

# *Call*OSHA

## **IMPORTANCE OF SELECTING A CONTRACTOR**

**By**

**James A. Ryel**

**District Manager**

**Southern California Process Safety**

**Management District Office**

# **IMPORTANCE OF SELECTING A CONTRACTOR**

## **THIS ANOTHER COMPANY/EMPLOYER**

- **THESE ARE NOT MY EMPLOYEES**
- **THE CONTRACTOR IS RESPONSIBLE FOR THEIR EMPLOYEES AND WHAT THEY DO.**
- **MAYBE, MAYBE NOT**

# **IMPORTANCE OF SELECTING A CONTRACTOR**

## **MULTI - EMPLOYER WORKSITE**

- **What is that?**
- **Any worksite, permanent or temporary, where more than one employer (and their employees) work. Usually, but not necessarily at the same time.**
- **Multi – employer situation created by 8CCR § 336.10**
- **There are 4 categories of employers under this section.**

# **IMPORTANCE OF SELECTING A CONTRACTOR**

## **Categories of employers under 8 CCR § 336.10**

### **1. Exposing Employer**

- **Employer whose employees were exposed to the violative condition regardless of whether that employer created the violative condition.**

### **2. Creating Employer**

**An employer who actually created the violative condition.**

# **IMPORTANCE OF SELECTING A CONTRACTOR**

## **Categories of employers under 8 CCR § 336.10**

### **(Continued)**

#### **3. Controlling Employer**

**a. Employer who is responsible for safety and health conditions at the worksite and who has the authority to correct the violative condition(s).**

**b. There are 3 ways to be a controlling employer**

- Explicit contract provision pertaining to worksite safety**
- Any type of contract authority that directly affects S&H**
- Actual Practice**

# **IMPORTANCE OF SELECTING A CONTRACTOR**

## **Categories of employers under 8 CCR §336.10**

### **(Continued)**

#### **4. Correcting Employer**

**a. Employer who has the specific responsibility to correct violative conditions.**

**- Employee who conducts safety inspections, is an employee of a subcontractor, but hired by the general to conduct the inspections. The sub is potentially citable.**

**• Each type of employer are not mutually exclusive. An employer may fit into more than one of these categories.**

## **IMPORTANCE OF SELECTING A CONTRACTOR**

### **Affirmative defense available to an exposing Employer.**

**8CCR §336.11**

- 1. Employer did not create the hazard.**
- 2. Employer did not have the responsibility or the responsibility to correct the hazard.**
- 3. Employer did not have ability to correct or remove.**
- 4. Employer can show that other 3 categories of employers were notified or knew of hazard**

## **IMPORTANCE OF SELECTING A CONTRACTOR**

**Affirmative defense available to an exposing**

**Employer. (Continued)**

**8CCR §336.11**

**5. Employer took appropriate feasible steps to protect their employees from the hazard, instructed them to recognize the hazard and informed them how to avoid the dangers associated with it. For an extreme hazard, remove employer's employees from the job.**

- Employer must meet all 5 of these elements.**
- Employer must prove these elements, not CAL/OSHA.**



# **IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT**

**8CCR §5189(g)**

**(1) The employer shall inform contractors performing work on, or near, a process of the known potential fire, explosion or toxic release hazards related to the contractor's work and the process, and require that contractors have trained their employees to a level adequate to safely perform their job. The employer shall also inform contractors of any applicable safety rules of the facility, and assure that the contractors have so informed their employees.**

# **IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT**

**8CCR §5189(g)**

- (2) The employer shall explain to contractors the provisions of the emergency action plan required in subsection (n).**
- (n) Requires that the employer's Emergency Action Plan contain the elements found in 8CCR §3220.**
- (3) Contractors shall assure that each of their employees have received training to safely perform their job and that the contract employees shall comply with all applicable work practices and safety rules of the facility.**

# **IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT**

**8CCR §5189(g)**

- (4) The contractor's training program shall be performed in accordance with the requirements of subsection (g).**
- Initial training for the job to be performed**
  - Refresher training at least every 3 years**
  - Training is certified. This is a written record.**
  - After training, the employer shall test contractor employees to ensure competency in the job skill levels and safety and health work practices.**

