

98-03: Multi-Employer Worksites

Information

Action

INFORMATION

The California Department of Industrial Relations has adopted new regulations governing safety at a multi-employer workplace. These regulations were put into effect after Federal OSHA notified the state that its program was not as effective as the Federal program in that it did not provide for sufficient enforcement at worksites at which more than one employer is present at the same time. The new California standards now mirror the existing Federal standards.

The regulations provide that on multi employer worksites, citations may be issued to employers whose actions **or failure to act** resulted in the exposure of employees to a work place hazard, **regardless of whether the employer's own employees were exposed to the hazard**. A multi-employer worksite is defined as a workplace where more than one employer (and his/her employees) work, but not necessarily at the same time.

On multi-employer worksites, the following categories of employers may be cited if there is evidence that an employee was exposed to a hazard:

- (a) The employer whose employees were exposed to the hazard (the exposing employer.)
- (b) The employer who actually created the hazard (the creating employer.)
- (c) The employer who was responsible by contract or actual practice for the safety of the site (the controlling employer) or
- (d) The employer who had the responsibility for actually correcting the hazard (the correcting employer.)

As outlined in the Federal OSHA field operations manual Chapter V Citations, Part F

1. Issuance of Citation. On multi-employer worksites, citations shall be issued to employers whose employees were exposed to hazards, unless the employer meets all the conditions for a legitimate defense.

- a. Additionally, when a more expeditious abatement of the hazard can be thus obtained, the employer with the responsibility for creating and/or correcting the hazard shall also be cited.
- b. If employees of more than one employer are exposed to a hazard, however, citations shall normally be issued to each of the exposing employers as well as to the employer responsible for correcting or ensuring the correction of the condition (the controlling employer) and/or the employer causing the condition.

There are five defenses...all of which must be met...to form a defense to a citation.

- (a) The employer did not create the hazard.
- (b) The employer did not have the responsibility or authority to have the hazard corrected.
- (c) The employer did not have the ability to correct or remove the hazard.
- (d) The employer can demonstrate that the creating, controlling, and/or the correcting employers, as appropriate, were specifically notified or were aware of the hazards to which his/her employees were exposed.
- (e) The employer took appropriate steps to protect his/her employees from the hazard, instructed them to recognize the hazard and where necessary, informed them how to avoid the dangers

associated with it. Where an extreme hazard is involved, appropriate feasible steps include removing the employees from the job, if there is no other way to protect them.

ACTION

Members are requested to review their operations and exposure at multi-employer worksites in light of these regulations.