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ALASKA DEPARTMENT OF LABOR  
DIVISION OF LABOR STANDARDS AND SAFETY

AKOSH Program Directive 93-1

March, 1993

To: All AKOSH Compliance Staff  
From: Donald G. Study, CSP, Director  
Subject: Handling Cases to be Proposed for Instance-by-Instance Citation

- A. Purpose. This AKOSH Program Directive (PD) establishes procedures for identifying and handling cases proposed for citation using the instance-by-instance procedure set out in Paragraph C.3.b.(6) of Chapter V and Paragraph B.9.d. of Chapter VI.
- B. Reference. Alaska Compliance Manual as revised 11/92 and 8 AAC 61.140.
- C. Background. Over the past several years, in a limited number of cases federal OSHA has alleged a separate violation and proposed a separate penalty for each instance of noncompliance with recordkeeping regulations, with the safety and health standards, and with the General Duty Clause (Section 5(a)(1) of the federal OSHA Act). The resulting large aggregate penalties are part of an OSHA compliance strategy which improves the efficiency and effectiveness of OSHA and conserves its limited resources. AKOSH, in order to remain as effective as, is adopting this same policy and has codified it by adopting Chapters IV, V, and VI of the Alaska Compliance Manual by reference in 8 AAC 61.140.

Large proposed penalties result from application of existing Compliance Manual penalty calculation guidelines; but, instead of grouping or combining violations for penalty purposes, each instance of noncompliance is considered a separate violation and a penalty applied separately. This procedure is known as instance-by-instance penalty procedure.

- a. Application of these procedures is appropriate in situations where the violations in question constitute willful violations of AKOSH standards or regulations or of the general duty clause (AS 18.60.075(a)(4)) and meet certain criteria to be discussed later in Paragraph D.2. of this PD.
- b. Since large penalties are likely to result in litigation and widespread public attention, review at the Commissioner's and Director's office is mandated. AKOSH's legal counsel with the Department of Labor must also review such a citation before it is issued.

- c. In all other respects, such citations are handled in accordance with the Compliance Manual.

D. Guidance.

- 1. Early Identification of Cases. It is important that the Chief, Compliance identify cases which may be appropriate for instance-by-instance treatment as early as possible.
  - a. Meticulous documentation of evidence for each violation and appropriate involvement of such technical specialists as may be required for litigation is essential to the successful pursuit of potential egregious cases.
  - b. Coordination with the Director and legal counsel must be scheduled in time for comprehensive review before the expiration of the statutory 6-month citation period.
  - c. Early involvement of the Attorney General's office will ensure adequate legal, evidentiary, and resource coordination.
- 2. Criteria. In general, this PD identifies those conditions which normally constitute a flagrant violation of the Alaska Occupational Safety and Health Statute or AKOSH standards or regulations such that instance-by-instance handling is appropriate.
  - a. The criteria given in the following section shall be used by the Chief, Compliance to determine whether to recommend the use of instance-by-instance citations and penalties.
  - b. Cases under consideration for such treatment must be classified as willful (category (1) below) as well as at least one of the categories given in (2) through (7).
    - (1) The employer is found in violation of an AKOSH requirement:
      - (a) Of which she/he has actual knowledge at the time of the violation. Such knowledge may be demonstrated through previous citation history, accident experience, widely publicized agency enforcement, direct evidence of specific recognized jobsite hazards or other appropriate factors; and
      - (b) Intentionally, through conscious, voluntary action or inaction, having made no reasonable effort to eliminate the known violation.

- (2) The violations resulted in worker fatalities, a worksite catastrophe, or a large number of injuries or illnesses.
- (3) The violations resulted in persistently high rates of worker injuries or illnesses.
- (4) The employer has an extensive history of prior violations of the AKOSH statutes or regulations.
- (5) The employer has intentionally disregarded its safety and health responsibilities.
- (6) The employer's conduct taken as a whole amounts to clear bad faith in the performance of his/her duties under the Alaska OSH statutes.
- (7) The employer has committed a large number of violations so as to undermine significantly the effectiveness of any safety and health program that might be in place.

3. Penalty Calculation. Penalties for safety and health violations are to be calculated in accordance with the gravity-based penalty, procedures in Chapter VI of the Compliance Manual. (Since instance-by-instance cases involve willful violations, the procedures of B.15, Chapter VI of the Compliance Manual generally apply except as noted below.)

- a. A separate gravity-based penalty shall be calculated for each violation.
  - (1) In calculating penalties for each violation, the particular factors associated with that discrete violation shall be used conservatively to calculate a gravity-based penalty; e.g., the number of workers exposed will be low since each violation is to be penalized separately.
  - (2) The adjustment factor for size shall be applied, if applicable. Factors for good faith and history will normally not be applied.
- b. The following additional guidelines are provided to assist in calculating penalties for recordkeeping or similar violations:

NOTE: Only the current and the two previous calendar years are subject to the instance-by-instance penalty procedures in the case of recordkeeping violations (unless the company entered a corporate-wide settlement agreement on recordkeeping). The Director may further limit the scope based on resource availability.

