

**OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

PROGRAM DIRECTIVE

Program Directive: A-277

Issued: December 9, 2010

Revised: March 31, 2025

- SUBJECT:** Local Emphasis Program (LEP): Severe Violator Enforcement Program (SVEP)
- PURPOSE:** This instruction updates Oregon OSHA’s policies and procedures for its Severe Violator Enforcement Program (SVEP), which concentrates limited resources on inspecting employers who demonstrate a resistance or indifference to employee health and/or safety and the Oregon Safe Employment Act (ORS 654) as evidenced by qualifying willful, repeated, or failure-to-abate violations, or when certain types of citations result from a Programmed Inspection for Cause (PIC). This instruction replaces Oregon OSHA’s previous SVEP, originally issued December 9, 2010, and previously revised on February 22, 2019 through Program Directive A-277.
- SCOPE:** This instruction applies Oregon OSHA-wide.
- BACKGROUND:** On September 15, 2022, federal OSHA released a significant update to their Severe Violator Enforcement Program through the issuance of CPL 02-00-169. In keeping with the expectation that Oregon OSHA, an approved state plan, be at least as effective (ALAE) as federal OSHA, Oregon began evaluating the CPL’s language changes while simultaneously evaluating the effectiveness of Oregon OSHA’s existing Program Directive A-277 SVEP. While Oregon OSHA was within the window to adopt SVEP program changes that would be the same or at least as effective as CPL 02-00-169, Senate Bill 592 was introduced in the Oregon Senate on January 9, 2023, as part of the 82nd Oregon Legislative Assembly - 2023 Regular Session. Senate Bill 592, that made its way through the legislature and was signed into law by the Governor on May 24, 2023, amended the Oregon Safe Employment Act (ORS 654.067 and ORS 654.086) by creating a new type of violation, instituting a new inspection type, and significantly raising penalties to generally align with federal OSHA. As a result, Oregon OSHA intentionally set aside work on Program Directive A-277 knowing there would be substantial overlap, as well as potential differences, resulting from the implementation of Senate Bill 592, as well as an opportunity to utilize the new “Programmed Inspection for Cause” as a vehicle to address workplace hazards in a comprehensive nature. After Senate Bill 592 was signed by the Governor (with an emergency

order to implement immediately), Oregon OSHA then focused limited resources on proposing and adopting the legislative-mandated revisions to numerous Division 1 rules through Oregon-initiated administrative rulemaking [AO 3-2023](#). The final rule language of AO 3-2023 was adopted on November 22, 2023, with most provisions becoming effective on January 1, 2024.

At the time AO 3-2023 was adopted, Oregon OSHA's existing SVEP Program Directive was a National Emphasis Program (NEP). That program focused limited enforcement resources on employers who demonstrated resistance or indifference to their Oregon Safe Employment Act (OSEA) obligations by committing willful, repeated, or failure-to-abate violations in any of the following circumstances:

- (1) a fatality or catastrophe
- (2) an operation or process that exposed employees to the most severe occupational hazards and those defined as "high-emphasis hazards," in section B (p.3) of that instruction
- (3) exposed employees to hazards related to the potential release of highly hazardous chemicals
- (4) all egregious enforcement actions

After nearly 14 years of SVEP program implementation, it was determined through evaluation that Oregon's existing SVEP program was not working as efficiently as intended, and was not as clear as it could have been. Furthermore, the established criteria for inclusion onto the severe violator list, and how one was removed, was not as clear as it could be for such an impactful designation.

