

# 2024 Cal/OSHA Webinar series

CONN  
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## Top Cal/OSHA Violations

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**Rachel L. Conn** is a Partner and Chair of Conn Maciel Carey's California Practice. She is based out of the firm's San Francisco office.

Rachel's practice focuses on OSH compliance and litigation, including inspections, audits, investigations, and enforcement actions involving Cal/OSHA, fed OSHA, and other State OSH Plans.

She also represents employers and trade associations in Cal/OSHA and fed OSHA rulemakings.

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



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**Samuel S. Rose** is an Associate in the Los Angeles office of Conn Maciel Carey LLP supporting both the Labor • Employment and OSHA • Workplace Safety practice groups.

Sam represents clients in inspections, investigations, and enforcement actions conducted by state OSHA programs including Cal/OSHA.

He also advises clients and represents them on a broad range of employment issues including wage and hour and wrongful termination claims.

Additionally, Sam develops and revises employee handbooks and workplace policies and procedures.

# Agenda

1

Importance of knowing the top violations

2

Top 10 violations

3

How does it compare to Fed/OSHA

4

Future top violation predictions

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 Golden Gate Strait. In the foreground, the rugged, rocky terrain of the bridge's approach is visible. The overall scene is bright and clear, suggesting a sunny day.

# **Background and Importance of Knowing the Top Violations**

# Why Is This Information Available?

- Per Cal/OSHA, the list of the top 10 most frequently cited standards is published to:

*[A]lert employers about these commonly cited standards so they can take steps to find and fix these recognized hazards and prevent workplace injuries and illnesses – and keep Cal/OSHA from showing up. Far too many preventable workplace injuries, illnesses, and deaths are related to these top 10 most frequently cited standards.*

<https://www.dir.ca.gov/dosh/statistics/Frequently-cited-standards.html>

# Public Resources Available

- Cal/OSHA Website

- [Complaints, Inspections with initial penalties of \\$100,000 or more, and more](#)

- <https://www.dir.ca.gov/dosh/Citation-statistics.html>

- Top 10:

- <https://www.dir.ca.gov/dosh/statistics/Frequently-cited-standards.html>

- OSHA Establishment Search

- <https://www.osha.gov/ords/imis/establishment.html>

# Complaints Received and Citations Issued



CY	# of Complaints Received <sup>1</sup>	# of VALID <sup>2</sup> Complaints Received	# of Citations <sup>3</sup> Issued	Total # of Serious / Willful / Repeat Citations Issued <sup>4</sup>	Total Initial Penalty	Total Current Penalty
2022	11,817	9,633	13,784	3,001	\$37,879,664	\$32,577,041
2021	12,111	10,072	11,618	2,998	\$42,744,715	\$31,522,946
2020	18,042	14,979	13,397	3,155	\$36,172,799	\$23,245,779
2019	11,698	9,579	18,593	4,685	\$51,755,849	\$31,770,392
2018	12,040	9,595	20,253	4,697	\$58,040,303	\$33,158,191
2017	12,835	10,439	20,815	5,026	\$59,136,294	\$33,163,865
2016	12,027	9,503	20,340	5,023	\$49,718,988	\$27,465,795
2015	10,843	8,740	17,080	4,097	\$37,148,853	\$21,583,612

<sup>1</sup> Totals may include duplicate employers (i.e. 2 employees call in complaints for the same employer), invalid complaints, and unprocessed complaints.

<sup>2</sup> A complaint is valid if it alleges a workplace hazard or a violation of a Title 8 Safety Order which has a reasonable basis in fact and does not represent willful harassment of the employer.

<sup>3</sup> Citation count includes all citation items issued in the specified calendar year. The citations could be a result of a inspection opened the previous calendar year.

<sup>4</sup> Citations may subsequently have been reclassified or deleted as part of a decision by an administrative law judge or a settlement.