- (1) How many violations are involved and how extensive is the problem?
  - (a) Where the total number of violations is less than 20% of the total number of OSHA-200 log entries for the year, assign a numerical weight of 1 "for number of employees exposed."
  - (b) Where the total number of violations exceeds 20% but is not more than 50%, assign a numerical weight of 2 for "number of employees exposed."
  - (c) Where the total number of violations exceeds 50%, assign a numerical weight of 3 for the "number of employees exposed."
- (2) How many of the violations were unreported or misrecorded?
  - (a) If the violation results because a record required to be kept was not made, assign a numerical weight of 3 under "frequency of exposure."
  - (b) If the violation resulted because a required record was improperly kept, assign a numerical weight of 1 to 3, under "frequency of exposure," depending on the significance of the violation.
    - 1 For example, if an injury was recorded as an injury without lost workdays when it actually did result in lost workdays, assign a 3.
    - 2 If, on the other hand, an injury was correctly recorded as a lost workday case but the number of days was incorrectly recorded, assign a 1.
- (3) Did the recordkeeping violation relate directly to the safety and health conditions in the plant? Assign a numerical weight of between 1 and 3 under "employee proximity", depending on the strength of that relationship.
- (4) The following two factors shall be averaged and the result (rounded down to the nearest whole number) entered under "stress".

(a) How much does the lost workday injury (LWDD) rate change if the unrecorded cases are included in a recalculation?

1 If the rate doubles (or more) upon recalculation, assign a weight of 3.

2 If, upon recalculation, the rate does not double, assign a weight of 1.

(b) Were the unrecorded injuries serious, investigated by the company, or the subject of workers' compensation claims?

1 If the majority were of a serious nature, or the subject of workers' compensation claims, and not thoroughly investigated by the company, assign a numerical weight of 3.

2 If a minority of injuries were of a serious nature, the company did investigate, and workers' compensation was not heavily involved, assign a weight of 1.

(5) The following factors shall be averaged and the result (rounded down to nearest whole number) entered under "other factors".

(a) What is the character of the company's safety and health history? Does the company's program include training, given to employees and supervisors, regarding compliance with the regulations?

1 Assign a rating of 3 if overall history is weak and training is lacking.

2 Assign a rating of 1 if some evidence exists of training; and the company's history does not reveal a pattern of disregard for safety and health.

(b) Any other significant factors relevant to the violation shall be considered and assigned a value of 1 to 3 depending on their impact on the flagrancy of the violation.

NOTE: No severity factor shall be used in recordkeeping violations.

- (6) Following evaluation of the above-mentioned items, an average value or weight of all the factors shall be calculated and rounded down to the nearest whole number, thereby providing the gravity-based penalty to be used in the instance-by-instance penalty calculation.
- c. Guidance on penalty calculation for violations of the hazard communication standard is provided in the Compliance Manual, Chapter IV, and in PD 91-4.
  - d. What will constitute separate violations for purposes of applying the instance-by-instance penalty procedures will depend on several factors.
    - 1) In cases involving violations of AKOSH standards, the standard language must support citation of separate violations. For example:
      - (a) 05.030(c)(3) ACC is a requirement for the employer to train each employee in safety and health. For each employee not so trained there is a separate violation of the standard.
      - (b) 01.0807(c)(1)(A) GSC is a requirement for a point of operation guard for a mechanical power press. Consequently, each mechanical power press unguarded point of operation found is a separate violation of the standard.
      - (c) 04.0101(a) limits the exposure of each employee to air contaminants regulated in Table 1-A. Thus each employee exposed above the 8-hour time weighted average for a regulated substance constitutes a separate violation of the standard.
      - (d) 04.0101(e) requires the implementation of engineering and work practice controls to reduce employee exposure to air contaminants. With respect to engineering controls, a separate set of controls must be installed at each identifiable source of air contamination. Thus a separate violation exists for each identifiable source of air contamination to which engineering controls have not been applied irrespective of the number of employees overexposed.

NOTE: Since overexposures and engineering controls are two separate violation types, a instance-by-

instance citation and penalty may be issued for each.

- (2) Substantially similar violative conditions cannot be penalized on an instance-by-instance basis under two different standards. For example:
- (a) 04.0110(c)(1) prohibits exposure of any employee to airborne concentration of asbestos in excess of 0.2 fibers per cubic centimeter of air (8 hr. TWA). Hence each employee overexposed constitutes a separate violation.
  - (b) 04.0110(g)(1) requires employers to provide respirators to employees overexposed to asbestos and to ensure their use whenever they are required; e.g., in cases where airborne concentrations of asbestos exceed the PEL.
    - 1 Employees without respirator protection have already been cited for overexposure under 04.0110(c)(1).
    - 2 Respirators are required for that very reason. Thus instance-by-instance penalties for each overexposed employee would be tantamount to a second penalty for substantially the same violative condition and would be inappropriate.
  - (c) 04.0110(g)(2) requires that the employer select the appropriate respirator according to Table 1. For the same reason as given in subparagraph (b)1 above, respirators with the incorrect filters cannot be penalized using instance-by-instance penalty procedures when airborne concentrations exceed the PEL.
  - (d) When airborne concentrations exceed 50 X PEL and only half mask respirators are used, the violation is no longer substantially similar and each such respirator may be penalized as a separate violation when provided to an exposed employee for respiratory protection.
- (3) Violations of the general duty clause AS 18.60.075, if egregious, are to be cited in accordance with the Compliance Manual, Chapter IV, A.2.

