Chapter 19

ABATEMENT

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Chapter 19

ABATEMENT

Policy Statement: It is the policy of the Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA or the Division, to ensure workplaces in violation of the Title 8 of the California Code of Regulations (8 CCR) or the Labor Code are cited timely, correctly and completely abated to protect workers.

Purpose: This policy is intended to set forth procedures for DOSH team members to accurately identify, verify and document employer's abatement of cited violations in accordance with applicable laws and regulations, ensuring that employers maintain safe and healthy work environments for employees.

Authority: DOSH shall administer this policy in compliance with all applicable laws, rules, guidance, and the Department's and DOSH's policies and directives:

- California Code of Regulations, Title 8, Sections 340.4.
- California Labor Codes, Sections 6317, 6318(b), and 6320

Procedures:

In accordance with Section (§) 340.4 of the California Code of Regulations and § 6317, 6318(b), and 6320 of the Labor Code, DOSH's abatement verification regulations include requirements that employers must follow, if they are cited for a DOSH violation, to ensure they have abated the cited hazard(s).

The Regional Manager (RM) is responsible for determining if abatement has been accomplished. Abatement of all violations must be verified through observation of the Compliance Safety and Health Officers (CSHOs) or employers' abatement certification, and additional abatement documentation when required.

I. Important Terms and Concepts

A. **Abatement means** action by an employer to comply with a cited standard or regulation or to eliminate a recognized hazard identified by DOSH during an inspection.

B. **Abatement time/period** refers to a designated timeframe to correct a hazard.

C. **Abatement verification** consists of abatement certification and abatement documentation, e.g., abatement photographs, abatement plans, and/or progress reports, etc.

D. **Abatement certification** is a signed statement from the employer attesting to when and how abatement was achieved for the violations cited.

E. **Abatement documentation** is additional material submitted along with the abatement certification to show that abatement is complete and can include, but is not limited to, *evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records*.

F. **Abatement observed by CSHO during inspection** refers to when abatement is witnessed by a CSHO during an inspection. Temporary removal of an employee from the hazard does not constitute abatement.

G. **Long-term abatement** is abatement that will be completed more than 90 calendar days from the citation issuance date.

H. **Abatement plans**

1. DOSH may require an employer to submit an abatement plan for each cited violation (except non-serious violations) when the time permitted for abatement is more than 90 calendar days. If an abatement plan is required, the citation must so dictate.

2. The employer must submit an abatement plan for each cited violation within 25 calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

I. **Progress reports**

1. An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

    a. That periodic progress reports are required and the citation items for which they are required,

    b. The date on which an initial progress report must be submitted, which may be no sooner than 30 calendar days after submission of an abatement plan,

c. Whether additional progress reports are required, and

d. The date(s) on which additional progress reports must be submitted.

2. For each violation, the progress report must identify, as briefly as possible, the action taken to achieve abatement and the date the action was taken.

II. Abatement Time Periods

The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation. An abatement date shall be set forth in the citation as a specific date.

The establishment of an abatement date requires the exercise of professional judgment on the part of the CSHOs and the District Manager (DM), Senior Industrial Hygienist Supervisor (SIHS) and/or an authorized designee, which is herein referred to as DM/SIHS/Designee. This judgment should be based on the knowledge of the conditions noted.

In all cases, the employer shall be asked for any available information related to the time required to accomplish abatement and/or any factors unique to the employer's operation which may affect the time needed for abatement.

A. Factors to be Considered in Setting the Abatement Date

In setting an abatement date, CSHOs must consider factors such as, but not limited to, the following:

1. The probability that a fatality, serious injury or illness could occur as a result of the violative condition during the abatement period.

2. The amount of time needed (e.g. 30, 60, 90 or more days) by the employer to accomplish abatement, e.g., design work or obtaining materials, equipment or personnel.

3. The availability of interim safety and health measures, e.g., personal protective equipment or training.

4. The existence of sufficient time for the employer to receive the citation.

5. The issuance of an Order Prohibiting Use (OPU).

B. Setting Abatement Period/Date

1. General Setting of Abatement Period

In general, CSHOs must set an abatement date for cited a violation of no more than thirty (30) calendar days.

EXCEPTIONS:

a. The abatement period for obtaining a Construction Activity Permit must be limited to two (2) working days and the filing of an appeal does not stay the abatement period.

b. The abatement period for complying with the requirements of 8 CCR § 3457 pertaining to Field Sanitation shall be limited to one (1) working day and the filing of an appeal does not stay the abatement period. See Policy and Procedures (P&P) Chapter 30: *Agricultural Safety and Health*.

c. The abatement period for serious violation shall be no more than seven (7) calendar days (see Part 3.c. of this section).

