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Report to the Chairman, Subcommittee
on Oversight and Investigations,
Committee on Education and the
Workforce, House of Representatives

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BUSINESS REGULATION

California Manufacturers Use Multiple Strategies to Comply With Laws





**United States
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**Health, Education, and
Human Services Division**

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The Honorable Pete Hoekstra
Chairman, Subcommittee on Oversight
and Investigations
Committee on Education and the Workforce
House of Representatives

Dear Mr. Chairman:

During the 20th century, the Congress has passed many laws to meet the expanding and increasingly complicated conditions of commerce. These laws cover a wide variety of activities ranging from ensuring workers' rights to bargain collectively, to paying income taxes, to maintaining clean air. Many of these federal laws are implemented through regulations; in addition, many states have enacted laws either supplementing federal statutes or regulating business activities in areas not preempted by federal law. While this legal framework has been developed to achieve certain societal goals, some critics have suggested that this set of federal and state laws and associated regulations makes compliance difficult and complex for employers.

Because of your concerns about the nature and scope of these laws, you asked us to compile a list of the federal and state laws that apply to California businesses of different sizes. We agreed to select two industries within that state to illustrate compliance with selected laws. Specifically, we agreed to provide information on (1) the requirements of federal and state laws affecting the workplace, tax-related, and environmental practices of California manufacturing firms of different sizes; (2) the assistance available to firms to help identify applicable laws and understand their implications on operations; and (3) the impact workplace and tax laws have had on the human resource operations at firms in two industries: high-tech electronics and aerospace.

To address these objectives, we discussed with federal and California state agency officials the legal requirements with which manufacturing businesses must comply and reviewed the federal and state laws to identify the legal provisions that are significant to a California manufacturing firm's operations. We also spoke to federal and state agency officials about their efforts to inform businesses of their legal responsibilities and reviewed agency publications and electronic information sources, such as Web sites. In addition, we visited seven

aerospace and electronics firms to determine the implications these laws have on the firms' human resource operations. This step provided us insight on strategies that firms of various sizes use to comply with the laws. Appendix I provides more detail on our scope and methodology. We conducted our review from November 1997 to July 1998 in accordance with generally accepted government auditing standards.

Results in Brief

Both federal and state laws impose a number of requirements affecting the workplace, tax-related, and environmental practices of California manufacturing firms, including requirements governing firms' hiring, firing, and payment practices, as well as pension management and employee working conditions. As employers, firms must comply with federal and state laws requiring, for example, a safe and healthful workplace; the payment of minimum wages; fair treatment in hiring, promotions, and terminations; and the withholding of employees' taxes. Firms also must report income resulting from their operations and pay taxes to the federal and California state governments. In addition, as firms manufacture goods and dispose of their waste, they must comply with state and federal environmental laws regulating use, storage, and disposal of hazardous substances and releases into the air. Although a number of laws take effect as firms hire more employees, particularly those laws that are workplace-related, most laws have at least some requirements for all firms, regardless of the number of employees. These laws, generally supplemented by accompanying regulations, are imposed by federal and state governments. The interrelationships between federal and state laws in the different areas of regulation vary. In many cases, California law sets more comprehensive standards with which businesses must comply than federal law does.

Many sources of information are available to help firms identify and meet the legal requirements imposed on them. Although no one public agency—either federal or state—coordinates or produces a complete resource guide identifying all legal requirements that apply to California manufacturers, many California and federal agencies have individually sponsored activities to assist firms in complying with legal requirements. These activities include providing access to agency Web sites, distributing guides, presenting seminars and training, helping firms meet permit requirements, and consolidating the information on permits needed to start a firm. However, company managers we spoke with seemed unwilling to rely on information provided by state or federal agency staff or to invest the time required to access, research, and understand the available

information. Instead, these managers rely on trade or business organizations and outside experts to help them understand and remain abreast of new developments in federal and state laws and regulations.

Managers overseeing human resource operations at the seven California manufacturing firms we visited have implemented a variety of approaches to meet their regulatory obligations. For example, firms of all sizes used outside resources—such as health and safety consultants, payroll services, and lawyers—to help them comply with both the more complex issues, such as pension plan requirements under the Employee Retirement Income Security Act (ERISA), and the routinized duties, such as employee payroll deductions. While each of the firms had developed strategies to comply with the laws, each was concerned that certain requirements involved excessive complexity, paperwork, or cost, although there was little pattern in the firms’ areas of complaint. In general, managers expressed frustration with never being sure they were in complete compliance with all applicable requirements. They reported fearing the “unknown requirement” that could lead to a fine or increase their liability for potential litigation. Notwithstanding these concerns, managers also cited areas in which they believed regulations helped to improve the workplace, such as health and safety and workers’ compensation requirements.

Background

Many federal and state agencies oversee the regulation of California manufacturing firms. Laws relating to the workplace and employment are overseen at the federal level by the Department of Labor (governing unemployment insurance, employee benefits such as pensions, compensation issues such as minimum wage and overtime requirements, and workplace safety); the Equal Employment Opportunity Commission (EEOC); and the National Labor Relations Board. At the state level, California agencies that oversee laws related to employment include the California Department of Industrial Relations (addressing workers’ compensation; occupational safety and health; and labor standards covering wages, hours of work, and other employment conditions) and the Department of Fair Employment and Housing (protecting individuals’ rights to seek, obtain, and hold employment without discrimination). With respect to tax law, beyond the Internal Revenue Service (IRS) at the federal level, a number of state agencies are involved. The Franchise Tax Board collects personal, corporate, bank, and franchise taxes; the State Board of Equalization collects sales and use taxes, as well as other specific taxes; and the Employment Development Department collects unemployment

insurance, disability insurance, employment training, and personal income withholding taxes. Environmental laws are overseen at the federal level, by the Environmental Protection Agency (EPA) and at the state level by the California Environmental Protection Agency (Cal/EPA).

In an earlier report analyzing the framework of federal workplace regulation, we noted that the magnitude, complexity, and dynamics of this framework pose a challenge for employers of all sizes.¹ In that report, we identified 26 key statutes and one executive order on workplace regulation that affect all types of businesses, including manufacturers. The employers and union representatives with whom we met for that study generally supported the aims of these federal laws and regulations but also called for changing agencies' approaches to developing and enforcing regulations and urged agencies to develop a more service-oriented approach to workplace regulation in general. In a more recent study that attempted to identify the impact of federal regulation on several businesses, we suggested that measuring the incremental impact of all federal regulations on individual companies, although perhaps not impossible, would be an extremely difficult endeavor.² Further, while many of the companies participating in that study recognized that regulations provide benefits to society and their own businesses, they all had varied concerns about regulatory costs and the regulatory process. These concerns included perceptions of high compliance costs; unreasonable, unclear, and inflexible demands; excessive paperwork; and the tendency of regulators to focus on deficiencies.

Recent changes in federal law and current initiatives by federal agencies are targeted to reducing the compliance burden on businesses as well as making the regulatory requirements clearer and more accessible. In 1980, the Congress passed two laws to reform the federal regulatory processes: (1) the Paperwork Reduction Act, which attempted to minimize the paperwork and reporting burdens federal agencies impose on nonfederal entities, and (2) the Regulatory Flexibility Act, which required agencies to assess the impact of their regulations on small entities, including small businesses. More recently, the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) made several changes to regulatory procedures, including (1) amending the Regulatory Flexibility Act to allow for judicial review of agency decisions, (2) requiring the publication of

¹Workplace Regulation: Information on Selected Employer and Union Experiences (GAO/HEHS-94-138, June 30, 1994).

²Regulatory Burden: Measurement Challenges and Concerns Raised by Selected Companies (GAO/GGD-97-2, Nov. 18, 1996).

“small entity compliance guides” to explain the actions a small business or other small entity must take to comply with a rule or a group of rules, and (3) establishing a congressional review process through which the Congress can disapprove final agency regulations. To comply with SBREFA, agencies must also answer questions from small entities concerning information on and advice about complying with statutes and regulations, including interpreting the law and applying it to specific circumstances supplied by the small entity.

In addition to changes required by law, under the administration’s National Partnership for Reinventing Government (formerly the National Performance Review), a series of initiatives was undertaken. Agencies were to identify obsolete regulations that could be eliminated, create partnerships between regulators and those being regulated, and identify specific regulations that could be revised. Agencies proposed plans for changing the way they enforced regulations to increase the use of partnership arrangements and reduce the emphasis on identifying procedural violations unrelated to performance. Agencies also revised their customer service standards.³

Many Federal and State Laws Cover California Manufacturing Firms

To conduct business in California, a manufacturing firm must comply with numerous federal and state laws and regulations dealing with labor, tax, and environmental concerns. The requirements of these laws and regulations cover diverse issues, such as overtime pay, unemployment insurance, and air pollution. With some exceptions (particularly with laws concerning labor issues), these requirements apply in equal force to manufacturing firms of all sizes, from the smallest to the largest. Smaller firms, though, may be exempted from certain requirements, such as those prohibiting racial or sexual discrimination and those requiring family leave. Most regulation involves both federal and state requirements, with California law frequently providing stricter requirements than those mandated under federal law.

Table 1 broadly summarizes significant labor, tax, and environmental requirements that apply to California manufacturing firms and sets forth specific federal and state legal requirements that affect firms with different numbers of employees. For descriptive purposes, these requirements are classified into nine categories of different business issues, ranging from wage and hour matters to environmental concerns. Each of these

³We have conducted numerous studies on regulatory reform over the years, the most recent being *Regulatory Reform: Agencies’ Efforts to Eliminate and Revise Rules Yield Mixed Results* (GAO/GGD-98-3, Oct. 2, 1997).

categories represents complex regulatory schemes, originating from federal and state statutes, regulations, and judicial decisions. For a more detailed summary of these regulatory requirements, see appendix II (labor law), appendix III (tax law), and appendix IV (environmental law).

Table 1: Legal Requirements for Manufacturing Firms in California, by Number of Employees at Firm

| Type of requirement | 1 employee | 2 employees | 5 employees |
|---|--|-------------|--|
| Wage and hour laws (federal and state) ^a | All employers engaged in interstate commerce or in the production of goods for interstate commerce must comply with minimum wage, overtime, and child labor laws. | b | b |
| Civil rights (federal and state) ^c | Federal: All employers must pay men and women equal pay for equal work. California: No sexual harassment is allowed in the workplace; employers with a covered federal contract or subcontract of \$10,000 or more cannot discriminate because of race, color, religion, sex, national origin, or disability; and no employer may discriminate because of military service or veteran status. | b | California: No discrimination is allowed because of race, religion, sex, national origin, physical disability, age, or sexual orientation. |
| Labor relations (federal only) ^d | All employers must allow employees to organize. | b | b |
| Safety and health (federal and state) ^e | All employers must comply with state health and safety standards that are at least as effective as federal standards. | b | b |

| 10 employees | 15 employees | 20 employees | 50 employees | 60 employees | 100 employees |
|--|---|---|---|--|--|
| b | b | b | b | b | b |
| b | Federal: No discrimination is allowed because of race, color, religion, sex, national origin, or mental or physical disability. | Federal: No discrimination is allowed because of age. | Federal: Contractors with a federal contract or subcontract of \$50,000 or more must establish an affirmative action program. | b | Federal: Employers must collect workforce statistics on employees' sex, race, and national origin. |
| b | b | b | b | b | b |
| Federal: Employers with 10 or fewer employees are exempt from certain record-keeping and, if in a low-hazard industry, from programmed safety inspections. | b | California: Employers with 20 or fewer employees and a good safety program have reduced record-keeping requirements for injury and illness prevention programs. | b | Federal: Employers in selected high-hazard industries with more than 60 employees must respond to a federal Occupational Safety and Health Administration (OSHA) data initiative survey. | b |

(continued)

| Type of requirement | 1 employee | 2 employees | 5 employees |
|---|---|--|---|
| Benefits (federal only) ^f | All employers offering a pension plan or a group health plan must comply with federal rules. | Employers with a group health plan with two or more participants must limit effects of "preexisting medical condition" and provide a specified hospital stay for childbirth. | b |
| Disability benefits (state only) ^g | All employers must provide workers' compensation insurance and collect employee contributions to disability insurance | b | Employers must allow female employees up to 4 months' pregnancy disability leave. |
| Hiring and termination (federal and state) ^h | All employers must follow immigration laws; employers may use lie detector tests only in limited circumstances; and federal contractors with federal contracts over \$25,000 must maintain a drug-free workplace. | b | b |
| Taxes (federal and state) ⁱ | All employers must withhold both federal and state income taxes, pay and withhold Social Security and Medicare taxes, and pay federal and state unemployment taxes. | b | b |
| Environment (federal and state) ^j | All employers must control air emissions of certain pollutants, the types of pollutants discharged into U.S. waters, and the use and disposal of hazardous substances. | b | b |

| 10 employees | 15 employees | 20 employees | 50 employees | 60 employees | 100 employees |
|---|--------------|--|---|--------------|---|
| b | b | Employers must offer to extend group health plan coverage to employees and family members after a qualifying event, such as job termination, divorce, or reduction in hours. | Employers must allow up to 12 weeks' unpaid leave for medical and family reasons and must maintain parity of rules on aggregate and annual dollar limits on benefits for medical/surgical and mental health services. | b | b |
| b | b | b | b | b | b |
| b | b | b | b | b | Federal: Employers must give employees 60 days' notice of a plant closing or mass layoff. |
| b | b | b | b | b | b |
| Federal: Employers must file an annual Toxic Release Inventory. California: No disposal of cancer-causing chemicals where they can enter drinking water is allowed. | b | b | b | b | b |

^aWage and hour laws include federal statutes—the Fair Labor Standards Act, Walsh-Healey Act, and Contract Work Hours and Safety Standards Act—and California law codified in the California Labor Code, Industrial Wage Order No. 1-98.

