



State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Program Directive No. 23-03

Date: February 1, 2023

To: All AKOSH Staff

From: Tanya Keith, *Acting Director* PK

Subject: Severe Violator Enforcement Program (SVEP)

This Program Directive, PD 23-03, is formal notice that the Alaska Department of Labor and Workforce Development, Division of Labor Standards and Safety recognizes and is implementing updated Severe Violator Enforcement Program criteria to maintain At Least Effective As.

This instruction is effective immediately. Please ensure that all members of your staff receive a copy of this program directive and understand how to implement it.

Attachment: Recordkeeping section of Interim final rule

cc: Jack Rector, Acting Regional Administrator, OSHA, Region X
Abby Lopez, Assistant Regional Administrator, OSHA, Region X
Arlene Lamont, Anchorage Area Director, OSHA Region X

Executive Summary

This Instruction updates enforcement policies and procedures for AKOSH's SVEP, which concentrates resources on inspecting employers that have demonstrated indifference to their OSH Act obligations by committing willful, repeated, or failure-to-abate violations. It replaces AKOSH's June 18, 2010, Severe Violator Enforcement Program. Enforcement actions for severe violator cases include mandatory follow-up inspections and, where appropriate, ensure increased awareness of the enforcement actions at the corporate level, corporate-wide agreements, enhanced settlement provisions, and court enforcement under Section 11(b) of the OSH Act. In addition, this Instruction provides for nationwide referral procedures, which include Federal OSHA.

Significant Changes

This Instruction updates several program procedures and criteria. It also adds sample documents, new procedures and criteria, guidance for specific situations, and other necessary updates and information.

Procedural Updates

- Handling SVEP cases.
- Conducting a follow-up or referral inspection.
- Addressing employers that have three (3) or fewer similar related workplaces.
- Addressing employers that have four (4) or more similar related workplaces.
- Handling construction and/or mobile worksites.
- Addressing nationwide inspections of related workplaces/worksites.

Program Criteria Updates

- The Non-Fatality/Catastrophe Criterion no longer requires exposure to specific high-emphasis hazards or to hazards related to the potential release of a highly hazardous chemical (Process Safety Management), and has also been expanded to include an inspection where AKOSH finds **at least one willful or the third or more singular repeated** violation of the same standard or for a similar hazard, or issues **failure-to-abate** notices (or any combination of these violations/notices), based on the presence of **high-gravity serious** violations over a five-year inspection history search.
- SVEP removal eligibility now begins three years after the date an employer completes abatement instead of from the final order date.
- Addition of a minimum 2-year duration in SVEP that includes specified criteria for removal based on a safety and health management system.

Helpful Additions

- Sample cover letters: to the company (Appendix B) to include with the employer's citation packet; and to the company's headquarters (Appendix C) to include with a copy of the citation packet.
- SVEP Employer Removal memorandum template (Appendix D) for establishments that fulfill the removal criteria.
- Auxiliary SVEP log removal criteria and procedures (for closed workplaces five years from the final order date).

- New procedures and guidance for recording and tracking inspections in OIS.

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I. Purpose.

This Instruction updates enforcement policies and procedures for OSHA's Severe Violator Enforcement Program (SVEP), which concentrates inspection resources on employers that have demonstrated indifference to their OSH Act obligations through willful, repeated, or failure-to-abate violations.

II. Scope.

This Instruction applies OSHA-wide.

III. References.

- A. OSHA Instruction [CPL 02-00-080, Handling of Cases to Be Proposed for Violation-By-Violation Penalties](#), October 21, 1990.
- B. OSHA Instruction [CPL 02-00-167, Guidelines for Administering Corporate-Wide Settlement Agreements](#), September 3, 2021.
- C. OSHA Instruction [CPL 02-00-161, National Emphasis Program on Trenching and Excavation](#), October 1, 2018.
- D. AKOSH Instruction [CPL 02-PD 21-02, Field Operations Manual \(FOM\)](#)-, January 28, 2021.
- E. OSHA Instruction [CPL 02-00-165, Compliance Directive for the Excavation Standard, 29 CFR 1926, Subpart P](#), July 1, 2021.
- F. OSHA Instruction [CPL 02-01-004, Inspection of Grain Handling Facilities, 29 CFR 1910.272](#), November 8, 1996.
- G. OSHA Instruction [CPL 02-01-061, 29 CFR Part 1915, Subpart B, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment](#), May 22, 2019.
- H. OSHA Instruction [CPL 02-02-074, Inspection Procedures for the Chromium \(VI\) Standards](#), January 24, 2008.
- I. OSHA Instruction [CPL 03-00-008, Combustible Dust National Emphasis Program \(Reissued\)](#), March 11, 2008.
- J. OSHA Instruction [CPL 03-00-009, OSHA Instruction; National Emphasis Program-Lead](#), August 14, 2008.
- K. OSHA Instruction [CPL 03-00-010, Petroleum Refinery Process Safety Management National Emphasis Program](#), August 18, 2009.
- L. OSHA Instruction [CPL 03-00-021, PSM Covered Chemical Facilities National Emphasis Program](#), January 17, 2017.

- M. OSHA Instruction [CPL 03-00-022, National Emphasis Program on Amputations in Manufacturing Industries](#), December 10, 2019.
- N. OSHA Instruction [CPL 03-00-023, National Emphasis Program – Respirable Crystalline Silica](#), February 4, 2020.
- O. OSHA Instruction [CSP 01-00-005, State Plan Policies and Procedures Manual](#), May 6, 2020.
- P. [OSHA Publication 3885, Recommended Practices for Safety and Health Programs in General Industry](#), October 2016.
- Q. [OSHA Publication 3886, Recommended Practices for Safety and Health Programs in Construction](#), October 2016.

IV. Cancellations.

- A. AKOSH Program Directive 10-13, Severe Violator Enforcement Program (SVEP), September 15, 2010.