- (a) The hazard must be identified with specificity. Multiple citations may not be issued on the basis of missing controls or different sources or causes of the hazard.
    - (b) Each employee exposed to the recognized hazard at the time of the violation constitutes a separate violation.
  - e. All violations not recommended for consideration as instance-by-instance shall be classified and issued separately in accordance with the Compliance Manual, Chapter V. They shall not be grouped with violations recommended as instance-by-instance citations.
- 4. Case Support Requirements. Because these cases involve administrative and legal issues critical to the effective enforcement of the AKOSH Statutes, it is essential to ensure that the highest professional standards are met in the conduct of inspections, the issuance of citations, and the prosecution of litigation in such cases.
  - a. Documentation. Whenever a case is proposed for instance-by-instance treatment, as fully detailed responses to the questions listed in Appendix A of this PD as possible must be developed in writing. Supporting documentation shall be provided and cross-referenced whenever possible.
    - (1) These questions, originally developed for recordkeeping cases, have been adapted as appropriate for safety and health cases.
    - (2) Mandatory use of these questions is intended to provide a consistent format to aid in review of these cases, as well as to ensure as far as possible uniformity of case development.
  - b. Evidence. Documentary support shall ordinarily be planned for and obtained early in the investigation.
    - (1) The evidence necessary to support citations being considered for instance-by-instance penalty sanctions shall be included in the case file. Such evidence must be present for each separate violation.
      - (a) Photographs, videotapes, audiotapes, sampling data, and witness statements shall be used whenever possible to provide supporting evidence of violative conditions.
      - (b) Company documents supporting knowledge of the standard and the violative conditions as well as



willfulness of the violation shall be diligently sought and obtained by subpoena as appropriate.

- (c) Examples of such documents are internal audit reports, consultant or insurance company reports, trade association articles, minutes from safety meetings, complaints from employees, memoranda and other correspondence from safety personnel, especially from plant safety to plant management or corporate safety recognizing violations and bringing them to the attention of higher management, and notes relating to AKOSH activities and industry practice in other companies or industries.
- (2) Employers must be asked explicitly:
    - (a) If and when they recognized the hazardous nature of each of the violations;
    - (b) If they knew what AKOSH's standards require, and, if so, what steps the company had taken to abate and why the apparent violations had not been corrected;
    - (c) If they knew of the documents identified under subparagraph (1) above and what those documents contained.
  - (3) Their responses shall be carefully documented in writing (verbatim if possible). An attempt shall be made to have a second person present as a witness, particularly when dealing with potentially compromising matters.
  - (4) Signed employee statements shall be obtained routinely to support each of these violations in as much detail as possible.
  - (5) Employee exposure and the nature and extent of injuries or illnesses related to the violations shall be carefully and adequately described.
  - (6) The need for subpoenas and medical access orders shall be decided and documents obtained as soon as possible.
  - (7) The need for experts shall also be decided and necessary arrangements made early. It is anticipated that experts will be needed for cases involving complex violations, such as ergonomics, or abatement methods.

- (8) Particular attention shall be paid to anticipating and preparing for possible employer defenses, in accordance with the CM, Chapter V, E.
    - c. Early involvement of the legal counsel is essential to examine and evaluate the documentation and other evidence supporting the violations and to determine whether expert witnesses or depositions will be necessary, as well as to provide sufficient time for the legal counsel to write a legal opinion on the merits of the case.
      - (1) The Chief (through the Director) shall seek legal guidance (informally) from the legal counsel periodically throughout the case development process.
      - (2) The Director shall ensure that such involvement is accomplished at least 4 full months prior to the 6-month issuance date.
      - (3) The Director shall also ensure that the entire case file, including OSHA-1Bs, documentary evidence, statements, and photographs, is made available to the legal counsel 8 weeks prior to the 6-month date.
5. Citations. The AKOSH statute authorizes penalties to be proposed for each violation but limits the maximum penalty that can be proposed. In accordance with the CM, Chapter V, the following procedures shall be adhered to in issuing citations with instance-by-instance penalties:
  - a. Each separate violation must have its own example. (The "example" must be repeated for each violation instance).
  - b. Each separate violation must have its own Alleged Violation Description which will describe the particular conditions associated with that violation instance.
  - c. Each separate violation must have its own penalty calculated in accordance with the procedures given in D.3. of this instruction.
6. Director Office Review. The procedures and timetables given below are to be followed in all cases involving instance-by-instance citations
  - a. Documentary Package. It is the responsibility of the Chief, Compliance to provide adequate documentation of cases involving instance-by-instance citations.
    - (1) Two copies of the documentation package for all instance-by-instance citations shall be forwarded to the Director for review.

- (2) The package submitted for review shall include, at a minimum:
  - (a) A briefing memorandum summarizing the information obtained under D.4. of this instruction.
  - (b) Copies of all OSHA 1-Bs related to the violations to be proposed for instance-by-instance penalty handling. (See NOTE at the end of subparagraph (4) below).
  - (c) Copies of all critical evidence establishing the willfulness of the violations.
  - (d) Copies of all critical evidence establishing the justification for instance-by-instance citation and penalty.
  - (e) Copies of samples of each type of violation in the proposed instance-by-instance citations.
- (3) If the Director, after review of the case file material, believes that the case is appropriate for instance-by-instance citation procedures, a copy of the complete documentation package shall be forwarded to the legal counsel as soon as practicable after completion of the review (but no later than 8 weeks before the citation issuance date) for legal analysis and composition of a legal opinion.
- (4) The Director shall include a copy of the written legal opinion with the documentation package and submit the complete package to the Commissioner as soon as possible after receipt of the legal opinion.
- (5) If the legal opinion has not been received within 5 weeks of the 6-month date, the documentation package shall nevertheless be submitted to the Commissioner and the legal opinion forwarded as soon as it is received.
- (6) The Director shall also be responsible for composing a 1- or 2- page summary of the most cogent reasons supporting the egregiousness of the violation and the appropriateness of the application of the additional penalty factor. The summary shall include the following:
  - (a) Outline of the facts of the inspection, including inspection type, company name and size, operation involved and employee representative, if any.

