



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



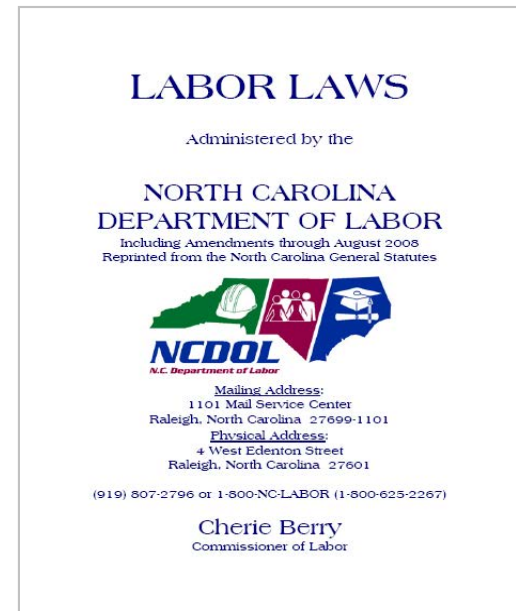
Cited Employer's "Knowledge"

- 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



NC Field Operations Manual (FOM)

- 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.





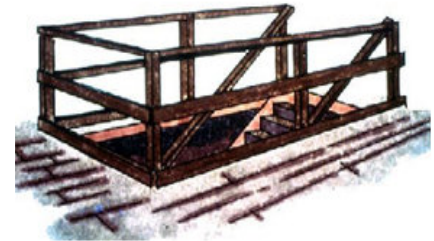
Correcting Employer





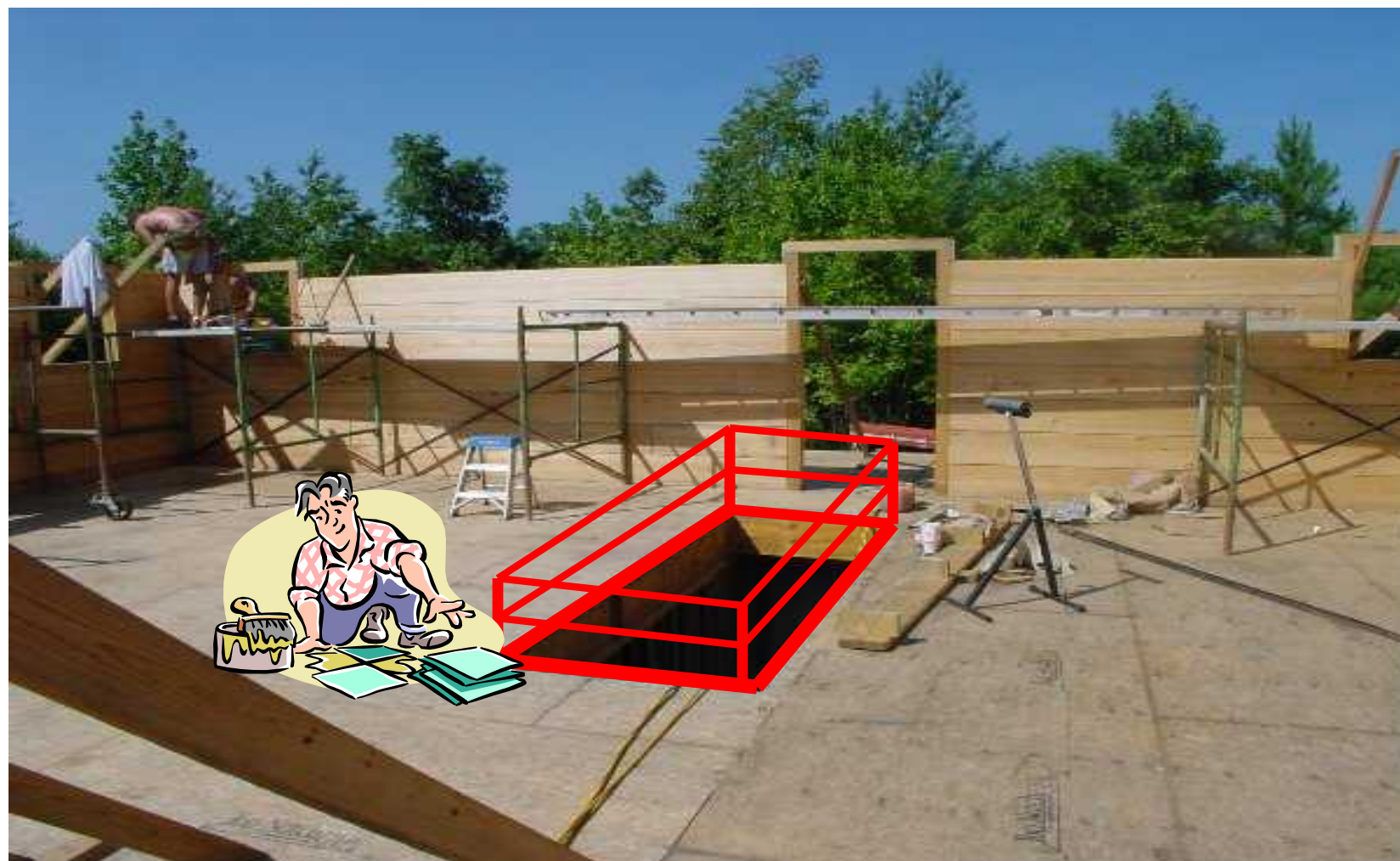
Creating Employer

- 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.





Creating Employer





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.





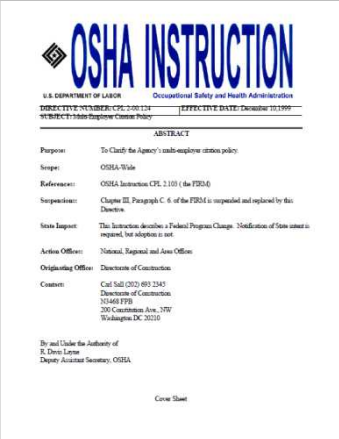
Legitimate Defense for Exposing Employer

- 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



OSHA INSTRUCTION
U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration
DISCREETIVE NUMBER: CPL 2-0.124 EFFECTIVE DATE: December 22, 1999
SUBJECT: Multi-Employer General Duty Clause Policy

ABSTRACT

Purpose: To Clarify the Agency's multi-employer citation policy.

Scope: OSHA Wide

Reference: OSHA Instruction CPL 2-110 (the PEOI)

Supersedes: Chapter III, Paragraph C. 6 of the PEOI is suspended and replaced by this Directive.

State Impact: This Instruction describes a Technical Program Change. Modification of State laws is required, but adoption is not.

Action Offices: National, Regional and Area Offices

Originating Office: Directorate of Construction

Contact: Call 541 (202) 693-2343
Directorate of Construction
20460 PPE
200 Constitution Ave., NW
Washington, DC 20510

By and Under the Authority of
E. David Lewis
Deputy Assistant Secretary, OSHA

Cover Sheet


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

 OSHA INSTRUCTION	
U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration	
DIRECTIVE NUMBER: CPL 2-001124	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 2.103 (the FIRM)
Suspensions:	Chapter III, Paragraph C. 6. 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 not.
Action Offices:	National, Regional and Area Offices
Originating Office:	Directorate of Construction
Contact:	Carl Sall (202) 693 2345 Directorate of Construction N3468 FPB 200 Constitution Ave., NW Washington DC 20210
By and Under the Authority of R. Davis Layne Deputy Assistant Secretary, OSHA	

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
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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?