V. Significant Changes.

This Instruction updates several program procedures and criteria. It also adds sample documents, new procedures and criteria, guidance for specific cases, and other updates and necessary information.

- A. Procedural Updates
 - Handling SVEP cases.
 - Conducting a follow-up or referral inspection.
 - Addressing employers that have three (3) or fewer similar related workplaces.
 - Addressing employers that have four (4) or more similar related workplaces.
 - Handling construction and/or mobile worksites.
 - Addressing nationwide inspections of related workplaces/worksites.
- B. Program Criteria Updates
 - The Non-Fatality/Catastrophe Criterion no longer requires exposure to specific high-emphasis hazards or to hazards related to the potential release of a highly hazardous chemical (Process Safety Management) and adds SVEP criteria to consider three or more singular repeat citations over a five-year inspection history.
 - SVEP removal eligibility now begins three years after the date an employer completes abatement instead of from the final order date.
 - Addition of a minimum 2-year duration in SVEP that includes specified criteria for removal based on a safety and health management system.
- C. Helpful Additions
 - Sample cover letters: to the company (Appendix B) to include with the employer’s citation packet; and to the company’s headquarters (Appendix C) to include with a copy of the citation packet.
 - SVEP Employer Removal memorandum template (Appendix D) for establishments that fulfill the removal criteria.

- Auxiliary SVEP log removal criteria and procedures (for closed workplaces five years from the final order date).
- New procedures and guidance for recording and tracking inspections in OIS.

VI. Expiration Date.

This Instruction remains in effect until canceled or superseded.

VII. Actions Required.

- A. The policies and procedures set forth in this Instruction are effective immediately and remain in effect until canceled.
- B. AKOSH Chiefs and the Director of Labor Standards and Safety must ensure that AKOSH personnel follow the policies and procedures set forth in this Instruction.
- C. All cases that meet the qualifying criteria in section XII issued after the effective date of this instruction are entered into the SVEP.

VIII. Federal Agencies.

This Instruction describes a change that may affect federal agencies. It is the responsibility of the Chief of Enforcement to communicate the placement of an employer into the State of Alaska SVEP program if their operations take place outside of AKOSH jurisdiction.

IX. Application.

This Instruction applies AKOSH-wide to all interventions, inspections, and violation abatement assistance involving the Severe Violator Enforcement Program. This Instruction also applies to AKOSH outreach efforts that include compliance assistance, cooperative programs, training, and education.

Further, this Instruction applies to all On-Site Consultation Programs that provide consultative services to the private sector. AKOSH's On-site Consultation Programs offer free and confidential occupational safety and health services to small- and medium-sized businesses in all states and several territories, with priority given to high-hazard worksites. On-Site Consultation services are separate from enforcement and do not result in penalties or citations. Consultants work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing and improving safety and health programs. To locate the OSHA On-Site Consultation Program nearest you, call (800) 656-4972 or visit AKOSH's [Consultation](#) page.

X. Background.

The SVEP is intended to focus enforcement efforts on significant hazards and violations by concentrating inspection resources on employers that have demonstrated recalcitrance or indifference to their OSH Act obligations by committing willful, repeated, or failure-to-abate violations of AKOSH requirements.

XI. Handling SVEP Cases.

- A. Compliance Safety and Health Officers (CSHOs) must become familiar with Section [XII. Criteria for an SVEP Case](#), to effectively evaluate employers during all inspections likely to result in an SVEP case.
- B. AKOSH must identify SVEP cases no later than at the time the citations are issued, in accordance with the criteria set forth in this Instruction.
- C. Cases that meet the SVEP case criteria are classified as SVEP cases; the terms “employer-wide” or “company-wide” will apply agency-wide or department-wide, as appropriate. The Chief of Enforcement in consultation with Law determines appropriate SVEP actions for such agency cases.
- D. When a case meets the SVEP case criteria, AKOSH must accurately identify the establishment in the OSHA Information System (OIS).

XII. Criteria for an SVEP Case.

AKOSH considers an inspection to result in an SVEP case if it meets **at least one** of the criteria below:

A. Fatality/Catastrophe Criterion.

A fatality/catastrophe inspection where AKOSH finds **at least one willful or repeated** violation or issues a **failure-to-abate** notice based on a serious violation directly related either to an employee death or to an incident causing three or more employee hospitalizations.

B. Non-Fatality/Catastrophe Criterion.

An inspection where AKOSH finds **at least one willful or the third or more singular repeated** violation of the same standard or for a similar hazard, or issues **failure-to-abate** notices (or any combination of these violations/notices), based on the presence of **high-gravity serious** violations over a five-year inspection history search.

NOTE: Low and moderate gravity serious violations do not fulfill this criterion.

C. Egregious Criterion.

All egregious (e.g., per-instance citations) enforcement actions must be considered SVEP cases.

NOTE: For SVEP consideration, **willful** and **repeated** citations and **failure-to-abate** notices must be based on serious violations, except for recordkeeping, which must be egregious. (See [CPL 02-00-080](#), “Handling of Cases to be Proposed for Violation-by-Violation Penalties.”)

NOTE: Grouped and combined violations must count as one violation for SVEP purposes. In cases where an inspection’s original violations at issuance initially qualify an employer for SVEP, but later are reclassified to fall outside the program’s eligibility criteria, the employer must be removed from the SVEP log.

Under OSHA’s multi-employer citation policy, a general contractor may be cited for the same violations as other contractors qualifying for SVEP, and therefore may also qualify for the program. An employer can qualify for SVEP even if none of its own employees were exposed to hazards.

XIII. Enforcement Considerations – Two or More Inspections of the Same Employer.

For inclusion under SVEP, AKOSH must evaluate each individual inspection independently to determine if it meets any of the SVEP criteria, except as described in XII B and the following Note (See Section [XII, Criteria for an SVEP Case](#)). If any of the inspections meet one of the SVEP criteria, AKOSH will consider that inspection to be an SVEP case and code it accordingly (See Section [XX, Recording and Tracking Inspections](#)).

