

Inspection Targeting Issues for the California Department of Industrial Relations Division of Occupational Safety and Health

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Summary

This paper was commissioned by the California Department of Industrial Relations to examine the different types of inspections that the California Department of Industrial Relations Division of Occupational Safety and Health (Cal-OSHA) carries out and the roles that they play. It focuses on the three major inspection types in California: programmed (planned) inspections, complaint inspections, and accident investigations. It investigates several different issues:

- the average number of serious violations found during different inspection types and the average injury rates at the establishments that receive each type of inspection
- how those measures vary with establishment size and the sequence of the inspection
- how rates of complaint and programmed inspections vary across counties
- a comparison across counties of the rates of all accident investigations with the rates for those limited to fatalities.

Although we discuss programmed inspections, the focus of this study is on findings about complaint and accident inspections. We summarize the chief findings from reviewing the data here.

The Number of Violations Cited and the Injury Rate at Inspected Establishments

As is well known, programmed inspections in general industry cite substantially more serious violations (and total violations) than other inspection types do. However, complaint inspections take inspectors to workplaces whose injury rates are higher.

The Frequency of Complaint Inspections

The number of *complaint inspections* fell sharply after 1992, dropping from 8,000 per year to fewer than 3,000 in recent years. However, because of changes in the method of responding to complaints, we do not know the change in the number of actual complaints for this period. Cal-OSHA (and OSHA) adopted a policy for dealing with “informal” complaints (defined as cases in which the complainant was unwilling to give his or her name) that relied primarily on a letter or fax to the employer rather than on an inspection. The employer was required to respond and to explain what it had done to abate the alleged hazard. One out of five of these fax-letter cases is supposed to be followed up by an inspection.

Unfortunately, neither Cal-OSHA nor OSHA maintains records on the number of these fax-letter complaints or on the subject of the hazard in its computerized files. In addition, there is no way to identify the inspections that were conducted to verify the employer’s compliance statements. Thus, we have almost no information on either the magnitude of this procedure or on how it is working.

Variation in the Rate of Complaint Inspections Across Counties

We also examined how the frequency of complaint inspections varied across counties. We compared the number of inspections from 2002–2011 with the number of establishments in each county from the 2010 County Business Patterns data. In both construction and manufacturing, we found two-fold or greater differences (more in construction) across counties in the number of complaint inspections per 1,000 establishments (or, in construction, firms). The rates were lower in rural counties and in Southern California than in a dozen counties in the San Francisco–Sacramento region.

Cal-OSHA noted that it allocates its resources roughly in line with regional employment. As a result, the lower number of complaint inspections would be accompanied by a larger number of programmed inspections. When we looked at programmed inspections, however, we found that the southern and rural counties still had lower inspection rates, although the differences were much smaller.

Reporting of Hospitalizations and Amputations to the California Department of Industrial Relations Division of Occupational Safety and Health

California requires that acute injuries that involve hospitalization for more than 24 hours (except for observation) and amputations must, along with fatalities, be reported to Cal-OSHA within eight hours. Except for cases in which other law enforcement agencies have jurisdiction (assaults and highway crashes), Cal-OSHA is obligated to investigate these injuries. Although most believe that fatalities are well-reported, the quality of reporting of nonfatal cases is less clear. National data suggest that the number of hospitalizations is probably well above the roughly 2,000 cases reported in California.

We examined the number of accident investigations in construction carried out in each county (separately for fatal and nonfatal cases) and the percentages of the total that were investigations of fatal injuries. The figures ranged from ten nonfatal cases for each fatal case in San Francisco to three fatal cases for each nonfatal case in Kings County. Because the San Francisco figure is closer to what most experts believe is the truth and because many counties in rural areas and in Southern California share the Kings County pattern, the implication is that there is a great deal of underreporting of hospitalizations, at least in construction.

Multiple Inspections at the Same Establishment

Earlier studies of federal OSHA inspections showed that the number of serious violations cited per inspections fell by about 50 percent after the first inspection and more slowly thereafter. In California, the fall-off is not as fast and varies by inspection type. However, the results do suggest that it may be useful to put a priority on workplaces that have not had frequent inspections.

Recommendations

Informed by our findings, we make the following recommendations:

- Cal-OSHA says that the fax-letter procedure is used to respond to complaints for which the complainant is unwilling to sign his or her name or leave contact information. Yet one idea behind the original fax-letter procedure was that the agency would check back with the complainant to see whether he or she was satisfied with what the employer had said and done. But Cal-OSHA cannot check back if it lacks contact information. The absence of that information makes it more important to maintain data on the complaints that are handled through the fax-letter procedure. Currently, there is no simple way to track the results of those one in five inspections that are carried out to validate employer compliance. In addition, for regular complaint inspections, Cal-OSHA should maintain information about the subject of the complaints; it could use that information to assess how good workers were at identifying different hazards.
- It is clear that workers in some counties are much less likely to submit written complaints to OSHA than workers in others. Cal-OSHA should consider whether it should do more to ensure that its services are provided to workers in in those counties.
- Workplaces in high-injury-rate industries that have not been inspected at all or not for many years should be identified and deserve some priority in programmed inspections.
- The Department of Industrial Relations needs to develop a system for identifying the hospitalizations (and amputations) that employers are supposed to immediately report to Cal-OSHA.
- The Department of Industrial Relations should evaluate the impact of devoting resources to accident investigations versus other uses.