

Standard Interpretations / Definition of multi-employer worksite

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

July 20, 2012

Allen L. Clapp, P.E., P.L.S.
President
Clapp Research Associates, P.C.
6112 Saint Giles Street
Raleigh, North Carolina 27612

Dear Mr. Clapp:

Thank you for your July 7, 2009, letter to the Occupational Safety and Health Administration (OSHA). Because it involves construction issues, it has been forwarded to the Directorate of Construction for response. We apologize for the delay in our reply. You have specific questions regarding the multi-employer worksite policy. This letter constitutes OSHA's interpretation of only the requirements discussed and may not be applicable to any question not delineated in your original correspondence.

On December 10, 1999, the Advisory Committee on Construction Safety and Health (ACCSH) drafted a report on the multi-employer worksite policy, which included a definition of the term "multi-employer worksite." ACCSH defined it as "A worksite at which two or more entities are performing tasks that will contribute to the completion of a common project. The entities may or may not be related contractually. The contractual relationship may or may not be in writing. On multi-employer worksites, both in construction and industry, more than one employer may be citable for the same condition...."

Question 1: Does OSHA use the definition of "multi-employer worksite" suggested by ACCSH? If not, what is the definition of "multi-employer worksite?"

Response: OSHA does not use the definition suggested by ACCSH. ACCSH advises OSHA only on construction-related issues. The multi-employer policy applies to all work places, not just construction sites. Consequently, a definition of "multi-employer worksite" suggested by a construction committee would likely have different goals and issues in mind than a definition suggested by a group focused on general industry, agriculture, or maritime. While OSHA appreciates the work ACCSH put into its recommendations for the multi-employer policy, it has not adopted this definition.

Question 2: Under various scenarios, what are multi-employer worksites?

Response: In your letter, you explain several scenarios and question whether each one constitutes a multi-

employer worksite. The answer to your questions depends on the job tasks performed by each employer, not on whether the job site meets a particular definition of multi-employer worksite.

Under the Multi-Employer Citation Policy, CPL 2-0.124¹ (the Multi-Employer Policy), "more than one employer may be citable for a hazardous condition that violates an OSHA standard." Any employer that exposes one of its employees to the hazards created by an unsafe condition may be subject to an OSHA citation. In situations where an employer's own employees are not exposed to a hazard, that employer may still be subject to OSHA coverage if the employer qualifies as a "creating," "correcting," or "controlling" employer. A two-step process is used to determine whether more than one employer may be cited for a hazardous condition.

Step One. The first step is to determine whether the employer is a creating, exposing, correcting, or controlling employer.² Once you determine the role of the employer, step two is used to determine whether a citation is appropriate.

Step Two. If the employer falls into one of the four categories, it has obligations with respect to OSHA requirements. Step Two is to determine if the employer's actions were sufficient to meet those obligations. The extent of the actions required of an employer varies based on which category applies.

By applying this analysis, you can determine the role for enforcement purposes of a given employer on a worksite with multiple employers. As with any OSHA investigation, a citation under the Multi-Employer Policy is based on the unique facts and circumstances of each case.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact the Directorate of Construction at (202) 693-2020.

Sincerely,

James G. Maddux, Director
Directorate of Construction

¹ The Multi-Employer Citation Policy can be viewed on OSHA's website at:
http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2024 [Return to Text]

² These terms are defined in the Policy. [Return to Text]