NOTE: An establishment history search for a 5-year period preceding the opening date of an inspection will be performed. If the employer has been issued three (3) or more repeated violations of the same standard or for a similar hazard within that timeframe and those citations are final order, the employer may be placed into the SVEP Program.

XIV. SVEP Procedures.

A. When AKOSH determines that a case meets one of the SVEP criteria, follow paragraphs A through E below. Follow-up or Referral Inspections.

1. General.

For any SVEP inspection opened on or after the effective date of this Instruction, AKOSH must conduct a follow-up or referral inspection within **one year** but no longer than two years, after the citation becomes a final order, even if the agency has received abatement verification of the cited violations. The purpose of the follow-up or referral inspection is to assess **not only** whether the cited violation(s) were abated, **but also** whether the employer is failing to address similar or related hazards.

2. Justification for Not Conducting a Follow-up.

If there is a compelling reason not to conduct a follow-up inspection, the CSHO or Chief of Enforcement must document that justification in the case file. If AKOSH cannot initiate a follow-up inspection, it must document and complete “No Inspection” in OIS. Reasons for not conducting a follow-up inspection may include:

- a. worksite/workplace closed,
- b. the employer is out of business, or
- c. cited operation discontinued at the worksite/workplace.

NOTE: A corrected-during-inspection determination does not eliminate the required follow-up inspection.

If the Chief of Enforcement learns that a cited employer/operation has moved to a different location, AKOSH must inspect the new location. If the new location is outside of AKOSH’s jurisdiction, a referral must be

made to the Area Office with appropriate jurisdiction. Regional Office Enforcement Programs must be consulted to coordinate referrals outside of your Region.

NOTE: CSHOs must create or open an inspection in OIS for all follow-up or referral attempts. Mark the inspection as “No Inspection” in instances where the employer is no longer located at the originally inspected site. Apply relevant SVEP coding per Section [XX. Recording and Tracking Inspections](#).

3. Construction, Mobile, and Temporary Worksites.

When AKOSH has reason to believe that a construction, mobile, or otherwise temporary worksite is no longer active (or is nearing completion), therefore making a follow-up inspection of the same worksite difficult or impractical, the provisions in Section [XVI.B.5 Construction Worksites](#) will apply.

B. Nationwide Inspections of Related Workplaces/Worksites.

1. General.

Employer indifference to compliance responsibilities under the OSH Act at one worksite may indicate broader patterns of non-compliance at that employer’s related worksites. When AKOSH has reasonable grounds to believe that violations identified in the initial inspection may indicate a broader pattern of non-compliance, the agency must inspect related worksites of the same employer. While AKOSH usually initiates inspections of related worksites only after issuing citations to the employer of violations from the original worksite, in cases of “imminent danger” hazards or similarly exigent circumstances, the procedures outlined in Chapter 11 of the AKOSH FOM must be followed.

[Appendix A, CSHO Guidance – Considerations for Determining Company Structure and Safety and Health Organization](#), of this Instruction, provides guidance for evaluating whether violative conditions found during the initial SVEP inspection are likely to exist at related facilities. It is essential that information in [Appendix A](#) be gathered during the initial SVEP inspection. AKOSH may also obtain such information by letter, telephone, or by subpoena.

The Chief of Enforcement is responsible for assuring that AKOSH collects all relevant information and for determining whether it provides reasonable grounds to believe that a broader pattern of non-compliance may exist. The Chief of Enforcement should consult with Law as appropriate.

When the Chief of Enforcement finds sufficient evidence of potential broader non-compliance, they should identify the employer’s related establishments in the same 3-digit NAICS code as the initial SVEP case and select establishments for inspection in accordance with Section

[XVI.B.4 Similar Related Workplaces](#). Establishments outside that 3-digit NAICS code may also be inspected if the evidence establishes reasonable grounds for the presence of potential hazards at those sites.

NOTE: The Directorate of Enforcement Programs serves as the National Office point of contact for all SVEP nationwide referrals. Address any questions to the Director or Deputy Director in DEP.

2. Office of Statistical Analysis (OSA).

At the request of the DEP Director, DOC Director, RA, or Regional Coordinator, OSA assists in identifying similar and other related worksites nationwide (including those in State Plans) of the same employer. AKOSH will assist and coordinate efforts when requested by OSA.

Establishments are related when there is evidence of common ownership. Related establishments include entities in the same corporate family, such as subsidiaries, affiliates, or parent corporations with substantial common responsibilities. Similar related establishments are those establishments that are in the same 3-digit NAICS code.

3. Federal Referrals.

AKOSH will transmit referrals, which must include all relevant facts, to Federal OSHA regarding any inspections conducted pursuant to the State's SVEP. State Plan referrals (letter or memorandum) to Federal OSHA must be sent to the Area Director, who will then forward any referrals outside that Region to the appropriate OSHA RA. The referral will be identified in OIS as a referral from an outside agency.

4. Inspections of Related Workplaces.

a. Where an Employer Has Three (3) or Fewer Related Workplaces.

Pursuant to Appendix A, when the Chief of Enforcement determines that AKOSH should inspect additional workplaces within the State, and the employer has three or fewer related workplaces, **all such workplaces must be inspected** to determine whether those sites have hazardous conditions or violations similar to those in the SVEP case (see [XVI.B.6. Scope of Related Inspections](#) below for inspection scope guidance). The RA has overall responsibility for coordinating the inspections and planning investigative strategy. If **one or more** of the workplaces is outside the State's jurisdiction, the Chief of Enforcement will notify the appropriate Region and initiate a referral. The Chief of Enforcement will also consult with Law as appropriate.

If any of the three or fewer workplaces AKOSH plans to inspect are in **one or more of the region's State Plans**, the Chief of Enforcement must forward the information to the State Plan Designee for inspection and send a copy of the referral to the DEP Director.

b. Where an Employer Has Four (4) or More Related Workplaces.

