

The following discussion is taken from OSHA Instruction CPL 2.103, *Field Inspection Reference Manual (FIRM)*, September 26, 1994, Chapter III, p. 28.

Multiemployer Worksites. On multiemployer worksites, both construction and non-construction, citations normally shall be issued to employers whose employees are exposed to hazards (the exposing employer).

- a. Additionally, the following employers normally shall be cited, whether or not their own employees are exposed, but see C.2.c.(a)2 of this chapter for Section 5(a)(1) violation guidance:
 1. The employer who actually creates the hazard (the creating employer);
 2. 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 (the controlling employer);
 3. The employer who has the responsibility for actually correcting the hazard (the correcting employer).
- b. Prior to issuing citations to an exposing employer, it must first be determined whether the available facts indicate that employer has a legitimate defense to the citation as set forth below:
 1. The employer did not create the hazard;
 2. The employer did not have the responsibility or the authority to have the hazard corrected;
 3. The employer did not have the ability to correct or remove the hazard;
 4. The employer can demonstrate that the creating, the controlling and/or the correcting employers, as appropriate, have been specifically notified of the hazards to which his/her employees are exposed;
 5. The employer has instructed his/her employees to recognize the hazard and, where necessary, informed them how to avoid the dangers associated with it.
- a. Where feasible, an exposing employer must have taken appropriate alternative means of protecting employees from the hazard.
- b. When extreme circumstances justify it, the exposing employer shall have removed his/her employees from the job to avoid citation.
- c. If an exposing employer meets all these defenses, that employer shall not be cited. If all employers on a worksite with employees exposed to a hazard meet these conditions, then the citation shall be issued only to the employers who are responsible for creating the hazard and/or who are in the best position to correct the hazard or to ensure its correction. In such circumstances the controlling employer and/or the hazard-creating employer shall be cited even though no employees of those employers are exposed to the violative condition. Penalties for such citations shall be appropriately calculated, using the exposed employees of all employers as the number of employees for probability assessment.