N.C. Department of Labor
OSH Division

- Multi-Employer Worksites in Construction
Objectives

In this course, we will:

- Distinguish between a creating, correcting, controlling, and exposing employer

- Recognize the responsibility as a creating, correcting, or controlling employer versus an exposing employer

- Discuss the applicable rules governing OSH citing employers who do not have their employees exposed to the hazard
Every cited employer must have knowledge

- Actual knowledge of the condition, or
- Potential knowledge of the condition

Employer exercised reasonable diligence if:

- 1926.20(b)(1) – Accident prevention programs
- 1926.20(b)(2) – Jobsite inspections
- 1926.20(b)(3) – Prohibit the use of unsafe tools
- 1926.21(b)(4) – Safety training
In addition to the exposing employer, the following employers can be cited:

- The creating employer
- The controlling employer
- The correcting employer
What is the hazard?
Controlling Employer

- The employer who is responsible, by contract or through actual practice, for safety and health conditions on the worksite (i.e., the employer who has the authority for ensuring that the hazardous condition is corrected).

  - **Example:** By your lack of action for replacement of guardrails on a work order, employees are exposed to a fall of 6 feet or more above a lower level.
Controlling Employer
Correcting Employer

- The employer who has the responsibility for actually correcting the hazard.

  - **Example:** By your lack of authorizing the replacement of guardrails, an employee that reports to you is exposed to a fall of 6 feet or more above a lower level.

  - The **correcting employer** may have no employees exposed.
Correcting Employer
Creating Employer

• The employer that caused a hazardous condition that violates an OSHA standard.
  
  – **Example:** By your lack of authorizing the replacement of guardrails that are removed by your employees, an employee is exposed to a fall of 6 feet or more above a lower level.

  – The creating employer may have no employees exposed.
Exposing Employer

- An employer whose own employees are exposed to the hazard.
  - **Example:** Your employee is exposed to a fall through a hole more than 6 feet above a lower level; prohibited by 1926.501(b)(4).
  - The **exposing employer** is the employer most frequently cited on an inspection.
Exposing Employer
Who May be Cited?

General Contractor

Flooring Subcontractor

HVAC Subcontractor

Carpenter Subcontractor
Legitimate Defense for Exposing Employer

- Employer did not create the hazard.
- Employer did not have responsibility or authority to have the hazard corrected.
- Employer did not have the ability to correct or remove the hazard.
Legitimate Defense for Exposing Employer

- Employer can demonstrate that controlling, creating, and/or correcting employers were notified of the hazard.

- Employer has instructed their employees to recognize the hazard and how to avoid it.
Will a Non-Exposing Employer be Cited?

- **Cited employer** must have knowledge

- Never under the General Duty Clause (GDC)
  - Only employers whose own employees are exposed will be cited under GDC

- Reliance on CPL 2-0.124 guidance
  - Simultaneous employer roles
Will a Non-Exposing Employer be Cited?

- **Judgment of the CSHO: Did the employer...**
  - Conduct periodic inspections?
  - Implement effective system(s) for correcting hazards?
  - Enforce the other employer’s compliance with safety and health requirements?
Multi-Employer Citation Policy

- **CPL 2-0.124** – December 10, 1999
  - Established clearer guidance
  - Established a two-step determination process
Multi-Employer Worksites

- Two-step determination process
  - Determine if the employer is creating, exposing, correcting or controlling.
  - Determine if the employer’s actions are sufficient to meet OSHA requirements.
    » Especially exposing employer
Multi-Employer Worksites

● Creating employer
  – Caused the hazardous condition
  – Can be cited even if none of their own employees are exposed to the hazardous conditions
  – If employer had knowledge
Multi-Employer Worksites

● Exposing employer

  – Own employees exposed

  – Failed to take steps to protect their employees
    » Asked the creating/correcting/controlling employer to correct the hazard
    » Informed their own employees of the hazard
    » Provided alternative protection
Multi-Employer Worksites

- Correcting employer
  - Responsible for correcting the hazard
  - Can be cited even if none of their own employees are exposed to the hazardous condition
  - If employer had knowledge
Multi-Employer Worksites

- **Controlling employer**
  - General supervision and authority at the worksite
  - Power to correct hazards
  - Power to require other employers to correct hazards
  - Exercises reasonable care to prevent and detect hazards
Multi-Employer Worksites

- **Controlling employers**
  - Evaluation of “reasonable care”
  - Periodic and effective project inspections
  - Implemented an effective system for hazard correction
  - Enforces other controlled employers’ safety and health requirements
  - Follow-up inspections to ensure hazard is corrected
Summary

In this course, we:

- Distinguished between the creating, correcting, controlling, and exposing employers.

- Recognized the responsibility as a creating, correcting, or controlling employer versus an exposing employer.

- Discussed the applicable rules governing OSH citing employers who do not have their employees exposed to the hazard.
Thank You For Attending!

Final Questions?