
MIOSHA

Michigan Occupational Safety and Health Administration (MIOSHA)
Department of Labor and Economic Opportunity (LEO)

AGENCY INSTRUCTION

DOCUMENT IDENTIFIER:

MIOSHA-COM-11-2R6

DATE:

September 30, 2024

SUBJECT: Severe Violator Enforcement Program (SVEP)

- I. Purpose. This instruction establishes enforcement policies and procedures for MIOSHA's Severe Violator Enforcement Program (SVEP), which concentrates inspection resources on employers who have demonstrated indifference to their obligations under the Michigan Occupational Safety and Health Act.
- II. Scope. This instruction applies to the Appeals Section, Construction Safety and Health Division (CSHD), and the General Industry Safety and Health Division (GISHD).
- III. References.
 - A. Agency Instruction, MIOSHA-COM-20-1, Companion and Expanded Inspections, as amended.
 - B. [Michigan Occupational Safety and Health \(MIOSH\) Act](#), MCL 408.1001 et seq., P.A. 154 of 1974, as amended.
 - C. [MIOSHA Field Operations Manual](#), as amended (FOM).
 - D. Occupational Safety and Health Administration (OSHA), Directive CPL 02-00-169, September 15, 2022, [Severe Violator Enforcement Program \(SVEP\)](#).
 - E. OSHA, Directive CPL 02-00-164, January 23, 2023, [Field Operations Manual \(FOM\)](#).
- IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; MIOSHA Messenger; and Internet Accessible.
- V. Cancellations. All previous versions of this agency instruction.
- VI. Next Review Date. This instruction will be reviewed in five (5) years from the date of issuance.
- VII. History. History of previous versions includes:
 - MIOSHA-COM-11-2R5, May 2, 2023
 - MIOSHA-COM-11-2R4, July 26, 2021
 - MIOSHA-COM-11-2R3, August 3, 2018
 - MIOSHA-COM-11-2R2, May 25, 2011
 - MIOSHA-COM-11-2R1, March 30, 2011
 - MIOSHA-COM-11-2, February 24, 2011
- VIII. Contact. [Barton G. Pickelman](#), Director
- IX. Originator. Barton G. Pickelman, Director
- X. Background. In 2010 federal OSHA created the SVEP to focus enforcement efforts on significant hazards, violations, and on employers who demonstrate recalcitrance or

indifference to their regulatory obligations. In 2011, MIOSHA adopted a corresponding SVEP. Under SVEP, a fatality inspection was designated to be an SVEP case if it had one or more willful or repeat violations or one or more failure-to-abate notices based on a serious violation related to the death of an employee. On a non-fatality inspection, the inspection qualified if it had two or more willful or repeat violations or two or more failure-to-abate notices based on high-gravity serious violations. These violations had to be for one of the high-emphasis hazards listed in the SVEP directive or for hazards related to upstream oil and gas drilling and servicing operations, grain handling facilities, or the potential release of a highly hazardous chemical (process safety management). To date, 25 establishments and companies have been identified by MIOSHA as severe violators. In September 2022, federal OSHA revised its SVEP.

XI. Significant Changes.

- A. Updated the template for the letter to the company president. In that letter, removed the verbiage that the company will be listed on the National SVEP log on OSHA's public website and removed the associated hyperlink (because MIOSHA cases are not listed on the National SVEP log and the hyperlink does not link to the National SVEP log). Added that the company will be listed on the MIOSHA SVEP log, corrected punctuation errors, and clarified other language. Added text promoting the services of the Consultation Education and Training Division (CET) and a carbon copy to the CET director. See Appendix A.
- B. Updated the template for the letter to the chief executive officer, to clarify language and add text promoting the services of CET and a carbon copy to the CET director. See Appendix B.

