



# "The Public Interest"

## Health/Safety and Environmental Issues

the PASMA way to shared knowledge

Public Agency Safety Management Association

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### Front Page:

- 2024 Cits – Lessons Learned? Pg. 1
- Organizations Achille's Heels Pg. 2
- Multiple Citations-T8CCR336 Pg. 3
- Hazards/Harm & Risk. Pg. 4-5
- WorksafeBC Slide Show Pg. 6

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We're halfway through the year and we are trying to reboot after COVID. We **NEED your help.** Quoting an old tag line "LIVE IS NOT A SPECTATOR SPORT"

### PASMA Recruiting:



*all that's missing is U!*

### 2023-2024 Most common – Why is this still happening?

Here is why:

- 7 Codes require a written program – nuanced requirements are not well understood nor updated.
- Highly visible and not organizationally operationalized
- CSHO Low hanging fruit

**3203** IIP

**3395** Heat

**5109** Code of Safe Practices

**342(a)** Failure to Report

**5194** HazCom

**3314** LOTO

**6151** Portable Fire (If the citation is for "failure to inspect monthly..." (see (e)(1-5); find the section that requires documentation- I'll bet you won't find it for other than the "annual"...which begs the question **why are you accepting** the citation?)

**5162** Emergency Eyewash

**5144** Respiratory Protection

**5204** Crystalline Silica – Special Emphasis Program

**3650** Industrial Truck – *Independent Employee Act Defense?*

## **"Serious" Organizational Achille's Heels and why.**

If left undiscovered and treated, the following safety orders may easily be the biggest risk for the public sector both in terms of citation potential as well as compensable workers compensation cases. Firstly, in most all cases, citations regarding any of the subsections of these orders will typically be **"serious"**; and in most cases, the data also suggests that multiple subsections of these orders will likely be issued. Secondly, since all these citations relate to an **"assault"** on the human body potentially with long term effects, any workers compensation claim will also likely be exceedingly expensive. Hence, this article attempts to highlight critical nuanced subsections with an explanation as to how easily Compliance can **"prove"** and sustain any citation issued following an inspection.

Foundationally, [T8CCR3203\(a\)\(4\)](#) states in part *"Include procedures for identifying and evaluating workplace hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.* Subsections (B) and (C) recognizes that **"work"** is dynamic, situational and, if to be done consistently, requires establishing a feedback loop from worker to first line supervision and above for timely correction. In short, this subsection is a reconnaissance and intel gathering requirement. The fact that this section has been the most issued Citation in California is evidence that employers do not understand it's ramifications.

Building on the IIPP foundation, [T8CCR5194 - Hazardous Substance Communications](#) may be considered the **"framing"** of all industry operations namely the Industrial Chemistries. It is for that reason that the HAZCOM Standard is the ONLY mandatory program for Nationwide compliance review. Within that safety order several key subsections should be revisited solely because it demands technical expertise and persistent action. Consider this safety order as the beginning of a functional feedback loop that includes the requestor, purchaser, auditor, trainer and line supervision.

In keeping with the **"building"** analogy, [T8CCR5155 - AirBorne Contaminants](#) may be considered the performance specification order to the HAZCom Standard. This section is used by Compliance to check and verify the employer's affirmative duty to review the building codes of any **"regulated"** chemistry in the following manner. In subsection 5155(e)(1), every employer is to assess every **"reasonable"** suspicion that there **"may be"** an exposure (**NOT OVEREXPOSURE**) to any of their current chemistries. This subsection is **MANDATORY**, and the critical terms intimated in this order are **"reasonable"**; meaning any information on your SDS that suggest a means and methods of exposure as well as any Engineering or PPE controls suggested. **"Reasonable"** in this subsection also means any employee complaint or symptom because of exposures reported or known to first line supervision. Subsection 5155(e)(2) further requires that when the information vetting is complete, the employer is to deploy the ladder of control stipulated in [T8CCR5141 - Harmful exposures to employees](#).

Finally, Sections [T8CCR5144 - Respiratory Protection](#), [T8CCR5097 - Hearing Conservation](#), [T8CCR5141.1](#) and other programs that require "medical" related surveillance contain **NO** language that allows the employer to **"enforce"** compliance to either annual medical surveillance nor the use of **"voluntary"** respiratory protection. What I mean by that is that although the order requires the employer to develop and maintain; and in the case of T8CCR5144, respirators for voluntary use, these orders **DO NOT CONTAIN LEGAL** language for employers to **"sanction"** employees for consistently missing annual audiograms, and/or fit tests. Ergo, when during the review of these programs, the CSHO sees that some employees failed to meet their annual appointments, Compliance may cite the employer for failing to **"maintain"** and/or have an **"effective"** program. The **ONLY** way, this can be countered is for employers to stipulate **"conditions of employment"** and or **"duty statements"**, make them sanctionable and then document such action in accordance with T8CCR3203(a)(3). Given that

the Public Sector is highly Unionized, another option is to mimic the Bloodborne Pathogens Order [T8CCR5193](#) , which stipulates a **"declination statement"**.