- (b) AKOSH inspection history (statewide and at this plant).
- (c) Brief summary of violations found, the number and nature of proposed citations and the amount of the proposed penalty.
- (d) Brief justification of willfulness and instance-by-instance classification.
- (e) Novel issues involved in the case or issues with state implication for program or litigation policy.

b. Recordkeeping Violations. If the case involves recordkeeping violations which are being considered for additional penalties, one further step is necessary.

- (1) Copies of evidence supporting each recordkeeping violation proposed as egregious, as developed from the company's occupational injury and illness logs and supplementary records, workers' compensation records, medical records, first aid logs and other sources, shall be included in the package. (See Appendix B.)
- (2) This evidence must support the existence of a violation for both nonrecorded and misrecorded cases. It must include the particular recordability criteria involved: whether the case involved days away from work and/or days of restricted work activity beyond the day of injury or onset of illness as well as evidence that the case was work related.

NOTE: Medical records contained in the case file shall be handled in accordance with 8 AAC 61.270.

c. Timetable. It is critical to the development of a uniform policy that all cases appropriate for instance-by-instance citations be handled as such. The Director and Chief, Compliance shall adhere as closely as possible to the timetables described below.

- (1) Failure to supply the required documentation by the times designated in the following subsections may preclude issuance of instance-by-instance citations in otherwise appropriate cases.
- (2) The Director and the Chief, Compliance shall take care not to expand the inspection beyond what they can reasonably expect to accomplish within these time frames.

- (3) Within one month after the start of an inspection which appears to be appropriate for consideration for instance-by-instance citation:
- (a) The Chief, Compliance shall notify the Director of a potential instance-by-instance case. The Director in turn shall notify the Commissioner of the following:
    - 1 Establishment name.
    - 2 Address of establishment.
    - 3 Six month date.
    - 4 Opening conference date.
    - 5 General type of apparent violations (e.g., safety, health, recordkeeping)
  - (b) The Director shall notify the legal counsel of the impending case and seek advice as to necessary documentation and involvement of outside experts.
- (4) The Director shall establish an appropriate timetable for periodic submission of the case by the Chief, Compliance for review.
- (a) After 60 days onsite, the Chief, Compliance shall ensure that the case is submitted to the Director for information.
  - (b) The Director shall submit the case to the legal counsel for an interim legal review, evaluation and guidance.
  - (c) As the case is being developed and as additional information becomes available, the Director shall ensure that this information is submitted to the legal counsel for additional evaluation.
- (5) No later than 8 weeks before the 6-month date, the entire case file shall be submitted to the legal counsel for final legal analysis and for a written legal opinion as outlined in D.4.c.(3).
- (6) At the same time, a copy of the complete briefing package and relevant portions of the case file as described in D. 6a. and b. shall be submitted to the Commissioner.

- (7) No later than 30 days before the 6-month issuance date, at a time to be scheduled by the Commissioner's office, the Director, Chief of Compliance, legal counsel and the compliance officer(s) conducting the inspection, will meet with the Commissioner to discuss the proposed citations in detail.
- (8) The Commissioner will make the final decision as to whether or not to issue an instance-by-instance citation. His or her decision will address the final penalty amount to be proposed, the date of citation issuance, the coordination of any press releases, and the like.
- (9) The Commissioner will notify the OSHA Regional Administrator (Region X) if he or she decides to issue an instance-by-instance citation.
- (10) Within 48 hours after issuance, the Chief, Compliance will send a copy of the citation to the Director; electronic transmission is acceptable.

## APPENDIX A

### Instance-by-instance: Required Information

1. Scope of Inspection.
  - a. Date initiated.
  - b. Latest date for issuance of citations (6-month date).
  - c. Type of inspection (e.g., safety, health, programmed, complaint, referral).
  - d. Nature of employer's business, corporate-wide and at this facility.
  - e. Number of employees (overall; in plant).
2. Inspection History.
  - a. Numbers and dates of previous inspections.
  - b. Previous violation history at this establishment and in the corporation, nationwide.
3. Inspection Methodology.
  - a. Procedures followed in conducting the investigation:
    - (1) Were warrants, medical access orders or administrative subpoenas necessary? Why? Were they obtained and used?
    - (2) What written records or other documents were examined or obtained?
    - (3) What are the names of the compliance officers conducting the inspection?
    - (4) Were experts or other consultants used in the inspection? If so, what are their names and qualifications?
    - (5) Have depositions been taken? Are any planned? Who will be deposed?
  - b. For recordkeeping violations:
    - (1) Who has the responsibility for maintaining and certifying the DOSH-200, Log and Summary of Occupational Injuries and Illnesses, and related materials?

- (2) Were medical or injury and illness records reviewed by AKOSH staff.

4. Findings.

a. Summary of violations:

- (1) Number and classification.
- (2) Types of violations:
  - (a) Standards or regulations violated.
  - (b) General Duty Clause (AS 18.60.075(a)(4) violations together with applicable industry standards, NIOSH recommendations, ANSI standards, and other supporting guidelines.