^bThis number of employees does not trigger any additional legal requirements for a firm in this area of law.

^cFederal civil rights laws include Title VII of the Civil Rights Act of 1964, the Equal Pay Act under the Fair Labor Standards Act, the Age Discrimination in Employment Act, Executive Order 11246, the Americans With Disabilities Act, Section 503 of the Rehabilitation Act, the Vietnam-Era Veterans' Readjustment Assistance Act, and the Uniformed Services' Employment and Reemployment Rights Act; California law includes the Fair Employment and Housing Act.

^dFederal statutes involving labor relations include the National Labor Relations Act and the Labor-Management Reporting and Disclosure Act.

^eThe applicable federal statute is the Occupational Safety and Health Act; the California law is the California Occupational Safety and Health Act. California administers its own occupational safety and health plan in lieu of the federal standards, as provided in sec. 18 of the Occupational Safety and Health Act. Here and in app. II, we have, however, specified federal minimum requirements as well as unique state requirements.

^fFederal statutes include ERISA, the Family and Medical Leave Act, the Health Insurance Portability and Accountability Act, the Mental Health Parity Act, the Newborns' and Mothers' Health Protection Act, the Consolidated Omnibus Budget Reconciliation Act, and the Uniformed Services' Employment and Reemployment Rights Act.

^gThe California statutes covering employee disability include California Disability Insurance, California Workers' Compensation, and the Fair Employment and Housing Acts.

^hApplicable federal law includes the Immigration and Nationality Act, the Employee Polygraph Protection Act, the Drug Free Workplace Act, and the Workers' Adjustment and Retraining Notification Act.

ⁱThe applicable federal and state laws are codified in the federal and state income tax codes.

^jFederal statutes include the Clean Air Act, the Federal Water Pollution Control Act, and the Resource Conservation and Recovery Act; California statutes include the California Clean Air Act, the Porter-Cologne Water Quality Control Act, and the Hazardous Substances Act.

Source: GAO analysis of federal and state laws and regulations.

Most Labor, Tax, and Environmental Requirements Apply to All California Manufacturing Firms, Regardless of Number of Employees

For the most part, these labor, tax, and environmental requirements apply regardless of the number of workers employed by a firm. However, as indicated in table 1, some of these laws have specific legal provisions that are triggered as the number of employees at a firm increases. In general, neither tax nor environmental requirements vary with an increasing number of employees. When a firm hires its first employee, it must immediately comply with all requirements for federal and state income tax withholding, federal and state unemployment insurance taxes, and federal Medicare and Social Security taxes.⁴ Similarly, any firm, regardless of its

⁴However, firms with smaller amounts of total payroll may have fewer deposit and reporting requirements.

size, must generally comply with all relevant environmental requirements if it produces specific amounts of some type of pollution or handles certain amounts of specified hazardous substances.⁵

Some labor law requirements, though, show greater sensitivity to the number of employees in a firm. In particular, adding employees to a firm has critical impact on the application of federal civil rights laws and certain federal requirements for employee benefits. Thus, federal law includes prohibitions against racial, religious, and sexual discrimination that apply only if a firm has at least 15 employees.⁶ Certain federal requirements for employee benefits also exempt firms of smaller sizes; for example, federal requirements for 12 weeks of unpaid family leave for an employee for medical or family-related reasons apply only if a firm has at least 50 employees. In addition, some other federal requirements are triggered only after a firm hires a specified number of employees, such as the requirement to give employees 60 days' notice of a plant closing or mass layoff (100 employees) or to conduct a programmed OSHA safety inspection of a firm in a low-hazard industry (10 employees).

In California, however, overlapping state labor law requirements have muted the impact of some of the federal thresholds, extending the same or similar requirements to smaller firms. For example, state law prohibits sexual harassment in firms of any size, and racial or sexual discrimination at all firms with at least five employees. As another example, state law requires all firms with at least five employees to allow their female employees up to 4 months' pregnancy disability leave in addition to federal family leave requirements. Regarding OSHA, California law does not exempt firms of any size from safety inspections.

⁵Certain environmental requirements apply only if a firm produces or otherwise handles some threshold amount of pollutant or hazardous substance. Although these regulatory limits may effectively exempt smaller firms from these requirements, this is not always the case. For example, air pollution regulations cover the emission of volatile paints and solvents used in manufacturing operations. A large firm with numerous employees may effectively exempt itself from the requirements by acquiring technical equipment to better clean up its paint and solvent emissions, while a much smaller firm may not have the same equipment, thereby subjecting its operations to air pollution control requirements.

⁶However, a firm with one employee and a federal contract or subcontract of at least \$10,000 is subject to various civil rights laws.

Interrelationships of Federal and California State Requirements Add Complexity and Stringency to Labor, Tax, and Environmental Regulation

Both federal and state governments play active roles in the regulation of the workplace, taxes, and the environment.⁷ The relationship between federal and state laws is complex and, to varying degrees, the requirements are intertwined. Thus, under the overall regulatory schemes, employers must comply with both federal and state laws and regulations. In the case of California, employers often face more comprehensive labor, tax, and environmental regulation by the state than by federal law. In addition, some areas of state regulation have no federal counterpart. Thus, federal regulatory reform efforts intended to lessen the burden of compliance may be limited by those requirements under state laws that are more comprehensive.

Although some areas of labor law regulation are covered only by state law (for example, workers' compensation insurance and disability insurance), most regulation includes various forms of federal and state interaction, ranging from the total preemption of any state regulation by federal regulation to "dual control" by federal and state governments to the implementation of minimum federal standards by state authorities. Certain federal statutes either explicitly or implicitly preempt state regulation: ERISA, the National Labor Relations Act, and the Immigration and Nationality Act. However, other statutes—for example, the Fair Labor Standards Act—specifically allow dual control if the state regulation is stricter than federal requirements. Still other federal statutes, such as the Occupational Safety and Health Act, allow states to set up and enforce their own regulatory program with federal approval, in lieu of a federal program.

In California, the net effect of these combined federal and state labor law requirements is that California manufacturing firms must, in many cases, meet higher labor standards than those required by the federal government. For instance, as of March 1998 the California minimum wage was \$5.75—an amount that is 60 cents higher than that required under federal law. Similarly, while the California Occupational Safety and Health Administration (Cal/OSHA) program administers all federal health and safety standards, it includes additional state standards.

Tax regulation is conducted independently by both federal and state governments. Each has authority to tax its citizens and corporations for the support of its operations. Therefore, a California firm must follow separate federal and state tax codes for withholding employees' federal

⁷Local law (city, county, and so on) also plays a significant role in regulation, particularly with regard to environmental concerns. However, discussion of the impact of local laws is beyond the scope of this report.

and state income taxes, and for payment of corporate income taxes. Certain taxes—Medicare and Social Security—are levied only by the federal government. Unemployment insurance tax, on the other hand, is collected by both federal and state governments to run the states' federally approved unemployment compensation programs.

Even though federal and state governments run parallel tax programs, different definitions for the same key regulatory terms create complexity for employers. For example, the definition of an “employee” varies between states (including California) and the federal government. California law provides a broader definition of “employee” than that found in federal law, thereby including more workers under the provisions of state income tax withholding and unemployment insurance than would be included using the federal definition. In doing so, California ensures broader coverage of its citizens under the state unemployment insurance and disability insurance programs.

Environmental regulation has become, since the 1970s, a joint effort among federal, state, and local authorities. Traditionally, regulation of pollution control, like other “police powers,” had been left to state and local governments. However, with the passage of major federal environmental statutes in the 1970s, EPA has broad authority to set minimum standards for air, water, and hazardous substances control. Typically, state authorities have used these federal minimum standards to create their own environmental program, continuing to enforce these standards within their own state.

As with other regulatory areas, California environmental requirements in some areas have added stringency to the federal law. Thus, under California law, employers dealing with chemicals known to the state to cause cancer have a broad requirement to give “reasonable and clear” warning to any individual exposed to those chemicals. As another example of state regulation, employers that produce 12,000 kilograms of hazardous waste per year must develop a plan for waste reduction every 4 years, and failure to take action on the plan can lead to monetary penalties under the state program.

Thus, in these three major areas of regulation—labor, tax, and environment—the combination of federal and California state law creates a complex web of regulation for employers. Moreover, California law often sets higher standards for regulatory compliance than required by federal law. Consequently, federal reform efforts may be limited in practical effect

by the existence of supplementary or independent state regulatory programs.

Many Sources of Information Are Available to Help Firms Identify Applicable Laws

California and federal agencies have taken proactive steps to inform manufacturers about employers' duties under existing laws and regulations as well as about proposed changes in those requirements. For example, federal and state agencies have made information available to the public on many laws and requirements through publications and Web sites. In addition, many federal and state agencies have established focal points and other mechanisms through which manufacturing employers can obtain information about the agency-specific laws. (See table 2.) Many agencies also provide information tailored to meet the needs of small businesses and start-up employers. However, California manufacturing employers cannot rely on a single governmental source or focal point to provide them with a comprehensive understanding of the many federal and state workplace, tax, and environmental laws that apply to them and must seek out information from the public agency responsible for enforcing the law. Consequently, firms we visited continued to rely on the expertise and knowledge provided by trade and business associations like the California Chamber of Commerce or by professional practitioners.

Table 2: Types of Services and Information on Federal and State Laws Made Available by Public Agencies

| Source | Publications/ brochures | Handbook on laws | Internet Web site ^a | Seminars/ workshops/ training | Agency focal point for small businesses | Assistance centers ^b |
|---|----------------------------|---------------------|-----------------------------------|-------------------------------------|---|------------------------------------|
| Federal agencies | | | | | | |
| EEOC | X | X | X | X | X | |
| EPA ^c | X | X | X | X | X | d |
| IRS | X | X | X | X | X | |
| Labor | X | X | X | X | X | |
| Small Business Administration | X | | X | X | X | X |
| California agencies | | | | | | |
| Cal/EPA | X | X | X | X | X | X |
| California Trade and Commerce Agency ^e | X | X | X | X | X | |
| Department of Fair Employment and Housing ^f | X | X | X | X | | |
| Department of Industrial Relations ^g | X | X | X | X | | |

(continued)

| Source | Publications/ brochures | Handbook on laws | Internet Web site ^a | Seminars/ workshops/ training | Agency focal point for small businesses | Assistance centers ^b |
|---|----------------------------|---------------------|-----------------------------------|-------------------------------------|---|------------------------------------|
| Employment Development Department ^h | X | X | X | X | X | |
| Franchise Tax Board ⁱ | X | X | X | X | | |
| State Board of Equalization ^j | X | X | X | X | | |

^aAgency Web sites vary: some contain all of an agency's laws, and others are less comprehensive.

^bAssistance centers are offices at which information and staff are available to the public. For example, Cal/EPA's drop-in assistance centers help small businesses comply with permit requirements.

^cEPA has delegated enforcement and implementation authority for many federal environmental statutes to Cal/EPA.

^dEPA operates several "compliance assistance centers" on Web sites. Although they are not physical centers, they provide access to technical information and enable the public to ask questions of technical experts.

^eThe California Trade and Commerce Agency is the state's lead agency created to promote economic development, job creation, and business retention.

^fThe Department of Fair Employment and Housing protects the rights of people to seek, obtain, and hold employment without discrimination because of race, religion, gender, age, or physical handicap.

^gThe Department of Industrial Relations oversees laws for wages, equal pay, occupational safety and health, overtime, workers' compensation, and prohibition against discrimination based on sexual orientation.

^hThe Employment Development Department handles audit and collection of unemployment insurance, disability insurance, employment training, and personal income withholding taxes.

ⁱThe Franchise Tax Board collects personal, corporate, bank, and franchise taxes.

^jThe State Board of Equalization collects sales and use, fuel, alcohol, tobacco, timber, and other taxes and some fees that fund specific state programs.

Information From Federal Agencies Is Available to Manufacturers

Although no one federal agency has yet compiled a comprehensive set of federal laws applicable to manufacturers, the federal government, according to agency officials, has striven to expand its role beyond the promulgation and enforcement of regulations. Agencies have attempted to help businesses better understand their legal responsibilities and assist them to make regulatory compliance less burdensome. Manufacturers, in California and throughout the nation, can learn about their federal legal responsibilities from a multitude of publications, including law handbooks, informational brochures, and guides that federal agencies have compiled and made available to the business community. For

example, IRS has a variety of publications that describe various business taxes and record-keeping requirements for small businesses. With the cooperation of the Small Business Administration (SBA), it disseminates much of this information through SBA district and regional offices. Labor has a variety of guides and a small business handbook that summarizes the laws Labor enforces. The guides aim to clarify the various duties placed on employers so they can more easily develop compliance strategies and identify the appropriate agency for questions and assistance. EPA has prepared publications that outline the federal environmental laws and regulations relevant to each industry sector as well as information about environmental problems and solutions, case studies, and tips about complying with regulations. For example, EPA's publication entitled Profile of the Electronics and Computer Industry⁸ describes the manufacturing processes in the industry and identifies federal laws that apply to the industry. EPA has prepared similar profiles for 26 other industry sectors.