When the Chief of Enforcement determines that additional workplaces must be inspected, and the employer has **four or more similar related establishments within the State or in other jurisdictions**, the Chief of Enforcement has the responsibility for coordinating those inspections and planning investigative strategy. The Chief of Enforcement must consult with the Area Office as appropriate.

AKOSH must inspect all establishments on the nationwide list to determine whether hazardous conditions or violations similar to those found in the initial SVEP inspection are present. Based on the results of these inspections, the DEP Director determines whether OSHA needs to inspect additional establishments. Any inspection conducted from an SVEP nationwide inspection list must be coded as an “unprogrammed referral.” A referral report must be generated when learning of a site where an SVEP nationwide referral employer is working.

i. In addition to or in lieu of (i) above, when the DEP Director has reasonable grounds to believe that hazards may exist at specifically related establishments, the Director may select those establishments for inspection if supported by evidence of potential non-compliance.

c. SVEP Nationwide Related Inspections that involve Process Safety Management (PSM) hazards.

For SVEP inspections arising from willful or repeated PSM citations or failure-to-abate PSM notices, related inspections must be limited to requirements under the PSM standard. No inspections of establishments are to be conducted where AKOSH has performed a PSM inspection at that establishment in the past two years from the opening conference date.

5. Construction Worksites.

a. Regional Office.

Whenever an SVEP case involves a construction industry employer, the Chief of Enforcement must further investigate that employer’s overall compliance. If the initially inspected worksite closes before AKOSH can conduct a follow-up inspection, AKOSH must conduct an inspection of at least one of the employer’s other worksites to determine whether the employer is failing to address hazardous conditions similar to those identified in the initial SVEP inspection. Because construction worksites are often difficult to locate, the following means may be useful to identify a cited employer’s other sites.

NOTE: If a construction related SVEP case is resolved through a settlement, the agreement should require the employer

to notify the Chief of Enforcement prior to beginning work at any new construction sites during the subsequent three-year period. However, if AKOSH conducts a follow-up or referral inspection during that three-year period, then the employer is no longer required to notify the agency regarding other job sites.

- AKOSH may issue an administrative subpoena, prior to issuing a citation, to an employer requesting the location of worksites where employees of that employer are presently working or are expected to be working, within the next 12 months. See [AKOSH FOM, Chapter 13 section I](#), Administrative Subpoenas.
- AKOSH should issue such a subpoena during the early stages of an investigation if it appears that the inspection is likely to result in an SVEP case and the Chief of Enforcement determines (after consultation with the Director and Law) that the hazards discovered during the inspection, and the inadequacy of the employer's response to those hazards, indicate that a broader agency response is appropriate.

b. National Office Communications.

- i. When the Chief of Enforcement determines that an SVEP construction employer is operating in a different Region, a recommendation for inspection including all relevant facts, must be transmitted to the appropriate Area Office.
- ii. Code any inspection conducted under an SVEP nationwide referral as an unprogrammed referral from the National Office. Generate a referral report when finding a site where an SVEP nationwide referral employer is operating.

6. Scope of Related Inspections.

The decision to expand the scope of an inspection to related establishments must be determined by the evidence gathered in the original SVEP inspection. The expanded inspection should focus primarily on potential systemic hazards that are the same, or similar, to those found in the original investigation.

7. Priority of the Inspection.

- a. In accordance with the inspection priorities listed in [Chapter 2](#), section IV.B of [PD 21-01, Field Operations Manual](#), SVEP nationwide referral inspections are considered lower priority than

imminent dangers, fatalities, and complaints, but higher than other programmed inspections. Also review Section [XIX Relationship to Other Programs](#) of this Instruction, regarding when OSHA can conduct other inspections concurrent with an SVEP nationwide referral inspection.

- b. Consistent with [29 CFR §1908.7\(b\)\(2\)\(iv\)](#), any OSHA onsite consultation visit already in progress must terminate prior to the opening conference of an SVEP referral inspection.

C. Increased Company Awareness of AKOSH Enforcement.

1. Sending Letters, Citations, or Notifications of Penalty to Headquarters or Coordinating Meetings with the Regional or National Office.

In cases where AKOSH determines that it should address an establishment's safety and health issues at the corporate level, consider the following actions:

- a. Send a letter from the Director of Labor Standards and Safety to the company president expressing AKOSH's concern with the company's violations. Include a copy of the citations with the letter and cover letter. See the sample cover letter in [Appendix B: Sample Letter to the Company](#).
- b. Organize a meeting between AKOSH, company officials, employees, and employee representatives to discuss how the company intends to address safety and health compliance. If the company operates in multiple Regions, such a meeting may require coordination with outside offices.
- c. Employee representatives (e.g., unions) must receive a copy of the citations and notifications of penalty AKOSH sends to the employer's headquarters. AKOSH must also notify employee representatives by letter when the agency determines that the establishment's safety and health problems require corporate-level intervention.
- d. For all employers that are eligible for SVEP the Chief of Enforcement must mail a copy of the citations and notification of penalties to the employer's headquarters if the employer has more than one fixed establishment. See the sample cover letter in [Appendix C: Sample Letter to Company Headquarters](#).

2. Issuing News Releases.

- a. News Releases.

AKOSH may issue a news release for an SVEP case when citations are issued. The Director of Labor Standards and Safety has the discretion to determine which SVEP cases will receive a news release.

b. Nationwide Referral Inspection News Releases.

In certain SVEP cases, prior to AKOSH issuing a news release, Federal OSHA may collaborate and provide input.

D. Enhanced Settlement Agreements.

The following settlement provisions should be included in agreements to ensure future compliance both at the cited facility and at the employer's other related facilities:

1. The employer must hire a qualified safety and health consultant to develop and implement an effective and comprehensive safety and health program or, where appropriate, a workplace program to ensure full compliance with the subpart for which AKOSH cited the employer under the SVEP.