NOTE: In recordkeeping cases violations shall be categorized by year and according to either failure to record or misrecording involvement of days away from work and/or days of restricted work activity, loss of consciousness, job transfer, restriction of work or motion i.e., restricted work activity on the day of injury/illness only, medical treatment and other.

They shall also be prepared by injury or illness type.

b. Proposed citations:

- (1) How is the instance-by-instance penalty to be applied?
- (2) How many violations?
- (3) Are there additional violations, not instance-by-instance?

c. For recordkeeping violations?

- (1) How many cases were not recorded for the previous 2 years? How many were recorded? Of those not recorded, how many were lost workday cases?
- (2) What is the LWDI rate according to company records? According to AKOSH findings?



- (3) What is the LWDI rate among production employees (or among classes of employees affected by the proposed citation) according to company records? According to AKOSH findings?
- (4) Were any previous inspections terminated because of LWDI rate?

5. Documentation Relating to Additional Penalty Factors.

a. Determination of willfulness:

- (1) What were the firm's guidelines or policies relating to safety and health in general and, in particular, to the subject violation (e.g., recordkeeping, hazard communication, machine guarding, use of respirators, maintenance of pressure vessels)? What was the local facility's safety and health program?
- (2) Do corporate or plant policies or guidelines differ from AKOSH requirements, or other relevant standards, regulations or guidelines? what is management's explanation for differences between its policies and AKOSH's requirements?
- (3) Did responsible persons actually know of the requirements of the relevant AKOSH standards, guidelines or instructions? Who were they and how did such persons come to know AKOSH's requirements?
- (4) Did responsible persons actually know of the existing hazardous conditions? Did they recognize the hazardous nature of these conditions? If so, who were these persons and for how long had they recognized the hazard?
- (5) How did the employer explain the existence of the violations? Did the employer claim that any steps to abate had already been taken? Was any documentation available to support such previous action?
- (6) Had the company done anything toward identifying, evaluating or correcting the hazardous conditions prior to AKOSH's visit? Was an abatement program in place or had one been proposed? What progress had been made toward implementing it? Does it seem adequate? What was the company's explanation as to why more progress had not been made?
- (7) Are any memoranda, letters, minutes, accident reports or other documents addressing the hazards, violations or corrective measures available? Describe them. Did management admit knowledge of these documents? Had management responded in any to them? How?

b. Penalty factors:

- (1) How many violations of each standard are involved and how extensive (pervasive) is the problem?
  - (a) What is the nature of the violation? (How many machines? How many different engineering controls? How many employees exposed?)
  - (b) What does the Chief and Director propose as the "multiplier" for penalty calculation purposes? (See D.3.e.) Why that multiplier?
- (2) For recordkeeping cases:
  - (a) Did the unreported or misrecorded cases tend to hide violative safety and health conditions in the establishment?
  - (b) Were unrecorded incidents investigated by the company?
  - (c) Were the unrecorded injuries or illnesses serious?
  - (d) Were the unrecorded injuries or illnesses the subject of workers' compensation claims?
- (3) What kind of safety and health program exists in the plant? What is management's attitude toward safety and health? What do management officials actually say?
- (4) What training was given to employees and supervisors regarding compliance with the standard or regulation, or abatement of the recognized hazard? If none is given, what did management admit or what explanation did they offer?
- (5) Did the company enforce its own policies and guidelines?
- (6) What were the most serious reasonably predictable injuries or illnesses that could result from exposure to the hazard? Would these potential injuries or illnesses be classified as serious? Did management admit recognition of the potential for these injuries and illnesses?
- (7) What was the company's record (especially relating to workers' compensation claims) for injuries and/or illnesses associated with alleged violations? What kind and how many such injuries or illnesses?

- (8) Are the abatement methods used by the company sufficient? Are the hazards well known in the industry? What is industry practice with respect to the hazards? Are appropriate methods to correct the hazards well recognized in the industry? What is industry practice with respect to the hazards? Why had the employer not implemented them? Were any interim protection measures in place? If not, why not?

NOTE: All of the above questions are to be directly asked of management personnel and their responses carefully recorded. A second CSHO or other reliable witness shall be present if at all possible. Documentary evidence shall be sought throughout the investigation, using administrative subpoenas promptly and freely, as appropriate.

## Appendix B

### Standardized Information and Optional Recordkeeping Case Outline

Case files for recordkeeping citations to be considered for instance-by-instance penalty procedures shall be set up to group violations, using a numerical code as shown below, followed by the case number of the violation as may be recorded in the optional recordkeeping case outline.

A. Case types are as follows:

#### INJURY

- 01--Laceration
- 02--Puncture wound
- 03--Fracture
- 04--Eye injury
- 05--Burn
- 06--Contusion
- 07--Strain/sprain
- 08--Hernia
- 09--Other (major category)
- 10--All other injuries (non-specific)

#### ILLNESS

- 11--Dermatitis
- 12--Cumulative trauma disorder
- 13--Hearing loss
- 14--Poisoning
- 15--Respiratory disorder
- 16--Cancer
- 17--Other (major category)
- 18--All other illnesses (non-specific)

- B. For burns, there shall be some estimate of the size of the burn. This can be given in the "Detailed Description of Event" column on the suggested recordkeeping case outline.
- C. Using the suggested recordkeeping case outline or some other appropriate format, include the following types of information for each violation under "Detailed Description of Event":
1. Work relationship.  
EXAMPLE: "While working as a welder..."