Federal agencies responsible for enforcing workforce, tax, and environmental laws, in response to SBREFA and because of their interest in helping businesses better understand applicable laws, have placed their agencies' laws and regulations on their Internet Web sites. Although many agencies have tailored their Web sites to address the special needs of small businesses and start-up employers in order to comply with SBREFA, much of what the agencies have made available to small businesses is also applicable and helpful to businesses of all sizes. For example, the EEOC has developed a small business information Web site that includes laws and processes that apply to all businesses. Federal agencies have also offered businesses the opportunity via Web sites to comment on the potential burden proposed changes to laws or regulations could have on their business activities. Examples follow:

- IRS' Web site includes a list of tax regulations issued since August 1, 1995, with references to plain-language summaries and IRS news bulletins that provide businesses with changes in procedures and tax rulings. The Web site also offers the opportunity for interested parties to comment on proposed changes to regulations. In addition, it includes a business tax kit with a small business tax guide, information on how a business can apply for an employer identification number, and other taxpayer information.
- Labor's Web site includes a handbook for small businesses that summarizes laws Labor oversees. The Web site also provides "interactive" expert advice on workplace laws in a format that mimics the interaction an individual might have with a human expert. Called Employment Laws

⁸EPA, Profile of the Electronics and Computer Industry (Washington, D.C.: EPA, Sept. 1995).

Assistance for Workers and Small Business (“elaws”), the system provides manufacturers with advice on issues such as workplace safety and the Family and Medical Leave Act.

- The EEOC Web site also provides information about laws for small businesses; record-keeping and reporting requirements; substantive issues of concern to small businesses; and types of assistance, guidance, and publications available.
- EPA’s Web site, in addition to providing regulations and proposed rules, catalogs and profiles the laws and regulations that are relevant and applicable to several specific industries. EPA’s Office of Compliance, with input from trade groups and other federal and state agencies, has developed on-line “assistance centers” for five specific industry sectors heavily populated with small businesses that face substantial federal regulation, and it expects to add four more shortly. The centers have been designed to serve as the first place that small businesses and agencies that assist small businesses can go to get comprehensive, easy-to-understand compliance information specifically targeting these sectors. In addition to technical and regulatory information, the Web site provides users with a link to regulatory experts.
- SBA’s U.S. Business Advisor Web site is a compilation of laws, regulations, and proposed changes to laws from other executive agencies that cover many but not all of the environmental, safety, communications, health, immigration, and labor requirements of small businesses. In addition, the Web site contains answers to questions most commonly asked of the Department of Defense, OSHA, and IRS.

In addition to providing information in publications and on Web sites, federal agencies offer manufacturers opportunities to attend training or seminars at which they can meet agency staff, learn about the current regulatory environment and record-keeping requirements, and receive technical assistance to facilitate compliance with federal laws and regulations. In addition, IRS has produced a videotape that it distributes through its district offices to help business people understand tax laws and record-keeping requirements related to starting a new business.

State Agencies Have Implemented Multiple Efforts to Inform Manufacturers About Applicable Laws

The California state agencies responsible for enforcing workplace, tax, and environmental laws and the agency tasked with promoting economic growth in California have taken major steps to make information about the state’s laws and permit requirements for various business activities available and accessible to manufacturers in California. Although manufacturers cannot turn to a single state agency to learn about their

legal responsibilities, state agencies, like their federal counterparts, have developed informational publications, including guides to starting up businesses in the state, law handbooks, brochures, and pamphlets. For example, the Department of Fair Employment and Housing has prepared brochures and publications to provide businesses with information about housing, equal employment opportunity (EEO), and discrimination laws. The state's Franchise Tax Board, besides having the state's tax code available in a hard copy handbook format, has also prepared a chart that provides a brief synopsis of each of the state's tax laws and the names of the state agencies responsible for enforcing them. Cal/EPA has compiled the state's environmental laws in a handbook.

Several California state agencies have placed their laws, regulations, and requirements on their Internet Web sites for businesses to access. In addition, some agencies have provided businesses the opportunity to comment on proposed regulations using these Web sites. California's tax agencies—the Employment Development Department, the Franchise Tax Board, and the State Board of Equalization—provide information about employer tax publications, forms, and tax rates as well as other information, such as the answers to questions most commonly asked by businesses. Cal/EPA has made its regulations and many state and local requirements for permits available to businesses through its Internet Web site. Moreover, current forms and applications required by a wide range of authorities that provide permits are available to businesses on the Internet, and some forms can be completed electronically on the Internet. The Department of Industrial Relations, the state agency responsible for worker safety and employment laws, is working toward making all of the laws it enforces available to manufacturers as well. Through California's Trade and Commerce Agency Web site, manufacturers can access a handbook that describes the state and local processes for obtaining permits in general and the necessary paperwork businesses must prepare when applying for environmental permits.

State regulatory agencies offer business representatives the opportunity to attend seminars, training workshops, and presentations designed to educate representatives on their firms' legal responsibilities. The Franchise Tax Board has a taxpayer advocate branch that provides taxpayer education and informational seminars on Saturdays. In addition, program specialists are available to assist taxpayers with complaints or problems they may have as a result of tax audits. The Cal/OSHA staff performs outreach to businesses to ensure that they are aware of the state's worker safety requirements.

In addition, the California Trade and Commerce Agency's Office of Permit Assistance provides businesses with a focal point for learning about requirements for obtaining state environmental permits at one location. This office has compiled and collated information from other state and local agencies responsible for enforcing state and local environmental permit requirements into the California Permit Handbook, a streamlined guide for understanding the environmental permits most often required in California. Office staff also provide technical consultation for businesses experiencing difficulties complying with state or local permit requirements.

Cal/EPA has developed a system through which small businesses can access many state agencies' laws and regulations at one location, and the Office of Administrative Law will have the entire California Code of Regulations available on the Internet through this system within the next 2 months. The agency compiled and collated many of the state and local laws and permit requirements and established permit assistance centers throughout the state. Staff at these centers help businesses understand the state, local, and regional environmental and other permit requirements businesses must satisfy before they can start up or expand. To extend this type of assistance to people located outside the geographic areas covered by existing permit assistance centers, Cal/EPA has developed an on-line program, called CalGOLD, by which people can determine the federal, state, and local permit requirements through the Internet. Someone wanting to start up a new or expand an existing business can submit information on the type of manufacturing and its proposed location, and the system will identify many of the relevant permit requirements needed to operate the business. CalGOLD also provides users with linkages to other federal, state, or local agencies' addresses or Web sites to contact for assistance.

Advocacy and Trade Associations Also Help Manufacturers With Laws and Changes

California's Chamber of Commerce has a number of resources available to manufacturers, most of which must be purchased, that can help businesses learn about and comply with many California and federal laws applicable to them.⁹ The Chamber of Commerce has an Internet Web site that member businesses can access to learn about employment, worker health and safety, and environmental and other requirements. In addition, the Chamber of Commerce offers businesses its California Labor Law Digest, which explains the labor laws, provides compliance advice, and

⁹The California Chamber of Commerce is an 11,000-member employer association that represents the interests of private employers in California.

includes record-keeping forms and checklists. Individuals can also purchase business start-up kits with federal, state, and local forms that they must complete before operating a new business. The Chamber of Commerce periodically issues newsletters, regulatory updates, and business survival guides to help businesses understand the current regulatory environment and any proposed changes that may affect their business operations. From the Chamber of Commerce, businesses can also purchase the posters that the government requires employers to display to inform their employees of workplace laws that protect them.

In addition, associations representing the electronics and aerospace industries and human resource managers keep their memberships informed of proposed legislation and changes to existing legislation that may have an impact on their members' business opportunities. For example, the American Electronics Association, a trade group representing the U.S. electronics, software, and information technology industries, has tracked and supported federal legislation providing for an increase in the number of highly skilled, high-technology foreign workers who are provided visas to work in this country under the federal H-1B program.¹⁰ In addition, the American Electronics Association has an Internet Web site, publishes newsletters, and sponsors conferences and seminars to keep its members informed of new legislation or changes to existing California and federal legislation. The Aerospace Industries Association (a national trade association for the aerospace industry), learns about changes in state laws through ongoing networking with its members and also monitors federal legislation that may have an impact on aerospace manufacturers. To keep its members informed of new or changing legislation, it publishes a monthly newsletter. The Society for Human Resource Management offers its human resource professionals a variety of ways they can learn about proposed changes in the regulatory environment.¹¹ For example, it analyzes the impact current court decisions and legislation may have on the human resource community and makes this information available to its membership through its Web site and various publications.

Many firms rely on trade and advocacy organizations to keep them informed about applicable laws and administrative record-keeping

¹⁰Under the H-1B program, employers may hire nonimmigrant aliens in certain specialty occupations. Employers must attest that certain conditions exist, including that the workers will be paid the higher of the actual wage paid to other workers similarly employed or the local area prevailing wage for the occupation.

¹¹The Society for Human Resource Management is an association that represents over 100,000 professional human resource managers and students.

requirements. To learn what they need to do to comply with existing laws and paperwork requirements, firm officials have used the Chamber of Commerce's Internet Web site, telephone hot line, newsletters, and business guides. Several firms' officials cited the California Chamber of Commerce's Web site and newsletters as the most reliable sources of information about state and federal laws and proposed changes. Another firm official said that the Society for Human Resource Management, through newsletters, has been effective in keeping his firm aware of changes to laws that have an impact on its human resource operations.

Firms Obtain Much of Their Knowledge of Laws From Paid Professionals

Despite public agency and trade association efforts to inform manufacturers about applicable laws and regulations, the firms we visited continue to rely on expertise and assistance from the professional practitioners they hire. The owner of the smallest manufacturing firm we visited contracts with an environmental consulting firm to keep him informed of legal responsibilities; assist with documenting the firm's compliance with safety, health, and environmental standards; and inspect the plant each quarter for compliance. The consulting firm also prepared the manufacturer's permit application for its metal-plating process and waste treatment and made subsequent revisions to the original permit application. Firms, in general, used private attorneys specializing in labor law for counsel on human resource and personnel issues. For example, one firm, in implementing a new leave policy to comply with the Family Medical Leave Act (FMLA), consulted extensively with its lawyer specializing in labor law.

Firm officials said they have been hesitant to rely on information provided by public regulatory agencies for several reasons. Some said that they have experienced difficulties in identifying the appropriate department or person to contact at a public agency. When they did obtain information from agency staff, officials with a few firms said they had concerns about its accuracy and reliability. One firm official said that when she contacted a federal agency for assistance she was told that the agency official could not interpret a law for her and suggested instead that she seek an attorney's assistance. Another firm official said that several staff he consulted at the same regulatory agency interpreted the same law inconsistently. One official at a small firm said that even if public agencies have developed programs to help him learn about the relevant laws, he is too busy managing his employees and the production line to spend time researching and learning about laws and instead hires consultants to do this work for him.

Electronics and Aerospace Firms Have Developed Strategies to Comply With Laws Related to Human Resource Operations but Have Concerns About Some Requirements

The firms we visited have devised different strategies to ensure compliance with those legal requirements related to their human resource operations—in general, the workplace and tax requirements listed in appendixes II and III. The type of strategy varied with the size of the firm, with larger firms more often having experts on board to handle specialized issues. The human resource staff at the firms we visited were generally aware of the firms' legal requirements and had developed their human resource policies and procedures to meet their legal responsibilities. These individuals sometimes used outside resources to address these requirements, particularly when compliance involved very routine or highly complex tasks. Although firms generally seemed to have integrated these compliance strategies into their daily operations, firm officials continued to voice concerns about the general burden, complexity, cost, and paperwork associated with many regulatory requirements. Further, firms said that the ambiguity sometimes associated with requirements left firms unsure of whether they were in compliance. Finally, some firms expressed concerns in particular about state laws, although the firms did identify areas in which state laws have improved the workplace.

Organization of Human Resource Responsibilities Varied With Size of Firm

As part of their regular operations, manufacturing employers must typically conduct a number of human resource management activities, which include the following personnel-related activities: setting compensation; recruiting, hiring, promoting, and terminating workers; providing training and development; assigning duties; monitoring performance; addressing labor relations; meeting health and safety requirements; administering health, pension, and other benefits; and maintaining personnel records. The location of responsibility for these activities within firms varied according to their size, industry, and particular management style and culture and was influenced by such other forces as market competition and federal and state law. At the firms we visited, activities that human resource managers oversee were affected by workplace and tax laws to the extent that these activities related to employee compensation, but these activities were not affected by environmental laws.

Our case study analysis of human resource operations at the California manufacturing firms we visited indicated that larger firms had more complex human resource systems, staffed with more specialized personnel. This finding was expected and consistent with the views of experts we consulted and the general human resource literature. At the smallest firm, which had fewer than 10 employees, the owner directly

handled many human resource issues, such as hiring, leave, and terminations; his secretary helped with payroll and paperwork associated with enrolling employees in the pension and health plans. At firms that had closer to 100 employees, a human resource manager handled many human resource functions. The largest firm we visited, a subsidiary of a multinational company, had several human resource specialists at its California location but handled some issues, such as its health insurance contract, through its corporate office.

Responsibility for understanding and complying with legal requirements related to human resource operations at these firms was focused largely in the human resource departments but overlapped into other parts of the firms' organization. Hence, compliance with human resource-related requirements involved multiple departments and required coordination among them. For example, meeting employee health and safety requirements, as set under OSHA and similar state laws, was addressed by human resource personnel, a separate OSHA/environmental department, or the firm's production department. In the very small firm, the owner, who managed the firm's manufacturing operations, was closely involved with ensuring that health and safety requirements were met. In somewhat larger firms, this was a joint effort of staff overseeing the manufacturing activities (who ensured that safety requirements were met on the production floor) and human resource departments (who handled administrative areas such as accident reports to OSHA). In the largest firm, an environmental and safety group oversaw implementation of OSHA requirements. Similarly, human resource staff worked with accounting or payroll groups to comply with requirements related to employees' pay. For example, completing tax withholding forms or determining which employees should be paid extra for overtime to comply with the Fair Labor Standards Act (FLSA) were examples of human resource functions that were integrated with payroll or accounting.

