"The Public Interest"

Health/Safety and Environmental Issues

the PASMA way to shared knowledge

Public Agency Safety Management Association

October 22, 2026

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Happy 2026 Halloween!!





…and now "the rest of the stories"

Among the critical skills an OSH program manager should never lose is the ability to develop and maintain both tactical and strategic thinking. This of course means:

- We know or need to know the overall synergy between critical departments and functional business units with respect to who controls and documents the flow of information and data records.
- We know what they do, who manages that and mostly the hazards associated with the activities of their primary mission at these business units.
- We are current in the regulatory thinking, perspectives and operational directives where they could affect our operations including the processes that are binding on them.
- And mostly, we factually know if a periodic and wholistic systems analysis is due within the organizational controlling document: our IIPP and all that it requires at the site, for the activities performed with the tools and materials demanded of those activities as well as the working safety and health knowledge and application of those performing routine and special tasks.

In short, does the entire organization understand and practice Management of Change. If not, it's time to engage in a major system wide **GAP ANALYSIS, especially considering the recent Cal/OSHA and new Cal Labor Codes in play.**



If you recall, the September Newsletter provided information on Cal/OSHA's Severe Violators Enforcement Program. This month's primary messaging is to provide additional information that may help prepare you for that ***GAP Analysis*** as well as establish the imperative to conduct a SYSTEM wide audit of the Occupational Safety and Health of your entire organization and initiate the necessary changes to meet the current legal mandates at all your facilities and operations.

CA. AB2321 Latest update and what it means to the stakeholders. Operational options granted the Division may include any one or all the provisions listed below. The potential problem I see with this expansion of regulatory authority is that the decisions to invoke some of these elements currently rests with seniors and managers not all of whom may have had the training or experience to make factually based and informed decisions. Also remember that *"line managers"* have direction and control over any activity and hence makes them the outer ring of the corporate target.

Key Provisions of AB 2321

- **Criminalization of Inspection Interference:** It is now a misdemeanor criminal offense to willfully resist, delay, obstruct, or interfere with a Cal/OSHA inspector or to violate related court orders. This is punishable by up to six months in county jail, a $5,000 fine, or both.
- **Lowered Threshold for Criminal Safety Violations**: Previously, an employer faced criminal charges for a "willful" safety violation only if it resulted in an employee's death or permanent/prolonged bodily impairment. AB 2321 expands this criminal liability to include any willful violation that causes a serious injury, illness, or serious exposure.
- **Mandatory "Serious Exposure" Investigations**: The BOI is now required to promptly investigate workplace incidents involving a "serious exposure" (e.g., hazardous chemical leaks or toxic environments), even if no actual illness or fatality has occurred yet.
- **Faster and Broader Notification Requirements**: First responders (police and fire departments) and Cal/OSHA must immediately notify the local district attorney's office following a workplace fatality, a serious injury/illness, or a serious exposure event affecting five or more employees.
- **Sharing Confidential Information with Prosecutors:** The law creates an exception to trade secret and confidentiality protections, allowing Cal/OSHA to share inspection records, reports, and evidence directly with law enforcement and prosecutors early in the process.
- **Increased Oversight and Transparency**: The BOI must establish standardized written protocols for how they review cases and decide whether to refer them for criminal prosecution. They must also submit detailed reports to the Legislature, including cases where local prosecutors declined to pursue charges.

Employers Should

1. Train Leadership on expanded criminal exposure

- Broadened Liability Triggers: Willful safety violations that cause a serious injury, illness, or serious exposure (not just death or permanent impairment) can now lead to criminal prosecution.
- Multi-Track Awareness: Train executives, managers, and safety leads to recognize that a serious workplace incident can trigger three parallel tracks:
  - (1) a standard Cal/OSHA inspection,
  - (2) a Bureau of Investigations (BOI) criminal inquiry, and
  - (3) a local District Attorney prosecution.

Cont'd

2. Establish an Inspection Response & Escalation Plan

- Designate a Response Team: Create a clear, on-call response team comprising safety officers, HR representatives, management, and legal counsel.
- Immediate Notification Protocol: Ensure supervisors know to contact this designated team immediately whenever a serious accident, fatality, or Cal/OSHA inspector arrival occurs.
- Cooperation vs. Obstruction: AB 2321 makes willfully resisting, preventing, impeding, or interfering with a Cal/OSHA investigation (or violating a related order) a misdemeanor punishable by up to 6 months in county jail and/or a $5,000 fine. Train staff to cooperate lawfully while immediately involving legal counsel during scope disputes or access disagreements.

3. Review and Update Safety and Reporting Practices

- Update IIPPs and Protocols: Review your Injury and Illness Prevention Plan (IIPP) and incident-reporting procedures. Ensure tracking systems catch serious exposures (such as hazardous substance releases) even if no physical injury occurs.
- Evidence Preservation: Establish immediate protocols to safely preserve accident scenes, equipment, logs, and witness statements in the event of a catastrophic or serious injury.
- Engage Counsel Early: Coordinate with employment and safety legal counsel ahead of January 1, 2027, to run mock inspection drills and review escalation workflows.