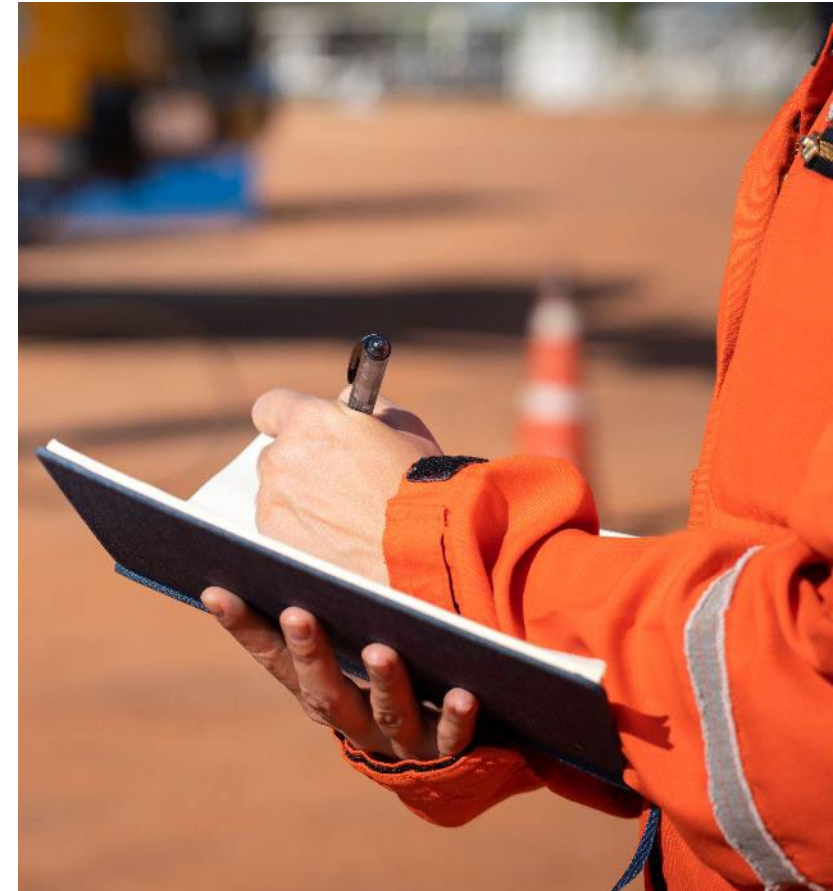
Source: <https://www.dir.ca.gov/dosh/statistics/Complaints-and-citations.html>

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 water, with a small white sailboat visible in the distance. The foreground shows the rocky, reddish-brown cliffs of the bridge's base. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

# Top 10 Violations List (2022)

# As we review...

- ❑ Note how many standards are unique to California
- ❑ Important to know differences from federal regulations, even for similar standards
- ❑ Note what is most frequently cited for certain industries and operations



# #10: Emergency Eyewash/Shower 8 CCR 5162

**Eyewash meeting certain ANSI requirements** “where, during routine operations or foreseeable emergencies, the eyes of an employee may come into contact with a substance which can cause corrosion, severe irritation or permanent tissue damage or which is toxic by absorption.”

**Emergency shower meeting certain ANSI requirements** “shall be provided at all work areas where, during routine operations or foreseeable emergencies, area of the body may come into contact with a substance which is corrosive or severely irritating to the skin or which is toxic by skin absorption.”

**Accessibility:** *no more than 10 seconds for the injured person to reach; no obstructions to use*

# #9: Portable Ladders & CCR 3276

- Design, construction, and selection
- Care, use, inspection, and maintenance of ladders
- Training
- Accidents from portable ladders are very common
- Beware of conditions that are in plain view



# #8: Hazard Communication

## 8 CCR 5194



- Addresses employees' safe use of hazardous chemicals
- Requirements for manufacturers or importers to classify the hazards of chemicals
- Includes Prop 65
- All employers must provide information to their employees about the hazardous chemicals to which they may be exposed
- Basic requirements: written HazCom program, labels/warnings, safety data sheets, employee information and training

# #7: Portable Fire Extinguishers: 8 CCR 6151

- Applies to the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees.
- Contains various requirements, including inspection, maintenance, and testing.
- Employers also need to provide training on general principles and hazards related to incipient stage fire fighting.

# #6: Lockout/Tagout 8 CCR 3314

- Control of Hazardous Energy for the Cleaning, Repairing, Servicing, Setting-Up, and Adjusting Operations of Machines and Equipment in which the unexpected energization or release of stored energy could cause injury to employees
- Hazardous energy control procedures
- Accident prevention
- Planning for the involvement of multiple people: group lockout/tagout; shift or personnel changes; outside servicing personnel
- Periodic inspections
- Training



# #5: Reporting Serious Injuries/Illnesses

## 8 CCR 342

- Employers must immediately report any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.
- “Serious injury” definition changed in 2020.
- Division’s broad interpretation since the pandemic.