Firms Have Integrated Regulatory Compliance Into Their Standard Policies and Operating Procedures

At the firms we visited, efforts to comply with those federal and state laws related to hiring, termination, and other workplace issues have been integrated into the employers' standard operations. Firms have incorporated policies that meet their legal requirements into employee handbooks. For example, one firm's employee handbook included sections addressing equal employment opportunity provisions, determining which employees were exempt or nonexempt from overtime pay, managing family and medical leave and pregnancy leave, limiting contributions to the 401(k) plan, and reporting employee injuries. Firms

have implemented personnel procedures in many areas to ensure compliance with legal requirements. For example, to comply closely with EEO laws, one firm distributed lists of acceptable, nondiscriminatory questions to company staff before they interviewed potential employees. Several firms have modified their leave policies to comply with FMLA. Further, firms provided training on chemical and equipment safety that met California's safety and health requirements. Notifying employees who are separating from the firm of their rights to extended health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) was also a standard procedure at firms covered by the requirement. Several firms routinely held safety committee meetings in which management and line workers discussed compliance with safety requirements. Also, completing the I-9 forms indicating that new employees were authorized to work in the United States was a routine procedure when new employees began their employment.

The firms we visited frequently retained outside resources to perform certain tasks required by law, particularly those involving either very routine or very complex processes. Examples follow:

- To deal with routine duties involving employee payroll taxes and income tax withholding, most of the firms relied on an outside payroll service. The firms used the expertise of payroll specialists to ensure that they complied with various laws related to payroll procedures, including those requiring new employee registers, and EEO reporting. For example, with the recent requirement that new employees' names be sent to a state agency to determine if the employee has any outstanding child support due, the payroll service for several of the firms we visited will routinely forward the names of all new employees, eliminating the need for the firm itself to report the names.
- Outside firms that administered certain programs completed some required reports that were particularly complex. For example, detailed annual forms required by ERISA for pension funds were prepared for a fee by the companies administering the retirement funds at all the firms we visited.
- Three of the firms had their health insurance administrators collect insurance payments directly from former employees with coverage under COBRA, which allowed them to continue their coverage after their employment with the firm ended. Timely collection of these funds from former employees had been an administrative problem for some firms.

As table 3 shows, firms we visited used outside help to address requirements for many human resource functions.

Table 3: Implementation of Human Resource Operations at Seven Firms

| Human resource operation | Number of firms | | |
|--|---|--|--------------------------------------|
| | Operations handled primarily internally | Operations handled partly internally and partly externally | Operations handled mostly externally |
| Setting wages and classifying employees as exempt or nonexempt | 7 | 0 | 0 |
| Filling out hiring and related paperwork | 2 | 4 | 1 |
| Preparing EEO reporting forms ^a | 3 | 0 | 1 |
| Administering pension plan(s) | 0 | 1 | 6 |
| Administering health plan(s) | 0 | 0 | 7 |
| Preparing payroll, including calculating employee taxes | 2 | 0 | 5 |
| Complying with health and safety requirements | 5 | 2 | 0 |
| Administering COBRA (health insurance) requirements ^a | 0 | 3 | 3 |
| Administering workers' compensation | 0 | 0 | 7 |
| Administering FMLA requirements ^a | 6 | 0 | 0 |

^aThis operation was required only for the larger firms.

Employers Had Varied Concerns About Regulatory Requirements

During our in-depth discussions with managers from the firms visited, each expressed some frustration about certain governmental requirements imposed on them, although there was little pattern in their complaints. Certain laws were not a problem for some firms because they had not encountered a workplace situation covered under those laws, whereas others, who had considerable experience with situations covered by the laws, found them burdensome. For example, two firms found the FMLA

requirements to be no problem because no employees had ever asked for that type of leave, whereas two firms with greater family leave usage found the process of categorizing and recording leave a greater concern. Compliance with requirements to accommodate the needs of disabled workers was not an issue for several firms; some said they had not had any employees who needed special accommodations. In one case, the firm had built its plant to include handicapped access ramps and bathrooms, which it believed probably eliminated the need for some special accommodations. A January 1, 1998, change in California state law that eliminated the requirement to pay certain workers extra wages for working more than 8 hours a day—a state regulation that had been more stringent than the federal FLSA requirement—exemplifies the variation in employers' concerns with workplace regulation. Although the regulation was repealed with the aim of permitting more flexibility in setting worker schedules, two of the firms reported that they have continued to provide overtime pay for work beyond 8 hours a day. Managers at one firm said overtime pay provides an incentive for employees to work at least their regular hours, thereby maximizing manufacturing machine use; the other firm's managers believed that the 8-hour day rule maintained employee morale and productivity.

Managers at firms often articulated frustration with excessively difficult requirements or burdensome paperwork, particularly when the managers believed the requirement did not accomplish results.

- Some firms complained about the requirement for tracking and categorizing family and medical leave under FMLA separately from other leave, as required under federal law. Two firms, both with several hundred employees, have decided to require that all leave be approved by one specific person in order to ensure accurate and consistent approval, even though it is burdensome for that individual. Managers at one firm were particularly frustrated with the requirement to provide separate family and medical leave because they believed they already had a very liberal leave policy without the FMLA-generated paperwork requirements.
- Some firms had difficulties with requirements under the COBRA provisions that govern health insurance, particularly with defining and identifying qualifying events, such as when former spouses of employees qualify for extended coverage, and informing all qualified beneficiaries.
- Regarding EEO requirements, one manager commented that under law he is required to collect information on applicants' ethnic background for the EEO-1 form but is not allowed to ask applicants questions about race, age, and other characteristics. Another firm has decided not to let its

workforce exceed 100 employees or bid on government contracts over a particular size to avoid certain EEO requirements, such as the need to prepare affirmative action plans and an EEO reporting form that it considers administratively burdensome. Another manager commented that she keeps careful records about attendance at EEO training and resolution of internal EEO investigations—a time-consuming process—to attempt to protect the company in the event of a lawsuit. However, some company managers believed that such steps might not be sufficient to protect the firms from potential legal liability.

Managers at firms we visited were also frustrated about legal requirements that they believed were unclear and left them vulnerable to fines or litigation because of noncompliance. For example, two firms complained about what they perceived to be subjective, vague distinctions between workers who are and are not exempt from the overtime pay requirements under FLSA and the related state law. One called it “the most confusing part of labor law,” noting that it left the company vulnerable to being out of compliance and to paying back wages. The other, commenting that some job classifications in the firm are ambiguous under the law for purposes of coverage, said it looks for a clear distinction on its own and tries to apply its determinations in a consistent manner. Managers at firms also expressed concerns about ambiguity related to employee safety and health requirements as interpreted by enforcement personnel. Managers we talked to believed that the “shifting sands” of enforcement personnel’s interpretations of regulations made compliance more difficult. One plant manager said it seems that no matter how careful a company is in trying to meet Cal/OSHA requirements, Cal/OSHA inspectors will eventually write them up for some violation. A human resource manager at another firm said she believes that when Cal/OSHA inspects a firm, it always finds something wrong. A representative at another firm said unhappy employees have filed anonymous complaints with Cal/OSHA because they have learned that Cal/OSHA always finds something wrong if it inspects the plant.¹²

Firms Expressed Some Concerns About State Laws

Some areas of concern were related to state laws only. One area that firms particularly expressed concern about was workers’ compensation for injuries. While employers acknowledged that employees should receive compensation for workplace injuries, employers believed that some employees take advantage of the system and abuse the benefit. One manager commented that the state workers’ compensation insurance

¹²This is consistent with our earlier work in which we found that corporate managers complained of a “gotcha” mentality on the part of government compliance officers. See *Workplace Regulation: Information on Selected Employer and Union Experiences* (GAO/HEHS-94-138, June 30, 1994).

board makes determinations in employees' favor more often than it should. She commented that some employees take advantage of the system and abuse the benefit; when they know they can qualify for workers' compensation, she said, they will do anything to stay out of work, including having unethical medical practitioners falsify medical reports. She noted that this is frustrating because employers can do little to control costs. Another employer expressed frustration with the workers' compensation program because it covers injuries related to medical conditions that existed before employment with the firm.

**Companies Identified
Some Areas in Which
Regulation Was Beneficial**

Although the firms' managers had many specific concerns about regulations affecting human resources, they also cited some areas in which they believed regulations had helped to improve the workplace. Several firms had concerns about the health and safety requirements, as discussed earlier, but commented that compliance with them had improved health and safety conditions in the workplace. For example, one manager said that the ready availability of the material safety data sheets required by Cal/OSHA facilitated the identification of a chemical that was irritating an employee's eye and enabled the employee to obtain treatment. Another mentioned that when his firm used safety committees to assess compliance with safety standards, the accident rate was half the rate experienced when the committee did not meet. He also noted that, after being charged with a Cal/OSHA violation, the company would respond and correct the problem within a day or two, thereby improving workplace safety, where previously the company had refused to take action. A manager from a relatively new firm explained that a Cal/OSHA consultant had visited the firm's plant and explained the requirements it was expected to meet. As a result, it set up systems and procedures, such as an injury and illness program, that improved workplace safety. Similarly, because firms are required to provide workers' compensation, a firm manager said that representatives from the insurance company inspect the plant and assess how safety conditions can be improved. Regarding unemployment insurance, one manager complimented California's workshare program, which allows an employee to receive partial unemployment benefits when the employee's work hours have been reduced. This program allows the company to retain an employee for a part-time schedule whereas, without it, the company would have lost the employee. The manager believed that retaining the employee resulted in benefits that outweighed unemployment insurance costs.

Agency Comments

We requested comments on a draft of this report from Labor, EPA, IRS, and SBA. Labor, EPA, and IRS provided technical comments to improve the clarity and accuracy of certain information. We have incorporated those suggestions into the report as appropriate. SBA responded that it had no comments.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from its issue date. At that time, we will send copies of this report to the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Commissioner of the Internal Revenue Service, and the Administrator of the Small Business Administration. We will make copies available to others on request.

Please contact me on (202) 512-7014 if you or your staff have any questions. This report was prepared under the direction of Charles A. Jeszeck, Assistant Director. Other major contributors to this report are listed in appendix V.

Sincerely yours,



Carlotta C. Joyner
Director, Education and
Employment Issues

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Table 1: Legal Requirements for Manufacturing Firms in California, by Number of Employees at Firm

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Abbreviations

| | |
|----------|--|
| ADA | Americans With Disabilities Act |
| ADEA | Age Discrimination in Employment Act |
| Cal/EPA | California Environmental Protection Agency |
| Cal/OSHA | California Occupational Safety and Health Administration |
| CERCLA | Comprehensive Environmental Response, Compensation, and Liability Act |
| CFRA | California Family Rights Act |
| COBRA | Consolidated Omnibus Budget Reconciliation Act of 1985 |
| EEO | equal employment opportunity |
| EEOC | Equal Employment Opportunity Commission |
| EPA | Environmental Protection Agency |
| ERISA | Employee Retirement Income Security Act |
| FEHA | Fair Employment and Housing Act |
| FICA | Federal Insurance Contributions Act |
| FLSA | Fair Labor Standards Act |
| FMLA | Family Medical Leave Act |
| FUTA | Federal Unemployment Tax Act |
| FWPCA | Federal Water Pollution Control Act |
| HIPAA | Health Insurance Portability and Accountability Act |
| IRS | Internal Revenue Service |
| MHPA | Mental Health Parity Act |
| NLRA | National Labor Relations Act |
| NMHPA | Newborns' and Mothers' Health Protection Act |
| OMB | Office of Management and Budget |
| OSHA | Occupational Safety and Health Administration |
| RCRA | Resource Conservation and Recovery Act |
| SBA | Small Business Administration |
| SBREFA | Small Business Regulatory Enforcement Fairness Act |
| SDWA | Safe Drinking Water Act |
| SIC | standard industrial classification |
| TSCA | Toxic Substances Control Act |
| USERRA | Uniformed Services' Employment and Reemployment Rights Act |
| VEVRAA | Vietnam-Era Veterans' Readjustment Assistance Act |
| WARN | Workers' Adjustment and Retraining Notification Act |

Scope and Methodology

To address the objectives of this review, we identified the legal provisions of federal and California state laws that we believed to be significant to the operations of California manufacturing firms, including employment, tax, and environmental issues. Also as agreed with the requester's office, we excluded local laws and requirements from our analysis, although we recognize that they can also affect firms. To help identify the relevant laws, we spoke with officials at several federal agencies, including the Small Business Administration (SBA), Department of Labor, Environmental Protection Agency (EPA), and Treasury's Internal Revenue Service (IRS). We also spoke with officials at several California state agencies, including the California Franchise Tax Board, California Department of Fair Employment and Housing, California Department of Industrial Relations, California Trade and Commerce Agency, and California Environmental Protection Agency. To verify the accuracy of our presentation, a draft of this report was reviewed for technical accuracy by staff at Labor, EPA, IRS, SBA, and selected state agencies. Because individual laws are of varying lengths and detail, are codified, and are sometimes amended or replaced, we did not attempt to provide exact counts of laws that affect companies. In addition to speaking with federal and state agencies to identify laws, we also spoke with them about their efforts to inform businesses of their legal responsibilities, and we reviewed their publications and electronic information sources, such as web sites.

