the:

- Written exposure control plan
- Employee exposure control precautions
- Training
- Respirator Protection
- Monitoring and Reporting

# Silica New ETS

- Changes in Second 15-day Notice:
  - Moved and clarified exceptions previously listed under “High-Exposure Trigger Task” to scope of regulation
  - Clarified “High Exposure Trigger Task”
  - Added new exception for certain tasks where employer demonstrates exposures below action level
  - Clarified exception to the required use of respirators in regulated areas
  - Added pictogram to be included in information on signs at entrances to regulated areas

# Fall Protection: Residential Construction Trigger Heights

- Fed/OSHA -6 feet in construction
- Cal/OSHA-8 CCR 1716.2- Residential Framing
  - Fall protection at 15 feet
- Fed/OSHA pushed for alignment with federal standard
  - 8 CCR 1716.1-Move away from single plans
- Standards Board approved (5 to 1) proposed regulation to adopt federal fall protection during August 2024 meeting



# E-Recordkeeping

- Labor Code § 142.3 mandates the Standards Board adopt standards that are “at least as effective as the federal standards” promulgated under the OSH Act
- For recording/reporting occupational injuries or illnesses, state plans must adopt standards that are “substantially identical” to the federal standards
- July 21, 2023: federal OSHA issued a final rule expanding the requirements for employers to report occupational injuries and illnesses data
- Cal/OSHA now seeks to amend § 14300.41 to make similar changes so the Cal/OSHA regulations remain “substantially identical” to the federal regulations
- Public hearing was 4/23/24; comment period 2/2/24-4/23/24



# E-Recordkeeping

- Federal OSHA Expanded E-Recordkeeping Obligations:

Workplaces w/ 100+ employees in Appendix B

submit data from 300 Logs, 301 Incident Reports, and 300A Annual Summaries

Workplaces w/ 20-249 employees in Appendix A (High Hazard) industries

submit their 300A Annual Summary data

Workplaces with 250+ employees in any industry

submit their 300A Annual Summary data

# Fit Testing

- Federal OSHA promulgated regulations in 2019 addressing additional fit testing protocols.
- Cal/OSHA is now revising its regulation, in this case Appendix A of § 5144 (Respiratory Protection) to add two alternative fit-testing protocols (two modified ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocols for full-facepiece and half-mask elastomeric respirators as well as filtering facepiece respirators).
- Standards Board vote to adopt proposed amendments at May 2024 meeting.
- Effective June 24, 2024.

# Questions?



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## Blogs

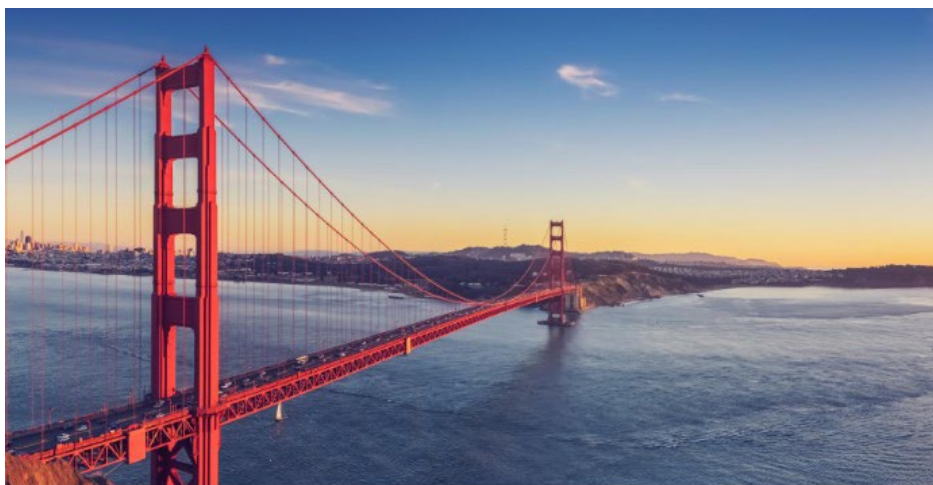
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