

INFORMATION NECESSARY FOR
EVALUATION OF POTENTIAL VIOLATION-BY-VIOLATION CASES

1. Scope of Inspection

- a. Date inspection initiated;
- b. Statute of limitations date for citation issuance;
- c. Type of inspection (e.g., unprogrammed or programmed, safety or health);
- d. Nature of employer's business, corporate-wide and at the inspected worksite;
- e. Total number of employees overall and at the inspected worksite; and
- f. Names of labor unions representing employees.

2. Inspection History

- a. Numbers and dates of previous inspections; and
- b. Previous violation history at this establishment and in the corporation nationwide.

NOTE: National citation history can be obtained by requesting the information from the Regional IMIS Coordinator.

3. Inspection Methodology

- a. Were warrants, medical access orders or administrative subpoenas necessary? Why? Were they obtained and used?
- b. What written records or other documents were examined or obtained?
- c. What are the names of compliance personnel who conducted the inspection?
- d. Were experts or other consultants used in the inspection? If so what are their names and qualifications?
- e. Have depositions been taken? Are any planned? Who will be deposed?

4. Inspection Findings

a. Summary of Violations

- (1) Number and Classification
- (2) Types of Title 8 Safety Orders Violated

b. Proposed Citations

- (1) How is the violation-by-violation penalty to be applied?
- (2) How many violations are there?
- (3) Are there additional violations not subject to the violation-by-violation penalty?

5. Documentation Relating to Additional Penalty Factors

a. Determination of Willfulness:

- (1) What were the firm's guidelines or policies relating to safety and health in general and, in particular, to the subject violation, e.g., hazard communication, machine guarding, use of respirators, maintenance of pressure vessels? What was the local facility's safety and health program?
- (2) Do corporate or plant policies or guidelines differ from Cal/OSHA requirements, or other relevant standards, regulations or guidelines? What is management's explanation for differences between its policies and Cal/OSHA's requirements?
- (3) Did responsible persons actually know of the requirements of the relevant Cal/OSHA standards, guidelines or instructions? Who were they and how did such persons come to know Cal/OSHA's requirements?
- (4) Did responsible persons actually know of the existing hazardous conditions? Did they recognize the hazardous nature of these conditions? If so, who were these persons and for how long had they recognized the hazard?
- (5) How did the employer explain the existence of the violations? Did the employer claim that any steps to abate had already been taken? Was any documentation available to support such previous action?
- (6) Had the company done anything toward identifying, evaluating or correcting the hazardous conditions prior to the Division's visit? Was an abatement program in place or had one been proposed? What progress had been made toward implementing it? Does it seem adequate? What was the company's explanation as to why more progress had not been made?
- (7) Are any memoranda, letters, minutes, accident reports or other documents addressing the hazards, violations or corrective measures available? Describe them. Did management admit knowledge of these documents? Had management responded in any to them? How?

b. Penalty Factors

- (1) How many violations of each standard are involved and how extensive (pervasive) is the problem? What is the nature of the violation? (How many machines? How many different engineering

controls? How many employees exposed?)

- (2) What kind of safety and health program exists in the plant? What is management's attitude toward safety and health? What do management officials actually say?
- (3) What training was given to employees and supervisors regarding compliance with the standard or regulation, or abatement of the hazard? If none is given, what did management admit or what explanation did they offer?
- (4) Did the company enforce its own policies and guidelines?
- (5) What were the most serious reasonably predictable injuries or illnesses that could result from exposure to the hazard? Would these potential injuries or illnesses be classified as serious? Did management admit recognition of the potential for these injuries and illnesses?
- (6) What was the company's record (especially relating to workers' compensation claims) for injuries and/or illnesses associated with alleged violations? What kind and how many such injuries or illnesses?

NOTE: All of the above questions are to be directly asked of management personnel and their responses carefully recorded in writing or electronically. A second compliance person or other reliable witness shall be present if at all possible. Documentary evidence shall be sought throughout the investigation, using administrative subpoenas as appropriate.