We also visited seven firms to determine the implications laws have for their human resource operations. With the help of trade associations and business advocacy agencies, we selected firms in two leading manufacturing industries in California—aerospace and electronics—and chose firms with an array of different characteristics, as shown in table I.1. We note the important limitations of this information. First, these firms are not necessarily representative of other employers in these industries, either in California or the nation. Second, individual firms' performance and the vibrant California and national economies may have affected the responses we received. For example, laws and regulations related to layoffs, health insurance coverage for separated employees, and unemployment insurance probably have less impact on firms in this environment, whereas requirements concerning the hiring of foreign workers probably have more impact. However, the firms did provide us a snapshot of strategies that firms of various sizes currently use to comply with these legal requirements.

**Appendix I
Scope and Methodology**

Table I.1: Characteristics of Firms Visited

| Firm | Industry | Product | Primary SIC code ^a | Number of employees | | | |
|------|-------------|---|-------------------------------|---------------------|-----------|--------------|-----------------|
| | | | | 1 to 10 | 11 to 100 | 101 to 1,000 | More than 1,000 |
| 1 | Electronics | Printed circuit boards | 3672 | X | | | |
| 2 | Electronics | Printed circuit boards | 3672 | | X | | |
| 3 | Electronics | Printed circuit boards | 3672 | | | X | |
| 4 | Electronics | Integrated circuits and discrete semiconductors | 3674 | | | | X |
| 5 | Aerospace | Aircraft | 3721 | | X | | |
| 6 | Aerospace | Parts for aircraft | 3728 | | | X | |
| 7 | Aerospace | Aircraft | 3721 | | | X | |

^aThe standard industrial classification (SIC) code indicates a firm's primary business operation. See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual 1987 (Washington, D.C.: OMB, 1987).

Labor Law Requirements for California Manufacturing Firms

To create these tables, we reviewed various materials related to the statutes noted herein. The resulting list of “requirements” includes descriptions of significant provisions of these statutes but is not an exhaustive list of the provisions.

Wage-Hour Laws

The Fair Labor Standards Act (FLSA) (29 U.S.C. 201 et seq.), Walsh-Healey Act (41 U.S.C. 35 et seq.), and Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) establish the minimum wage rate to be paid to employees, the standards of overtime compensation, and restrictions on the use of child labor.

Size limitations: None; these laws apply to all employers engaged in interstate commerce or the production of goods for interstate commerce.

Comparable state law: The California Labor Code, Industrial Wage Order No. 1-98, applies to the extent that it is stricter than the federal law.

Table II.1: Wage-Hour Laws

| General employer duties | Specific federal requirements | Additional state requirements |
|---|--|--|
| Employers must pay each nonexempt employee subject to FLSA at least (1) the hourly minimum wage rate set by law for all hours worked in a work week and (2) one and one-half times the employee’s regular rate of pay for all hours over 40 worked in a week. | <ul style="list-style-type: none"> —Employers may pay employees other than an hourly rate (for example, salary, piece rate, and so on) as long as the wages paid equal or exceed the statutory minimum (\$5.15 per hour). —Youths under 20 may be paid a lower minimum wage of \$4.25 per hour for the first 90 days after hire. —Full-time students, handicapped workers, learners, apprentices, and messengers may be paid at less than minimum wage if employed in accordance with regulations of the Department of Labor. —For overtime compensation, the “regular rate of pay” is the actual rate of pay received by the employee. —Employers cannot retaliate against an employee who files a complaint under FLSA. | <ul style="list-style-type: none"> —California requires employers to pay a minimum wage of \$5.75 per hour. —Employers must provide meal periods and rest periods to employees who have worked a specified number of hours. —Employers must pay learners 18 years and over no less than 85 percent of the minimum wage. |

(continued)

**Appendix II
Labor Law Requirements for California
Manufacturing Firms**

| General employer duties | Specific federal requirements | Additional state requirements |
|--|--|--|
| <p>If manufacturing work is being conducted for a federal contract of more than \$10,000, the Walsh-Healey Act requires employers to pay the "prevailing wage rate" as determined by the Secretary of Labor, which may be higher than the FLSA statutory minimum wage rate. Even if the federal contract is not covered by the Walsh-Healey Act, employers may have to pay "laborers or mechanics" the overtime wage rate under the Contract Work Hours and Safety Standards Act, which is one and one-half times the employee's base rate of pay.</p> | <p>—The "prevailing wage rate" under the Walsh-Healey Act has for many years been determined to be the FLSA statutory minimum wage rate and is the wage generally paid to workers in the same industry in the same locale. —The prevailing wage rates are generally set by geographic areas.</p> | <p align="center">^a</p> |
| <p>Employers must comply with applicable restrictions in the wage-hour laws on the use of child labor.</p> | <p>—Children below the age of 16 may not be employed in manufacturing. —If a business involves an occupation that the Secretary of Labor has determined to be "hazardous," employers may not hire children below the age of 18.</p> | <p align="center">^a</p> |
| <p>Employers must determine whether each worker is subject to the federal wage-hour laws: that is, whether there is an employment relationship and whether the employee is not specifically "exempt" under the provisions of the statute.</p> | <p>—According to the "economic reality" test, an employment relationship exists if the person is dependent on the employer's business as a means of livelihood. —Employees employed in a "bona fide executive, administrative or professional capacity" ("white collar" employees) are exempt from the federal wage-hour laws.</p> | <p>—Administrative, executive, and professional employees are defined as either (1) employees engaged in work "primarily intellectual, managerial, or creative ... [that] requires exercise of discretion and independent judgment" for which pay is at least \$1,150 per month or (2) employees in a "recognized" profession.</p> |
| <p>Employers must maintain pay records for both nonexempt and exempt employees and post notices of the applicable wage-hour laws.</p> | <p>—All supplemental "payroll" records, wage-related agreements, and sales records must be kept for 3 years, although worker attendance records, such as daily time cards, need only be kept for 2 years. —Walsh-Healey requires, in addition to payroll records, records of occupational illness and injury.</p> | <p align="center">^a</p> |

^aSome additional state requirements may apply.

Civil Rights—Race, Color, Religion, Sex, National Origin, Age, and Vietnam-Era Veterans' Status

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Equal Pay Act under FLSA (29 U.S.C. 206d), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 et seq.), Executive Order 11246, the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Vietnam-Era Veterans' Readjustment Assistance Act (VEVRAA) (38 U.S.C. 4212 et seq.), and the Uniformed Services' Employment and Reemployment Rights Act (USERRA) (38 U.S.C. 4301 et seq.) prohibit discrimination in employment on

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the basis of race, color, religion, sex, national origin, age, Vietnam-era veterans' status, and military service.

Size limitations: Title VII applies to employers with 15 or more employees; the Equal Pay Act applies to all employers; ADEA applies to employers with 20 or more employees in 20 weeks in the current or preceding year; Executive Order 11246 and VEVRAA apply to all federal contractors and subcontractors with a covered contract or subcontract of \$10,000 or more, and provisions requiring affirmative action programs apply only to federal contractors and subcontractors with a covered contract or subcontract of \$50,000 or more and 50 or more employees; and USERRA applies to all employers.

Comparable state law: The Fair Employment and Housing Act (FEHA) applies to employers with 5 or more employees, except that provisions related to sexual harassment apply to all employers. California labor code also applies.

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Table II.2: Civil Rights—Race, Color, Religion, Sex, National Origin, Age, and Vietnam-Era Veterans’ Status

| General employer duties | Specific federal requirements | Additional state requirements |
|--|---|--|
| Employers with 15 or more employees cannot discriminate in employment practices (hiring, firing, compensation, and so on) against people on the basis of race, color, religion, sex, or national origin. Employers with 20 or more employees cannot discriminate against people on the basis of age. Employers of any size may not discriminate in employment practices because of past, present, or intended service in the uniformed services. | <ul style="list-style-type: none"> —Employers cannot treat people less favorably than others because of race, color, religion, sex, age, or national origin. —Employers must not allow sexual harassment in the workplace. —Under the Equal Pay Act, all employers must pay men and women equal pay for equal work on jobs requiring equal skill, effort, and responsibility unless factors other than gender (for example, seniority or merit) are involved. —Employers cannot retaliate against any employee because the employee filed a charge or participated in an investigation or proceeding under Title VII, USERRA, Executive Order 11246, or VEVRAA. | <ul style="list-style-type: none"> —Antidiscrimination laws apply to all California employers with five or more employees and protect against discrimination based on sexual orientation. —Sexual harassment provisions apply to all California employers. |
| If an employer has covered federal contracts or subcontracts of \$10,000 or more, the employer must take affirmative action to ensure equal employment opportunity. | <ul style="list-style-type: none"> —Employers must post notice of employee rights under antidiscrimination laws. —Employers must ensure that applicants and employees are treated without regard to race, color, religion, sex, national origin, or Vietnam-era veteran status in all aspects of employment. —Employers are subject to review by the Department of Labor. | ^a |
| If an employer has a nonexempt federal contract of \$50,000 or more and employs 50 or more employees, the employer must establish an affirmative action program. | <ul style="list-style-type: none"> —Employers must post notice of employee rights under antidiscrimination laws. —Employers must develop and adopt a written affirmative action program. —Employers must update the program annually. —Employers must annually file form 100 (Employer Information Report, EEO-1). | ^a |
| Employers must post notice of antidiscrimination minimum wage and maximum hours laws in the workplace, and employers with 100 or more employees must file workforce statistics on form 100 with the Equal Employment Opportunity Commission. | <ul style="list-style-type: none"> —Employers must compile statistics of employment practices and workforce composition (including job applicants) by geographic area. | <ul style="list-style-type: none"> —Employers must distribute copies of the state information sheet on sexual harassment to all employees. |

^aSome additional state requirements may apply.

Civil Rights—Disabilities

The Americans With Disabilities Act (ADA) (42 U.S.C. 12101 et seq.); the Rehabilitation Act, Section 503 (29 U.S.C. 793); VEVRAA (38 U.S.C. 4212 et seq.); and USERRA (38 U.S.C. 4301 et seq.) prohibit employment discrimination on the basis of disability.

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Size limitations: ADA applies to businesses with 15 or more employees for 20 weeks in the current or preceding year; the Rehabilitation Act, Section 503, and VEVRAA apply to all federal contractors and subcontractors with a contract or subcontract of \$10,000 or more, and provisions requiring affirmative action programs apply only to federal contractors with a covered contract or subcontract of \$50,000 or more and 50 or more employees; and USERRA applies to all employers.

Comparable state law: FEHA applies to employers with 5 or more employees regarding physical disabilities, but coverage of provisions regarding mental disabilities is restricted to employers with 15 or more employees.

Table II.3: Civil Rights—Disabilities

| General employer duties | Specific federal requirements | Additional state requirements |
|---|---|---|
| Employers with 15 or more employees are prohibited from discriminating in employment practices (hiring, firing, compensation, and so on) because of physical or mental disability (ADA). | <ul style="list-style-type: none"> —To be protected under federal law, people with disabilities must have a “physical or mental impairment” that “substantially limits” one or more “major life functions.” —To be protected, a person with a disability must also have the requisite skill, experience, education, and other related requirements for the job. —Employers cannot require a medical examination until after a job offer has been made, but the job offer can be contingent on passing a medical examination, which must be required of all applicants for a job, not just the applicant with a disability. —Employers must post notice of employee rights under antidiscrimination laws. —Employers cannot retaliate against any employee because the employee filed a charge or participated in an investigation or proceeding under ADA. | —Provisions apply to California employers with 5 or more employees, except for disabilities relating to mental impairments, which apply only to businesses with 15 or more employees. |
| Employers must provide “reasonable accommodation” to enable applicants and employees with disabilities who are “otherwise qualified” to perform the job unless to do so would cause “undue hardship.” | <ul style="list-style-type: none"> —Employers may have to modify or adjust workplace or work practices to enable a person with a disability to do the job. ^a —In the case of an employee returning to a job disabled as a result of military service, the employer must assign the employee to an “equivalent” position if the disability prevents the employee from performing his or her old job. If, with reasonable accommodation, the employee cannot perform in an equivalent position, the employer must place the employee in a position with the nearest approximation of status and pay, with full seniority (USERRA). | |

(continued)

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| General employer duties | Specific federal requirements | Additional state requirements |
|---|--|-------------------------------|
| If the employer has a covered federal contract or subcontract of \$10,000 or more, the employer must take affirmative action to hire qualified individuals with disabilities and Vietnam-era veterans under the Rehabilitation Act, Section 503, and VEVRAA. | <ul style="list-style-type: none"> —Employers are subject to review by the Department of Labor. —Employers must maintain records for 1 year on complaints received and action taken under the law. —Employers must report annually to the Department of Labor on the number of employees who are veterans and “special disabled veterans.” —Employers must invite employees and job applicants to identify whether they believe themselves to be covered by VEVRAA or the Rehabilitation Act, Section 503. | a |
| If the employer has 50 or more employees, and a covered federal contract or subcontract of \$50,000 or more, the employer must establish a written affirmative action program for special disabled veterans, individuals with disabilities, and Vietnam-era veterans. | <ul style="list-style-type: none"> —The affirmative action program shall be available for inspection to any employee or applicant upon request. —Employers must post notice at each facility the location of the affirmative action program and the hours during which a copy of the program may be obtained. | a |

^aSome additional state requirements may apply.

Labor Relations

The National Labor Relations Act (NLRA) (29 U.S.C. 151 et seq.) and the Labor-Management Reporting and Disclosure Act (29 U.S.C. 401 et seq.) create the framework for the relationship among employer, employees, and labor unions, providing employees with the right to organize and bargain collectively through representation of their own choice.

Size limitations: None; these laws apply to all employers.

Comparable state law: None; the NLRA preempts state regulation of labor-management relations.