2. **Setting Abatement Periods for Violations Involving Orders Prohibiting Use**

When an Order Prohibiting Use has been issued, the abatement date established by DOSH shall not precede the date on which the employer receives the citation.

3. **Setting Abatement Periods for Specific Violations and Notices**

a. **Notice**

CSHOs must fix an abatement date for each Notice of **no more than 30 calendar days**.

b. **Regulatory and/or General Violations**

CSHOs must fix an abatement date for each cited Regulatory or General violation of **no more than 30 calendar days**.

c. **Serious Violations**

CSHOs must fix an abatement date for each cited serious violation which will provide the employer with sufficient time in which to correct the hazard but will usually be **no more than seven (7) calendar days**.

NOTE: If CSHOs fix the abatement date for a serious violation at less than six (6) calendar days, a mandatory follow-up inspection shall be performed at the end of the period of time fixed for abatement of the

serious violation or within 30 days thereafter. See Chapter 14: *Other Types of Inspections*.

4. **Setting Abatement Periods Greater Than 30 Calendar Days**

   CSHOs must obtain management approval to set abatement periods greater than 30 days as follows:

   a. **Abatement Periods From 31 to 60 Calendar Days**

      If an abatement period of greater than 30 days is to be fixed, CSHOs must obtain approval from the DM/SIHS/Designee.

   b. **Abatement Periods From 61 to 90 Calendar Days**

      If an abatement date of more than 60 days is to be fixed, the DM/SIHS/Designee must obtain approval from the Regional Manager.

   c. **Abatement Periods From 91 or Greater Calendar Days**

      Long-term abatement periods, i.e., abatement periods greater than 90 days, must not be approved by the Regional Manager unless reviewed and approved by the Deputy Chief of Enforcement or their authorized designee.

      Long-term abatement periods are suitable for serious violations where the employer requires additional time to comply with the Title 8 Safety Order because of the necessity of making extensive structural changes to the workplace or where new equipment or parts cannot be delivered within 90 calendar days.

C. **Setting Long-Term Abatement Periods Greater Than 90 Calendar Days**

In certain situations, it may be difficult to set an abatement date. For example, during the closing conference an employer may indicate that more than 90 calendar days are needed to conduct an engineering study of a noisy area and to order and install appropriate noise-controlled equipment, devices, etc.

CSHOs must notify the DM/SIHS/Designee immediately that the employer is going to need a long-term abatement due date. The DM/SIHS/Designee must then discuss the long-term abatement request with Regional Manager. As stated in Section II.B.4.c, long-term abatement periods, i.e., abatement periods greater than 90 days, must not be approved by the Regional Manager unless reviewed and approved by the Deputy Chief of Enforcement or their authorized designee.

III. Pre-Citation Issuance: Verification of Serious Violation Abatement

Abatement of all violations must be verified through CSHOs observation, or through employer provided abatement certification, and additional abatement documentation when required by the citation. DM/SIHS/Designee and CSHOs are responsible for determining/verifying whether abatement has been completed.

A. Abatement Observed by CSHOs Within 24 Hours After Violation Is Identified

When the employer abates a serious violation within twenty-four (24) hours of being identified by CSHOs and CSHOs observed that abatement has occurred during the **on-site portion of the inspection**, CSHOs must document the method of abatement implemented by the employer.

1. CSHOs must complete Cal/OSHA Form 1AD: *Serious Violation(s) Abated During Inspection* and include evidence that demonstrates abatement (e.g., statements, business records, photographs, or video) for review and approval by the DM/SIHS/Designee.

2. CSHOs must then submit Form 1AD to DM/SIHS/Designee within twenty-four (24) hours of the on-site inspection date when the violation was identified to the employer. For example, if CSHOs identified the violation on Monday at 11:00 AM, the Form 1AD must be submitted to the DM/SIHS/Designee by 11:00 AM of the next day (Tuesday).

   NOTE: Temporary removal of an employee from the hazard does not constitute abatement.

3. CSHOs must prepare, sign and date the Cal/OSHA Form 161A to be issued with each serious violation resulting in a citation that was abated within 24 hours after identification, during the on-site portion of the inspection, and provide it to the DM/SIHS/Designee, who must review, approve and initial/sign the Cal/OSHA Form 161A.

