



# "The Public Interest"

## Health/Safety and Environmental Issues *the PASMA way to shared knowledge*

**Public Agency Safety Management Association**  
**Sunday September 23, 2018**

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### 2018 PASMA CONFERENCE BOARD THANKS YOU!

On behalf of the Board, we thank all participants in the 2018 Professional Development Conference and remind you that our Northern Chapter partner, Ms. Cari Elofson from the OTI at Chabot Los Positas has graciously allowed us to use their **SURVEY MONKEY** account to do **POST-CONFERENCE** consumer surveys. Additionally we would also like to thank Ms. Gina Eicher, of Walnut Creek and Northern Board Member for her contributions and support to our program. All participants will be emailed and we encourage participation to plan for continuous improvements for the 2019 Conference. We hope that this years conference met the needs of both professionals and sponsors and remind our members to visit our website, <https://pasmaonline.org/>, for a nostalgic photo visit of this event.



**There is just NO substitute for Institutional knowledge and wisdom...so if you're not careful, you might learn something.**

Knowledge in youth is wisdom in age.

*Proverb*

## How did I miss that?

### California enacts new law to respond to Trump administration OSHA changes

**Blog** [California Employers Blog](https://www.lexology.com/library/detail.aspx?g=a44141d6-fead-4d8b-a0c2-913590523350) (<https://www.lexology.com/library/detail.aspx?g=a44141d6-fead-4d8b-a0c2-913590523350>) Fisher Phillips

As I'm want to do, I troll as many web sources in search of any information that may impact the efficient deployment of Occupational Safety and Health efforts. Recently, I ran across Mr. Phillips Blog regarding a new California Assembly Bill 2334 regarding OSHA recordkeeping and in his blog he states in part...*"AB 2334 also contains a provision that seeks to resurrect a statute of limitations rule related to recordkeeping requirements known as the "Volks Rule." The rule received its nickname from a D.C. Circuit Court case that held that federal OSHA could not cite employers for failing to record workplace injuries or illnesses if the violation took place more than six months before the citation was issued.*

*Following the D.C. Circuit Court case mentioned above, the Cal/OSHA Appeals Board announced in a decision that it would similarly interpret the "occurrence" statute of limitations as barring any citation for failure to report an injury which occurred more than 6 months after the violation. Key Energy Services (DAR-15-0255-0256). AB 2334 amends California law to largely revert to the Obama Administration "Volks Rule" by specifying that a violative "occurrence" for record retention violations continues until it is corrected, Cal/OSHA discovers the violation, or the duty to comply with the requirement is no longer applicable. In other words, a failure to record an injury or illness would be deemed a "continuing violation" until discovered or corrected."*

#### Full text of the Assembly Bill

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB2334](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2334)

Additionally, AB2334 affects and amends Cal Labor Code Section 6317 relative to the issuance of "Notices" (permissive for record keeping instances) Moving forward, this Bill has several functional issues 1) although record keeping citations may be classified and issued as "Notices" which carry no monetary penalties, they may still be used as the basis for a "repeat" citation which now could potentially cost up to the allowable limits of \$124,000; and 2) with that proposed 5 year "reach back" extension, the probability that a company's "changed" or "amended" record update between company and medical provider will be missed is extraordinarily high. Caveat emptor. **AB 2334 goes into effect on January 1, 2019.** Please perform a reconciliation of your historical reporting/recording records.

## OSHA Form 300: Recording a Case with Medical Treatment beyond First Aid

Identify the person		Describe the case		Classify the case		CHECK ONLY ONE box for each case based on the most serious outcome for that case		Enter the number of days the injured or ill worker was		Check the "injury" column or choose one type of illness	
(A) Case No.	(B) Employee's Name	(C) Job Title (e.g., Welder)	(D) Date of injury or onset of illness (month)	(E) Where the event occurred (e.g., Loading dock (north end))	(F) Describe injury or illness, part(s) of body affected, and object/substance that directly caused or made person ill (e.g., Second degree burns on right forearm from airplane torch)	Days lost from work	Job transfer (restriction)	Days lost from work	On job transfer or restriction (days)	(G) Injury or illness	Illness
1	Mark Dagan	Welder	5/05	basement	fell from ladder	✓		12		✓	
2	Shanya Alexander	Foundry man	7/02	pouring dock	poisoning from lead fumes		✓				✓
3	Sam Gardner	Electrician	05	2nd floor	struck by overhead wire		✓				✓
4	Dagge Bonville	Laborer	09	2nd story	object struck back in an lifting box	✓		5	16		
5	Jarred Daniels	operator	10/23	floor	heart in eye			✓			✓

(For a list of specific treatments considered to be first aid, see section 1904.7(b)(5).)