2. Injury.  
EXAMPLE: Employee sprained his left wrist. Employee fractured her right index finger.
3. Basis of recordability: injury or illness.  
EXAMPLE: Employee was to take prescription medicine (Naprosyn) for 5 days and received heat therapy on three subsequent visits.

D. Each violation must have:

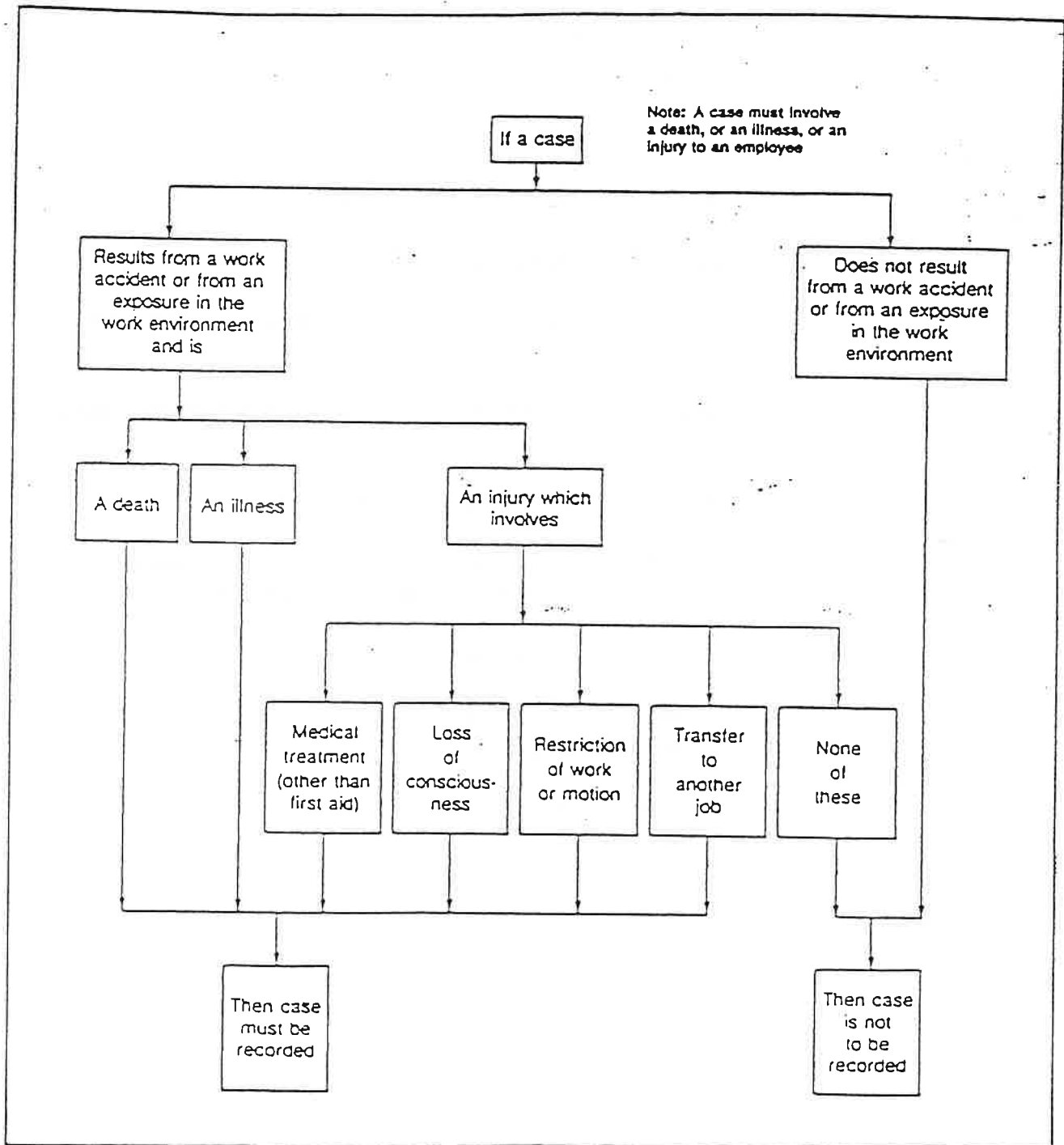
1. A unique case file number;
2. A way to be identified, either by name or employee clock number;
3. The reason the instance is a violation of the BLS guidelines; and
4. A detailed description of the event (injury or illness).

E. Five guides are included in this appendix and in Appendix C for use in determining recordability:

1. Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act.
2. Chart 2. Guidelines for establishing Work Relationship.  
  
NOTE: The charts are from the BLS September 1986 Recordkeeping Guidelines for Occupational Injuries and Illnesses.
3. Medical Treatment vs. First Aid Guidelines.
4. A partial list of prescription and nonprescription drugs based on previous recordkeeping investigation history.
5. Physician's Abbreviations Guide.

