

**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
POLICY AND PROCEDURES MANUAL**

**JURISDICTION AND
INTERAGENCY
COOPERATION**

P&P C-11

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AUTHORITY: California Labor Code Sec. 6303(a) and (b), 6303.5, 6307, 6310 and 6800.

POLICY: It is the policy of the Division of Occupational Safety and Health to assert jurisdiction over every place of employment in this state to enforce and administer all laws and lawful standards and orders or special orders requiring the protection of the life, safety and health of every employee in such a place of employment, unless the Division does not have subject matter or territorial jurisdiction over the employment or place of employment.

PROCEDURES:

A. FEDERAL JURISDICTION

1. Compliance personnel shall refer all complaints and accidents involving the following to Federal OSHA (see P&P C-90):
 - a. Employee(s) of the United States Government;
 - b. California employers working at a worksite controlled by an agency or department of the United States government, e.g., military installations, national parks and federal buildings, where the federal agency:
 1. Claims exclusive federal jurisdiction over the area in which contractor's employees are working; or
 2. Refuses entry to Division compliance personnel.

NOTE: Until the jurisdictional issue can be resolved between the federal agency or department and Federal OSHA, Division compliance personnel shall not attempt to conduct an inspection or investigation.

- c. Discrimination under Section 11(c) of the Federal Occupational Safety and Health Act by employees under the jurisdiction of Federal OSHA;

NOTE: Any complaint of discrimination by employees under the Division's jurisdiction shall be referred to the Division of Labor Standards and Enforcement (DLSE).

- d. Transporting hazardous substances under regulations implementing Section 405 of the Surface Transportation Act, Section 7 of the International Safe Container Act and Section 211 of the Asbestos Hazard Emergency Response Act (AHERA);
- e. Enforcement of any occupational safety and health standard promulgated by Federal OSHA when California has no equivalent state standard in effect, and a policy directive from the Chief directs compliance personnel to refer violations of the federal standard to Federal OSHA;
- f. California employers who manufacture explosives under contract to the United States Department of Defense (DOD);

NOTE: California employers are exempt from the provisions of Group 18 (General Industry Safety Orders 5326 through 5374), if they are under contract with federal government agencies which require compliance with: (1) DOD Contractor's Safety Manual(s); (2) Explosive Safety Requirements and Surveillance; and (3) where the Department of the Army or DOD conducts site inspections to ensure compliance.

- g. Maritime activities on navigable waters, i.e., waters deep and wide enough to afford ship passage to the Pacific Ocean, such as:
 - 1. Longshoring operations on all vessels from the shore side of the means of access to the said ships;
 - 2. Marine vessel construction operations from the means of access on the shore;
 - 3. All afloat marine shipbuilding and repair from the foot of the gangway;
 - 4. All shipbuilding and repair in graving docks or dry docks;
 - 5. All ship repairing done on marine railways or similar conveyances used to haul vessels out of the water;
 - 6. All floating fuel operations;
 - 7. All diving from vessels afloat on the navigable waters;

EXCEPTION:

If the diving operation falls under the scope clause of 8 CCR Sec. 6050(a)(1), the Division has jurisdiction over the operation.

8. All afloat dredging, pile driving and similar operations outside the three (3) mile continental limit; or
 9. All offshore drilling, drilling rigs operating outside the three (3) mile continental limit.
2. Compliance personnel shall refer all complaints and accidents involving the following to the appropriate federal agency or department (see P&P C-90):
- a. U.S. or California Army National Guard or U.S. or California Air National Guard;

NOTE: Complaints and accidents at state-owned California Army National Guard and California Air National Guard facilities may fall under DOSH's jurisdiction providing the unit has not been federalized or does not require federal recognition. Compliance staff and/or the District Manager shall contact the DOSH Legal Unit prior to initiating or referring the complaint/accident.

- b. Railroad operations;

EXCEPTION: The Division has jurisdiction over the safety and health of railroad employees in offices and shops devoted to the construction, maintenance or repair of railroad equipment. The Division also has occupational health jurisdiction over all other railroad employees and has traditionally asserted safety jurisdiction over all other railroad employees under Labor Code Sec. 6303(a) as long as no other federal or state agency is actively exercising safety jurisdiction. Compliance personnel shall contact the Legal Unit before asserting jurisdiction over railroad employees who do not work in offices or shops.

- c. In flight airline operations (Federal Aviation Administration, Department of Transportation); and
- d. The following U.S. National Parks and U.S. National Monuments (U.S. Department of the Interior)
 - 1. Cabrillo National Monument;
 - 2. Sequoia/Kings Canyon National Park; and
 - 3. Yosemite National Park.

B. DIVISION OF LABOR STANDARDS ENFORCEMENT JURISDICTION

Compliance personnel shall refer all complaints involving the following to the nearest office of the Division of Labor Standards Enforcement (see P&P C-90):

- 5. Any complaint concerning discrimination under Labor Code Sec. 6310 of the California Occupational Safety and Health Act by employees under the Division's jurisdiction;

NOTE: Complaints must be filed with the Division of Labor Standards Enforcement within six (6) months of the discriminatory action.

- 6. Any complaint concerning an employee's refusal to perform work under Labor Code Section 6311 by employees under the Division's jurisdiction

C. PESTICIDE

- 7. Manufacturing, Formulating, Storage and Distribution

The Division has jurisdiction over establishments engaging in pesticide manufacturing, formulating, storage and distribution.

- 8. Application
 - a. Enforcement

See Master Agreement between the Department of Industrial Relations and the Department of Pesticide Regulation.

- b. Pesticide Reporting Incidents

For information regarding reporting of pesticide incidents, see P&P C-36.

D. LABOR CAMP PERMITS

9. Employer Duties

8 CCR Sec. 3350 requires that every employer operating a labor camp for five (5) or more employees under the provisions of the California Employee Housing Act:

- . Obtain a valid permit from the Department of Housing and Community Development (DHCD), or from a local government agency authorized to issue such permits; or
- a. Post, or have available, a valid and current permit.

NOTE: A labor camp is any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobile home, or other housing accommodations, including employee housing or labor supply camp, maintained in connection with any work or place where work is being performed, whether or not rent is involved, and the premises upon which they are situated or the area set aside and provided for parking of mobile homes or camping.

10. Enforcement

- . Labor Camp Permit Complaints
 1. If the Division receives a complaint about an unpermitted labor camp, compliance personnel shall:
 - i. Document the complaint according to the procedures set forth in P&P C-7; and
 - ii. Conduct an inspection to determine if the employer providing the labor camp has a valid permit which is posted or available and if the labor camp contains any obvious housing hazards.
 2. If the camp is unpermitted or contains obvious housing hazards, compliance personnel shall complete the Cal/OSHA Form 90L (Labor

Camp Housing Referral) and send a copy of the Form 90L to the appropriate Department of Housing and Community Development Office or local governmental agency. See P&P C-90.

- a. Compliance Inspections
2. During the course of an inspection of a worksite where employee housing is provided for five (5) or more employees, compliance personnel shall determine if the employer has a valid permit to operate a labor camp and if the labor camp contains any obvious housing hazards.
3. If compliance personnel determine that the employer lacks a valid labor camp permit, or that the labor camp contains obvious housing hazards, compliance personnel shall complete a Cal/OSHA Form 90L and send a copy of the Form 90L to the appropriate Department of Housing and Community Development Office or local governmental agency. For a copy of the Form 90L, see P&P C-90.