XII. Action. With this instruction, MIOSHA adopts the 2022 revision of OSHA CPL-02-00-169, Severe Violator Enforcement Program (SVEP). The adoption is with the understanding that the federal programs and procedures referenced in the federal directive will be replaced by the corresponding MIOSHA programs and procedures. Examples of these are listed below:

- A. All SVEP inspections conducted by MIOSHA shall be in compliance with the MIOSHA FOM rather than the OSHA FOM.
- B. Position titles referenced in the federal instruction should be interpreted as the comparable job title at MIOSHA.
- C. To increase company awareness of OSHA enforcement, the division director or designee shall mail a copy of the Citations and Notifications of Penalty with a cover letter to the company president. See [Appendix A](#) for the letter template. This letter is sent when the citations are not sent to the company president (e.g., the citations are mailed to the plant manager or safety and health manager), and the citations may otherwise never reach the company president.
- D. If the employer has more than one fixed establishment, the division director or designee shall mail a copy of the Citations and Notifications of Penalty with a cover letter to the employer's national headquarters addressed to the chief executive officer. See [Appendix B](#) for the letter template.

- E. For follow-up inspections, if a cited employer/operation has moved to a different location in Michigan, MIOSHA must still inspect the new location. If the new location is outside of MIOSHA's jurisdiction (e.g., outside of Michigan), a referral must be made to the state plan or OSHA office with appropriate jurisdiction.
 - F. First appeals will typically be handled by a 14-level supervisor in the enforcement divisions. Templates for a Settlement Agreement and an Enhanced Settlement Agreement are found in Appendices [C](#) and [D](#), respectively. The division director must approve all decision letters, Settlement Agreements, and Enhanced Settlement Agreements resulting from the first appeal of an SVEP case.
 - G. References to Section 11(b) of the US Occupational Safety and Health Act in the OSHA SVEP instruction are inapplicable. MIOSHA would pursue a cease operation order in accordance with Section 45 of the MIOSH Act to ensure compliance.
 - H. An SVEP Employer Removal memorandum must be completed and submitted to the enforcement division director and MIOSHA SVEP coordinator if an establishment meets the removal criteria. Both must approve the removal. See [Appendix E](#) for the memo template. Only the MIOSHA SVEP coordinator may remove an employer from the SVEP in the OSHA Information System (OIS) or line out a case on the SVEP log. The memorandum is submitted by a 14-level supervisor or 15-level manager.
 - I. References to the US Treasury Department and the US Department of Justice are inapplicable. MIOSHA would pursue debt collection through the Michigan Department of Treasury.
 - J. At the beginning of each month, the MIOSHA SVEP coordinator will produce an SVEP report in OIS and share the report with the division directors, 15-level managers, and 14-level supervisors in the enforcement divisions.
 - K. Each month, the MIOSHA SVEP coordinator and 14-level supervisors will review the SVEP report to ensure its accuracy and that all necessary follow-up or referral inspections have been conducted and recorded correctly in OIS. The 14-level supervisors will focus on the establishments within their geographic area.
 - L. MIOSHA will proceed with removing SVEP cases from the SVEP log that were added to the SVEP log before September 15, 2022, which is the date of the latest OSHA SVEP directive revision, using the removal criteria in the September 15, 2022, OSHA directive.
 - M. MIOSHA staff will code SVEP follow-up and companion inspections according to the instructions in [Appendix F](#).
- XIII. OSHA Guidance. OSHA provided MIOSHA with the following guidance of its CPL-02-00-169, Severe Violator Enforcement Program (SVEP).
- A. Scope of SVEP Follow-up and Referral Inspections. The scope of an SVEP follow-up inspection or referral inspection will include only the cited violations

that qualified the company for SVEP in the original SVEP inspection and similar or related hazards. “Similar or related hazards” means a substantially similar condition—either the identical standard and rule, or a different standard and rule where the hazardous condition is substantially similar—consistent with the definition for repeat violations as found in the MIOSHA FOM, Chapter VI. II. B. 6. Repeat Violations. If the SO/IH observes additional serious hazards unrelated to the scope of the SVEP follow-up inspection or referral inspection, a companion inspection must be opened to address those hazards per the MIOSHA FOM and Agency Instruction, MIOSHA-COM-20-1, Companion and Expanded Inspections.