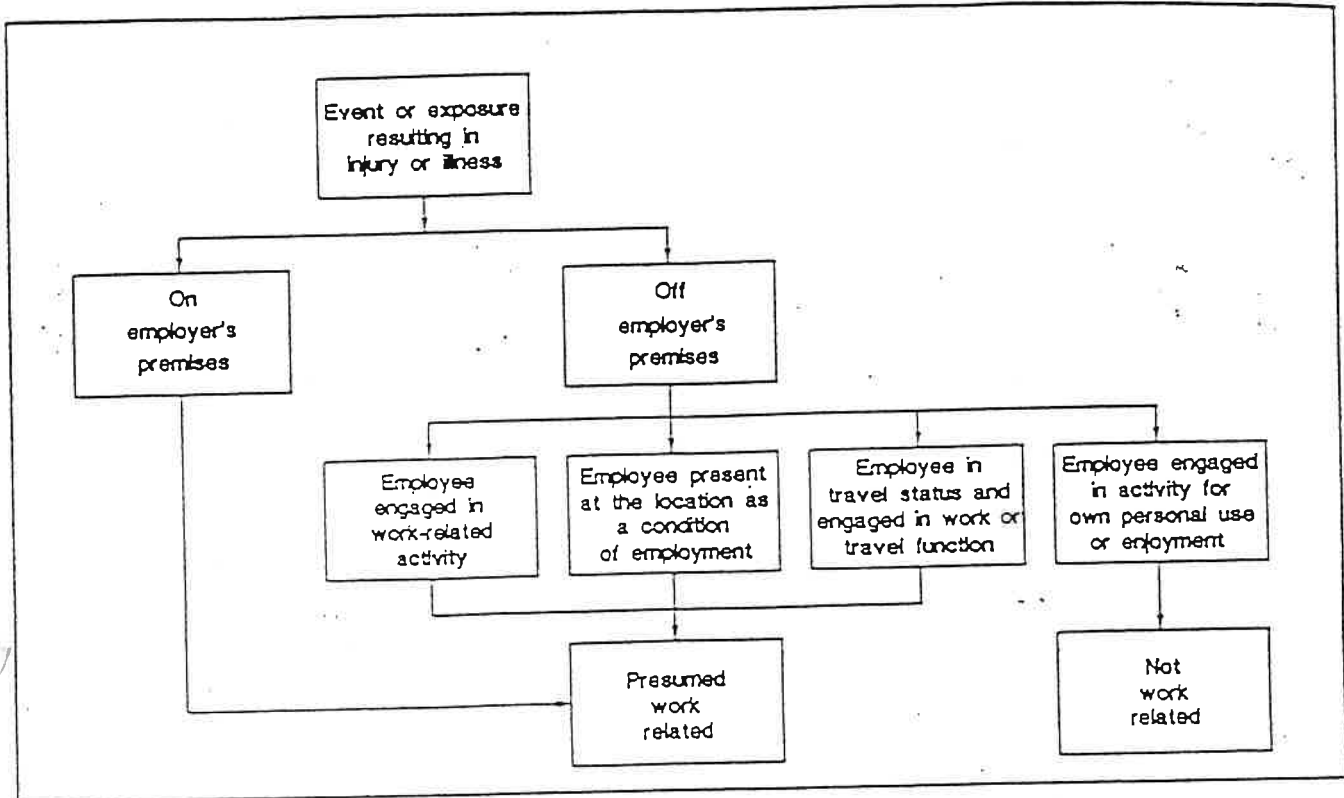
# Chart 1

## Guide to Recordability of Cases Under the AKOSH Statutes.



## Chart 2

### Guidelines for Establishing Work Relationship



## APPENDIX C

### Medical Treatment vs First Aid Treatment

The following procedures are generally considered medical treatment. Work-related injuries for which these types of treatment were provided or should have been provided are recordable:

- Treatment of **INFECTION**;
- Treatment of **SECOND OR THIRD DEGREE BURN(S)**;
- Application of **SUTURES** (stitches);
- Application of **BUTTERFLY ADHESIVE DRESSING(S)** or **STERISTRIPS(S)** in lieu of sutures;
- Removal of **FOREIGN BODIES EMBEDDED IN EYE**;
- Removal of **FOREIGN BODIES FROM WOUND** if procedure is **COMPLICATED** because of depth of embedment, size, or location;
- Use of **PRESCRIPTION MEDICATIONS** (except a single dose administered on first visit for minor injury or discomfort);
- Use of hot or cold **SOAKING THERAPY** during second or subsequent visit to medical personnel;
- Application of hot or cold **COMPRESS(ES)** during second or subsequent visit to medical personnel;
- **CUTTING AWAY DEAD SKIN** (Surgical debridement);
- Application of **HEAT THERAPY** during second or subsequent visit to medical personnel;
- Use of **WHIRLPOOL BATH THERAPY** during second or subsequent visit to medical personnel;
- **POSITIVE X-RAY DIAGNOSIS** (e.g., fractures, broken bones);
- **ADMISSION TO A HOSPITAL** or equivalent medical facility **FOR TREATMENT**.

The following procedures are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and work-related injuries involving



such procedures are not recordable unless they involve loss of consciousness, restriction of work or motion, or transfer to another job.