With the issuance of this revised Program Directive as a Local Emphasis Program, Oregon OSHA has created a severe violator enforcement program that is as effective as federal OSHA's CPL 02-00-169, and in several ways, more impactful for employees within Oregon OSHA's jurisdiction. This Program Directive establishes three additional criteria for SVEP case inclusion not contained within CPL 02-00-0169. See SVEP-2 (PIC/Administrator), SVEP-3 (PIC/Willful), and SVEP-4 (PIC/Repeat) in Section B: Criteria for a SVEP Case. Additionally, this severe violator program provides greater protections than the guidance established in CPL 02-00-169 by ensuring all serious violations from inspections that trigger SVEP case inclusion in Oregon are:

- 1) abated regardless of appeal status,
- 2) result in an SVEP-initiated Programmed Inspection for Cause (PIC),
- 3) the PIC is scheduled,
- 4) the PIC is comprehensive in scope, and
- 5) the PIC is conducted within one year.

REFERENCES: Oregon Revised Statute (ORS) 654.067(1)(c), (2) and (3)
Oregon Administrative Rule (OAR) 437-001-0057(8)
Oregon OSHA Field Inspection Reference Manual (FIRM)
Oregon OSHA [PD A-158, Citations: Egregious Violations](#)
Oregon OSHA [PD A-257, Multi-employer Workplace Citation Guidelines](#)
Oregon OSHA [PD A-304, Programmed Inspection for Cause](#)

CANCELLATIONS:

This instruction replaces Oregon OSHA’s previous SVEP, which was issued December 9, 2010, and last revised on February 22, 2019 through Program Directive A-277.

ACTION:

This Program Directive, which is a LEP, defines the criteria for SVEP case inclusion in Section B, Criteria for a SVEP Case. Through this LEP, Oregon OSHA determined that the most appropriate vehicle established within the OSEA and described in Oregon Administrative Rules for concentrating limited inspection resources on employers that have demonstrated a recalcitrance or indifference to their OSEA obligations by committing willful, repeated, or failure-to-correct violations of Oregon OSHA requirements is to initiate a comprehensive PIC. This is when an employer has a history of non-compliance and the Oregon OSHA Administrator has deemed a comprehensive inspection is necessary for the protection of employees. See (ORS 654.067(1)(c)) and (OAR 437-001-0057(8)(b)).

TERMINOLOGY:

Within this Program Directive, several acronyms, words, and/or phrases are used that have intentional meanings. Explanation is provided here to add to the reader’s understanding of how they are used within this Program Directive, and are not intended to apply to their use outside of this Program Directive.

Initiating inspection: The original inspection that resulted in one or more violations that triggered one or more SVEP case inclusion criteria as described in Section B, Criteria for a SVEP Case of this Program Directive.

NOTE: When an initiating inspection leads to a scheduled SVEP-initiated PIC and the results of that SVEP-initiated PIC trigger an additional SVEP case, the first

SVEP-initiated PIC will become the “initiating inspection” for the next (subsequent) SVEP-initiated PIC that will be entered into the OSHA Technical Information System (OTIS) and federal OIS, and will be scheduled for inspection.

PIC: Acronym for “Programmed Inspection for Cause.”

Programmed Inspection for Cause: A comprehensive inspection established through Senate Bill 592 of the 2023 Legislative Session; its scheduling is described in OAR 437-001-0057(8).

SVEP: Acronym for “Severe Violator Enforcement Program.”

SVEP-initiated PIC: A subset type of Programmed Inspection for Cause described in ORS 654.067(1)(c) and OAR 437-001-0057(8)(b) that relies on the Oregon OSHA Administrator’s determination that a comprehensive inspection is necessary for the protection of employees. This subset type of PIC, when associated with an initiating inspection triggering SVEP case inclusion, is identified in this Program Directive as a “SVEP-initiated PIC.”

