

ADDENDUM B

DEFINITIONS OF VIOLATIONS

DEFINITIONS

VIOLATIONS

Any alleged violation observed during an inspection will be classified as either "serious," "general," or "regulatory." Depending on the circumstances, any of these violations may carry the additional designation of "repeat" or "willful."

A serious (other than carcinogen) violation is one which presents substantial probability that an employee will suffer death or serious physical harm, unless the employer did not, and could not with exercise of reasonable diligence, know of the presence of the violation; or if the violation was minor and resulted in no substantial health hazard as determined by the Division.

A general violation is one which does not fit the definition of "serious," but which does affect the safety and health of employees.

A regulatory violation is one which pertains to permits, posting, record keeping, or reporting requirements as established by occupational safety and health regulations. Examples of violations include such things as: failure to keep required records; failure to report work-related CAL-OSHA notices; failure to keep required records; failure to report work-related injuries or fatalities; failure to allow employees to exercise rights to observe monitoring or measuring; and failure to report use of a carcinogen.

The compliance Safety Engineer/Industrial Hygienist may issue a "citation," "notice," "special order," or "information memorandum" to the employer during the inspection.

A citation is written for a violation which affects the safety or health of employees.

A notice in lieu of a citation may be issued when the violation does not have a direct effect on the health and safety of employees.

A special order is written to abate a hazard for which there is no existing standard. It is considered an "order to correct" and has the same effects as any standard, but it applies only to the employment or place of employment described in the special order. Failure to comply with a special order will result in a citation.

An information memorandum is issued where a condition exists which has the potential of becoming hazardous in the future.

An order to take special action is issued in situations where a safety order exists and (a) states that DOSH may require an employer to take certain action if circumstances warrant, or (b) prescribes a specific manner in which the employer must comply with the safety order. An order to take special action is not a citation. Failure to comply with an order to take special action will result in a citation.

□ **VIOLATION**

□ 15 WORKING DAYS TO APPEAL FOR APPEAL THROUGH APPEALS BOARD

□ PENALTY VALUE REDUCTION CONSIDERATIONS

- SIZE OF BUSINESS
- GRAVITY OF VIOLATION
- GOOD FAITH (I.E., TIMELY ABATEMENT)
- PREVIOUS HISTORY

□ IF ADHERING TO CONSULTATION SERVICE REQUIREMENTS/ RECOMMENDATION, THEN CIVIL PENALTIES/CITATIONS PROPOSED AFTER THE FACT WOULD BE REDUCED (OR) ELIMINATED. SELF-INSURED EMPLOYERS, FOR WILLFUL (OR) REPEAT SERIOUS VIOLATIONS, MAY RESULT IN A HEARING TO DETERMINE GROUNDS FOR REVOKING SELF-INSURED STATUS.

□ **ABATEMENT**

□ REQUIRED SIGNED STATEMENT OF ABATEMENT

□ RECEIVE WITHIN 10 WORKING DAYS OF ABATEMENT PERIOD

□ **POSTING**

□ CITATION/SPECIAL ORDER ETC. POSTED FOR EMPLOYEE VIEW FOR 3 DAYS

□ SIGNED ABATEMENT STATEMENT OR ABATEMENT VERIFICATION POSTED FOR EMPLOYEE VIEWING FOR 3 DAYS

□ **WORKERS' COMPENSATION SELF-INSURANCE**

□ UPON INVESTIGATION AND GOOD CAUSE AFTER A HEARING, YOUR SELF-INSURED STATUS CAN BE REVOKED.

□ **FOR EXAMPLE:**

- INTENTIONALLY REFUSING TO COMPLY WITH KNOWN AND LEGALLY INDISPUTABLE COMPENSATION OBLIGATIONS.
- FREQUENT OR FLAGRANT VIOLATION OF THE SAFETY AND HEALTH ORDERS.

□ **EMPLOYEE DISCRIMINATION**

□ YOU MAY NOT DISCRIMINATE AGAINST AN EMPLOYEE FOR ANY OF THE FOLLOWING:

- ORAL OR WRITTEN COMPLAINTS TO OSHA
- PARTICIPATION IN SAFETY AND HEALTH COMMITTEES

□ EMPLOYEE DISCRIMINATION SHALL BE ENTITLED TO REINSTATEMENT AND REIMBURSEMENT FOR LOST WAGES AND RELATED BENEFITS

□ EMPLOYER GUILTY OF DISCRIMINATION WILL BE CHARGED WITH A MISDEMEANOR