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Table II.4: Labor Relations

| General employer duties | Specific requirements (federal only) |
|--|--|
| Employers cannot interfere with employees in the exercise of their rights guaranteed by the NLRA. | <ul style="list-style-type: none"> —Employees have the right to organize, bargain collectively, and engage in collective activities. —Employers cannot discriminate against any employee because of activities protected by the NLRA. —If an employer violates any of the guarantees under the NLRA, employees may complain about an “unfair labor practice” to the National Labor Relations Board. |
| Employers must bargain in good faith with the union selected by employees. | <ul style="list-style-type: none"> —Employees may select, by secret ballot, a labor organization to act as their exclusive representative for the purpose of collective bargaining. |
| Employers are prohibited from forming a “company union” to deal with labor disputes and work conditions. | <ul style="list-style-type: none"> —Employers must restrict jurisdiction of management-employee committees to activities not covered by the NLRA. |
| Employers must disclose certain payments or dealings with employees, unions, union officers, and labor relations consultants, and any expenditures to interfere with or restrain union activity, to the Secretary of Labor under the Labor-Management Reporting and Disclosure Act . | <ul style="list-style-type: none"> —The report to the Secretary of Labor must include the terms and conditions of such payment. —Any person who is engaged by the employer to persuade employees not to organize or to supply information about union activities must also report to the Secretary of Labor. |

Pension Benefits

The Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1001 et seq.) requires employers that maintain pension plans for their employees to generally ensure that rights in such plans are equitably offered to their employees, that funds held for such purposes are adequately protected, and that employees are fully informed about the status of these funds.

Size limitations: None; ERISA applies to all employers with pension plans; however, there are reduced reporting requirements for certain pension plans with fewer than 100 participants.

Comparable state law: None; ERISA preempts state regulation of pension plans.

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Table II.5: Pension Benefits

| General employer duties | Specific requirements (federal only) |
|--|--|
| Employers offering pension plans must allow employees to participate in pension plans in accordance with ERISA requirements. | <ul style="list-style-type: none"> —Employers may set up various types of plans, generally classified as either “defined benefit” or “defined contribution” plans. —All employees who have reached a specified minimum age and completed a minimum amount of service with the employer must be eligible to participate. —Pension plans cannot discriminate in favor of an employer’s more highly paid employees. |
| Employers must give employees nonforfeitable (vested) rights in pension plans in accordance with ERISA requirements. | <ul style="list-style-type: none"> —Employers generally must follow one of three vesting schedules set out in ERISA. —Once fully vested, employees must be guaranteed a percentage of benefits even if they leave their job before retirement. |
| Employers must fund defined benefit pension plans annually to meet the minimum standards set forth in ERISA. | <ul style="list-style-type: none"> —Employers must fund annually all benefits earned in a defined benefit plan that year by employees and pay installments on the cost of benefit increases not previously funded. —Employers who do not meet minimum funding standards must pay an excise tax or obtain a waiver from the Secretary of the Treasury. |
| Employers must ensure that people who manage pension plans do so in a prudent manner, solely for the benefit of the participants and beneficiaries. | <ul style="list-style-type: none"> —Pension plans must be established under a written plan, with a named fiduciary. —People handling funds must be bonded for protection against fraud or dishonesty. —Certain types of transactions are specifically prohibited. |
| Employers must report detailed financial data to the Department of the Treasury and disclose to employees understandable data on the financing and operation of the pension plans. | <ul style="list-style-type: none"> —Form 5500 must be filed with the IRS annually, setting out assets and liabilities, income and expenses, as well as numerous other data. —Pension plans with fewer than 100 participants may have reduced reporting requirements. —Other reports must be filed to federal agencies when specified events occur, such as failure to meet minimum funding standards or bankruptcy. —Summaries of annual financial reports and notification of major modifications to the plan must be provided to all employee participants. —Plan administrators must retain records that verify, explain, or clarify reported information for 6 years. |

Note: In general, the description of duties and requirements is related to employer-provided plans for which a tax benefit is claimed, either by the employer or the employee.

Health Insurance Benefits

The Health Insurance Portability and Accountability Act (HIPAA), the Newborns’ and Mothers’ Health Protection Act (NMHPA), the Mental Health Parity Act (MHPA), USERRA, and the Consolidated Omnibus Budget Reconciliation Act (COBRA) require that employers providing employees with group health plans (both insured and self-insured) must comply with federal requirements on health coverage.

Size limitations: HIPAA and NMHPA apply to employers with 2 or more employees; COBRA provisions apply to employers with 20 or more

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employees; and MHPA provisions apply to employers with over 50 employees.

Comparable state law: HIPAA permits state insurance law to vary from federal law only in certain enumerated ways for certain requirements, and only as long as it does not prevent the application of federal law for other requirements. NMHPA permits state insurance law to supersede federal law if state law contains certain specified requirements.

Table II.6: Health Insurance Benefits

| General employer duties | Specific requirements (federal only) |
|---|---|
| Any employer electing to sponsor a group health plan covering two or more employees must limit the effects of a "preexisting condition" exclusion for employees, spouses, and dependents and cannot discriminate against employees, spouses, and dependents because of health status and related factors (HIPAA). | <ul style="list-style-type: none"> —An employer's group health plan may include a period of up to 12 months for a regular enrollee, or 18 months for a late enrollee, during which there is restricted coverage of a participant's or beneficiary's preexisting medical condition. —An employer's group health plan must reduce an individual's preexisting condition exclusion period by the number of days of "credible coverage" (generally, prior health coverage without a break in coverage of 63 days or more). —An employer's group health plan may not exclude individuals from coverage under the terms of the plan or charge an individual more for benefits offered by the plan (that is, discriminate on the basis of specific factors related to health status). |
| If an employer has two or more employees who are participating in a group health plan that provides coverage for childbirth, the plan must provide for a hospital stay for the mother and child of not less than 48 hours following a normal vaginal delivery and not less than 96 hours following a cesarean section (NMHPA). | a |
| If an employer has over 50 employees and has a group health plan that provides both medical/surgical and mental health benefits, any aggregate lifetime or annual dollar limits on benefits for mental health services may not be lower than any such limits for medical/surgical benefits unless changing the dollar limits would increase costs for the plan by 1 percent or more (MHPA). | a |
| All employers must offer continued group health coverage to employees and qualified beneficiaries after employees leave to perform military service (USERRA). | a |
| Employers with 20 or more employees and a group health plan must offer continued group health coverage to employees and their spouses and dependents after a qualifying event (job termination, employer bankruptcy, divorce, death, reduced hours, and so on) unless terminated for "gross misconduct" (COBRA). | <ul style="list-style-type: none"> —Employers must give notice of COBRA rights to an employee and other qualified beneficiaries at the time coverage begins and after a "qualifying event," such as termination of job, death, or divorce. —Employees and qualified beneficiaries have 60 days to elect continued health coverage from the date they will lose coverage or the date of notice, whichever is later. —COBRA coverage must be available for a child born to, or adopted by, a former employee covered by COBRA during the COBRA coverage period. |

^aSpecific requirements are the same as general employer duties.

Employee Leave Benefits

The Family and Medical Leave Act (FMLA) (29 U.S.C. 2601 et seq.) requires covered employers to allow employees to take leave for birth or adoption of a child, or a serious health condition of the employee or the employee's immediate family.

Size limitations: FMLA applies to employers with 50 or more employees on the payroll for 20 calendar weeks in the current or previous year.

Comparable state law: The California Family Rights Act (CFRA) and FEHA, which include additional provisions for pregnancy disability leave for all employers with five or more employees, apply.

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Table II.7: Employee Leave Benefits

| General employer duties | Specific federal requirements | Additional state requirements |
|--|---|--|
| Employers with 50 or more employees must allow eligible employees to take up to 12 weeks' unpaid leave each year for medical or family-related reasons. | <ul style="list-style-type: none"> —To be eligible, employees must have been employed with the business for at least 1 year, with at least 1,250 hours of service in the prior year. —Leave can be taken for the adoption or birth of a child by either husband or wife. —Leave can be taken for the care of the serious health condition of the employee's spouse, child, or parent or for the employee's own serious health condition. —Leave may be taken intermittently, on a reduced schedule basis, all at once, or in full-day increments. | <ul style="list-style-type: none"> —California includes the same size limitations on its family leave provisions under CFRA; however California, also provides that employers with five or more employees must allow female employees up to 4 months for pregnancy disability leave. —An eligible employee can take up to 4 months for pregnancy disability leave and can also take additional leave under CFRA to "bond" with the child (or for whatever health or family reason allowed under CFRA). |
| At the employee's or employer's option, certain types of paid leave may be substituted for unpaid leave during the employee's absence, and the employer must continue the employee's coverage in group health insurance. | <ul style="list-style-type: none"> —Employees may choose to substitute accrued paid leave for unpaid FMLA leave, or an employer may require the employee to substitute accrued paid leave for the FMLA leave. (29 U.S.C. 2612 (d)(2)(A)) —Employers must maintain an employee's coverage under a group health plan at the same level as would have been provided had the employee remained at work. | ^a |
| Employers must reinstate all the employees taking such leave unless the employee's job is eliminated or the employee is determined to be "key" to the operations of the business. | <ul style="list-style-type: none"> —Reinstatement is generally required to be to the same or equivalent position, unless the employee's job is eliminated and the employer can prove that the job would have been eliminated whether or not the employee had taken FMLA leave. —"Key" employees are those who are salaried, in the top 10 percent of pay at the business, and whose job restoration would cause "substantial and grievous economic injury" to the business. | <ul style="list-style-type: none"> —If a female employee takes leave for pregnancy disability, the employer must reinstate her to her same or a comparable position with the same seniority and benefits as when leave began, unless employment would have ceased during the disability period. |
| Employers must keep records of FMLA leave and must post notice of employee rights under FMLA. | <ul style="list-style-type: none"> —In addition to posting notice of FMLA, employers must provide a general notice to all employees of rights and obligations under FMLA. —In the event an employee needs to take FMLA leave, the employer must provide specific notice to the employee of FMLA rights and obligations within 2 days after the employer learns of the need for leave. —Pay records must distinguish FMLA leave and non-FMLA leave. —Records should include notices provided to the employee, and records of any disputes. —Records must be maintained for 3 years. | ^a |

^aSome additional state requirements may apply.

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Disability Benefits

California Disability Insurance and California Workers' Compensation require employers to collect employees' contributions to the state disability insurance fund (for use of disabled workers not receiving unemployment insurance or workers' compensation) and to compensate workers in part for the loss of pay because of a workplace injury or sickness.

Size limitations: None; these requirements apply to all employers paying over \$100 in wages in a calendar year. Independent contractors are not covered by workers' compensation laws.

Table II.8: Disability Benefits

| General employer duties | California disability insurance | California workers' compensation |
|---|--|--|
| Employers with workers considered to be employees under the California law must collect employee contributions to disability insurance. | —All workers considered employees for purposes of unemployment insurance must contribute to disability insurance. | ^a |
| Employers contribute toward disability insurance on the basis of wages recognized for this purpose by state law. | —Employees must pay 1.0 percent on the first \$31,767 of wages paid by the employer. —All compensation that is considered wages for purposes of unemployment insurance is also considered wages for disability insurance, unless specifically exempted. | ^a |
| Employers must maintain insurance to pay workers' compensation for workplace injuries. | ^a | —Insurance rates can vary with the employer's safety and accident record. —Employers can challenge the eligibility of claimants for workers' compensation in a hearing before a state agency. |
| Certain employers must make an annual payment to the California Workers' Compensation Employers Assessment. | ^a | —Employers with the worst state safety records must make an annual payment to the state fund. |
| Employers must notify employees of rights to disability insurance and workers' compensation. | —Employers must give new employees and employees leaving work because of pregnancy or nonoccupational sickness or injury a notice of their rights under the disability law. —Employers must post notices of employees' rights to disability insurance benefits. | —Employers must provide injured workers with a California form notifying injured workers of their rights under the workers' compensation program. —Employers must post notice of employees' rights to workers' compensation for job-related injuries. |
| Employers must make deposits and file reports quarterly. | —Worker contributions are deposited with income taxes withheld, and reported on the same form required for unemployment insurance. | ^a |

^aNot applicable.

Workplace Safety Standards

The Occupational Safety and Health Act (29 U.S.C. 651 et seq.) requires employers to keep the place of employment free from recognized hazards that could cause death or serious physical harm to employees and to comply with workplace safety standards established by the Department of Labor.

Size limitations: None; the act applies to all employers. However, employers with 10 or fewer employees have reduced record-keeping requirements and are exempt from programmed inspection if in a low-hazard industry.

Comparable state law: The California Occupational Safety and Health Act applies to all California employers but reduces some record-keeping requirements for employers with 20 or fewer employees.

