ALASKA DEPARTMENT OF LABOR
DIVISION OF LABOR STANDARDS AND SAFETY

DOSH Program Directive 88-3

April 20, 1988

To: All OSH Staff

Subject: Special Emphasis Scheduling System for Programmed Inspections of Hazardous Waste Sites.

A. Purpose: This program directive establishes a scheduling system for the programmed inspection of hazardous waste sites. In addition, it provides general guidelines for conducting inspections at hazardous waste sites, including training and protection of IHs.

B. Directives Affected: DOSH Program Directive 86-8 is cancelled.

C. Background. OSHA has continuing concerns about the potential for employees' exposure to highly toxic materials at hazardous waste sites. Moreover, employees at hazardous waste sites are also subject to physical injury because of the serious safety hazards which may exist there. Continued inspection of such sites is needed to ensure that employees are being provided with safe and healthful working conditions.

1. These sites are not part of OSHA's current safety scheduling system of targeting industries with the highest lost workday injury (LWDI) rates. This system is implemented through the use of Bureau of Labor Statistics (BLS) figures identifying industries by their LWDI rates. Since figures are not uniformly available outside of the manufacturing sector at the most specific level (4-digit SIC code), the current selection procedure is limited to manufacturing.

2. Further, it is not known in many cases whether a site is active at the time an inspection is scheduled, particularly when such inspections are scheduled long in advance of actual site visits.

D. Inspection Goal, Scope, and Completion Date.

1. Inspection Goal: Alaska will conduct three inspections of hazardous waste sites during FY 88.

2. Scope:

a. All cleanup operations under Alaska OSH jurisdiction involving hazardous substances are to be considered for purposes of this program directive. This is regardless of how the cleanup is funded, who is doing the cleanup, and whether or not the Environmental Protection Agency (EPA) has knowledge of the cleanup activity.

NOTE: For an exception see C.2.c. of this program directive.

b. Hazardous waste sites are regulated by one or both of the following two Federal laws and their amendments or by State or local government statutes:

(1) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA" or "Superfund") as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). Superfund provides for two types of responses to hazardous substance threats:

(a) Removal Action--a short-term response to imminent and significant threats; and

(b) Remedial Action--a long-term permanent solution (cleanup) of a hazardous waste problem.

(2) The Resource Conservation and Recovery Act of 1976 (RCRA), Subtitle C, requires owners and operators of treatment, storage and disposal facilities (TDS) to obtain a permit.

NOTE: Appendix B of this notice discusses these laws, both of which are administered by the Environmental Protection Agency (EPA).

c. RCRA corrective actions (i.e., cleanups) or closure activities are covered under the scope of this program directive only if the EPA cleanup authority being used is CERCLA. (See Appendix B of this program directive.)

d. All inspections conducted under this scheduling system shall be comprehensive safety and health inspections of the hazardous waste site, including all contractors working at the site. No records review procedure for purposes of conducting a records only inspection will apply.

e. The inspection of hazardous waste sites located on chemical or other production company grounds shall be limited to the actual hazardous waste activities unless the establishment is already scheduled for inspection from the Health or the Safety SIC List.

NOTE: If an establishment appears on the hazardous waste site list as well as on the Safety or the Health SIC List, every effort shall be made to conduct an inspection of the production facility and the associated hazardous waste site at the same time.

3. Inspection Date. Inspections under this program directive shall be initiated during FY 88.

E. Scheduling Procedures.

1. Worksite List. The Chief IH shall develop a worksite list for enforcement of hazardous waste sites within the state believed to be most hazardous to workers. To develop that list, he/she will use all available sources of information to the degree that they are reliable. (See Appendix A for assistance in developing the list.)

2. Adjustments. Prior to the use of the worksite list, the Chief shall make appropriate adjustments as follows:

a. If it is feasible, worksite shall be ranked according to the potential seriousness of safety and health risks to workers. Ranking criteria shall be identified by the Chief IH based on local conditions. Worksite with the greatest risks shall become the worksite list for selection purposes. If the sites are not ranked, then the entire list shall become the worksite list for selection purposes.

b. The worksite list may be reviewed and corrected and worksites added whenever there is new information about the activity at the site. A worksite shall be deleted if it is determined to be inactive.

c. If the establishment is in a SIC code that is exempted from programmed inspections by the Appropriations Act, a health only inspection shall be conducted. (See DOSH Program Directive 86-10.)

d. If a substantially complete safety or health inspection has been conducted within the last 12 months at a waste site listed on the worksite list, the following deletion criteria shall be applied:

(1) If no serious violations were cited, the site shall be deleted from the worksite list.

(2) If serious violations were cited and a follow-up inspection has documented a good faith effort to abate all serious violations, the site shall be deleted from the worksite list.

3. Selection of Sites. Sites are to be randomly selected from the worksite list for inspection. All of the sites do not have to be selected at one time. Any site selected, however, must be inspected. Whenever a site is added to the worksite list, the entire list must be re-numbered prior to the next random selection of a worksite. Guidelines on random selection are outlined in DOSH Compliance Manual, Chapter II, Appendix D.

a. If, upon arrival at a site scheduled for inspection under this NEP, the Industrial Hygienist (IH) finds that no hazardous waste is being treated, stored, disposed of or otherwise handled, the inspection shall be terminated and the worksite replaced.

b. When an inspection scheduled according to I.3. is not conducted because the employer refuses consent to the inspection, a warrant shall be sought in accordance with current procedures.

c. Except when a warrant is being sought, if an inspection of a site listed on the worksite list cannot be conducted for any reason, the Chief shall inform the Deputy Director and shall replace the site in accordance with E.3.

