# "The Public Interest"

## Health/Safety and Environmental Issues

*the PASMA way to shared knowledge*

Public Agency Safety Management Association

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## Editor's Message

### "Communication vs. Understanding the words in Safety Codes"

By: Dick Monod de Froideville

In preparation for this article I ran across this short anecdote and thought it pertinent to the discussion of communication relative to understanding of Code language.

*An English professor wrote the words "a woman without her man is nothing" and asked his students to* ***punctuate*** *it correctly. Amazingly,* ***all of the males wrote: "a woman, without her man, is nothing" and all of the females wrote: "a woman: without her, man is nothing"***. This anecdote has little to do with any war of the sexes, and everything to do with perspective and the understanding of what is meant **based** on that perspective. The challenge then, is to deduce what is meant as opposed to what is said or written and here in lies the problem with many of the health and safety codes. I've concluded this, since within Division personnel there are as many different understandings of the same code as there are Compliance Officers. The reality is that when code language is either misunderstood or misinterpreted by the regulated community, the default meaning will be defined and decided by the Compliance Officer.

Clarifying this conundrum requires two issues be resolved. One, the regulated community is going to have to become more heavily involved in the rule making process; and two, the regulated community is going to have to be able to distinguish between a **"performance"** and **"proscriptive"** Standard.

First and foremost, if done well, regulations need to be scientifically based and written in such a fashion that clearly helps the reader (the regulated) make the right decisions they need to make in the course of their professional duties. This means that the Safety Orders must consist of three characteristics or qualities: clarity, conciseness and the ability to appropriately engage the reader. Furthermore, before a regulation is considered, administrators must disclose any anticipated cost for compliance particularly since by definition, compliance means some costs will be incurred. To date, however, the Standards Board does not provide verifiable independent metrics to that effect.

While awaiting the metamorphosis in the rule making process, the regulated would be well served to understand the difference between a **"proscriptive"** and a **"performance"** standard. The value of this understanding will lead to a more efficient and effective response to any given hazard, and more importantly, will preclude the CSHO from formulating and enforcing their own perspectives. The text of proscriptive safety orders are easily identifiable in that they contain critical terms that are absolutes such as **"shall"**, **"will"** and **"must"**. In other words, specific commands. Examples of such orders include those associated with specific measurements, i.e. 30" spaces about electrical equipment and 42" guardrails and the like. In contrast, the typical performance standards contain words that are vague, ambiguous and "permissive". Language indicative of performance oriented orders include such terms as **"should"**, **"could"** and **"may"**. Ergo, extreme caution is required since this permissive language is contingent on the reader exercising and demonstrating a decision logic to support the option chosen. (Cont'd page 2)

**(Understanding words in the Safety Codes Cont'd)**

Additionally, performance standards address more complex and serious hazards that are highly dependent on situational awareness. In short, these orders posit a serious issue; asks that the reader evaluate the issue and then "pick" the most appropriate response among several alternatives to mitigate the issue. Safety Orders such as Confined Spaces, guarding of elevated locations and most certainly Respiratory Protection are typical example of performance oriented orders. Hence, performance standards are a regulatory attempt to control and minimize exposures in a highly dynamic and fluid working environment.

I hope that this has helped in sorting out the "fine print" and the "devil in the details" of code compliance. As professional scientists it is our duty to protect those that rely on our expertise and the only way to do that is to look at Code in a logical and objective manner. Let us try to fully understand what the order is attempting to control even though it is poorly communicated.

## It's NEVER too late!

**Cal/OSHA**

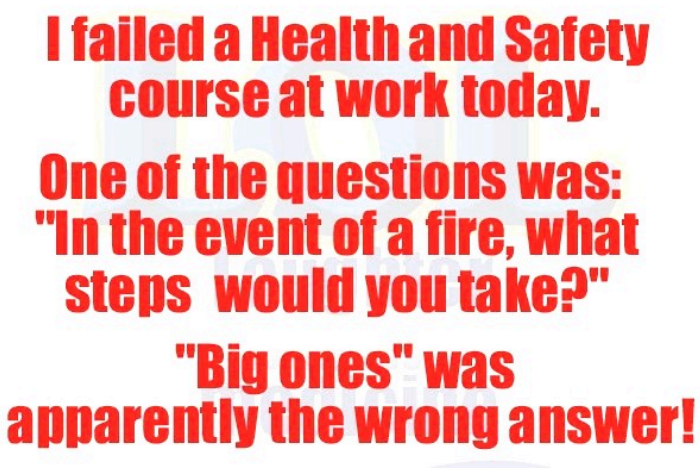
## National Safety Stand-Down for Fall Protection

# June 2-6, 2014

**The purpose of the National Fall Prevention Stand-Down is to raise awareness of preventing fall hazards in construction. Fatalities caused by falls from elevation continue to be a leading cause of death for construction workers, accounting for 269 of the 775 construction fatalities nationwide recorded in 2012. Those deaths were preventable. Fall prevention safety standards were among the top 10 most frequently cited OSHA standards, during fiscal year 2012.**

# Cal/OSHA Educational Materials

- **Fall Protection in Construction Factsheet**
- **Cal/OSHA Pocket Guide for the Construction Industry ( Also in Spanish)**
- **Guide for Working Safely with Supported Scaffolds**
- **Roofing Safety Slips & Falls**
- **Roofing Safety, General Requirements**
- **Portable Ladder Safety eTool**
- **Setting Up A Tailgate/Toolbox Safety Meeting**



