

CELLY SERVICES INC.

ENVIRONMENTAL, HEALTH & SAFETY SERVICES

To: Managers, CSI Client

Fr: Sam Celly

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Ref: **Fines & Penalties on the rise from government agencies**

Inspections and penalties from regulating agencies is nothing new. However, these agencies that were once code enforcers, protecting the lives of employees or saving the environment look more like revenue generators for the government. Other factors may be at work too. The politicians are in cost cutting mode and in that bargain they may slash budget for agencies or eliminate them altogether. With greater enforcement and fine collection, the agencies remain in forefront in minds of both the public and politicians alike.

Breaking News from Cal-OSHA:Cal/OSHA issued eleven citations totaling \$371,250 to Baxter Healthcare Corporation dba Baxter Bioscience this week for deliberate and willful workplace safety violations which resulted in the death of one of their technicians and serious injury of two others. The violations included four willful citations, indicating intentional violation or knowledge of a violation. Baxter has 15 business days to appeal or pay the citations.

"We will not tolerate employers who intentionally sacrifice the safety of their workers," said DIR Acting Director Christine Baker. "Our goal is to prevent these needless tragedies and ensure employers live up to their responsibility of protecting their workers."

On January 21, Baxter technician Henry Astilla, 33, collapsed when he entered a seven foot deep, 6,000 liter tank in which nitrogen gas was being bubbled through plasma as part of a protein extraction process. Air in the tank had been displaced by the nitrogen gas resulting in an oxygen deficient atmosphere in the tank. Cal/OSHA regulations require employers to have special protective procedures in place prior to the entrance by employees into these types of confined spaces. In this case, the employer had not tested the atmosphere prior to entrance to insure there was sufficient oxygen, which led to Astilla's death.

Cal OSHA's investigation further revealed that when Astilla was discovered, a supervisor ordered two other employees to enter the tank and retrieve him, without testing the atmosphere of the tank or providing proper equipment and other safeguards necessary for a safe rescue. As a result, Astilla died and the two employees sent to retrieve him were seriously injured. One remains hospitalized since January.

"The hazards of working in confined spaces are well documented and this is a classic example of the kind of injury that occurs when employers fail to adequately protect their employees," said Cal/OSHA Chief Ellen Widess. "When confined space operations are not properly planned, it is unfortunately common for other employees to be injured or killed while attempting impromptu rescue of the initial victim."

Cal/OSHA determined that Baxter's confined space program failed to comply with all requirements, including appropriate atmospheric testing, protective equipment as well as rescue equipment and procedures.

Baxter Bioscience is a multi-national pharmaceutical company with a Los Angeles plant located in Atwater Village. The facility is the largest of its kind in the nation, utilizing advanced technology to produce plasma proteins.

The citations Cal/OSHA issued this week included one classified as general and ten classified as serious, four of which were classified as willful. **Willful classifications are issued when an employer either commits an intentional violation and is aware that it violates a safety law, or when an employer is aware that an unsafe or hazardous condition exists and makes no reasonable effort to eliminate the hazard.**

444 W. Ocean Blvd., Suite 1402, Long Beach, CA 90802 ~ Ph (562) 704-4000 Fax (562)
704-5000

www.cellyservices.com