Home > Directives > Multi-Employer Citation Policy

OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR | Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 2-0.124	**EFFECTIVE DATE:** December 10, 1999

SUBJECT: Multi-Employer Citation Policy

ABSTRACT

Purpose:	To Clarify the Agency's multi-employer citation policy.
Scope:	OSHA-wide.
References:	OSHA Instruction CPL 2-0.103 (the FIRM).
Suspensions:	Chapter IV, Paragraph C, 3 of the FIRM is suspended and replaced by this directive.
State Impact:	This Instruction describes a Federal Program Change. Notification of State intent is required, but adoption is optional.
Action Offices:	National, Regional and Area Offices.
Originating Office:	Directorate of Compliance Programs.
Contact:	Call (202) 693-2305 Directorate of Construction N3468 FPB 200 Constitution Ave., NW Washington, DC 20210

By and Under the Authority of
Charles N. Jeffress
Deputy Assistant Secretary, OSHA

TABLE OF CONTENTS

I. Purpose
II. Scope
III. Cancellation
IV. References
V. Action Information
VI. Multi-employer Worksites
VII. Non-worksite Multi-employer Policy
VIII. Chapters to this Instruction of CPL
IX. Back-ground

X. Continuation of Status Policy
XI. Multi-employer Worksite Policy
XII. Non-worksite Multiple Employer Policy

XIII. Multi-employer Worksites
XIV. The Employer Employing
XV. The Employer Exposing
XVI. The Employer Controlling
XVII. The Controlling Employer
XVIII. Multiple Roles

I. Purpose. This Directive clarifies the Agency's multi-employer citation policy and supersedes Chapter IV, C, of OSHA's Field Inspection Reference Manual (FIRM).

II. Scope. OSHA-Wide.

III. Suspensions. Chapter IV, Paragraph C, 3 of the FIRM (CPL 2-0.103) is suspended and replaced by this Directive.

IV. References. OSHA Instructions.

A.

CPL 02-00-103, OSHA Field Inspection Reference Manual (FIRM), September 26, 1996.
CPL 02-00-051, Enforcement Exemptions Decision System, December 26, 1995.

V. Action Information.

A.

B. Responsible Office. Directorate of Construction.

C. Action Office. National, Regional and Area Offices.

D. Information Offices. Area Plan Offices, Consultation Project Offices.

E. Federal Program Change. This is a Federal Program Change for which State adoption is not required. However, the States shall respond via the two-way memorandum to the Regional Office as soon as the State is informed regarding the multi-employer citation policy. Responses should include a description of the State's multi-employer citation policy, if any.

F. Federal Program Change Impact (Required Action). The revised policy will be in effect and in force from the date of its issuance. It is an official Agency policy to be implemented OSHA-wide.

VI. Chapters to this Instruction of CPL. This Instruction is the only chapter of this Instruction. It supersedes Chapter IV, C, 3 of the Field Inspection Reference Manual (FIRM), and is to be replaced by this Directive, and a hyperlink will be provided connecting viewers with this Directive.

VII. Background. Chapter IV, Paragraph C, 3 of the FIRM, which was suspended by CPL 2-0.103, dates of Chapter IV, paragraph A, C, the Agency's citation policy for multi-employer worksites. The Agency has determined that this policy needs clarifying. This directive describes the revised policy.

A.

B.

C. Continuation of Status Policy. This revision continues OSHA's existing policy for issuing citations on multi-employer worksites. However, it goes and more detailed guidance than did the earlier description of the policy. In the FIRM, including new examples showing when and how OSHA will issue citations to employers, and providing guidance for compliance officers. These examples, which address common situations and provide general policy guidance, are not intended to be inclusive. In all cases, the decision on whether to issue citations should be based on all of the circumstances and the Agency's enforcement policies.

D. Multi-employer Worksites. This revision neither imposes new duties on employers nor deprives them from rights they currently have. It does clarify and outline in a fair from the employers' statutory duty to comply with OSHA standards and their duty to exercise reasonable diligence to determine whether violations of those standards exist.

E. Non-worksite Multiple Employer Policy. The following is the multi-employer citation policy:

1. Non-worksite Workplace.
2. The Employer Employing.
3. The Employer Exposing.
4. The Employer Controlling.
5. The Controlling Employer.
6. Multiple Roles.

1. Purpose. This Directive clarifies the Agency's multi-employer citation policy and supersedes Chapter IV, C, of OSHA's Field Inspection Reference Manual (FIRM).

2. Scope. OSHA-Wide.

3. Suspensions. Chapter IV, Paragraph C, 3 of the FIRM (CPL 2-0.103) is suspended and replaced by this Directive.

4. References. OSHA Instructions.

A.