NOTE: The settlement agreement may not require that an employer use OSHA's state consultation services. Such services are strictly voluntary.

2. The agreement must apply company-wide ([CPL 02-00-167, Guidelines for Administering Corporate-Wide Settlement Agreements](#), September 3, 2021).

NOTE: Any corporate-wide settlement agreements must be coordinated with Law.

3. Require interim abatement controls in cases where the employer is unable to implement final abatement in a short period of time.
4. In construction settings (and, where appropriate, in general industry), the settlement agreement should require a list of the employer's current job sites and/or future job sites for a specified time period. The agreement should also compel the employer to indicate the specific protective measure(s) it will use for each current or future job site.
5. Require the employer to submit its Log of Work-Related Injuries and Illnesses on a quarterly basis and to allow OSHA unfettered access to inspect the workplace based on that information.
6. Require the employer to notify AKOSH immediately of any serious injury or illness requiring medical attention and to consent to an inspection.
7. Obtain employer consent to entry of a summary enforcement order under [AS 18.60.093](#).

E. Court Enforcement under Section 11(b) of the OSH Act.

All SVEP cases should be considered for [Section 11\(b\)](#) summary enforcement orders when it appears necessary to ensure compliance. A final order of the Review Commission affirming the citation and obligating an employer to abate a cited violation is a prerequisite to obtaining these orders. For guidance on drafting citations and settlement agreements that can maximize the deterrent

effect, refer to the FOM and related field guidance.

XV. SVEP Log Removal Criteria and Procedures.

- A. AKOSH will remove an employer from the Severe Violator Enforcement Program Log after **at least three years** from the date of receiving acceptable abatement verification.¹ To be eligible for removal, the employer must have:
1. Abated all SVEP-related hazards,
 2. Paid all final penalties,
 3. Where applicable, followed and completed all applicable settlement provisions,
 4. Received no additional serious citations related to the hazards identified in the original SVEP inspection or any related establishments, and
 5. Have received one follow-up or referral AKOSH inspection.
- B. If contesting a case, the employer may choose to begin the three-year designation period by providing acceptable abatement verification for all SVEP-related hazards. This policy change is meant to incentivize employers to abate hazards but does not affect any of the employer's rights under the OSH Act.
- C. An employer that agrees to an Enhanced Settlement Agreement may elect to reduce the SVEP term to **two years**. In such cases, SVEP removal is contingent on the employer agreeing to develop and implement a safety and health management system (SHMS), within the two-year period, that includes policies, procedures, and practices that are effective to recognize and abate occupational safety and health hazards and protect employees from those hazards. The employer's SHMS should include at least the seven basic elements outlined in [OSHA publication 3885, Recommended Practices for Safety and Health Programs](#) (October 2016), and should also include provisions for evaluating and improving program effectiveness, along with a provision for OSHA's review and evaluation of the SHMS. Lastly, the implementation must be verified by an independent third party (i.e. a CSP, CIH, or – for a unionized workplace – a national union safety and health representative), subject to the approval of AKOSH.
- D. Prior to removing an employer from the SVEP, AKOSH must conduct at least one follow-up or referral inspection to ensure abatement verification and compliance with the enhanced settlement provisions, if any. If the follow-up inspection results in a serious citation related to the hazards identified in the initial SVEP inspection, then the establishment must not be eligible for removal from the SVEP log, and an additional follow-up inspection must be performed.
- E. Only the Director of Labor Standards and Safety or the Chief of Enforcement may authorize removing an employer from the SVEP. The SVEP Employer Removal

¹ See [29 CFR 1903.19](#) and [Chapter 7\(IV\)](#) of OSHA Instruction [CPL 02-00-164, Field Operations Manual \(FOM\)](#). April 14, 2020, for the procedures and certification required for such abatement verification.

memorandum template in [Appendix D: SVEP Removal Memo](#) must be completed and submitted if an establishment meets the removal criteria.

- F. If a case involves a national Corporate-Wide Settlement Agreement (CSA), AKOSH will coordinate with OSHA to determine whether circumstances warrant removing the employer from the SVEP once the CSA expires. The national Corporate Settlement Coordinator will ensure that the employer has both completed the follow-up requirements of the SVEP and fully implemented the terms of the CSA pursuant to OSHA Instruction [CPL 02-00-167, Guidelines for Administering Corporate-Wide Settlement Agreements](#), September 3, 2021.

XVI. Auxiliary SVEP Log Removal Criteria and Procedures.

- A. If, after **five years** from the final order date, AKOSH is unable to conduct a follow-up or referral inspection, it can enter the establishment in the “Auxiliary SVEP Log.” Reasons for being unable to conduct a follow-up or referral inspection may include:

- worksite/workplace closed,
- employer is out of business, or
- cited operation discontinued at the worksite/workplace.

However, the employer remains in the “Auxiliary SVEP Log” until AKOSH makes contact, verifies abatement, and assures that the employer fulfills all other requirements of the program. AKOSH encourages establishments to contact the office to discuss the follow-up or referral requirements in SVEP.

- B. After **ten years** from the case closure date, AKOSH may remove an employer from the Severe Violator Enforcement Program if the case meets all the following criteria:
1. AKOSH’s Debt Collection Accountability Team has returned the case to the office as uncollectible.
NOTE: If debt collection processes have been unsuccessful AKOSH will not pursue a case beyond 10 years.
 2. The case was coded as “abatement not completed; worksite changed” in OIS after documenting such in the case file in accordance with the FOM.
- C. AKOSH maintains the legal entity name, any associated business titles or “doing business as” names, and ownership of the company in a searchable format for cross reference for future inspections. In cases where AKOSH encounters the employer at any time in the future, a search of the employer’s history in OIS will flag the SVEP inclusion and AKOSH will reactivate the entire timeline, process, and abatement verification procedure.