- B. Removal Criteria for Cases Added to the SVEP Log before September 12, 2022. SVEP cases added to the SVEP log before September 15, 2022, must meet the new removal criteria in the September 12, 2022, version of OSHA CPL 02-00-169, Section XVII to be eligible for removal. The previous removal criteria were canceled.
- C. SVEP Log Removal Criteria and Procedures.
 - 1. If at the end of three years, an establishment fails the removal test in Section XVII. A. of the federal directive, the three-year review cycle begins anew, and another SVEP follow-up inspection must be conducted. If the establishment meets the removal criteria at the end of the second three-year cycle, it is removed from the SVEP log.
 - 2. Section XVII. A. 4. of the federal directive indicates that an employer will be removed from the SVEP log after at least three years from the date of receiving acceptable abatement verification, and to be eligible for removal, the employer must have, among other criteria, received no additional serious citations related to the hazards identified in the original SVEP inspection or any related establishment. “Related to the hazards identified in the original SVEP inspection or any related establishments” means the hazards that originally designated the employer as a severe violator. The definition of related is the same as that for repeat citations, which is a substantially similar condition—either the identical standard and rule, or a different standard and rule where the hazardous condition is substantially similar.
- D. Follow-up and Referral Inspections on SVEP Log. The SVEP log only includes cases that meet the SVEP criteria on their own merits. If an SVEP follow-up inspection or referral inspection independently meets the SVEP inclusion criteria, it would be added to the SVEP log. If an SVEP follow-up inspection or referral inspection does not meet the SVEP inclusion criteria on its own, it would not be entered on the SVEP log.

Appendix A
Letter to the Company President

Letterhead for GISHD or CSHD including footer

Date

Inspection #:

Mr./Ms. First Name Last Name, Title
Establishment Name
Address
City, State Zip

Dear Mr./Ms. Last Name:

Enclosed you will find a copy of the Citation and Notification of Penalties for violations of the Michigan Occupational Safety and Health Act or its regulations which were issued to [establishment name] located in [city], Michigan. This case has been identified as a severe violator enforcement case under the Michigan Occupational Safety and Health Administration's (MIOSHA) Severe Violator Enforcement Program (SVEP).

The SVEP concentrates inspection resources on employers that have demonstrated an indifference to their MIOSH Act obligations through willful-serious, repeat-serious, or failure-to-abate-serious violations. The program focuses on the most severe violators, leveraging MIOSHA's enforcement authority with the goal of eliminating those workplace hazards most likely to lead to injuries, illnesses, and deaths.

[Establishment name] will be listed on the MIOSHA SVEP log. An employer can be removed from the SVEP but only three years after MIOSHA receives 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 agreement provision;
4. Received no additional serious citations related to the hazards identified in the original SVEP inspection at the initial establishment or any related establishment; and
5. Been subject to one follow-up or referral inspection by MIOSHA.

MIOSHA-COM-11-2R6
September 30, 2024
Severe Violator Enforcement Program (SVEP)

Unless contested, the violations referred to in the citation(s) must be abated by the dates listed, and the penalties must be paid. Regardless of any decision to contest, the three-year SVEP term does not begin until MIOSHA 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 SVEP. We encourage you to work with all your sites to ensure that these violations are corrected.

MIOSHA is dedicated to saving lives, preventing injuries and illnesses, and protecting Michigan's workers. MIOSHA can provide free assistance in the abatement of your violations as well as help creating and maintaining an effective safety and health program. To access these resources, visit our website at www.michigan.gov/MIOSHA and click on "Explore Consultation Education and Training."

Sincerely,

[Name,] Division Director

Enclosure

Cc: CET Director

Appendix B
Letter to Employer's National Headquarters (Chief Executive Officer)

Letterhead for GISHD or CSHD including footer

Date

Inspection #:

Mr./Ms. First Name Last Name, Title
Establishment Name
Address
City, State Zip

Dear Mr./Ms. Last Name:

Enclosed you will find a copy of the Citation and Notification of Penalties for violations of the Michigan Occupational Safety and Health Act or its regulations which were issued to [establishment name] located in [city], Michigan. This case has been identified as a severe violator enforcement case under the Michigan Occupational Safety and Health Administration's (MIOSHA) Severe Violator Enforcement Program (SVEP).