## News Bits & Bytes

| Approved Regulation | Status | Effective |
|---|---|---|
| Sections 1520 and 3384<br>**Hand Protection** | Filed with Secretary of State:<br>**Apr. 1, 2014** | **Jul. 1, 2014** |
| Section 2940.2 and 2940.7<br>**Fed OSHA DFR, Revision to CDAC Scope: Exception For Digger Derrick** | Filed with Secretary of State:<br>**Apr. 28, 2014** | **Jul. 1, 2014** |
| Section 3650<br>**Powered Industrial Trucks–Excessive Loads** | Filed with Secretary of State:<br>**Apr. 14, 2014** | **Jul. 1, 2014** |
| Section 4355<br>**Operating Rules for Compaction Equipment** | Filed with Secretary of State:<br>**Apr. 3, 2014** | **Jul. 1, 2014** |
| Section 5001<br>**Update and Harmonization of Crane Hand Signals Standards and Illustrations** | Filed with Secretary of State:<br>**Apr. 14, 2014** | **Jul. 1, 2014** |

**PLEASE GIVE THIS "PROPOSED" (NEW & IMPROVED??) YOUR IMMEDIATE ATTENTION – EXAMINE THE TEXT RELATIVE TO THE FIRST PAGE EDITORIAL….ED.**

## Heat Illness Prevention Programs and Regulations

### Advisory Meetings

General Industry Safety Orders
Chapter 4, subchapter 7,
Section 3395
May 27, 2014

- **DRAFT regulation submitted to the Occupational Safety and Health Standards Board**
- **DRAFT Initial Statement of Reasons submitted to the Occupational Safety and Health Standards Board**

Curious about some Notable Citations? Check out this link
https://www.dir.ca.gov/dosh/citation.html

| | | | | |
|---|---|---|---|---|
| 4/28/2014 | Coker Equipment Inc. | Failure to Abate General – 4<br>General – 1<br>Total Violations - 5 | Proposed penalties: $143,075<br>The citations are the result of a follow-up inspection conducted on February 12, 2014 as a consequence of the employer's failure to abate violations identified during a previous investigation of a June 12, 2012 tower crane accident. | 317230753: Citation documents |
| 4/25/2014 | Tesla Motors, Inc. | Serious – 6<br>General – 1<br>Total Violations - 7 | Proposed penalties: $89,000<br>Citations were issued to Tesla Motors, Inc. for six Serious and one General violation. The employer did not conduct periodic inspections of use of a low pressure die casting machine, and allowed employees to continue using the machine after a safety interlock had been damaged, which resulted in injuries to three employees who were sprayed with molten metal. The employer failed to release the air pressure used to inject molten aluminum into molds before servicing, did not maintain the machine in safe operating condition and did not use a protective shield. The employer did not ensure that employees were trained in the hazards of using the machine, and did not ensure that employees used eye and face protection. | 317216729: Citation documents<br><br>Narrative Summary |
| 4/17/2014 | Bay Area Rapid Transit District | Willful/Serious – 3<br>Total Violations - 3 | Proposed penalties: $210,000<br>Citations were issued to the Bay Area Rapid Transit District for three Willful-Serious citations related to a fatality involving two track workers. The employer failed to ensure that only qualified electrical workers were allowed to perform work or take any conducting object within an area where there is a hazard of contact with energized conductors. The employer's program was not effectively implemented with respect to the training provisions, in that the employer allowed employees, who had been given a new job assignment, to perform that job while having not completed the training. The employer did not develop and institute controls to safeguard personnel during railcar movement, and allowed workers to conduct work on the railway tracks where trains were travelling in excess of 65 miles-per-hour. Furthermore, the employer's control method, namely the "Simple Approval" procedure, does not safeguard personnel working on tracks during railcar movement. | 316819051: Citation documents |
| 4/14/2014 | Three Frogs Inc. | Serious - Accident Related – 5<br>Serious – 3<br>General – 5<br>Total Violations - 13 | Proposed penalties: $91,865<br>Citations were issued to Three Frogs, Inc. for five Serious-Accident Related, three Serious, and five general. Employees of Three Frogs, Inc., were not under the direction of a qualified Tree worker when they used improper methods and procedures to cut a large Eucalyptus tree, which resulted in an Employee sustaining fatal injuries. Employees were not trained and instructed in the hazards involved in their job assignments. A job briefing was not conducted by a qualified tree worker before beginning the job assignment, and when significant changes were made that affected the employees safety. A qualified tree worker did not determine the appropriate rigging system for the removal of the tree at the work site. Wedges, block and tackle, and other lowering devices not used when there was a danger that the tree being removed could fall in the wrong direction. | 317230167: Citation documents<br><br>Narrative Summary |
| 4/11/2014 | Butler Amusement Inc. | Willful / Serious – 3<br>Total Violations - 3 | Proposed penalties: $101,250<br>Citations were issued to Butler Amusement, Inc. for three Willful-Serious citations for failure to maintain equipment according to manufacturer's safety recommendations, failure to ensure proper installation of all fastenings and use of the rides without necessary supports following inspections of the rides at the Big Fresno Fair. | 316727502: Citation documents |