**MOSH INSTRUCTION:**

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| **INSTRUCTION NUMBER:** 23-8 | **EFFECTIVE DATE:** March 10, 2023 |
| **SUBJECT:**  Civil Penalties for Citations Issued as Other-Than-Serious | **ISSUANCE DATE:** March 10, 2023 |
| **CANCELLATION:**  N/A | **EXPIRATION:** Effective from date above, until replaced by a new Instruction |

**Purpose:** This Instruction provides guidance to compliance officers regarding civil penalties for citations issued as other-than-serious.

**Scope:** MOSH-wide

**Contact:** Chief of MOSH Compliance Services

 See MOSH Website for Current Information

 https://www.labor.maryland.gov/labor/mosh/

**Reference:**

1. Labor and Employment Article §§ [5-809(c)](https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gle&section=5-809&enactments=false), Annotated Code of Maryland

1. [COMAR 09.12.20.12](https://dsd.maryland.gov/regulations/Pages/09.12.20.12.aspx)
2. [MOSH Field Operations Manual](https://www.dllr.state.md.us/labor/mosh/moshguidance.shtml) (FOM), Chapter VI- Penalties

**Summary:** This instruction provides guidance to MOSH personnel concerning civil penalties associated with citations that are classified as other-than serious (OTS).

1. **Background**
	1. There is no statutory requirement that a penalty be proposed for citations that are not of a serious nature.
	2. The MOSH FOM contains specific instances when OTS citations shall be issued with proposed penalties. Guidance in the FOM supersedes the guidance below.
2. **Guidance for all MOSH staff**
	1. Generally, civil penalties will not be proposed for citations that are issued as OTS. Occasions in which civil penalties may be appropriate for OTS violations include, but are not limited to:
		1. Repeat violations
		2. Willful violations
		3. Instances in which a combination of OTS violations affect the overall gravity of possible illness/injury and contribute to the serious nature of the alleged violation.
			1. For situations such as these, the OTS violations will typically be grouped for penalty.
	2. Compliance officers will confer with their Supervisor if OTS penalties are recommended in accordance with Labor and Employment Article 5-809(c)(2).
	3. If OTS penalties are not recommended, reference this Instruction (MI 23-8) on the violation worksheet(s).

By and Under the Authority of:



Michael A. Penn, CSP, SMS

Acting Assistant Commissioner

cc: Matthew S. Helminiak, Commissioner, Division of Labor and Industry

 All MOSH Staff

 Maryland Department of Labor Assistant Attorneys General

 OSHA Region III