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

This Citation and Notification of Penalties are being provided to you for informational purposes so that you are aware of the violations; the original was mailed to [establishment name] on [date]. We encourage you to work with all of your sites to ensure that these violations are corrected.

MIOSHA is dedicated to saving lives, preventing injuries and illnesses, and protecting Michigan's workers. MIOSHA can provide free assistance in the abatement of your violations as well as help creating and maintaining an effective safety and health program. To access these resources, visit our website at www.michigan.gov/MIOSHA and click on "Explore Consultation Education and Training."

Sincerely,

[Name,] Division Director

MIOSHA-COM-11-2R6
September 30, 2024
Severe Violator Enforcement Program (SVEP)

Enclosure

Cc: CET Director

**Appendix C
Settlement Agreement**

Letterhead for GISHD or CSHD including footer

In the Matter of:
Inspection Number:

SETTLEMENT AGREEMENT

This settlement agreement addresses the citations as they appear after any changes made by the appeal decision response dated **Decision letter date**.

This agreement must be signed and postmarked for return or faxed to the **[Division Name], Attention: Settlement Agreement Coordinator, Michigan Department of Labor and Economic Opportunity, 530 W. Allegan St., P.O. Box [number], Lansing, MI 48909-[number], Fax #: (517) [number]**, within 15 working days from the receipt of the agreement.

The undersigned Employer and the undersigned Michigan Department of Labor and Economic Opportunity, Michigan Occupational Safety and Health Administration, [Division Name] representative in settlement of the citation(s) and penalties which were issued as a result of the above inspection on **Inspection Dates**, hereby agree as follows:

1. The Employer agrees to correct the violations as cited in the above inspection or as amended below.
2. The Employer agrees to pay the proposed penalties, as issued with the citation(s) associated with the above inspection, or, if amended by this agreement, as amended below.
3. The Employer agrees to provide assurance of abatement as requested for all violations covered by this agreement.
4. The Employer and the [Division Name] agree that the following citations and penalties, are being amended as:

Citation #, Items #: These citation items are upheld as issued; however, the penalty will be reduced from \$ to \$.

Payment of penalty for \$ made payable to “**State of Michigan**” with inspection number notated on check, must be received in this office within 15 working days of receipt of this agreement. This is your invoice for payment; you will not receive a corrected invoice.

5. The [Division Name] agrees that the following citations are not being amended:

6. The Employer, by signing this settlement agreement, hereby waives its rights to contest the above citation(s), item(s), and penalties.
7. The Employer agrees to immediately post a copy of this Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraph four (4) above. This Settlement Agreement must remain posted until the violation(s) cited have been corrected, or for three (3) working days (excluding weekends and State Legal holidays), whichever is longer.
8. Failure of the Employer to comply with any of the terms set forth in the above paragraphs shall cause the penalty to revert to the initially proposed amount.
9. The Employer agrees to continue to comply with the applicable provisions of the Michigan Occupational Safety and Health Act of 1974, as amended, and the applicable safety and health standards promulgated pursuant to the Act.

[Name of Supervisor], [Job Title]
For [Division Name]
Michigan Department of Labor and Economic Opportunity

For the Employer:

Signature

Date

Printed Name:

Title:

Address:

Phone Number:

Appendix D
Enhanced Settlement Agreement

Letterhead for GISHD or CSHD including footer

In the Matter of:
Inspection Number:

ENHANCED SETTLEMENT AGREEMENT

This settlement agreement addresses the citations as they appear after any changes made by the appeal decision response dated **Decision letter date**.

This agreement must be signed and postmarked for return or faxed to the **[Division Name], Attention: Settlement Agreement Coordinator, Michigan Department of Labor and Economic Opportunity, 530 W. Allegan St., P.O. Box [number], Lansing, MI 48909-[number], Fax #: (517) [number]**, within 15 working days from the receipt of the agreement.