A. Handling SVEP Cases

1. Compliance Safety and Health Officers (CSHOs) must become familiar with Section B, Criteria for a SVEP Case of this Program Directive to effectively evaluate employers during all inspections likely to result in a SVEP case.
2. The Central Office must identify SVEP cases no later than at the time the citations are issued, in accordance with the criteria set forth in this Program Directive.
3. State or local agency cases that meet the SVEP case criteria will be classified as SVEP cases; the terms “employer-wide” or “company-wide” will apply agency-wide or department-wide, as appropriate. While intended to be treated the same as private sector employers, an Oregon OSHA Statewide Enforcement Manager — in communication with the Administrator — will determine appropriate SVEP actions for state or local public sector cases.
4. When a case meets SVEP case criteria as established in Section B, Criteria for a SVEP Case of this Program Directive, the Enforcement Analyst at the Central Office must accurately identify the establishment in OTIS. Once this criteria has been entered into OTIS, it will be entered into federal OIS.
5. At the beginning of every month, the Enforcement Analyst at the Central Office will produce a SVEP report based on the information within OTIS, and share the findings with the Statewide Enforcement Manager(s) as well as the Field Office Enforcement Managers across the state.
6. The Statewide Enforcement Manager(s) will review the SVEP report and ensure all scheduled SVEP-related comprehensive PICs are conducted and recorded in OTIS as

well as federal OIS.

7. Because SVEP criteria are applied in Oregon before all citations become final orders, and all serious violations under appeal and other-than-serious citations that have become a final order must be abated regardless if the employer has appealed their citations, Oregon OSHA will not post the SVEP report on either our own website or that of federal OSHA. When Oregon OSHA receives a public records request for the SVEP report or log, the request will be fulfilled in accordance with Oregon's Public Records laws.
8. Oregon OSHA will issue news releases in accordance with Oregon OSHA's Press Release Policy. Each inspection that results in a violation(s) that triggers one or more SVEP case inclusion criteria as established in Section B, Criteria for a SVEP Case in this Program Directive will be reviewed by the Oregon OSHA's core management team for press release consideration at the time the citation is issued from the Central Office.
9. Under Oregon OSHA's Program Directive A-257: Multi-employer Workplace Citation Guidelines, 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.
10. When the employer has two or more inspections, for inclusion under SVEP, Oregon OSHA must evaluate each individual inspection independently to determine if it meets one or more of the SVEP criteria described in Section B, Criteria for a SVEP Case. If any of the inspections meet one or more of the SVEP criteria, Oregon OSHA will consider that inspection to be an SVEP case and code it accordingly (Refer to Section (C)(1)(e) and (f)).

NOTE: Do not combine two or more inspections of the same employer to fulfill the SVEP criteria.

11. SVEP-related Enhanced Settlement agreements. Oregon OSHA requires abatement of all serious violations, even when they have been appealed by the employer, as well as abatement of other-than serious violations that have become a final order. Therefore, enhanced settlement agreements to obtain abatement will not be entertained by Oregon OSHA. Oregon OSHA may conduct follow-up inspections and issue failure-to-abate notifications with associated penalties when abatement is required and has not been completed. When an employer appeals, they maintain the right to attend an informal conference with Oregon OSHA, or proceed directly to a hearing before an Administrative Law Judge with the Oregon Worker's Compensation Board. Oregon OSHA reserves the right to enter into settlement agreements; however, Oregon OSHA intentionally has not created SVEP-specific settlement policies.
12. Relationship to Other Programs

Unprogrammed Inspections: Oregon OSHA may conduct an unprogrammed

inspection and a SVEP-initiated PIC either separately or concurrently. This instruction does not affect Oregon OSHA's ability to conduct unprogrammed inspections.

Programmed Inspections: Site-specific targeting, such as local or national emphasis program inspections, may occur either separately or concurrently with a SVEP-initiated PIC.

13. Annual program review. Within 60 days of the conclusion of each inspection year (September 30), a Statewide Enforcement Manager, along with the Enforcement Analyst at the Central Office, will conduct an annual SVEP program review.