### **Multiple citations from the same Safety Order, necessary?**

Expanding the severity of the aforementioned Achille's Heels, citations regarding any of these safety orders are also likely to contain more than one subsection as separate citations. To minimize the downstream economic ramifications, both in terms of penalties and workers compensation, the employer should consider arguing in favor of [§ 336. Assessment of Civil Penalties](#).

When researching the entirety of this Code, look for **"shall be adjusted for Size, Good Faith, and History"**. Equally, understand that most of these subsections also **DO NOT** allow for "abatement credit". With some exceptions also look at the tables for each category of citation and look for "Gravity" based penalties of LOW, MEDIUM, HIGH". The resulting figure is called the Gravity-based penalty.

**(k) Multiple Violations Pertaining to a Single Hazard.** When a single hazard is the subject matter of multiple violations resulting in civil penalties, the Division may, in its discretion, depart from the preceding criteria to mitigate the cumulative effect of such penalties.

(1) This subsection does not apply to any penalty assessed for a Serious, Willful or Repeated violation or a failure to abate a Serious violation where such violation or violations have been determined by the Division to have caused death or serious injury, illness or exposure pursuant to Labor Code section 6302. This subsection does not apply to any Regulatory, General or Serious violation where the employer does not have an operative injury prevention program as set forth in subsection (d) of this section.

### **Hazards vs. Harm in either case there is a Risk.....Identify it, Quantify it, Control it in a timely manner!**

Every workplace has hazards, and it's helpful to know which pose the greatest risk of harm for your workers and yourself. Being able to identify workplace hazards helps you better prepare to eliminate, control and even prevent injuries, accidents, downtime and property damage. Learn how to minimize hazards so your workplace can be safer for you, your team and anyone else who enters it. As you'll see, one of the best ways to eliminate workplace hazards is through education and proper training, which can help you further your career as a safety professional while creating an efficient, low-risk job site.

#### **What Is a Workplace Hazard?**

It's easy to use the words "hazard" and "risk" interchangeably. But the truth is that the term "hazard" is a bit more nuanced than a simple risk. There are many definitions for hazard but consider the concept as it relates to workplace health and safety. With this context in mind, we can say that a hazard is any source of potential harm, damage or adverse health effects on someone or something within the workplace. Risk, on the other hand, is just the possibility that an accident can happen. Risk can be defined as the probability of the hazard occurring as well as the severity that hazard may present. Every workplace is different. For this reason, workplace hazards differ from industry to industry, warehouse to warehouse and job site to job site.

[\*\*See OSHA Hierarchy of Controls PDF\*\*](#)

## Workplace Harm vs. Workplace Hazard

It's important to separate the word "harm" from "hazard," in both the context of the workplace as well as in general. It can be easy to lump these two words together, but in fact, they are separate concepts prepare to prevent workplace hazards and reduce the risk of harm to yourself and your workers.

A **hazard** is anything that has the potential to induce harm or other adverse effects. People can experience health effects, while organizations can experience property or equipment loss. Hazards can also present the potential for harm to the environment.

The term "**harm**" refers to the adverse effects posed by hazards. Picture a hazardous material leaking out of a container on a pallet in a warehouse. The leaking material is a hazard, but harm only occurs when the material has caused negative health effects to a human, property or equipment damage or damage to the environment. In short, a hazard is the potential source of harm to a worker, property or the environment. Harm is the actual negative outcome, such as an injury or damage to the affected person, place or thing.

**Types of Hazards.** Here are the six main types of workplace hazards:

- **Biological:** Bacteria, insects, viruses, plants, animals, birds, humans, etc.
- **Chemical:** The toxic, chemical and physical properties of the material
- **Ergonomic:** Posture, workflow, workstation design, poor equipment design, improper workstation setup, heavy or awkward lifting, repetitive movements, etc.
- **Physical:** Loud noises, extreme pressures, magnetic fields, radiation, fire, poor lighting, unsafe machinery, misused machinery, obstructions in walkways, slippery floors, etc.
- **Psychological:** Violence, stress, constant low-level noise, threats of danger, discrimination, harassment, public relations, intense workloads, shift work, etc.
- **Safety:** Equipment malfunctions, equipment breakdowns, inappropriate machine guarding, tripping and slipping hazards, etc. Let's take a look at these hazards in detail:

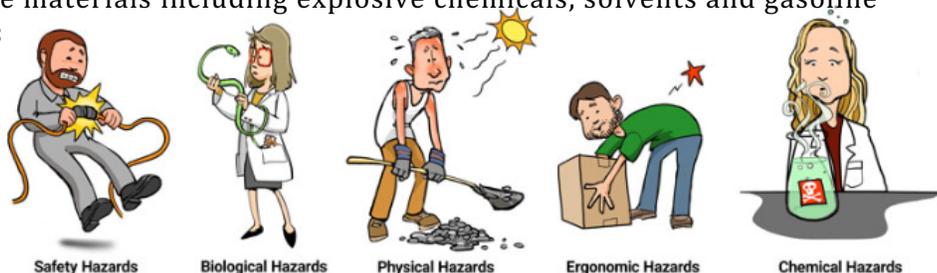
### Biological Hazards

- Fungi
- Mold
- Blood and other bodily fluids
- Plants
- Viruses and bacteria
- Bird and animal droppings
- Insect bites

### Chemical Hazards

Chemicals may take the form of a gas, liquid or solid and all can pose a risk to workers. This concern is especially true when you consider that different people have different sensitivities. This is even true of common chemicals that can cause breathing issues, skin irritation and illness. Beware of the following chemical hazards:

- Liquids like solvents, acids, paints and cleaning products, especially if they are in unlabeled containers
- Vapors and fumes that come from exposure to solvents or welding
- Gases including helium, carbon monoxide, hydrogen sulfide, ammonia, propane and acetylene
- Flammable materials including explosive chemicals, solvents and gasoline
- Pesticides



### **Ergonomic Hazards**

Ergonomic hazards happen when working conditions, body positions and the type of work being performed put a strain on the body. Ergonomic hazards can be difficult to identify since the strain exerted on the body often takes time to reveal itself. Here are some examples of ergonomic hazards:

- Frequent lifting
- Improperly adjusted chairs and workstations
- Bad posture
- Awkward movements
- Repetition of a certain motor skill
- Vibrations
- Repeated use of force, potentially beyond one’s comfort limits

### **Physical Hazards**

Workers face physical factors in the environment that can cause harm to the body, even without physically contacting the hazard. Physical hazards include the following:

- Radiation, both ionizing and nonionizing (EMFs, radio waves, microwaves, etc.)
- High exposure to sunlight and ultraviolet (UV) rays
- Cold and hot temperature extremes
- Incessant loud noise levels

### **Psychological Hazards**

Psychological hazards can cause harm like burnout or stress, leading to distracted workers and potential mistakes. To combat the causes of psychological harm, managers and supervisors can implement a positive workplace culture that values safety, equality and sustainable working practices. Examples of psychological hazards in the workplace include:

- Lack of job training
- Unrealistic production goals
- Threats or intimidation by management or coworkers
- Poor safety culture
- Required overtime hours
- Unclear policies

### **Safety Hazards**

Safety hazards are the most common type of hazard in the workplace. They refer to unsafe conditions leading to illness, injury and even death. Here are some common safety hazards:

- Tripping and slipping hazards, including spilled liquid, cords running across the floor and blocked aisles
- Working from any raised work area, including roofs, scaffolding and ladders
- Moving machinery parts and unguarded machinery that a worker can accidentally touch
- Electrical hazards, including improper wiring, missing ground pins and frayed cords
- Confined spaces
- Hazards related to machinery, including boiler safety and the improper use of forklifts

Some hazards put workers at risk of accidents and injury and can also lead to other hazards. For instance, workers can face increased chemical exposure if their protective equipment is damaged. There is also the potential for explosion when mixing chemicals. Be aware of potential safety hazards and instruct your workers to ***immediately tell supervisors*** of any new hazards that arise. That way, your team can take the proper action to address the situation.

**(I'm still looking for feedback, i.e. Stories/Questions Etc.)**

**This Month's WorksafeBc Slide Show**

This slide show recreates an incident where a young worker is injured after riding on the side of a forklift and falling off.

Riding as a passenger on a forklift is prohibited in most cases. It can expose workers to dangers such as falling off, being struck by objects, or being crushed between the forklift and another object.

This incident investigation slide show illustrates to employers and workers the dangers of riding as a passenger on a forklift. It also reminds employers of the requirements to provide proper training to forklift operators, as well as adequate orientation and training to young or new workers.

**Incident Investigation: Young Worker Run Over by Forklift**

See [Forklifts & materials-handling equipment](#) for more information.



**What failed and how do we correct? – Systems Analysis!**

**See you Next Month and Thank You**