The undersigned Employer and the undersigned Michigan Department of Labor and Economic Opportunity, Michigan Occupational Safety and Health Administration, [Division Name] representative in settlement of the citation(s) and penalties which were issued as a result of the above inspection on **Inspection Dates**, hereby agree as follows:

1. The Employer agrees to correct the violations as cited in the above inspection or as amended below.
2. The Employer agrees to pay the proposed penalties, as issued with the citation(s) associated with the above inspection, or, if amended by this agreement, as amended below.
3. The Employer agrees to provide assurance of abatement to the [Division Name] as requested for all violations covered by this agreement.
4. The Employer and the [Division Name] agree that the following citations and penalties, are being amended as follows:
5. **Citation #, Items #:** These citation items are upheld as issued; however, the penalty will be reduced from \$ to \$.
6. Payment of penalty for \$ made payable to “**State of Michigan**” with inspection number notated on check, must be received in this office within 15 working days of receipt of this agreement. This is your invoice for payment; you will not receive a corrected invoice.

7. The Employer and [Division Name] agree that the following citations are not being amended:
8. The Employer, by signing this settlement agreement, hereby waives its rights to contest the above citation(s), item(s), and penalties.
9. The Employer agrees to immediately post a copy of this Settlement Agreement in a prominent place at or near the location of the violation(s) referred to in paragraph four (4) above. This Settlement Agreement must remain posted until the violation(s) cited have been corrected, or for three (3) working days (excluding weekends and State Legal holidays), whichever is longer.
10. Failure of the Employer to comply with any of the terms set forth in the above paragraphs shall cause the penalty to revert to the initially proposed amount.
11. The Employer agrees to continue to comply with the applicable provisions of the Michigan Occupational Safety and Health Act of 1974, as amended, and the applicable safety and health standards promulgated pursuant to the Act.
12. The Employer agrees to hire a qualified safety and health consultant to develop and implement an effective and comprehensive safety and health program to ensure full compliance with Michigan Occupational Safety and Health Administration (MIOSHA) standards. The Employer agrees to submit proof that a safety and health consultant has been hired for this purpose to [Division Name] within 30 days of signing the settlement agreement. Updates on the progress of the safety and health program that is being developed must be submitted to the [Division Name] every 30 days until the program has been fully developed and implemented.
13. The Employer agrees that this agreement will apply company-wide for all locations or work performed in the state of Michigan.
14. The Employer agrees that it must implement interim abatement controls in cases where the Employer is unable to implement final abatement within the original abatement period OR within 15 days of the signing of the settlement agreement, whichever is later.
15. In construction settings and for temporary or mobile worksites in general industry settings, the Employer agrees to provide to the [Division Name] a list of the Employer's current and/or future job sites for three (3) years following the date of signing the settlement agreement. In addition, the Employer agrees to indicate to the [Division Name] the specific protective measure(s) it will use for each current or future job site.
16. The Employer agrees for a time period of one (1) year following the date of signing the settlement agreement to submit to the [Division Name], its Log of Work-Related Injuries

and Illnesses on a quarterly basis, and to consent to MIOSHA conducting an inspection based on the information.

17. The Employer agrees to notify the [Division Name] immediately of any serious work-related injury or illness of its employees requiring medical attention, and to consent to MIOSHA conducting an inspection based on the information.
18. The parties agree that all notifications or submissions required to be made to the [Division Name] under this agreement shall be sent by mail, email, or fax to the following address:

[Name of Division Director], Division Director
[Division Name]
Fax: (517) [number]
Address: PO Box [number]
Lansing, MI 48909-[number]
Email: [address of mailbox for abatement documentation]

The notifications and submissions shall indicate they are in reference to Inspection No. [number] and for purposes of compliance with the signed settlement agreement.

19. The Employer agrees that failure of the Employer to abate the citations may result in MIOSHA pursuing a cease operation order and court enforcement per Section 45 of the MIOASH Act to ensure compliance.