B. Criteria for a SVEP Case

A SVEP case is any inspection that meets one or more of the following criteria:

1. **SVEP-1** Fatality / Catastrophe Criteria

An accident investigation where Oregon OSHA finds that a violation has caused or contributed to a work-related fatality, or to three or more employees being admitted to a hospital or to an equivalent medical facility. The violation type was either one willful, one repeated, or a failure-to-abate notice for unabated violations based on the following:

- Serious violation / Low probability / Serious physical harm
- Serious violation / Medium probability / Serious physical harm
- Serious violation / High probability / Serious physical harm
- Serious violation / Low probability / Death
- Serious violation / Medium probability / Death
- Serious violation / High probability / Death

SVEP-1 NOTE 1: Serious violations include willful and repeat.

SVEP-1 NOTE 2: Other-than-serious violations do not fulfill this criterion.

SVEP-1 NOTE 3: Under OAR 437-001-0057(8)(a)(A), when an accident investigation finds a violation has caused or contributed to a work-related fatality, a subsequent comprehensive PIC will be conducted within one year of the originating accident investigation's closing conference date. Any violations resulting from the subsequent fatality-related comprehensive PIC will be evaluated for SVEP inclusion under the criteria described in:

- *SVEP-5 (Willful, Repeated, Unabated), and*
- *SVEP-6 (Egregious)*

2. **SVEP-2** Programmed Inspection for Cause / Administrator Discretion

Criteria

An employer has a history of non-compliance and the Oregon OSHA Administrator deems a comprehensive PIC is necessary for the protection of employees as established in OAR 437-001-0057(8)(b). The resulting Administrator-related comprehensive PIC finds a violation type of one or more willful, one or more repeated, or issues a failure-to-abate notice for unabated violations based on one of the following:

- Serious violation / High probability / Serious physical harm
- Serious violation / High probability / Death

SVEP-2 NOTE 1: Serious violations include willful and repeat.

SVEP-2 NOTE 2: Other-than-serious violations, or serious violations with probability combinations other than those listed above, do not fulfill this criterion.

3. **SVEP-3** Programmed Inspection for Cause / Willful Criteria

An employer has three or more willful violations within a 12-month period and triggers a comprehensive PIC as established in OAR 437-001-0057(8)(a)(B) and described in Program Directive A-304. The resulting willful-initiated comprehensive PIC, conducted within one year of the applicable closing conference date, finds a violation type of one or more willful, one or more repeated, or issues a failure-to-abate notice for unabated violations based on one the following:

- Serious violation / High probability / Serious physical harm
- Serious violation / High probability / Death

SVEP-3 NOTE 1: Serious violations include willful and repeat.

SVEP-3 NOTE 2: Other-than-serious violations, or serious violations with probability combinations other than those listed above, do not fulfill this criterion.

SVEP-3 NOTE 3: A willful-initiated PIC must be opened within one year of the closing conference date of the third inspection within a 12-month rolling window to allege a willful violation. All willful violations apply and do not need to be for the same or substantially similar condition. All combinations of probability and severity associated with each willful violation are eligible to trigger the willful-related PIC as established in OAR 437-001-0057(8)(a)(B).

4. **SVEP-4** Programmed Inspection for Cause / Repeat Criteria

An employer has three or more repeated violations within a 12-month period and triggers a comprehensive PIC as established in OAR 437-001-0057(8)(a)(C) and described in Program Directive A-304.

The resulting repeat-initiated comprehensive PIC, conducted within one year of the

applicable closing conference date, finds a violation type of one or more willful, one or more repeated, or issues a failure-to-abate notice for unabated violations based on one of the following:

- Serious violation / High probability / Serious physical harm
- Serious violation / High probability / Death

SVEP-4 NOTE 1: Serious violations include willful and repeat.

SVEP-4 NOTE 2: Other-than-serious violations, or serious violations with probability combinations other than those listed above, do not fulfill this criterion.

SVEP-4 NOTE 3: A repeat-initiated PIC must be opened within one year of the closing conference date of the third inspection in a rolling 12-month window where the same or substantially similar condition has been cited in accordance with the repeat criteria established in OAR 437-001-0160 Penalty Criteria – Repeat Violations and Chapters 2 & 7 of the FIRM.