XVII. Relationship to Other Programs.

A. Unprogrammed Inspections.

AKOSH may conduct an unprogrammed inspection and an SVEP-related inspection either separately or concurrently. This Instruction does not affect AKOSH’s ability to conduct unprogrammed inspections.

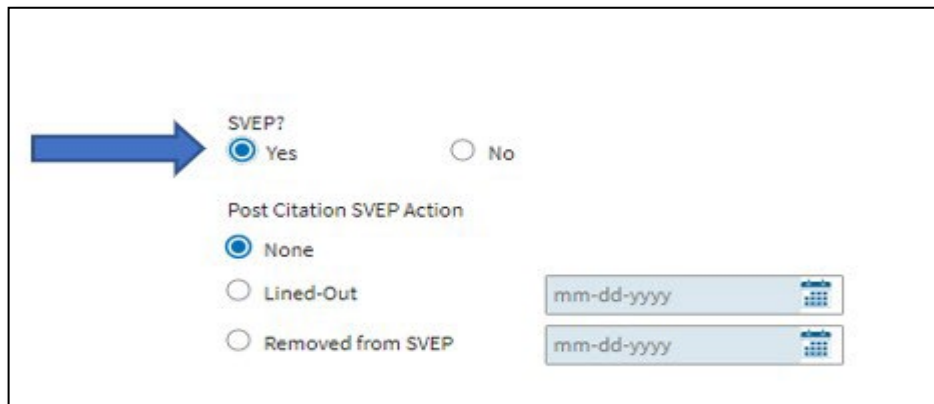
B. Programmed Inspections.

Site-specific targeting; local, regional, or national emphasis program inspections may occur either separately or concurrently with SVEP inspections.

XVIII. Recording and Tracking Inspections.

A. Initial SVEP Inspections

Designate **only** an inspection that meets the criteria of a severe violator enforcement case as an initial SVEP inspection case. Enter that case into OIS using the following procedures.

A screenshot of a web form for designating an initial SVEP inspection. A blue arrow points to the 'SVEP?' section. Under 'SVEP?', the 'Yes' radio button is selected, and the 'No' radio button is unselected. Below this is the 'Post Citation SVEP Action' section. The 'None' radio button is selected, while 'Lined-Out' and 'Removed from SVEP' are unselected. To the right of the 'Lined-Out' and 'Removed from SVEP' options are two date input fields, each containing 'mm-dd-yyyy' and a calendar icon.

Adding to OIS: Identify initial SVEP inspections by selecting the “Yes” SVEP radio button on the “Inspection Data” tab for that inspection in OIS.

NOTE: Once a user identifies an inspection as an initial SVEP case, the user cannot change the SVEP radio button to “No.” Identify line-outs and removals from SVEP using the relevant Post Citation SVEP Action field below.

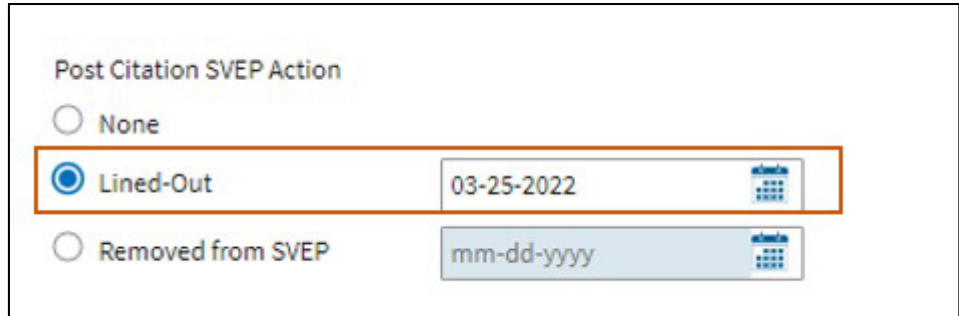
B. Post Citation SVEP Action

Select the relevant radio button under “Post Citation SVEP Action.” If the case remains active on the SVEP log, select the “None” radio button.

If an establishment entered into a settlement agreement (informal or formal) in which AKOSH agreed to delete or reclassify the citation that qualified the establishment for SVEP designation; or if an Administrative Law Judge, the Review Board, or a court decision has vacated such a citation, then select the “Lined Out” radio button to indicate that the entry on the SVEP log will be lined-out.

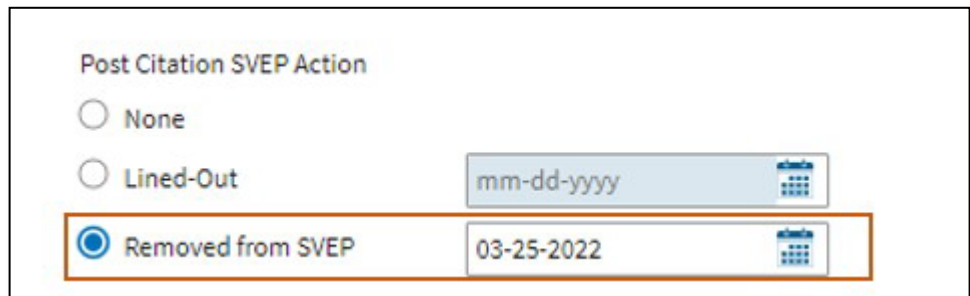
NOTE: Neither AKOSH nor Law may use SVEP removal as a settlement incentive. However, if the final terms of an agreement take an employer out of the SVEP criteria, the employer must be removed from the log.

1. Lined-out from SVEP: Identify initial SVEP inspections that meet the criteria of a line-out by selecting the “Lined-Out” radio button and enter the date when the Chief of Enforcement or the Director of Labor Standards and Safety approved the Line-Out. This option is available on the “Inspection Data” tab for that inspection in OIS.



