

## Manager/Supervisor Risk Management

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A twice weekly e-mail training for YCPARMIA members

### TOPIC: SAFETY – Cal/OSHA CITATIONS AND PENALTIES

Prior to 2000, California public entities were not subject to monetary penalties for Cal/OSHA violations; since AB 1127 they have the same exposure as any other California employer. It is also important to note that the penalties or fines are not insurable; the entity is individually responsible for their payment.

Cal-OSHA regulations create classes of violations, each with its own penalty:

- Regulatory – involves permit, posting, recordkeeping and reporting requirements: \$500-\$7,000 depending on the violation.
- General violation – basically a non-serious violation: \$1,00-\$7,000 depending on the severity.
- Serious violation – a substantial probability that death or serious physical harm could result: \$18,000 to \$25,000 depending on the extent, likelihood, gravity, and size of the business.
- Failure to abate a violation: up to \$15,000 per day.
- Repeat violation – the repeat of an earlier corrected violation: up to \$70,000.
- Willful violation – when the employer commits an intentional violation: \$5,000 to \$70,000.

The employer is also exposed to a civil penalty of not less than \$5,000 for failing to file a report involving a serious employee injury, illness, or death. If the employer, manager or supervisor knowingly fails to report a death or induces someone else not to report then they are guilty of a criminal misdemeanor, and can face a \$15,000 fine and/or up to a year in jail. Additionally, a willful violation that causes death or permanent or prolonged impairment can result, upon conviction, in a fine of up to \$250,000 or imprisonment for three years.

Recognize that each inspection with resulting citations and penalties is unique, but it might be illustrative to summarize a reported 2010 inspection of a Northern California police department. The inspection issued citations for seven general violations for failing to have a required Aerosol Transmissible Disease policy, failure to train, and failure to report with penalties of \$8,460. They were cited for a serious violation for not providing respiratory protection with a penalty of \$5,060. They were additionally cited for a second serious violation for failing to provide post-exposure medical services with a penalty of \$18,000. The City went through a two and half year appeal process, and the total penalties were lowered to \$11,330.

While the penalties are unpleasant, it is also important to realize that there is probably an extensive investment of time and resources in responding to, and appealing the citations/penalties. Additionally, the citations come with an abatement date, so there is an immediate need to dedicate resources to fix the discovered problems. Lastly, it would not be uncommon to invest even more time trying to make sure that the rest of the entity's policies are current.

Next topic: Cal/OSHA Appeals Process