2027 PASMA/Cal-OSHA Roadmap review – KNOW THE ROAD TO SAFE TRAVELS

Notice of Advisory Committee Meetings – "LIFE IS NOT A SPECTATOR SPORT"
PASMA should consider creating a Legislative Affairs Committee to help with analysis of proposed Safety Orders for the purpose of providing data centered input for action. For information on Division of Occupational Safety and Health advisory committee meetings, visit the Attend an Advisory Meeting webpage. **Current as of 10-20-26.**

If you must play:
Know the rules
Know the stakes
Know when to quit!

The latest rules of engagement are listed below with some editing from the [Cal/OSHA Standards Board Page]

Proposed Regulations-Committee

8 CCR Sections	Subject	POTENTIAL RAMIFICATION	Staff Contact
TBD	**Autonomous Tractors in Agriculture** 1st Meeting (December 1, 2026)	Although the focus is on Ag Equipment, the OSHA Enforcement (Cal/OSHA) looks at HAZARDS not necessarily at target industries. Certain public sector units could be impacted by this order.	Millie Robinette (916) 274-5721
Section 1671.3	**Federal OSHA 1926 Subpart M Appendix E Fall Protection Plans for Interior Framing Activities - Petition 607** 1st Meeting (May 13, 2026)	Public sector – re-evaluated subcontractor relationships scopes of work carefully. Think **MULTIEMPLOYER RISKS.**	Simone Sumeshwar (916) 621-1415
Article 14	**Construction Passenger Elevators, Article 14** 2nd Meeting (June 30, 2026)	Public sector – re-evaluated subcontractor relationships scopes of work carefully. Think **MULTIEMPLOYER RISKS.**	Michael Nelmida (916) 274-5724
Article 10.1 Sections 3401-3407 and 3410-3411	**Fire Fighters' Personal Protective Equipment – Labor Code Section 147.4(c)** 6th Meeting (June 3-4, 2025)	Public sector – Re-evaluate Resp Progr and PPE programs. **DO YOU HAVE RECORDS OF EVAUATION, INSPECTION AND TRAINING**	Jeremy Proctor (916) 274-5731
Sections 1669, 1670, 1671, 1716.2, 1724, 1730 and 1731.	Fall Protection in Construction Phase 2	Public sector – re-evaluated subcontractor relationships scopes of work carefully. Think **MULTIEMPLOYER RISKS AND YOUR OWN TASK ASSESSMENTS**	Simone Sumeshwar (916) 621-1415
Section 3324	**Horizontal Sliding and Swinging Gates** 2nd Meeting (July 23, 2026)	Public sector – re-evaluated subcontractor relationships scopes of work carefully. Think **INVENTORY, ASSESSMENT, MAINTENANCE, CONTROL**	Marjon Juybari (916) 274-5729
Article 2	**Walking-Working Surfaces** 6th Meeting (March 5-6, 2025)	Public sector – re-evaluated subcontractor relationships scopes of work carefully. Think **INVENTORY, ASSESSMENT, MAINTENANCE, CONTROL**	Simone Sumeshwar (916) 621-1415
Sections 3420 and 3424	**Brush Chippers** 3rd Meeting (May 30, 2024)	Public sector – re-evaluated subcontractor relationships scopes of work carefully. **INSPECTION AND CORRECTION RECORDS**	Michael Nelmida (916) 274-5724
Section 3657 and New Section 3458.2	**Date Palm Operations** 2nd Meeting (April 14, 2021)	Post Committee Meeting Document. Public sector – re-evaluated subcontractor relationships scopes of work carefully, AND YOUR OWN ACTIVITES	Cha Yang (916) 274-5730
Article 4, Sections 3207 and 3277	**Walking-Working Surfaces** 1st Meeting (February 12-13, 2020)	**GLOBAL APPLICATIONS ACROSS ALL PROPERTIES AND ACTIVITIES.**	Simone Sumeshwar (916) 621-1415
Sections 1504, 1635 and 1710	Use of Cone and Bar Barricade and Temporary Flooring in Structural Steel Erection, Petition 570	**GLOBAL APPLICATIONS ACROSS ALL PROPERTIES AND ACTIVITIES.**	Maryrose Chan (916) 274-5723
Sections 3649, 3650, 3663, and 3669	**Hydrogen Powered Industrial Trucks** The Board is seeking input on a revised discussion draft for Hydrogen Powered Industrial Trucks used in general industry. Interested parties are invited to submit written comments to Senior Safety Engineer Michael Nelmida (916) 274-5724 by May 26, 2025. May 5, 2025 Revised Discussion Draft 1st Meeting (April 11-12, 2019)	Public Sector warehousing and logistics vs. emergency response, maintenance, operations and training.	Michael Nelmida (916) 274-5724

Approved Regulations - Occupational Safety & Health Standards Board

The following is a list of approved regulations. Click on the name of the regulation(s) to access the language in strikeout/underline form and the adoption, approval and effective dates. Strikeout language indicates language deleted from the proposed Title 8 regulation and underlined language indicates language added to the proposed Title 8 regulation.