- Treatment of **FIRST DEGREE BURN(S)**;
- Application of **BANDAGE(S)** during any visit to medical personnel;
- Use of **ELASTIC BANDAGE(S)** during first visit to medical personnel;
- Removal of **FOREIGN BODIES NOT EMBEDDED IN EYE** if only irrigation is required;
- Removal of **FOREIGN BODIES FROM WOUND** if procedure is **UNCOMPLICATED** and is, for example, by tweezers or other simple technique;
- Use of **NONPRESCRIPTION MEDICATION** and administration of single dose of **PRESCRIPTION MEDICATION** on first visit for minor injury or discomfort;
- **SOAKING THERAPY** on initial visit to medical personnel or removal of bandages by **SOAKING**;
- Application of hot or cold **COMPRESS(ES)** during first visit to medical personnel;
- Application of **OINTMENTS** to abrasions to prevent drying or cracking;
- Application of **HEAT THERAPY** during first visit to medical personnel;
- Use of **WHIRLPOOL BATH THERAPY** during first visit to medical personnel;
- **NEGATIVE X-RAY DIAGNOSIS**;
- **OBSERVATION** of injury during visit to medical personnel.

The following procedure, by itself, is not considered medical treatment.

- Administration of TETANUS SHOT(S).

However, these shots are often given in conjunction with more serious injuries; consequently, injuries requiring these shots may be recordable for other reasons.

### Prescription Drugs

The following list is intended to supply a reference list of drugs currently requiring a prescription. The list is not intended to be exhaustive but merely to list some of the more commonly encountered prescription drugs. This list is currently accurate but is subject to change and must be verified if a listed drug is found during an inspection. (See Physicians Desk Reference or contact a druggist or physician.)

Adsorbonac	Motrin
Anaprox	Nalfon
Anapux	Naprosyn
Antivert tablets	Naproxen
Aristocort cream	Neomycin sulfate tablets
Atropine sulfate injection	Neosporin drops
Atropine sulfate ophthalmic ointment 1%	Neosporin ophthal- mic ointment
A-S cream	Neo-decadron ophthalmic
Benadryl capsules - not lotion	Norflex
Butazolidin	Norgesic
Chloramphenicol ophthalmic solution 5%	Norgesic forte
Chloroptic ophthalmic solution	Papase
Clinoril	Parafon forte
Cobisic	Penicillin
Cortisporin	Phenergran
Cortisporin drops	Phisohex
Cortisporin otic solution	Ponstel
Darvoset	Robaxisal
Darvon	Rufen
Decadron phosphate sterile ophthalmic ointment	Silvadene cream
Dolobid	Skelaxin
Duricef	Snyestion
Elavil	Solatene
Elixir of turpin Hydrate	Soma compound with Codeine
Feldene	Strifon forte
Gantrissin drops	Synalar cream
Garamycin ointment	Synalgos-DC capsules

Halcion tablets  
Hydrochlorothiazide  
Hydrocortisone cream 1%  
Indocin

Keflex  
Maxitrol  
Meclomen  
Medrol

Tetracycline  
Thiamine Hydrochloride  
Tobrex  
Tobrex ophthalmic  
solution  
Tolectin  
Tylenol #2  
Tylenol #3  
Xylocain w/EPT. 2%

#### Non-Prescription Drugs

The following list is intended to supply a reference list of drugs not currently requiring a prescription. The list is not intended to be exhaustive but merely to list some of the more commonly encountered over-the-counter (OTC) drugs, many of which were recently dispensed only by prescription. This list is currently as accurate as possible but is subject to change.

Acetaminophen  
Bacitracin  
Chlor-Trimeton tablets  
Ibuprofen (OTC generic)  
Neosporin ointment  
Percogesic  
Sudafed Syrup

Advil  
Betadine  
Hydrocortisone cream 0.5%  
Motrin 1B  
Nuprin  
Robitussin  
Tylenol

## Physician's Abbreviations Guide

pt	- Patient	b.i.d.	- twice daily
q.l	- as much as desired	t.i.d.	- thrice daily
q.p	- as much as you please	q.i.d.	- 4 times a day
QOD	- every other day	q.r.n.	- when necessary
q.h.	- every hour	q.s.	- as much as suffices
q.d.s.	- 4 times a day	Qd	- per day
pp	- post prandial (after eating)	c	- with
m	- milligrams	p	- after
a	- same quantity	pr	- by rectum
po	- by mouth		
IPPB	- Intermittent positive pressure breathing	Fx	- Fracture
Dx	- Diagnosis	WT	- Weight
Thx	- Therapy	CBC	- Complete count
Hx	- History	UA	- Urinalysis
IV	- Intravenous	ECG	- See EKG
Phx	- Physical exam	SZ	- Seizure
EKG	- Electrocardiogram	CXR	- Chest X-ray
EEG	- Electroencephalogram		
Rx	- Treatment, treated		
PA	- Posterior-anterior (kind of CXR)		
LAT	- Lateral (refers to X-ray view)		
RUQ	- Right upper quadrant (abdomen)		
LUQ	- Left upper quadrant (abdomen)		
RLQ	- Right lower quadrant (abdomen)		
LLQ	- Left lower quadrant (abdomen)		
VS	- Vital signs (there are four vital signs)		
BP	= Blood Pressure	T	= Temperature
P	= Pulse	RR	= Respiratory rate
	or		
HR	= Heart rate		
LBP	- Low back pain		
CTS	- Carpal tunnel syndrome		

SMA 20 - 20 channel chemistry test

Na	- Sodium	K	= Potassium
Cl	- Chloride	BAN	= Blood area nitrogen
Cr	- Creatinine	Ca	= Calcium
Ph	- Phosphate	GLN	= Glucose
Alb	- Albumin		
Chol	- Cholesterol		
SGOT, SGPT, Alkphos GGTP	are Liver Enzymes		
Bili Direct Total-Bilirubin			