## **The Cal/OSHA Referral Process - Learning from the mistakes of others is not just smart...it’s Strategic Thinking.**

Cal/OSHA Policy and Procedure C-7 **“(E)(2)(c)(2) Other Governmental Agency Representative”** prioritizes the compliance work of the Division and in most cases do not involve “system” wide issues. As smart and efficient Health and Safety representatives to our respective organizations, we should monitor other government sources for clues to issues that might become health and safety PROBLEMS. In addition to the Cal. Dept. of Labor and State Contractors License Board, the California State Auditors Office is one that may provide input to the workload of the Division. The most recent example is the system wide audit of the Cal. State University System, where already at least five different campuses were visited relative to the adequacy of their Health and Safety Programs. Please review those “Reports” that might apply to your organizations by looking at the following URL **“Research Pays.”**

### **California State Auditor Office**

#### **“Mission**

The California State Auditor promotes the efficient and effective management of public funds and programs by providing to citizens and the State independent, objective, accurate, and timely evaluations of state and local governments' activities.

#### **Purpose**

The purpose of the California State Auditor's Office is to improve California government by assuring the performance, accountability, and transparency that its citizens deserve.

### **Local Government High Risk - California Cities**

The California Government Code section 8546.10 permits the California State Auditor to develop a high-risk local government agency audit program for the purpose of identifying, auditing, and issuing reports on any local government agency, including a city, county, special district, or other publicly created entity, that the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

Regulations for the California State Auditor's High Risk Local Government Agency Audit Program became effective on July 1, 2015. [This flowchart](#) outlines the process the California State Auditor follows to determine whether a local government agency is at high risk. If a local agency is designated as high risk, it must provide written updates regarding its progress implementing its corrective action plan every six months after the report is issued. We will remove the high-risk designation when the agency has taken satisfactory corrective action.

<https://www.bsa.ca.gov/aboutus>”

### **Examples of recent reports that influence programmed inspections**

September 18, 2018	2018-106	Correctional Officer Health and Safety: Some State and County Correctional Facilities Could Better Protect Their Officers From the Health Risks of Certain Inmate Attacks <a href="#">Fact Sheet (PDF)</a> <a href="#">Summary</a> <a href="#">Full Report (HTML)</a> <a href="#">Full Report (PDF)</a>
April 24, 2018	2017-119	California State University: It Has Not Provided Adequate Oversight of the Safety of Employees and Students Who Work With Hazardous Materials <a href="#">Fact Sheet (PDF)</a> <a href="#">Summary</a> <a href="#">Full Report (HTML)</a> <a href="#">Full Report (PDF)</a> <a href="#">Recommendations</a>

Fed/OSHA Outreach Training has recently mandated that Outreach trainers working either independently or through an OTIEC start introducing some "Leadership in Safety" theories and training as part of their outreach efforts. The OSHA partner of note is the **Center for Construction Research and Training** which has formulated an academic, content specific model for deployment and use. Considering that the term "training" is the most common word in both the National as well as State Safety Codes, it would do well to investigate this website particularly since the most critical compliance word "effective" is normally associated with the word "training".

### **FOUNDATIONS FOR SAFETY LEADERSHIP (FSL)**

<https://www.cpwr.com/foundations-safety-leadership-fsl>

Developed by CPWR researchers, construction workers, OSHA outreach trainers, safety and health professionals, and other subject matter experts, the **2.5-hour Foundations for Safety Leadership (FSL) module was formally released by OSHA as a 30-hour elective module in January 2017**. Many small and large employers have also incorporated the FSL into their on-going safety training efforts.

The FSL training provides construction foremen and other lead workers with the skills and information they need to become effective safety leaders who are able create a strong jobsite safety climate. The highly interactive module teaches students about the costs of ineffective and the benefits of effective safety leadership and, most importantly, 5 critical leadership skills and practices to use in their day-to-day interactions on the jobsite.

Thousands of construction workers across the country have already received the FSL training and are using the skills learned to more effectively carry-out company safety policies, procedures, and practices with their crew members and to create a strong positive jobsite safety climate. One foreman told us...

*"The thing I took out of it is that three-way communicating. You know, having the people speak explain back to you what you told them. I mean, that really has helped a lot. Instead of just giving somebody some information, sending them off blindly to do the job, and then you know, getting mad 'cause they didn't do it right."*

Crew members report that after the training, their foremen were practicing the leadership skills to a greater degree and that there was a stronger jobsite safety climate, as reflected by this worker's comment.

*"Once you do something and someone gets beside you and says "I appreciate you doing that man - maybe you want to tell your buddy over there that he needs to put his ear plugs on". That way the foreman doesn't have to say anything. A worker can go over and say something. But they're patting you on the back for doing the right thing. This goes on more than what it did before."*

Click on these links to download the FSL materials - ALL FOR FREE:

- [Primary FSL training materials](#) - PowerPoint, Instructor Guide, Student Handout, Train-the-Trainer materials
- [Additional FSL Resources](#) - Toolbox Talks, FSL Handbook, and more...!
- [Spanish FSL Resources](#)