*Those regulations that are highlighted have critical **cross departmental** implications. Meaning they impact not just your "written programs" but require an examination of "interconnected safety orders" such as IIPP 3203(a)(4) and (a)(6), but individual topic specific codes such as T85155, 5194, 5141, 3380, 5144 etc. all of which if a deficiency is found in one, it provides the basis for other related citations. More importantly – **DO COMPANY RECORDS EXIST, WHO AUTHORED THEM AND WHO HAS CUSTODY**.*

Approved Regulation	Status	Effective
Title 8: Chapter 3.5, Subchapter 1, Article 2, Section 411 Applications For Permanent Variances	Filed Apr. 25, 2022	Jul. 1, 2022
Section 1514 Proper Fit of Personal Protective Equipment - HORCHER	Filed Aug. 21, 2025	Aug. 21, 2025
Section 1532.1, Section 5155 and Section 5198 Lead	Filed Apr. 8, 2024	Jan. 1, 2025
Various Sections within CSO, HVESO and GISO Consolidate Construction Safety Orders, Article 15 (Cranes and Derricks in Construction), into General Industry Safety Orders, Group 13 (Cranes and Other Hoisting Equipment)	Filed Jul. 26, 2022	Jul. 26, 2022
Section 1635 Cone and Bar Barricades	Filed Jul. 15, 2025	Oct. 1, 2025
Sections 1671.1, 1716.2, 1730 and 1731 Fall Protection in Residential Construction	Filed Nov. 26, 2024	Jul. 1, 2025
Sections 1951, 1952, 1953, 1955, 1956, 1960 and 5156 Confined Spaces in Construction	Filed Nov. 4, 2025	Jan. 1, 2026
New Sections 3205, 3205.1, 3205.2, and 3205.3 COVID-19 Prevention - Non-Emergency Regulation	Filed Feb. 3, 2023	Feb. 3, 2023
New Section 3396 Heat Illness Prevention in Indoor Places of Employment	Filed Jul. 23, 2024	Jul. 23, 2024
Section 3401, Section 3402, New Sections 3402.1 - 3402.3, Sections 3403 - 3410, New Section 3410.1 and Section 3411 Fire Fighters' Personal Protective Clothing and Equipment – AB 2146	Filed Nov. 7, 2022	Jan. 1, 2023
Section 5144 Appendix A Fit Testing Procedures (Mandatory) (HORCHER)	Filed Jun. 24, 2024	Jun. 24, 2024
Section 5204 Occupational Exposures to Respirable Crystalline Silica Non Emergency	Filed Feb. 5, 2025	Feb. 5, 2025
Sections 6050, 6051, 6052, 6054 and 6056 Diving Operations	Filed Oct. 22, 2025	Jan. 1, 2026

….and lastly, some resources regarding "implied consent" and what that means to you, your supervisors (sites first contact) vs Cal/OSHA inspectors.

How to access these sources: In your search engine enter "Cal/OSHA implied consent"
Scout MOTO - Be Prepared



Cal/OSHA Implied Consent

Ogletree
https://ogletree.com › Blog Posts

OSHAB Holds Employer Can Impliedly Consent to Inspection

Mar 19, 2025 — The California OSHAB ruled that **an employer can imply consent to a Cal/OSHA inspection** through the actions of a third party, even if that ... Read more

VensureHR
https://vensure.com › employment-law-updates › califor...

California OSHAB Rules that Employers Can Imply Consent

Implied Consent: **Employers can imply consent to a Cal/OSHA inspection** through the actions of a third party, even if that individual does not have actual ... Read more

Employment Law Information Network
https://www.elinfonet.com › ... › California - Cal/OSHA

OSHAB Holds Employer Can Impliedly Consent to Inspection

Mar 19, 2025 — s Board (OSHAB) **upheld citations against a California employer** after finding the employer had consented to an inspection

California State Auditor (.gov)
https://www.auditor.ca.gov › Reports

2024-115 The Division of Occupational Safety and Health

Jul 17, 2025 — If **Cal/OSHA** receives a complaint from an **employee**, an **employee's** representative, or certain others, it must investigate the complaint as soon ...

LinkedIn
https://www.linkedin.com › posts › caemploymentlawyer...

California OSHA Board Rules Third-Party Consent Valid

Mar 24, 2025 — The Occupational Safety and Health Appeals Board (OSHAB) has established that **third parties without explicit authority can give valid consent** ...

See you next month -