Table II.9: Workplace Safety Standards

| General employer duties | Specific federal requirements | Additional state requirements |
|--|--|---|
| All employers must comply with general workplace safety standards including, for example, standards requiring safe walkways, floors, and ventilation. | <ul style="list-style-type: none"> —Employers must follow Occupational Safety and Health Administration (OSHA) instructions on how to keep work areas safe. —Employers must provide adequate supervision of employees. —Depending on the particular standard, employers may also have to provide employee safety training and education and adopt prescribed safety procedures or modify machinery to include safety devices. | —California has its own set of standards comparable to the federal requirements. In addition, California has state-specific requirements. |
| Employers using hazardous substances (in an amount over thresholds specified by regulation) or whose workplace presents high-risk situations (for example, confined spaces with oxygen-deficient atmosphere) must protect employees from exposure to health hazards. | <ul style="list-style-type: none"> —Employers must conduct periodic tests to determine the presence and concentration of hazardous substances. —Employers must develop safe operating procedures and an emergency response plan. —Employees must be trained in safe operating procedures. —Employers must develop a “hazardous communication program”—that is, prepare “material safety data sheets” identifying the nature of the health hazard and notifying employees of hazards associated with substances. —All health hazard emergencies must be reported to OSHA. —Depending on the particular standard, the employer may also have to provide periodic medical examinations for each employee and obtain special work permits. | —California has its own standards comparable to the federal requirements. Specific requirements may differ. |

(continued)

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| General employer duties | Specific federal requirements | Additional state requirements |
|---|---|--|
| Employers must maintain records on safety at the workplace, post notice of the protection due to employees under OSHA, and report certain serious injuries to OSHA. | <ul style="list-style-type: none"> —Employers with 10 or fewer employees have reduced record-keeping requirements. —Employers in low-hazard industries with 10 or fewer employees are exempt from programmed safety inspections. —Employers must keep a continuing log of occupational injuries and illnesses (on OSHA form 200). —Employers must maintain records on employee exposure to hazards. —Employers must maintain environmental monitoring logs and “material safety data sheets.” —Employers must report any job-related fatality or accident requiring the hospitalization of three or more employees to OSHA within 8 hours of occurrence. —Employers in high-hazard industries with more than 60 employees must submit illness and injury data to OSHA’s annual survey. | <ul style="list-style-type: none"> —Employers must establish, implement, and maintain a written injury and illness prevention program with certain specified sets of records. —Employers with 10 or fewer employees and employers with 20 or fewer employees that have a good safety program have reduced record-keeping requirements. |

Note: Under the Occupational Safety and Health Act, a state like California, with an OSHA-approved state plan, may enforce its own regulations if they are at least as effective as the federal regulations. California has established its own occupational health and safety program (Cal-OHSA) and therefore operates its program under state regulation. Even though in California only state law is enforced, we have set forth the minimum federal requirements.

Hiring/Termination

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Employee Polygraph Protection Act (29 U.S.C. 2001 et seq.), USERRA (38 U.S.C. 4301 et seq.), Drug Free Workplace Act (41 U.S.C. 701 et seq.), Personal Responsibility and Work Opportunities Act (42 U.S.C. 654), and Workers’ Adjustment and Retraining Notification Act (WARN) (29 U.S.C. 2101 et seq.) regulate employers when hiring new workers and provide rights to certain workers with respect to job termination.

Size limitations: WARN applies to employers of 100 or more employees.

Comparable state law: The relevant California Labor Code provisions apply, as well as a provision requiring employers with 25 or more employees to allow employee participation in a drug or alcohol rehabilitation program.

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Table II.10: Hiring/Termination

| General employer duties | Specific federal requirements | Additional state requirements |
|---|---|---|
| Requires all employers to hire only those people who may legally work in the United States (that is, citizens and nationals of the United States and aliens authorized to work in the United States) (Immigration and Nationality Act). | <ul style="list-style-type: none"> —Employers must ensure that employees fill out form I-9, with evidence of identity and employment eligibility. —Employers must physically examine documentation and complete form I-9. —Employers must retain forms I-9 for 3 years. | a |
| To hire foreign workers in certain specialized professions to work in the United States, employers must meet the requirements of the H-1B temporary worker program. | <ul style="list-style-type: none"> —Employers must pay the foreign worker wages as least as high as they pay a U.S. citizen performing the same type job in the same area. —The foreign worker must qualify as a member of a “specialized occupation” not only on the basis of academic degree but also by license, experience, or training. | a |
| Employers may not use polygraphs to screen job applicants or during the course of employment, except in certain circumstances, such as those related to national security (Employee Polygraph Protection Act). | <ul style="list-style-type: none"> —All employers must post notice of protection against the use of the polygraph test. —If employers use polygraph tests, the employers must maintain records of such tests for 3 years. | —Employers may not discharge or retaliate against an employee for refusing to take a polygraph test. |
| All employers must provide reemployment to employees who leave their jobs to serve in the “uniformed services” (USERRA). | <ul style="list-style-type: none"> —Employers must reinstate uniformed service members who report back to their jobs in a timely manner to a position of like seniority, status, and pay. —Employers must guarantee reinstated uniformed service members pension plan benefits accruing during military service. —Employers must continue to provide health benefits for uniformed service members and their families for up to 18 months during military service. | a |
| If an employer works on federal contracts of over \$25,000, the employer must maintain a drug-free workplace (Drug Free Workplace Act). | <ul style="list-style-type: none"> —Employers must publish a notice to employees that drugs are prohibited in the workplace and that action will be taken against employees who violate the prohibition. —Employers must offer drug-free awareness programs to employees. —Employers must notify the federal agency with which they are contracting of an employee’s drug conviction within 10 days of learning of such conviction. | <ul style="list-style-type: none"> —Employers with 25 or more employees must accommodate any employee who wants to participate in a drug or alcohol rehabilitation program. —Employers must make reasonable efforts to safeguard the privacy of an employee who has enrolled in a rehabilitation program. |
| Employers must report information on newly hired personnel to a designated state agency for the purposes of enforcing child support agreements (Personal Responsibility and Work Opportunities Act). | —After October 1, 1998, employers must submit information to the responsible state agency within 20 days after hiring a new employee. | a |
| Employers of 100 or more employees must provide 60 days’ notice to employees of a plant closing or mass layoff (WARN). | —Employers must provide notice in writing to employees or their union representative and to local and state authorities. | a |

(Table notes on next page)

Appendix II
Labor Law Requirements for California
Manufacturing Firms

^aSome additional state requirements may apply.

Tax Law Requirements for California Manufacturing Firms

The tax law requirements compiled in these tables are summaries of significant provisions in the federal Internal Revenue Code and the California Revenue and Taxation Code. As with other legal requirements outlined in this report, this is not an exhaustive list of tax provisions.

Income Tax Withholding

The federal tax code requires employers to withhold a portion of employees' wages and remit the withheld portion to federal authorities as payment toward the employees' income taxes.

Size limitations: None. All employers are liable for withholding taxes of employees; however, there are less frequent deposit and filing requirements for employers with smaller payrolls.

Comparable state laws: State income tax code.

Table III.1: Income Tax Withholding

| General employer duties | Federal income tax withholding | State income tax withholding |
|--|---|--|
| Employers must withhold appropriate amounts if the worker is an "employee," not an "independent contractor." | <ul style="list-style-type: none"> —If the worker is an "employee" under the common law test or meets other requirements of the Internal Revenue Code, the employer must withhold federal income taxes. —Even if the worker is an "employee," income taxes may not have to be withheld if there is a "safe harbor" (that is, industry practice treats the worker as an independent contractor) and if the worker meets the other requirements of section 530 of the Revenue Act of 1978. —Specific federal tax code provisions might exempt certain workers from withholding requirements. | <ul style="list-style-type: none"> —If a worker is an employee under common law, the employer must withhold state income taxes unless the state tax code provisions specifically exempt the worker from this requirement. —Specific state tax code provisions might require the employer to withhold state income tax even if the worker is not a common law employee. —There are no "safe harbor" provisions recognized for the purposes of California income tax withholding. |
| Employers must withhold tax from payments subject to the income tax. | <ul style="list-style-type: none"> —There is no withholding for payments specifically exempt from federal income tax (such as nontaxable fringe benefits and qualified moving expenses). —There is no withholding if the employee files form W-4 validly claiming an exemption from withholding. | <ul style="list-style-type: none"> —All compensation for work done is included in wages for the purposes of state income tax withholding unless the employee is specifically exempt by state law. |

(continued)

**Appendix III
Tax Law Requirements for California
Manufacturing Firms**

| General employer duties | Federal income tax withholding | State income tax withholding |
|---|---|---|
| Employers must properly calculate withholding amounts. | <ul style="list-style-type: none"> —Employers must withhold each pay period. —Employers must refer to the employee statement of filing status on form W-4; if there is no W-4, the employee is treated as if single with no dependents. —Employers must calculate the tax in a method approved by IRS—either by “wage bracket” tables, by percentage, or by another approved method. | <ul style="list-style-type: none"> —Employers must withhold each pay period. —Employees can use either federal W-4 or state DE-4 to identify filing status; if no form is filed, the employee is treated as if single with no dependents. —For California income tax withholding, the employer can use only one of two methods: either the wage bracket tables or exact calculation. |
| Employers must remit withheld taxes. | <ul style="list-style-type: none"> —Employers accumulating withheld income tax and Social Security and Medicare taxes greater than \$1,000 in a calendar quarter must remit withheld taxes periodically with a form 8109; if employers withhold \$50,000 or less during a 1-year period, they must deposit monthly; if over \$50,000, they must deposit semiweekly; if employers accumulate over \$100,000 in 1 day, that amount must be deposited by the close of the next banking day. —Employers accumulating less than \$1,000 in a calendar quarter must remit withheld taxes quarterly, with a form 941. —Employers that deposited over \$50,000 in withheld federal income taxes and Social Security and Medicare taxes in 1996 must make electronic deposits of all federal depository taxes in 1998 and thereafter. | <ul style="list-style-type: none"> —For California income tax withholding, all employers collecting more than \$400 a month in state income taxes must remit the taxes on the same schedule required for federal withholding; withheld taxes are deposited with a state form DE-88. |
| Employers must report on amounts withheld and deposited. | <ul style="list-style-type: none"> —Quarterly, employers must report on amounts withheld, filing a form 941 with IRS. —Annually, employers must file a form W-3 with the Social Security Administration, reporting on total wages paid and taxes withheld during the year, along with copies of employees’ forms W-2; in addition, employers must send each employee a copy of form W-2. —Employers submitting over 250 forms W-2 must file on magnetic media. | <ul style="list-style-type: none"> —Quarterly, employers must report on amounts of state income tax withheld and wages paid, filing state form DE-6. —Annually, all employers must file state form DE-7, reconciling the total tax amounts withheld during the year. —Employers with more than 250 employees must use magnetic media to file quarterly wage report DE-6. |
| Employers must report payments made to workers classified as “independent contractors.” | <ul style="list-style-type: none"> —Annually, employers must file an information return, a form 1099, with the IRS showing payments to independent contractors who received more than \$600. | <ul style="list-style-type: none"> —For each worker named in a federal information return, an employer must provide an annual written statement showing the employer’s name, address, and identification number and the amount paid to the worker. |

Social Security and Medicare Taxes

The Federal Insurance Contributions Act (FICA) requires employers both to withhold the employee’s share and to pay the employer’s share of Social Security and Medicare taxes.

**Appendix III
Tax Law Requirements for California
Manufacturing Firms**

Size limitations: None.

Comparable state law: None.

Table III.2: Social Security and Medicare Taxes

| General employer duties | Specific requirements (federal only) |
|--|--|
| Employers must withhold the employee share and pay the employer share of FICA taxes if the worker is an "employee," not an "independent contractor." | —If the worker is an "employee" under the common law test or meets other requirements of the Internal Revenue Code, the employer must comply with FICA requirements. —Even if the worker is an employee under common law, the employee may not be subject to FICA if the employee meets the requirements of section 530 of the Revenue Act of 1978, or the employee is specifically exempted under federal law. |
| Taxes must be withheld and paid on all employee "wages" under FICA. | —Social Security taxes are not paid on wages over \$68,400 for 1998; there is no limit on wages subject to Medicare tax. —Certain payments are specifically exempt from FICA tax by federal law. |
| Employers must properly calculate taxes. | —Social Security taxes withheld from an employee are currently 6.2 percent of employee wages—the employer pays an equal amount. —Medicare taxes withheld from an employee are currently 1.45 percent of employee wages—the employer pays an equal amount. |
| Employers must remit taxes and report on taxes withheld and paid. | —Employers must deposit FICA taxes with form 8109 at the same time as the employers deposit federal income tax withheld. —Employers must report quarterly on amounts paid and withheld under FICA on form 941. |

Unemployment Insurance

The Federal Unemployment Tax Act (FUTA) requires employers to pay amounts for employee unemployment insurance to federal authorities.

Size limitations: None, although small payrolls may be exempted from payments or have fewer filing requirements.

Comparable state law: State unemployment insurance and the state Employment Training Fund.

**Appendix III
Tax Law Requirements for California
Manufacturing Firms**

Table III.3: Unemployment Insurance

| General employer duties | Federal unemployment insurance | State unemployment insurance |
|--|--|---|
| Employers must pay unemployment insurance tax for all workers who are considered employees under these statutes. | —If the worker is an “employee” under the common law test or meets other requirements of the Internal Revenue Code, the employer must pay unemployment tax unless the employer meets the requirements of section 530 of the Revenue Act of 1978. | —All workers recognized under the common law test are employees for the purposes of unemployment insurance unless there is a specific state exemption for that type of employee. —Even if a worker is not a common law employee, state tax provisions might require unemployment insurance coverage. |
| Unemployment insurance tax must be paid on all wages recognized under federal and state statutes. | —All wages over \$7,000 are exempt. —Certain compensation is specifically exempt under federal law. | —All wages over \$7,000 are exempt. —Certain compensation is specifically exempt under state law. |
| Employers must properly calculate tax. | —There is no tax if total wages paid to all employees are less than \$1,500 per quarter. —FUTA tax is 6.2 percent; however, employers get credit up to 5.4 percent for the amount of state unemployment tax paid. | —There is no tax if total wages paid to all employees are less than \$100 per quarter. —The maximum contribution rate for California employers is 5.4 percent, and new employers pay 3.4 percent for a 3-year period. Thereafter, the rate may vary depending on the individual employer’s experience. —Most employers must also pay 0.1 percent to the state Employment Training Fund. |
| Employers must remit tax to and file reports with federal and state authorities. | —If employers pay FUTA taxes of over \$100 per year, employers remit the taxes with the form 8109 on the last day of the month following the end of the quarter. —Annually, all employers file either a form 940 or 940EZ to the IRS, reporting unemployment insurance paid during the year; in addition, employers paying FUTA taxes of less than \$100 per year remit annual taxes with a form 940. | —Employers remit tax payments quarterly with state form DE-88. —Employers must file state form DE-6 quarterly, reporting on unemployment contributions; annually, employers must file state form DE-7, reconciling total contribution amounts. |
| Under state law, employers may have to notify employees of benefits available through unemployment insurance. | ^a | —Employers must post general notices in the workplace. —When an employee is laid off, fired, or placed on a leave of absence, the employer must provide the employee with a form DE-2320 detailing information on benefits. |

^aNot applicable.