# #4: COVID-19 Prevention & CCR 3205

- This list is based on last year's data.
- CDPH has changed guidance which has resulted in multiple changes to 8 CCR 3205.
- Changes to:
  - “infectious period”
  - “outbreak”
- Certain notice requirements have sunset.
- Employers should confirm that they have a compliant plan.

# #3: IIPP- Construction 8 CCR 1509

Consistently ranked in the top 5.

## Requirements:

- a. Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.
- b. Every employer shall adopt a written Code of Safe Practices which relates to the employer's operations. The Code shall contain language equivalent to the relevant parts of Plate A-3 of the Appendix.
- c. The Code of Safe Practices shall be posted at a conspicuous location at each job site office or be provided to each supervisory employee who shall have it readily available.
- d. Periodic meetings of supervisory employees shall be held under the direction of management for the discussion of safety problems and accidents that have occurred.
- e. Supervisory employees shall conduct "toolbox" or "tailgate" safety meetings, or equivalent, with their crews at least every 10 working days to emphasize safety.

# #2: Outdoor Heat Illness Prevention Outdoor

## 8 CCR 3395

- #2 since 2015
- Existing Rule (8 CCR 3395) applies to all outdoor places of employment
- Employers must develop and implement written procedures to comply with the Cal/OSHA Heat Illness Prevention Rule
- Train employees and supervisors on heat illness prevention
- Supply enough water to drink at least one quart per hour
- Provide access to shade and encourage employees to take cool-down recovery breaks in shade for at least 5 minutes
- Weather monitoring, emergency response and acclimatization requirements
- Additional requirements apply in high heat for covered industries (95°F or above)



# #2: Outdoor Heat Illness Prevention Outdoor

## 8 CCR 3395

### Current Cal/OSHA Special Emphasis Program (SEP):

- All outdoor or indoor heat-related complaints addressed via onsite inspection (revised Oct. 2022 to include indoor heat hazards)
- No investigation by letter is permitted