B. Abatement Observed by CSHOs More Than 24 Hours After Violation Is Identified

1. When the employer abates a serious violation more than twenty-four (24) hours after it was identified by CSHOs and CSHOs observed that abatement had occurred on a **subsequential on-site inspection**, CSHOs must document the method of abatement implemented by the employer. CSHOs must complete Cal/OSHA Form 1AD and include evidence that

demonstrates abatement (e.g., statements, business records, photographs, or video) for review and approval by the DM/SIHS/Designee.

CSHOs must then submit Cal/OSHA Form 1AD to DM/SIHS/Designee within twenty-four (24) hours of the subsequential on-site inspection date when CSHOs observed the abatement. For example, if CSHOs identified the violation on the initial inspection date (December 4, 2025 at 11:00 AM) and the CSHOs returned to the site on December 10, 2025 and observed at 1:00 PM that the violation was abated by the employer, the CSHOs must complete the Cal/OSHA Form 1AD and submit to the DM/SIHS/Designee by 1:00 PM of the next day.

NOTE: Temporary removal of an employee from the hazard does not constitute abatement.

2. The CSHOs must do the following immediately, but no later than five (5) working days, after the DM/SIHS/Designee approve and initial the Cal/OSHA Form 1AD:

    a. Prepare and complete the CSHO's portion of the Cal/OSHA Form 161B: *Certification of Abatement of Serious Violations Prior to Issuance of Citations*.

    b. Send via certified mail or email the completed Cal/OSHA Form 161B to the employer.

    c. Call the employer via telephone, explain the purpose of the Cal/OSHA Form 161B and encourage the employer to complete, sign and return the form by the due date specified on the form.

        NOTE: The due date for the employer to return the completed Cal/OSHA Form 161B must not be more than ten (10) working days from the date of issuance. For example, if the issuance date is July 1, the due date is July 15.

    Document the conversation with the employer, including the date and time of the conversation, on the Cal/OSHA Form 1AV: *Note Taking Sheet* and place it in the case file.
3. When DOSH receives a completed and signed Cal/OSHA Form 161B from the employer, the CSHOs must do the following:

    a. Review the measures specified in the Cal/OSHA Form 161B which the employer has taken to correct the cited violation,

b. Indicate by checking the “Close” box on the Cal/OSHA Form 161B that the case may be closed and writing in the space provided that the violation has been satisfactorily corrected,

c. Sign and date Cal/OSHA Form 161B, and

d. Provide Cal/OSHA Form 161B to the DM/SIHS/Designee for their review, approval and signature.

C. **Abatement Information Received by CSHOs More Than 24 Hours After Violation Is Identified but Before Issuance of Citation(s)**

When the employer submits to DOSH abatement information/documentation of a serious violation more than twenty-four (24) hours after the violation was identified by CSHOs, **after the on-site portion of the inspection but before issuance of citation(s)**, CSHOs must do the following immediately, but no later than five (5) working days, after receipt of the employer’s abatement information/documentation:

1. Review the employer’s abatement information/documentation.

2. Prepare and complete the CSHO’s portion of the Cal/OSHA Form 161B.

3. Send via certified mail or email the completed Cal/OSHA Form 161B to the employer.

4. Call the employer via telephone, explain the purpose of the Cal/OSHA Form 161B and encourage the employer to complete, sign and return the form by the due date specified on the form.

   NOTE: The due date for the employer to return the completed Cal/OSHA Form 161B must not be more than ten (10) working days from the date of issuance. For example, if the issuance date is July 1, the due date is July 15.

5. Document the conversation with the employer, including the date and time of the conversation, on the Cal/OSHA Form 1AV and place it in the case file.

6. When DOSH receives a completed and signed Cal/OSHA Form 161B from the employer, the CSHOs must do the following:

   a. Review the measures specified in the Cal/OSHA Form 161B which the employer has taken to correct the cited violation,

b. Indicate by checking the “Close” box on the Cal/OSHA Form 161B that the case may be closed and writing in the space provided that the violation has been satisfactorily corrected if true,

c. Sign and date Cal/OSHA Form 161B, and

d. Provide Cal/OSHA Form 161B to the DM/SIHS/Designee for their review, approval and signature.

NOTE: Temporary removal of an employee from the hazard does not constitute abatement.

IV. Preparing Proposal for Enforcement Action Package

CSHOs must thoroughly prepare and promptly submit a case file for management review and approval when an inspection is completed. CSHOs must place in the case file for management review and/or approval: (1) prepare all appropriate/applicable abatement forms to be issued with citations to the employer, such as Cal/OSHA Forms 160, 161 and/or 161A, and (2) any abatement documentation (e.g., photos, employer programs, etc.).