The screenshot shows a form titled "Post Citation SVEP Action". It has three radio button options: "None", "Lined-Out", and "Removed from SVEP". The "Lined-Out" option is selected, indicated by a blue dot. To the right of "Lined-Out" is a date input field containing "03-25-2022" and a calendar icon. To the right of "Removed from SVEP" is a date input field containing "mm-dd-yyyy" and a calendar icon. A red rectangular box highlights the "Lined-Out" option and its corresponding date field.

2. Removed from SVEP: Identify initial SVEP inspections that meet the removal criteria by selecting the “Removed from SVEP” radio button and enter the date when the Chief of Enforcement or the Director of Labor Standards and Safety approved the removal. This option is available on the “Inspection Data” tab for that inspection in OIS.



The screenshot shows a form titled "Post Citation SVEP Action". It has three radio button options: "None", "Lined-Out", and "Removed from SVEP". The "Removed from SVEP" option is selected, indicated by a blue dot. To the right of "Lined-Out" is a date input field containing "mm-dd-yyyy" and a calendar icon. To the right of "Removed from SVEP" is a date input field containing "03-25-2022" and a calendar icon. A red rectangular box highlights the "Removed from SVEP" option and its corresponding date field.

C. Follow-up and Related SVEP Inspection

When identifying an inspection as a follow-up or an inspection otherwise related to an original or previous SVEP inspection, the CSHO must select the “Yes” radio button for “Is this inspection related to a previous SVEP inspection?” If the case is a new SVEP case (not a follow-up inspection or related to a previous SVEP case) then select the “No” radio button.

NOTE: Follow-up and inspections otherwise related to an initial SVEP case that do not meet the criteria for a new SVEP case must select the “No” SVEP radio button.

The CSHO must link any inspection marked as “Yes” in the previous step to the initial SVEP inspection by entering the relevant “Inspection Number” in the “Previous/Subsequent Inspections” section of the “Related Activities” subtab, under the “Inspection” tab.

Is this inspection related to a previous SVEP inspection?
 Yes No

Related Inspections

All inspections that have been associated/related as Previous/Subsequent to the selected inspection have been added

Inspection#	Related Inspection Type	Previous/Subsequent	Establishment Name	Actions
909321	Previous Inspection	Previous Inspection	TESTING SERVICE CORPORATION	***

D. Significant Enforcement Action Code.

Handling of SVEP cases will follow the guidelines outlined in the Procedures for Significant and Novel Enforcement Cases, June 13, 2022; and the coding processes described in the Significant Enforcement Coding Memo <date TBA>.

E. Other Program Codes.

Remember to enter all applicable emphasis program (REP, NEP, and LEP) codes in the inspection emphasis program section of the inspection type tab when conducting an SVEP inspection and the SVEP inspection also meets the protocol for other program(s).

XIX. Dun & Bradstreet Number.

As with all inspections, and if it is available, enter the data universal numbering system (DUNS) number in the DUNS number field of the establishment information section. In establishments where ownership has changed, enter the DUNS number for the new owner. If the new owner does not have a corresponding new DUNS number, enter the old DUNS number, if known. Since the DUNS number is site-sensitive, the old number will still provide useful data.

XX. Administrative Reporting Requirements.

- A. At the beginning of every month the National Office produces a SVEP report in OIS and shares the findings with Regional Coordinators.
- B. Regional Coordinators review the SVEP report with Area Offices and ensure an accurate list of establishments within their jurisdictions. Also, Regional Coordinators and Area Offices ensure that OSHA conducts all necessary follow-up or referral inspections and records them accurately in OIS.
- C. The National Office posts a copy of the SVEP report on a quarterly basis on the OSHA website.
- D. DEP performs an annual program review at the end of each fiscal year.

Appendix A: Criteria for Investigating an Employer's Related Establishments

When determining whether to inspect other worksites of a company designated as a severe violator enforcement case, determine whether the compliance issues found during the initial SVEP inspection are likely to exist at any other similar facilities of the employer. If violations at a local workplace appear to be potentially symptomatic of broader non-compliance with AKOSH requirements, either generally or with respect to conditions cited under the SVEP inspection, investigate the company structure to help identify other establishments. Employer and employee interviews should be conducted, and subpoenas issued to determine if there is evidence of similar hazards and conditions at other work sites. The following information should be solicited in making this determination:

The Extent of Compliance Problems.

Question the plant manager, safety and health personnel, and line employees to help determine if local health and safety violations are indicative of a corporate-wide problem. Examples of questions to ask facility personnel include:

- Are the violative conditions the result of a company decision or related to complying with a standard or addressing a hazard? Have corporate safety personnel addressed compliance or the hazard?
- Who made the decision concerning conditions related to the violation: local management or company headquarters? Was the decision meant to apply to other company facilities? If the decision was from company headquarters, what was the explanation?
- Is there a written company-wide safety program? If so, does it address the specific hazards present? If so, how does the program address or not address the hazards?
- Is there a company-wide safety department? If so, who are they and where are they located? How does the company headquarters communicate with other facilities/worksites? Does the company provide effective training for establishment/worksites management, and safety and health personnel?
- Do personnel from company headquarters visit facilities/worksites? Are those visits regular or only sporadic? What subjects do the headquarters personnel address during their visits? Are there audits of safety and health conditions? Did the headquarters personnel discuss the types of cited violative conditions?
- Are there any insurance company or contractor safety and health audit reports that the worksite has ignored? Are headquarters safety and health personnel aware of the reports and the site's inaction?
- Does the company have facilities or worksites other than the one inspected that perform similar or substantially similar work, use similar processes or equipment, or produce like products? If so, where are they?
- What is the overall company attitude concerning safety and health? Does the establishment or worksite receive support from company headquarters on safety and health matters?

- Does the company provide appropriate safety and health training to its employees?
- Is the establishment's/worksites' overall condition better or worse now compared to past years? If it is worse, why? Has new management or ownership emphasized production over safety and health? Is the equipment outdated or in very poor condition? Does management allege that poor financial conditions keep it from addressing safety and health issues?
- Is there an active and adequately funded maintenance department? Have they identified these problems and tried to fix them?
- If you are interviewing management: Have you worked at or visited other similar company facilities or worksites? Did those facilities or sites have similar operations and hazards as those found in the original inspection?