CPL 02-00-103, OSHA Field Inspection Reference Manual (FIRM), September 26, 1996.
CPL 02-00-051, Enforcement Exemptions Decision System, December 26, 1995.

5. Action Information.

A.

B. Responsible Office. Directorate of Construction.

C. Action Office. National, Regional and Area Offices.

D. Information Offices. Area Plan Offices, Consultation Project Offices.

E. Federal Program Change. This is a Federal Program Change for which State adoption is not required. However, the States shall respond via the two-way memorandum to the Regional Office as soon as the State is informed regarding the multi-employer citation policy. Responses should include a description of the State's multi-employer citation policy, if any.

F. Federal Program Change Impact (Required Action). The revised policy will be in effect and in force from the date of its issuance. It is an official Agency policy to be implemented OSHA-wide.

6. Chapters to this Instruction of CPL. This Instruction is the only chapter of this Instruction. It supersedes Chapter IV, C, 3 of the Field Inspection Reference Manual (FIRM), and is to be replaced by this Directive, and a hyperlink will be provided connecting viewers with this Directive.

7. Background. Chapter IV, Paragraph C, 3 of the FIRM, which was suspended by CPL 2-0.103, dates of Chapter IV, paragraph A, C, the Agency's citation policy for multi-employer worksites. The Agency has determined that this policy needs clarifying. This directive describes the revised policy.

8.

9. Continuation of Status Policy. This revision continues OSHA's existing policy for issuing citations on multi-employer worksites. However, it goes and more detailed guidance than did the earlier description of the policy. In the FIRM, including new examples showing when and how OSHA will issue citations to employers, and providing guidance for compliance officers. These examples, which address common situations and provide general policy guidance, are not intended to be inclusive. In all cases, the decision on whether to issue citations should be based on all of the circumstances and the Agency's enforcement policies.

10. Multi-employer Worksites. This revision neither imposes new duties on employers nor deprives them from rights they currently have. It does clarify and outline in a fair from the employers' statutory duty to comply with OSHA standards and their duty to exercise reasonable diligence to determine whether violations of those standards exist.

11. Non-worksite Multiple Employer Policy. The following is the multi-employer citation policy:

12. Multi-employer Worksites.
13. The Employer Employing.
14. The Employer Exposing.
15. The Employer Controlling.
16. The Controlling Employer.
17. Multiple Roles.

1. Employer Employing. The employer employs employees.

2. Employer Exposing. The employer exposes employees to a hazard.

3. Employer Controlling. The employer controls a workplace.

4. Employer Controlling Employer. The employer controls a workplace.

5. Employer Controlling Employer. The employer controls a workplace.

6. Employer Controlling Employer. The employer controls a workplace.

Analysis: Step 1 Is the employer employing employees? Employers are employed if they are authorized to employ them.

1. Employer Employing. The employer that caused a hazardous condition that violates an OSHA standard.

2. Employer Exposing. Employers must not create violations. An employer that allows or is notified even if the only employees exposed are those of other employers at the site.

Analysis: Step 2 Hazard is a creating employer because it caused employees if it be exposed to the an contaminant allow the PEL. **Step 2** Hazard Is implement measures to prevent the exposure of employees to the hazard. Employers are exposing employees to hazards by implementing the engineer engineering control on the equipment. Having failed implement a feasible engineering control to meet the PEL, it is liable for the hazard.

Analysis: Step 3 Employer Is a creating employer because it caused a hazardous condition by damaging the guardrails. **Step 3** While it lacked the authority to fix the guardrails, it took considerable and effective steps to have employees stop from the hazard and notified the controlling employer of the hazard. Employer **Is** not liable since it took effective measures to prevent employee exposure to the hazard.

- **Example 1.** Employer hired electricians to repair a factory. It contracts with Company Z to service machinery. Had failed to cover drums of a chemical Employer Is repeatedly requests that it do so. The results in extreme levels of the chemical that exceed the Permissible Exposure Limit.
- **Example 2.** Employer hired electricians to repair a factory. It contracts with Company Z to service machinery. Neither Is one employees nor employees of other employers are exposed to the hazard. It takes effective steps to have all employees, including those of other employers, away from the unprotected edge and informs the controlling employer of the problem. Employer Is liable. Employer Is liable. Is liable. Is liable.

1. The employer Exposing.

2. Employer Is. Employer Is employer whose own employees are exposed to the hazard. See Chapter IV, section C(1)(b) for a discussion of what constitutes employer.

3. Employer Is. Employer Is the exposing employer created the violation, is liable for the violation as a creating employer. If the violation was created by another employer, the exposing employer is liable for the violation if it knew or should have known of the violation and failed to take reasonable steps to protect its employees from the violation. Employer Is liable as a creating employer. If the exposing employer has not created a violation, it