**Appendix III
Tax Law Requirements for California
Manufacturing Firms**

Corporate Income Taxes

The federal income tax code requires corporate entities to pay taxes on corporate income.

Size limitations: None.

Comparable state law: State income tax code.

Table III.4: Corporate Income Taxes

| General employer duties | Federal corporate income tax | State corporate income tax |
|--|--|---|
| Employers must file an annual return and pay any taxes owed. | <ul style="list-style-type: none"> —Employers must file a corporate income tax return on form 1120 with IRS; employers may be able to use the shorter form 1120-A if gross receipts, total income, and total assets are less than \$500,000. —Employers must file a return by the 15th day of the 3rd month after the end of the corporation's tax year. | <ul style="list-style-type: none"> —Employers doing business in California must pay an annual "franchise tax" at a rate of 8.84 percent of net income attributable to California. —Out-of-state corporations that are deriving income from sources in California but not "doing business" in the state must pay an annual "corporation income tax" at a rate of 8.84 percent of net income attributable to California. —Corporate returns and tax payments are due to the California Franchise Tax Board 2-1/2 months after the end of the corporation's tax year. |

Environmental Law Requirements for California's Electronic/Computer Industry

In this set of tables, we focus on legal provisions related to the electronic/computer industry, as identified in a study conducted by EPA. Since currently no similar study of provisions dealing with the aerospace industry exists, we have restricted our review to those provisions identified by EPA. As with the other tables on legal requirements, the environmental provisions listed are not intended as an exhaustive list of those related to this industry.

Air Pollution Control

The Clean Air Act regulates air pollution by means of air quality control standards and emission control of certain pollutants.

Size limitations: None; the law applies to all employers.

Comparable state law: The California Clean Air Act, the Air Toxics "Hot Spots" Information and Assessment Act, and the Tanner Act apply; state law is applied if it is stricter than federal law.

**Appendix IV
Environmental Law Requirements for
California's Electronic/Computer Industry**

Table IV.1: Air Pollution Control

| General employer duties | Specific federal requirements | Additional state requirements |
|---|--|--|
| <p>If employers construct or modify certain types of equipment determined to "contribute significantly" to air pollution, they must comply with EPA New Source Performance Standards; there are specific standards for small industrial boilers, large industrial boilers, incinerators, petroleum storage tanks, volatile organic tanks, appliance surface coating, and magnetic tape coating.</p> | <p>—Employers must notify EPA in the event of start-up, shutdown, or malfunction of such equipment. —Within 180 days of start-up or up to 60 days of full production, employers must test for performance. —Employers may have to continue to monitor equipment emissions. —Employers must report emissions in excess of EPA threshold quantities either quarterly or semiannually. —For specified types of equipment, additional special tests are required.</p> | <p>—Local air pollution control districts may establish permit systems for any "article, machine, equipment, or other contrivance which may cause the issuance of air contamination."</p> |
| <p>If an employer's facilities emit specified pollutants that are known to cause health hazards, the employer must comply with EPA National Emission Standards for Hazardous Air Pollutants; there are specific standards for chromium electroplating, halogenated solvent, and magnetic tape.</p> | <p>—Employers must notify EPA of new construction of a facility that has hazardous emissions; notification should be before start-up of the facility. —Employers must prepare start-up/shutdown plans before the completion date of the facility. —Employers may have to install compliance controls. —Employers may have to conduct a performance test of the new facility. —Once the new facility is operational, employers may have to continually monitor emissions. —Employers may have to report emissions in excess of EPA threshold quantities semiannually. —For facilities using specified chemical processes, special tests are required.</p> | <p>—Toxic air contaminants include not only those recognized by EPA but also those determined to be hazardous to health by California's Department of Health Services. —Employers owning facilities emitting 10 tons or more of certain designated pollutants must submit an "emission inventory plan" to the local district; those facilities identified as "high priority" must then submit a risk assessment plan to the district.</p> |
| <p>If an employer's facilities emit more pollutants than threshold quantities specified by EPA, the employer must comply with additional requirements.</p> | <p>—Employers must prepare and submit risk management plans. —Employers must conduct compliance audits every 3 years. —Employers must report on accidents immediately after occurrence.</p> | <p>^a</p> |
| <p>If an employer's facilities are considered a "major" source of hazardous emissions, the employer must apply for an EPA permit.</p> | <p>—Employers must submit an application to a state agency. (40 C.F.R. 70.5(c)) —Employers must monitor the facility. —Employers must report monitoring results semiannually.</p> | <p>^a</p> |

^aSome additional state requirements may apply.

**Appendix IV
Environmental Law Requirements for
California's Electronic/Computer Industry**

Water Pollution Control

The Federal Water Pollution Control Act (FWCPA) and the Safe Drinking Water Act (SDWA) regulate the amount and type of pollutants discharged into U.S. waters.

Size limitations: None; the laws apply to all employers that discharge pollutants into U.S. waters.

Comparable state law: The Porter-Cologne Water Quality Control Act, California Safe Drinking Water Act, Toxic Injection Well Control Act, and Safe Drinking Water and Toxic Enforcement Act (which applies to employers of 10 or more people) are applied to the extent they are stricter than federal law.

Table IV.2: Water Pollution Control

| General employer duties | Specific federal requirements | Additional state requirements |
|---|---|---|
| If employers discharge pollutants into U.S. waters, they must obtain a permit under the National Pollutant Discharge Elimination System (FWPCA). | <ul style="list-style-type: none"> —Employers must limit pollutant discharge to the amount specified in the permit; the limitations are based on the employer's use of the "best" technology. —At periodic intervals, employers must measure and analyze pollutant discharges; records must be kept 3 years. —Employers must report any discharge in excess of permit limits within 24 hours. | <ul style="list-style-type: none"> —Regional Water Quality Control Boards under the California State Water Resources Control Board issue permits and set discharge requirements. —Regional boards have power to compel cleanup to prevent "substantial pollution" of state waters. |
| If employers discharge pollutants into a publicly owned waste treatment system, they may have to "pretreat" certain pollutants before releasing them into the system (FWPCA). | <ul style="list-style-type: none"> —Pretreatment requirements are specified for chemicals in operations involving metal-finishing, electroplating, and semiconductors. | ^a |
| If employers use underground wells to dispose of hazardous waste, they must meet regulatory standards to protect groundwater from contaminating the drinking water supply (SDWA). | <ul style="list-style-type: none"> —Employers must obtain an engineer's certification that the well is properly closed. —Employers must report any contamination that may endanger the drinking water supply. —Employers must establish a plan for plugging and abandoning the well. —Employers must report any changes made to the well. —Employers must maintain a record of the nature and volume of fluids injected into the well for 3 years after closure. | <ul style="list-style-type: none"> —California has stricter standards for issuing permits for injection wells and prohibits injection "into or above drinking water." —Employers must also file a detailed statement with the California Department of Toxic Substances Control giving information about the well and the discharged wastes. —Employers of 10 or more people are prohibited from knowingly releasing any chemical known to the state to cause cancer or reproductive toxicity where it may pass into any source of drinking water. |

^aSome additional state requirements may apply.

**Hazardous Substance
Control**

The Toxic Substances Control Act (TSCA); Resource Conservation and Recovery Act (RCRA); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act regulate the production, use, and disposal of certain substances deemed to be hazardous to human health or living organisms.

Size limitations: Regulations apply generally to all employers that deal with hazardous substances over certain volumes; however, annual reporting of Toxic Release Inventory is required only for employers of more than 10 employees.

Comparable state laws: Hazardous Substances Act; Occupational Carcinogens Control Act; Hazardous Waste Control Law; Hazardous Waste Haulers Act; Storage of Hazardous Substances; Toxic Pits Cleanup Act; Hazardous Waste Reduction; Recycling, and Treatment Research and Demonstration Act; Hazardous Waste Management Plans; Hazardous Waste Source Reduction and Management Review Act; Carpenter-Presley-Tanner Hazardous Substance Act; Hazardous Waste Enforcement Coordinator and Strike Force; Information Reward Program; Hazardous Substance Cleanup Arbitration Panel; Hazardous Substances Information and Training Act (Worker Right-to-Know Law); and Hazardous Materials Release Response Plans and Inventory (Community Right-to-Know Law).

Table IV.3: Hazardous Substance Control

| General employer duties | Specific federal requirements | Additional state requirements |
|--|--|---|
| If employers manufacture, process, or distribute certain chemical substances determined by EPA to be toxic to health or the environment, employers must keep records and report to EPA (TSCA). | <p>—Manufacturers or importers of more than 10,000 lbs. of toxic chemicals per year must report their chemical inventory to EPA every 4 years; if less than 10,000 lbs. per year, they must maintain records to verify low volume.</p> <p>—All employers must submit to EPA any health and safety studies they have conducted on the toxic chemicals.</p> <p>—Employers must maintain records of allegations of significant adverse reactions caused by chemicals they use or produce; if an adverse reaction is found to have occurred to an employee, records must be maintained 30 years; otherwise, 5 years.</p> <p>—If an employer is producing a new chemical or using a toxic chemical for a new purpose, the employer must notify EPA at least 90 days before use.</p> | <p>—Employers that handle any of EPA's "extremely hazardous substances" in quantities in excess of state levels must complete a registration form; employers may be required to develop a risk management and prevention program.</p> |

(continued)

**Appendix IV
Environmental Law Requirements for
California's Electronic/Computer Industry**

| General employer duties | Specific federal requirements | Additional state requirements |
|---|---|--|
| Any employer that produces "hazardous waste" as identified by EPA must dispose of it as required by regulation, unless the employer produces less than 100 kilograms of hazardous waste (RCRA). | <ul style="list-style-type: none"> —Employers must obtain an EPA identification number before they transport, store, treat, or dispose of hazardous waste. —Employers must prepare a Uniform Hazardous Waste Manifest to accompany the waste at all times; after final disposal, a copy of the manifest must be returned to the employer and maintained for 3 years. —Unless the employer has a permit for a storage facility, wastes must be removed from the site within 90 days of accumulation. —Waste spills that cause a fire or explosion must be reported immediately to EPA. —Every 2 years, the employer must report to EPA on the volumes of waste generated. | <ul style="list-style-type: none"> —"Infectious" wastes are considered hazardous wastes. —Employers that produce 12,000 kilograms of hazardous waste per year must review their operations every 4 years to develop a plan for how they could reduce wastes exceeding 5 percent of the total yearly volume at the site; failure to act on the plan can lead to monetary penalties. |
| Any employer that treats, stores, or disposes of hazardous waste must obtain proper permits for facility operation (RCRA). | <ul style="list-style-type: none"> —To operate a facility (such as a landfill, container, or surface impoundment) for treatment, storage, or disposal of hazardous waste, the employer must have an EPA identification number, periodically monitor and inspect the facility, and meet the certification requirements for the particular type of facility. —Any employer that owns an underground storage tank containing hazardous wastes must notify the state within 30 days of its use, monitor leaks, notify EPA of a release of hazardous material within 24 hours, and maintain records on monitoring for 1 year. | <ul style="list-style-type: none"> —Employers operating hazardous waste facilities must provide financial assurance adequate to meet damage claims arising from operation of the facility and costs of its closure. —Regional Water Quality Control Boards must inspect all surface impoundments and require all businesses discharging liquid hazardous wastes into them to provide hydrogeological assessment reports. —Owners of underground storage tanks must obtain a permit to operate from local authorities. |
| Any employer aware of an authorized release of a hazardous substance in excess of "reportable quantities" must immediately notify EPA (CERCLA). | <ul style="list-style-type: none"> —In the event that an employer's releases exceed the reportable quantities in a 24-hour period, the employer must immediately notify EPA's National Response Center. | a |
| Employers handling "hazardous chemicals" or "extremely hazardous substances" in amounts above levels set by EPA must provide information on these substances to local authorities. | <ul style="list-style-type: none"> —Employers using an extremely hazardous substance in quantities above the threshold amounts must establish an emergency plan. —Employers must file "material safety data sheets" with local authorities for chemicals used in operations. —If an employer releases an "extremely hazardous substance" in quantities above specified amounts, the employer must report the release to local authorities. —Notification of a release must include information on the nature and risks attributed to the substance. —Employers with more than 10 employees must report annually to EPA on their Toxic Release Inventory identifying chemical releases, transfers, and treatment recycling. | <ul style="list-style-type: none"> —Employers dealing with chemicals known to the state to cause cancer or reproductive toxicity cannot expose any individual to such chemicals without giving "clear and reasonable" warning to that individual. |

^aSome additional state requirements may apply.

GAO Contacts and Staff Acknowledgments

GAO Contacts

Charles A. Jeszeck, Assistant Director, (202) 512-7036
Carol L. Patey, Evaluator-in-Charge, (617) 565-7575

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