Identifying Company Structure. Ask for the location(s) of other facilities or worksites and how they may be linked to the one you are inspecting. Sometimes establishment/worksites management will not have a clear understanding of the company structure, just an awareness of facts concerning control and influence from the corporate office. Try asking the following questions to help understand the corporate structure:

- Is the establishment/worksites, or the company that owns the establishment or uses the worksites, owned by another legal entity such as a parent company? If so, what is that name and location? Attempt to determine whether the inspected establishment/worksites is a "division" or "subsidiary" of a parent company.

NOTE: A "division" is a wholly owned part of the same company that may have an entirely different name, e.g., Chevrolet® is a division of General Motors®. A "subsidiary" is a company controlled or owned by another company that owns a majority or all of the subsidiary's shares.

Try to determine whether the parent company has divisions or subsidiaries other than the one that owns or uses the establishment or worksites you are inspecting. If so, try to obtain the other entities' names and functions. Sometimes this information is available online, e.g., in Dun & Bradstreet® Sites and Directories. Another good source of information is the relevant state's office of the Secretary of State.

- Do these other entities control other facilities or worksites that perform the same type of work and might have the same kinds of safety and health concerns?
- Are the company entities publicly held (have publicly traded shares) or are they closely held (owned by one or more individuals)?
- What are the names, positions, and business addresses of relevant company personnel? Which businesses or entities actually employ "company" safety and health personnel?
- On what kind of safety and health-related issues or subjects do headquarters personnel provide instructions?
- Do the same or related people own other companies that perform similar work (especially in construction)?

Appendix B: Sample Letter to Company

Area Office Header

Date

Name of Employer's Establishment
Address of Establishment

Dear _____:

We are enclosing a copy of a citation and notification of penalties for violations of the Occupational Safety and Health Act of 1970, which my office issued to [*establishment name, located in city, state*]. We have identified this case as a severe violator enforcement case under the State of Alaska's Occupational Safety and Health (AKOSH's) severe violator enforcement program (SVEP).

The SVEP concentrates inspection resources on employers that have demonstrated an indifference to their OSH Act obligations through willful, repeated, or failure-to-abate violations. The program leverages AKOSH's enforcement authority with the goal of eliminating those workplace hazards that will most likely lead to injuries, illnesses, and deaths.

OSHA may remove an employer from the Severe Violator Enforcement Program three years after receiving adequate abatement verification.

To be eligible for removal from the program, the employer must have:

1. Abated all SVEP-related hazards,
2. Paid all final penalties,
3. In cases where there is a settlement agreement, followed and completed every settlement provision,
4. Received no additional serious citations related to the hazards identified in the original SVEP inspection at the initial establishment or any related establishments, and
5. Been subject to one follow-up or referral AKOSH inspection.

Unless contested, the violations referred to in this citation must be abated by the dates listed and the penalties paid. **Regardless of any decision to contest, the three-year SVEP term does not begin until OSHA receives final abatement verification for the cited violations.**

We are providing this citation and notification of penalties to you for informational purposes so that you are aware of both the violations and the Severe Violator Enforcement Program. We encourage you to work with all your sites to ensure that these violations are corrected.

AKOSH is dedicated to saving lives, preventing injuries and illnesses, and protecting America's workers. For more information about AKOSH programs, please visit our website at <https://labor.alaska.gov/lss/oshhome.htm>

Sincerely,

Director of Labor Standards and Safety

Enclosure

Appendix C: Sample Letter to Company Headquarters

Area Office Header

Date

Name of Employer's National Headquarters
Address of Headquarters

Dear _____:

We are enclosing a copy of a citation and notification of penalties for violations of the Occupational Safety and Health Act of 1970, which my office issued to [*establishment name, located in city, state*]. We have identified this case as a severe violator enforcement case under the Occupational Safety and Health Administration's (OSHA's) severe violator enforcement program (SVEP).

Unless contested, the violations referred to in this citation must be abated by the dates listed and the penalties paid. Regardless of any decision to contest, the three-year SVEP term does not begin until OSHA receives final abatement verification for the cited violations.

We are providing this citation and notification of penalties to you for informational purposes so that you are aware of the violations; we mailed the original to [*establishment name*] on [*date*]. We encourage you to work with all your sites to ensure that these violations are corrected.

OSHA is dedicated to saving lives, preventing injuries and illnesses, and protecting America's workers. For more information about OSHA programs, please visit our website at www.osha.gov.

Sincerely,

Area Director

Enclosure

Appendix D: SVEP Removal Memo

Regional Office Letterhead

[Select Date]

MEMORANDUM FOR: JOHN KING, SVEP Coordinator
Office of Chemical Process Safety and Enforcement Initiatives

THROUGH: [Name]
Regional Administrator

FROM: [Name]
Assistant Regional Administrator
Enforcement Programs

SUBJECT: SVEP Employer Removal

We recommend removing the employer listed below from the SVEP Log based on the following criteria (please check all that apply):

- Employer has been on the SVEP Log for two or more years after date of abatement verification of the SVEP citation items and has met the requirements of an Enhanced Settlement Agreement, including developing and implementing an appropriate SHMS.
- Employer has been on the SVEP Log for three or more years after date of abatement verification of the SVEP citation items.
- Employer abated all SVEP-related hazards.
- Employer paid all penalties.
- Employer completed all settlement provisions.
- OSHA conducted a follow-up inspection.
- Employer has not received any serious citations related to the hazards identified in the original SVEP inspection.
- No CSA or nationwide interest in the case(s).

Region [Select] – [Select] Area Office

[Establishment Name]

[Inspection #]

[Year]

[SVEP Log #][SVEP Log #]