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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

Date: October 3, 2022
To: Nevada Businesses
Re: Guidance for Nevadan Business on Significant Updates related to Nevada OSHA's Severe Violator Enforcement Program (SVEP)

On October 3 2022, Nevada OSHA notified federal OSHA with its intent to identically adopt a Federal Program Change with respect to the [Severe Violator Enforcement Program \(SVEP\) Compliance Directive - CPL 02-00-169](#). **Nevada OSHA intends to implement the new directive on January 1, 2023.**

This instruction updates enforcement policies and procedures for Nevada OSHA'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 OSHA'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 federal court enforcement under Section 11(b) of the OSH Act. In addition, this Instruction provides for nationwide referral procedures, which include OSHA's State Plans.

Significant Updates to Criteria Warranting a SVEP case

Nevada OSHA now considers an inspection to result in a SVEP case if it meets **at least one** of the following criteria:

- The Fatality/Catastrophe Criterion - A fatality/catastrophe inspection where OSHA 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.
- The Non-Fatality/Catastrophe Criterion - An inspection where OSHA finds **at least two willful or repeated** violations or issues failure-to-abate notices (or any combination of these violations/notices), based on the presence of **high gravity serious** violations.

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- All egregious (per-instance citations) must be considered SVEP cases.

Significant Updates to Criteria Warranting Removal from SVEP

- SVEP removal eligibility now begins three years after the date an employer completes abatement instead of from the final order date.
- An employer can be placed on a 2-year plan with approval of an enhanced settlement agreement.

Significant Updates to Criteria Warranting a Follow-Up Inspection

- A follow-up inspection must be conducted for an SVEP employer at least 1 year following placement in SVEP.

If you have any questions, please feel free to contact me at (702) 486-9061 or by e-mail at mrodrigues@dir.nv.gov

Sincerely,

Michael Rodrigues
Program Coordinator, Nevada OSHA