See Chapter 18: *Citations and Case File Review* and Chapter 16: *Case File Records Organization*.

V. Post-Citation Issuance: Employer’s Abatement Responsibilities

CSHOs and their DM/SIHS/Designee are responsible for ensuring that violations identified during inspections are **corrected**. Abatement of serious violations must be verified through the following:

A. Responsibilities of the CSHOs

1. Ten Days Following Final Order

   The employer shall certify abatement of any citation, regardless of classification, which has become a Final Order of the Occupational Safety and Health Appeals Board (OSHAB) within 10 working days after the date fixed for abatement.

   EXCEPTION: If a Serious violation resulting in a citation was abated during the **on-site portion** of the inspection and verified by the CSHO, within 24 hours of the identification of the violative condition, a Cal/OSHA Form 161A: *Notice of Verification of Abatement of Serious Violations* shall

be issued to the employer and not a Cal/OSHA Form 161: *Employer's Signed Statement of Abatement of Serious Violations*.

2. Final Order

   A citation can become a final order of the Appeals Board in one of two ways:

   a. By operation of law if the employer does not appeal the citation within 15 working days of issuance;

   b. By affirmation in a Decision by an Administrative Law Judge (ALJ) in an appeals hearing or following a settlement through an ALJ's order.

      NOTE: All citation items which are affirmed and become a Final Order of the OSHAB shall be abated within the period fixed for abatement. If the ALJ does not specify an abatement date in the Decision, the employer shall be given the same period of time fixed for abatement specified in the citation.

      EXCEPTION: Any citation or citation item for which the employer has filed a Petition for Reconsideration does not have to be abated and are not subject to verification of abatement until the appeal has been resolved.

B. **Certification Information Required from Employer**

1. For All Violations Types

   a. Employer name and address,

   b. Inspection, citation and items number to which the abatement certification relates,

   c. Date of abatement,

   d. Methods or equipment utilized for abatement,

   e. Statement by the employer that affected employees, and their representatives have been informed of the abatement,

   f. Statement that all submitted abatement information is accurate, and

   g. Signature of the employer or the employer's representative.

2. All Serious Violations

For all serious violations, the employer is also required to include a statement that all information on the certification of abatement is submitted under penalty of perjury. See Labor Code § 6320(b).

3. Designated Serious Violations

   The employer is required to provide documentation showing that the cited violation has been abated, e.g., receipts for the purchase or repair of equipment, photographs or videos showing abated conditions or other appropriate written records, but only if the District indicates on the citation that such abatement documentation is required.

4. For Willful and Repeat Violations

   For all willful and repeat violations, the employer is required to provide documentation showing that the cited violation has been abated, e.g, receipts for the purchase or repair of equipment, photographs or videos showing abated conditions or other appropriate written records, but only if the District indicates on the citation that such abatement documentation is required.

C. **Employee Notification and Posting**

1. The employer is required to inform all employees affected by the cited violation and their representatives of the abatement by posting a copy of each abatement document submitted to DOSH near the place where the cited violation occurred.

   EXCEPTION: If posting near the place where the cited violation occurred does not effectively inform employees, then the employer is required either to post the documents or a summary in a location where it will be readily observable or take other steps to communicate the information (e.g., sending an email to all employees at the location).

2. The employer shall be required to inform all employees affected by the cited violation and their representatives of their right to examine and copy all abatement documents submitted to DOSH.
3. The employer is required to ensure that the abatement information is provided at the same time or before the information is provided to DOSH.

4. The employer is required to ensure that the documents are posted for three working days after submission to DOSH and that they are not altered, defaced or covered by other materials.

VI. Post-Citation Issuance: Abatement Time Extension

CSHOs and their DM/SIHS/Designee are responsible for ensuring that violations identified during inspections are **corrected**. Abatement of serious violations must be verified through the following:

If CSHOs receive a request from an employer for an abatement time extension, after citations have been issued and a final order or citations are under appeal, the CSHOs must notify their supervisor, who will work with the DOSH's Legal Unit on next steps.

VII. Post-Citation Issuance: Verification of Abatement

A primary responsibility of the CSHOs is to ensure that violations identified during the course of an inspection are corrected. Each CSHO must review employer-submitted abatement verification materials as soon as possible but no later than 30 calendar days after receipt. DM/SIHS/Designee and CSHOs are responsible for determining whether abatement has been completed.