# **IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT**

**8CCR §5189(g)**

- (5) The employer when selecting a contractor shall obtain and evaluate information regarding the contract employer's safety program.**
- IIPP, HAZCOM, training program/records, etc.**
- (6) The employer shall periodically evaluate the performance of contract employers in fulfilling their obligations as specific in subsection (h)(3) of this section**

# **IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT**

**8CCR §5189(g)**

- (7) The employer shall obtain and make available upon request a copy of the contract employer's injury and illness log related to the contractor's work in the process areas.**
- 70% of our non-planned inspections are the result of the actions of a contractor.**

**IMPORTANCE OF SELECTING A CONTRACTOR  
PROCESS SAFETY MANAGEMENT**

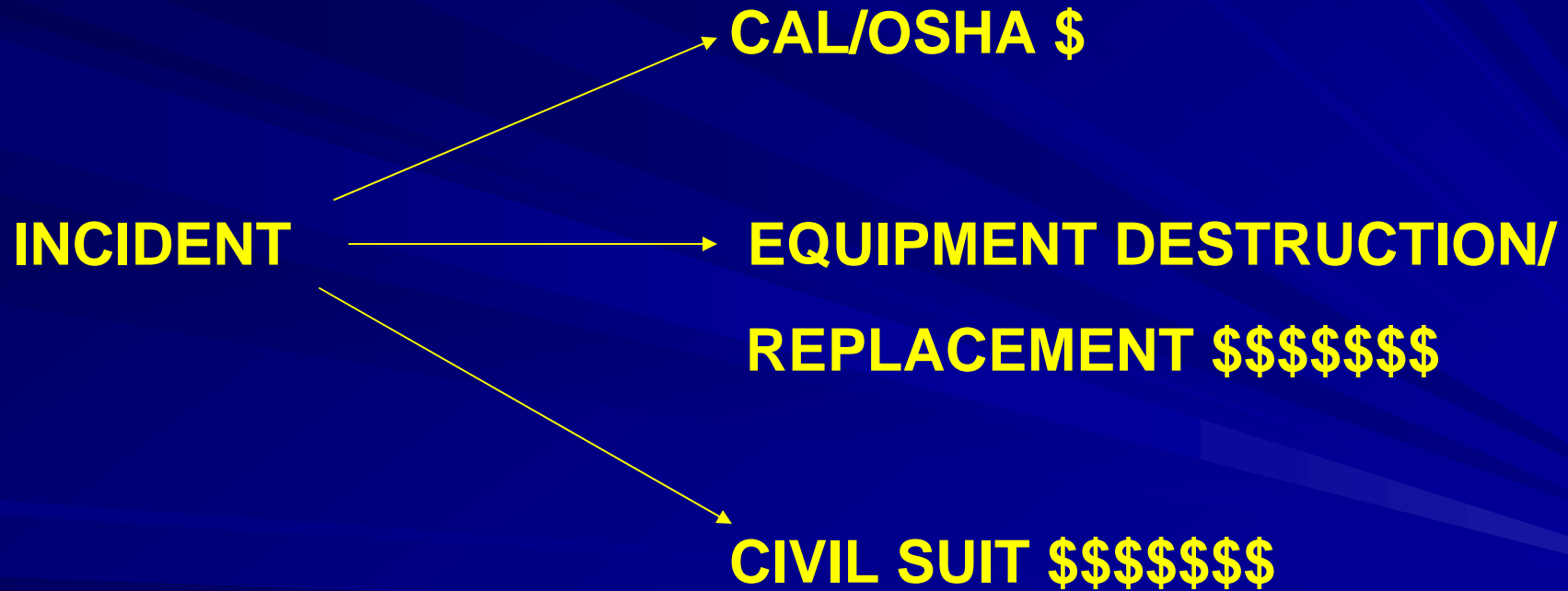
**8CCR §5189(g)**

**WHY SHOULD YOU GO THROUGH ALL OF THIS?**

# IMPORTANCE OF SELECTING A CONTRACTOR PROCESS SAFETY MANAGEMENT



# IMPORTANCE OF SELECTING A CONTRACTOR





**IMPORTANCE OF SELECTING A CONTRACTOR  
PROCESS SAFETY MANAGEMENT**

**QUESTIONS?**