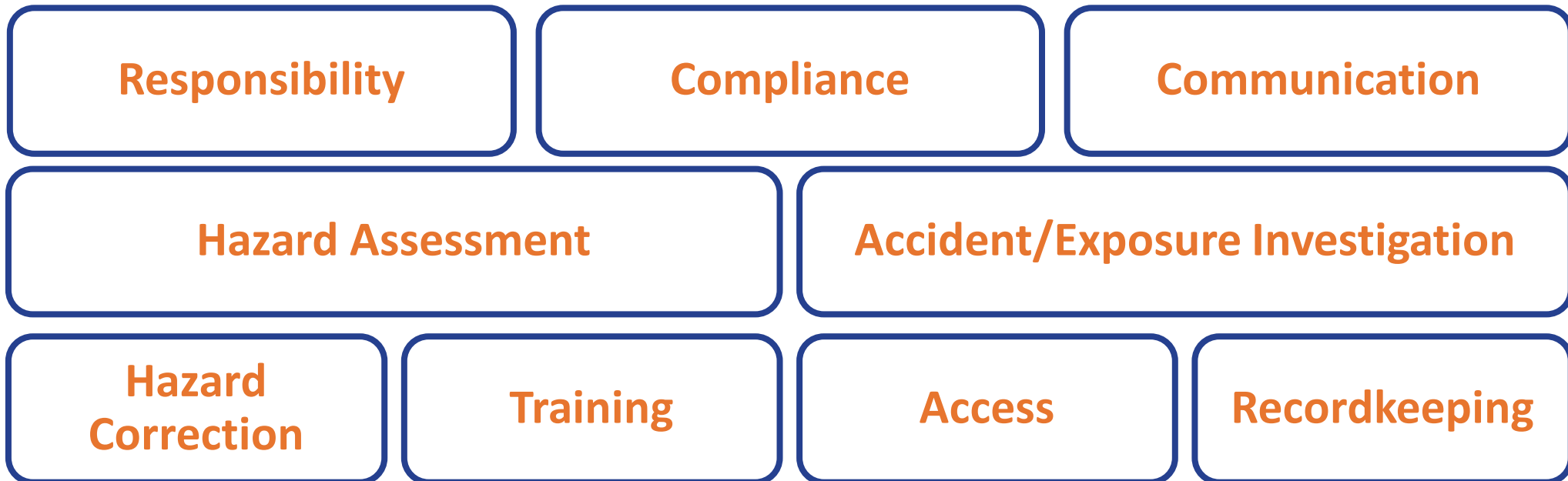
### Compliance Tips

- Review Plan to ensure compliance with requirement elements
- Designating indoor vs. outdoor employees
- Training up-to-date and documented
- Ensure water is available in the right qualities

# #1: Injury & Illness Prevention Program

## 3 CCR 3203

- Always #1
- The catch all for Cal/OSHA
- Requirements:



# #1: Injury & Illness Prevention Program 3 CCR 3203



## Compliance Tips

- Review Plan to ensure compliance with requirement elements
  - Ensure you have an “access” section
- Training up-to-date and properly documented
  - Specific information required to be documented
- Inspections are conducted and properly documented with corrective actions

# Notable Mentions

These regulations have made it on the list in past years:

**Aerosol  
Transmissible  
Diseases**

**Respiratory  
Protection**

**Exposure to  
Respirable  
Crystalline Silica**

**Permits to Operate  
Unfired Pressure  
Vessel**

**Emergency  
Medical Services**

**Also, know your  
industry /  
operations**

*The 2022 list was released around March of 2023, so stay tuned for an updated list*

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 water, with a small white sailboat visible in the distance. The foreground shows the rocky, reddish-brown cliffs of the bridge's base. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

# 2023 Fed/OSHA Top Violations

# Fed/OSHA Top Violations 2023



Fall Protection – General Requirements (1926.501)



Hazard Communication (1910.1200)



Ladders (1926.1053)



Scaffolding (1926.451)



Powered Industrial Trucks (1910.178)



Lockout/Tagout (1910.147)



Respiratory Protection (1910.134)



Fall Protection – Training Requirements (1926.503)



Personal Protective and Lifesaving Equipment – Eye and Face Protection (1926.102)



Machine Guarding (1910.212)

# Fed/OSHA vs. Cal/OSHA Lists

- Highlights very different enforcement objectives of each agency
- If you have facilities in both Cal/OSHA and Fed/OSHA states must be aware of the different emphasis areas
- Fed/OSHA relies less on General Duty Clause as opposed to Cal/OSHA that relies heavy on IIPP

A wide-angle photograph of the Golden Gate Bridge in San Francisco, California, taken during sunset. The bridge's iconic orange-red towers and suspension cables are silhouetted against a sky transitioning from deep blue to a warm orange glow. The bridge spans across the dark blue water of the Golden Gate Strait. In the foreground, the rugged, rocky terrain of the bridge's base is visible. A small white sailboat is seen on the water in the distance. The overall scene is serene and iconic.

# 2023/2024 Top Predictions

# 2023/2024 Top Predictions

## 2023 Predictions

- Continue to see IIPP and HIPP dominate
- Rise in late/failure to report
- COVID-19 drops off the list
  - Potential future infectious disease standard
- Return of respiratory protection

## Potentials for 2024

### New/revised regulations/statutes

- Indoor heat
- Lead
- Silica ETS
- Workplace Violence Prevention

# Best Practices for Using Data

- Know which top violations may affect your workplace
  - Review policies, procedures, and training
  - Are they subject to employee complaints?
  - Risk for particular injuries/illnesses?



# the Cal/OSHA Defense Report



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## ■ ■ ■ 2024 Cal/OSHA webinar series ■ ■ ■