[Name of Supervisor], [Job Title]
For [Division Name]
Michigan Department of Labor and Economic Opportunity

For the Employer:

Signature

Date

MIOSHA-COM-11-2R6
September 30, 2024
Severe Violator Enforcement Program (SVEP)

Printed Name:

Title:

Address:

Phone Number:

Email:

Appendix E
SVEP Removal Memo

Letterhead for GISHD or CSHD including footer

Memorandum

DATE:

TO:

THROUGH:

FROM:

SUBJECT:

We recommend removing the inspection listed below from the Severe Violator Enforcement Program (SVEP) log based on the following criteria (please check all that apply):

- Inspection has been on the SVEP log for two or more years after date of abatement verification of the SVEP citation items, and employer has met the requirements of an Enhanced Settlement Agreement, including developing and implementing an appropriate safety and health management system.
- Inspection 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.
- MIOSHA conducted a follow-up inspection.
- Employer has not received any serious citations related to the hazards identified in the original SVEP inspection.
- No corporate-wide settlement agreement or nationwide interest in the case(s).

[Establishment Name]
[Inspection #]
[Year]
[SVEP Log #]

Appendix F
OIS Coding for SVEP Follow-up and Companion Inspections

1. SVEP follow-up inspections that are at the same location as the original SVEP inspection should be coded in OIS on the Inspection Tab, in the Inspection Data section as follows:
 - a. Related Inspection:
 - i. Inspection #: the inspection number of the SVEP case initiating this inspection.
 - ii. Related Inspection Type: Previous Inspection
 - b. Initiating Type: Program Planned
 - c. State Emphasis Program: SVEP Follow-up
 - d. Primary Emphasis Program: SVEP Follow-up
 - e. Scope of Inspection: Partial (only the items that met SVEP criteria in original inspection)
 - f. SVEP radio button: only select Yes if this inspection meets the criteria for SVEP.
 - g. Is this inspection related to a previous SVEP inspection?: Yes
 - i. Were Enhanced Settlement Provisions Used in the Settlement Agreement?: Answer Yes only if the original SVEP inspection was appealed, the appeal was settled with a settlement agreement, and the settlement agreement had enhanced settlement provisions.
 - ii. Did the company implement a SHMS Program?: Answer Yes only if the settlement agreement for the original SVEP inspection required implementation of a SHMS program and the follow-up SVEP inspection confirmed that the company had implemented the SHMS program.

2. SVEP follow-up inspections that are at a different location than the original SVEP inspection (because the establishment has moved) should be coded in OIS on the Inspection Tab, in the Inspection Data section as follows:
 - a. Related Inspection:
 - i. Inspection #: the inspection number of the SVEP case initiating this inspection.
 - ii. Related Inspection Type: Previous Inspection
 - b. Initiating Type: Program Planned
 - c. State Emphasis Program: SVEP Other Locations
 - d. Primary Emphasis Program: SVEP Other Locations
 - e. Scope of Inspection: Partial (only the items that met SVEP criteria in original inspection)
 - f. SVEP radio button: only select Yes if this inspection meets the criteria for SVEP.
 - g. Is this inspection related to a previous SVEP inspection?: Yes
 - i. Were Enhanced Settlement Provisions Used in the Settlement Agreement?: Answer Yes only if the original SVEP inspection was appealed, the appeal was settled with a settlement agreement, and the settlement agreement had enhanced settlement provisions.

- ii. Did the company implement a SHMS Program?: Answer Yes only if the settlement agreement for the original SVEP inspection required implementation of a SHMS program and the follow-up SVEP inspection confirmed that the company had implemented the SHMS program.
- 3. Companion inspections to an SVEP follow-up inspection should be coded in OIS on the Inspection Tab, in the Inspection Data section as follows:
 - a. Related Inspection:
 - i. Inspection #: the inspection number of the SVEP follow-up case the SO/IH was conducting when these hazards were observed.
 - ii. Related Inspection Type: Concurrent Inspection
 - b. Initiating Type: Programmed Related
 - c. Scope of Inspection: Partial
 - d. SVEP radio button: only select Yes if this inspection meets the criteria for SVEP.
 - e. Is this inspection related to a previous SVEP inspection?: No