4. State Agency Sites. Hazardous waste sites owned by agencies of the State government are subject to inspection under this program directive. If a State-owned site appears on the worksite list, the procedure for handling it are as follows:

a. State Sites Operated by State Employees. All sites operated by a State agency shall be scheduled for inspection in accordance with the guidelines given in this program directive for private waste sites.

b. Federal or State Sites Operated by a Private Section Contractor. All sites operated by a private sector contractor for a Federal or State agency shall be scheduled for inspection in accordance with guidelines given in this program directive for private waste sites.

NOTE: The State does not have jurisdiction over federally owned waste sites operated by federal employees. Should an IH discover that the waste site falls under this category, he/she should not conduct an inspection. The IH will inform the Chief IH who will refer the worksite to the Anchorage OSHA Area Office and will replace the site in accordance with E.3.

c. Coordination. Where an inspection is to be made at a State or Federal site in accordance with this program directive, the Chief IH should contact the appropriate agency's headquarters prior to the inspection. Permission for advance notice must be received from the Deputy Director or the Director when such coordination will result in prior notice of inspection.

F. Inspection Procedures.

1. The Hazardous Waste Operations and Emergency Response Code, which was promulgated June 18, 1987, applies to most of the inspections conducted under this program directive.

2. Necessity for Speedy Cleanup. Because of the hazards involved at each of the sites (not only to workers involved in cleanup but also to the public), Alaska OSH recognizes the need for expeditiousness in the cleanup process. Alaska OSH activities, therefore, should not unnecessarily hinder removal, remedial, or response actions. At the same time, they shall ensure that workers' safety and health are not compromised.

3. Pre-inspection Planning. For EPA-led sites, the Chief IH, upon scheduling a hazardous waste site for inspection and prior to initiating the inspection, should contact the local EPA official to discuss appropriate levels of personal protective equipment for IHs and workers, the availability and adequacy of decontamination facilities, the site's history and current status (whether the site is active), and whether workers are at the site prior to initiating the inspection.

   a. Where the activity involves an RCRA site, a copy of the drawing of the facility from EPA's RCRA permit application and other material which may be helpful in planning the inspection may be obtained.

   b. Where the activity involves a Superfund site, a copy of the site safety plan and any other information considered pertinent may be obtained for review before going onsite.

4. Coordination. Alaska OSH actions shall be closely coordinated with any onsite representatives of the EPA, Corps of Engineers, or other agencies. In the event of involvement in an offsite emergency response situation, activities shall be coordinated with the senior officer responding to the incident, e.g., police or fire department.

5. Interagency Referral. Whenever an IH recognizes any apparent violations of RCRA or CERCLA regulations, a referral shall be made to the local Federal EPA office or to the State Department of Environmental

Conservation (DEC) as soon as practicable. The referral shall be made regardless of whether Alaska OSH will be issuing a citation addressing the violation. If one is uncertain as to whom to make the referral, or if someone from the outside has questions regarding RCRA and Superfund, contact with EPA may be made by telephone: (202) 382-3000 (in Washington, D.C.) or toll free (800) 424-9346 (outside D.C.).

6. Recording in IMIS. Current instructions for completing the appropriate inspection classification boxes (Items 24 and 25) on the AK OSH-1, Inspection Report, as found in the IMIS Forms Manual, shall be applied when recording inspections conducted under this program directive as well as any other safety or health inspection involving a cleanup operation or a facility where hazardous waste material is processed, stored, or otherwise disposed of. (See IMIS Manual.)

7. Hazardous Waste Site Activity Form, OSHA 175. This form must be filled out upon completion of all inspection activities, technical or enforcement assistance activities, and when purchases of equipment directly related to hazardous waste activities are made in accordance with the instructions outlined in Appendix C.

G. Training and Protection of CSHOs. Because hazardous waste sites may be significantly different from other industrial sites, IHs must be properly trained and have adequate equipment before being assigned to conduct inspections of such sites. (See DOSH Program Directive 86-7 for the training IHs must have, the decontamination procedures to be followed, and the personal protective equipment required for IHs to conduct inspections of hazardous waste sites.)

1. Radioactivity and Explosivity. IHs must check all suspect sites for radioactivity and explosivity during first entry into the site.

H. Technical Assistant. Alaska OSH may be asked to provide technical assistance to EPA, such as in Responsible Party Negotiation cases.

1. The intent of these services is to help EPA with worker safety and health-related issues EPA may have on Superfund sites, including interpretation of special programs where OSH would provide consultation

services directly to EPA and not to a contractor or responsible party who may be doing the cleanup work.

2. The Chief Consultation and Training will discuss each such request with the Director and the Deputy Director. If the technical assistance is beyond the expertise or resources of the State program, the Director will contact the Regional Administrator of OSHA Region X to request the assistance of OSHA's Health Response Team.

I. Cost Reimbursement: Reserved.

Note: EPA has indicated that reimbursement will shortly be available for State training and equipment. Details on the amount, distribution, accounting, and reimbursement procedures for this funding will be provided shortly by OSHA.

J. Evaluation Procedures: Prior to the end of FY 88, an evaluation of this program will be performed.

1. The Deputy Director shall submit the following information to the Commissioner, and the Commissioner will send a copy to the OSHA Regional Administrator by July 15, 1988:

   a. Suggestions for improving the criteria for selecting establishments under this program;

   b. Any special problems not addressed by this program directive which may have surfaced and any recommended solutions;

   c. Any special procedures developed within the State for assisting the administration of this program which may be helpful to other states and OSHA, i.e., any unique methods for obtaining information on hazardous waste sites; and

   d. Any reasons why this program should not be continued.

Tom Stuart, Director

REVIEWED AND APPROVED

Jim Sampson, Commissioner