**California's Workplace Violence Prevention Law**  
Thursday, November 9<sup>th</sup> (2023)

**Cal/OSHA Enforcement and Regulatory Update**  
Tuesday, December 12<sup>th</sup> (2023)

**California's Indoor Heat Regulation**  
Tuesday, January 30<sup>th</sup>

**Top Cal/OSHA Violations**  
Wednesday, February 21<sup>st</sup>

**OSH and Employment Law Compliance in ESG Programs**  
Thursday, March 21<sup>st</sup>

**Responding to Workplace Violence**  
Wednesday, April 24<sup>th</sup>

**Mid-Year Review of Cal/OSHA Developments**  
Wednesday, May 22<sup>nd</sup>

**Process Safety Management and CalARP**  
Monday, August 5<sup>th</sup>

**Prepare for and Manage Cal/OSHA Inspections**  
Wednesday, August 21<sup>st</sup>

**CMC's 2<sup>nd</sup> Annual Cal/OSHA and Employment Law Summit**  
Tuesday, October 8<sup>th</sup> and Thursday, October 10<sup>th</sup>

**Artificial Intelligence and OSH/Employment Law**  
Wednesday, November 13<sup>th</sup>

**2025 Cal/OSHA Enforcement and Regulatory Forecast**  
Thursday, December 5<sup>th</sup>

# the OSHA Defense report



## ■ ■ ■ 2024 OSHA Webinar series ■ ■ ■

**2023 in Review and 2024 Forecast**  
Wednesday, January 17<sup>th</sup>

**OSHA Recordkeeping, E-Recordkeeping and Reporting**  
Thursday, February 8<sup>th</sup>

**OSH and Employment Law Compliance in ESG Programs**  
Thursday, March 21<sup>st</sup>

**Preventing and Responding to Workplace Violence**  
Wednesday, April 24<sup>th</sup>

**Mid-Year OSHA and MSHA Review**  
Tuesday, May 28<sup>th</sup>

**Impact of EPA's TSCA Regs on OSHA Chemical Safety**  
Wednesday, June 12<sup>th</sup>

**National and Local Enforcement Emphasis Programs**  
Thursday, July 18<sup>th</sup>

**Process Safety Management and CalARP**  
Monday, August 5<sup>th</sup>

**Unique Aspects of State OSH Plans**  
Thursday, September 19<sup>th</sup>

**Whistleblower and Retaliation Complaints**  
Wednesday, September 25<sup>th</sup>

**2<sup>nd</sup> Annual Cal/OSHA and Employment Law Summit**  
Tues., October 8<sup>th</sup> and Thurs., October 10<sup>th</sup>

**OSHA Hazard Communication Standard Update**  
Tuesday, October 15<sup>th</sup>

**Intersection of Artificial Intelligence and OSHA Law**  
Wednesday, November 13<sup>th</sup>

**12 Ways to Improve Your OSHA Readiness**  
Wednesday, December 18<sup>th</sup>

# Check Out Our Blogs

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the **OSHA** Defense report



the **Employer** Defense report



the **Cal/OSHA** Defense report



the **MSHA** Defense report

# California Workplace Violence Prevention Compliance Solutions

## Workplace Violence Prevention Plan

We will develop a customized, compliant written Workplace Violence Prevention Plan along w/ all ancillary documents and sub-policies.

## Workplace Violence Prevention Training

We will develop customized training materials and conduct initial interactive training for all affected employees and "train the trainer."

## Turnkey and Ad Hoc Services

**Scan the QR code below for more info!**

## Gap Assessment of Related Policies

To ensure alignment, we will perform a Gap Assessment of existing, related policies that intersect with your new Workplace Violence Prevention Plan.

## Attorney Consultation Hours

A block of Attorney Consultation Hours to use within a year to help you roll out your new program.



# OSHA Recordkeeping and Reporting Masterclass

01

## OSHA Recordkeeping

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- Scope of OSHA's Recordkeeping Authority
- OSHA Recordkeeping Forms
- Steps to Recordkeeping
- Recordkeeping Hypotheticals
- Summarize, Certify, Post and Maintain
- 5 Common Recordkeeping Mistakes

02

## Significant Injury and Fatality Reporting

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- Hospitalization, Amputation, Fatality Reqs
- Reporting Timing Issues
- Common Reporting Mistakes
- What Happens After You Report?

03

## E-Recordkeeping

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- Recordkeeping Data Submission Reqs
- How to Use OSHA's Injury Tracking App
- E-Recordkeeping Enforcement and Site-Specific Targeting Inspection

04

## COVID-19 Recordkeeping and Reporting

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- COVID-19 Recordkeeping and Reporting Requirements
- Determining Work-Relatedness of COVID-19 cases

Scan the QR  
code below for  
more info!



# Questions?



# Contact Information



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