NOTE: **Written Program Violations**. All violations involving written programs must be verified by having the employer provide the following:

- A copy of the cited written program and a copy of the revised/corrected written program, and/or

- A copy of the written program established as a result of being cited for not having a written program.

CSHOs must receive and review the written program to ensure it meets the minimum elements, before signing off on the violation as "abated."

A. Employer's Signed Abatement Certification Forms Received

1. When a Cal/OSHA Form 160 and/or 161 is received by the District, Office Support Staff must date-stamp the Cal/OSHA Form 160 or 161 and distribute it to the CSHOs who conducted the inspection.
2. CSHOs must review the measures specified in the Cal/OSHA Forms 160 and/or 161 which the employer has taken to correct the cited violation.

3. If, after review, CSHOs concur that the cited violation has been corrected satisfactorily, CSHOs must sign and date the Cal/OSHA Form 160 or 161.

4. CSHOs must also indicate that the case may be closed by checking the "Close" box on the Cal/OSHA Form 160 or 161 and writing in the space provided that the violation has been satisfactorily corrected.

5. After CSHOs have signed the Cal/OSHA Form 160 or 161, confirming abatement, the form is given to the DM/SIHS/Designee for their review, approval and signature.

6. After DM/SIHS/Designee review, approval and signature, the Office Support Staff must:

    a. Enter verification date of abatement using the date the Cal/OSHA Forms 160 and 161 were received. This date shall be entered into OIS.

    b. Abatement documentation must be filed in the employer case file and document in the *Case Diary Log*.

B. **Employer's Signed Abatement Certification Forms Not Received**

1. Regulatory and/or General Violations

    If the District Office has not received a Cal/OSHA 160 within seven (7) working days after the abatement period fixed on the Cal/OSHA Form 2 has expired, the CSHOs or compliance personnel may contact the employer by telephone and shall send a letter reminding the employer that abatement of all Regulatory and/or General violations which have not been appealed must be certified by means of a signed Cal/OSHA Form 160.

2. Serious Violations

    If the District Office has not received a Cal/OSHA Form 161 five (5) working days prior to the end of the abatement period fixed on the Cal/OSHA Form 2, the CSHOs or compliance personnel may contact the employer by telephone and shall send a letter reminding the employer that abatement of all serious violations which have not been appealed must be certified by means of a signed Cal/OSHA Form 161.

C. **Employer's Signed Abatement Certification Forms Received, but Not Satisfactory**

1. If the CSHOs or DM/SIHS/Designee determine that the cited violation is not corrected satisfactorily, the CSHOs must contact the employer and request additional documentation/evidence that establishes satisfactory abatement. Upon receipt of a satisfactory abatement from the employer,

the office support staff must enter the verification of abatement using the date the additional documentation was received.

2. If the required abatement information is not obtained from the employer in writing within a reasonable period of time (three working days), then the employer shall be considered to have failed to provide certification of abatement. See Section VII.D.

D. **Employer's Failure to Certify Abatement**

1. Regulatory and/or General Violations.

   If an employer does not return a Cal/OSHA Form 160 to the District Office after being reminded to do so within a reasonable period of time, a follow-up inspection shall be conducted in accordance with Chapter 14.

2. Serious Violations

   a. If a Cal/OSHA Form 161 is not received by the District Office within 10 working days after the end of the period fixed for abatement, the DM/SIHS/Designee shall revoke any abatement credit. If more than one citation was issued, CSHOs must wait until the 10th working day after the latest abatement date to determine which, if any, revocation of abatement adjustments would be applicable.

      NOTE: Prior to issuing an amended citation revoking the abatement credit for a serious violation based on the employer's failure to return the Cal/OSHA Form 161 to the issuing District, the Office Support Staff shall email the DIR Accounting Unit to verify that the employer has not mistakenly sent the Cal/OSHA Form 161 to their Office.

b. CSHOs must consult with the DM/SIHS/Designee prior to conducting a follow-up inspection of Serious violations within forty-five (45) days following the end of the period fixed for abatement whenever the District Office has still not received sufficient evidence of abatement of the Serious violations (see Chapter 14).

VIII. Verification of Abatement for Governmental Educational Entities

CSHOs must verify abatement of all violative conditions subject to a citation issued to a school district, county board of education, county superintendent of schools or charter school community college district, California State University, University of California, or to a joint powers agency performing education functions by means of a follow-up inspection whenever feasible (see Chapter 14).