5. **SVEP-5** Willful / Repeated / Unabated Criteria

Any inspection other than those described in SVEP-1, SVEP-2, SVEP-3 or SVEP-4 where Oregon OSHA finds two or more willful, two or more repeated, or issues a failure-to-abate notice for unabated violations (or any combination of these violations/notices) based on one of the following:

- Serious violation / High probability / Serious physical harm
- Serious violation / High probability / Death

SVEP-5 NOTE 1: Serious violations include willful and repeat.

SVEP-5 NOTE 2: Other-than-serious violations, or serious violations with probability combinations other than those listed above, do not fulfill this criterion.

SVEP-5 NOTE 3: SVEP-1, SVEP-2, SVEP-3 and SVEP-4 are:

- *SVEP-1 (Fatality / Catastrophe)*
- *SVEP-2 (PIC/Administrator)*
- *SVEP-3 (PIC/Willful), and*
- *SVEP-4 (PIC/Repeat)*

6. **SVEP-6** Egregious

Any inspection where Oregon OSHA issues per-instance violations in accordance with Program Directive A-158: Citations.

SVEP-6 NOTE 1: 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 Program Directive A-158: Citations.)

SVEP-6 NOTE 2: Serious violations include willful and repeat.

SVEP-6 NOTE 3: Grouped and combined violations must be counted as one violation for SVEP consideration purposes.

C. Procedures for the Severe Violator Enforcement Program (SVEP)

When the Central Office determines that an inspection meets one or more of the SVEP case criteria as established in Section B, Criteria for a SVEP Case of this Program Directive, paragraphs 1 through 3 below will be followed.

1. General

- a) For any inspection opened on or after the effective date of this Program Directive that meets one or more of the criteria for SVEP case inclusion, Oregon OSHA will add the inspection to the “For Cause List” within the “For Cause Scheduling” module within OTIS. The For Cause List includes the following inspection information:

- employer name
- employer number
- employer location
- reason added to the list

NOTE: The For Cause List in OTIS is Oregon OSHA’s SVEP Log.

- b) For any inspection opened on or after the effective date of this Program Directive that meets one or more of the criteria for SVEP case inclusion, Oregon OSHA will conduct a subsequent PIC as established in OAR 437-001-0057(8)(b) within one year when feasible, but no longer than two years ^[See (C)(1) NOTE 5], after the original inspection that triggered the SVEP case inclusion has been delivered ^[See (C)(1) NOTE 2 & 3] to the employer.

NOTE: For the remainder of this Program Directive, the original inspection with violations that triggered one or more of the criteria for SVEP case inclusion will be referred to as the “**Initiating Inspection**” and the scheduled comprehensive “Programmed Inspection for Cause” will be referred to as the “**SVEP-initiated PIC**” ^[See (C)(1) NOTE 1]. Additional explanation is provided in the Terminology section of this Program Directive.

- c) Where a single SVEP-initiated PIC will be conducted

1. For fixed places of employment, the SVEP-initiated PIC will generally be conducted at the location of the initiating inspection. However, in

accordance with ORS 654.067(1)(c) and OAR 437-001-0057(8)(b), the Administrator may select another employer location to conduct the SVEP-initiated PIC within Oregon OSHA's jurisdiction when they deem that the employer may not be addressing occupational safety or health hazards at any other employer location, and a comprehensive inspection at one of those other employer locations is necessary for the protection of employees.

2. For mobile job sites such as construction, forest activity, and/or temporary workplaces/worksites, the scheduled SVEP-initiated PIC will generally be conducted at the location of the initiating inspection when it is still active. However, in accordance with ORS 654.067(1)(c) and OAR 437-001-0057(8)(b), the Administrator may select another employer location to conduct the SVEP-initiated PIC within Oregon OSHA's jurisdiction when they deem that the employer may not be addressing occupational safety or health hazards at any other employer location, and a comprehensive inspection at one of those other employer locations is necessary for the protection of employees. Additionally, when the location of the initiating inspection is no longer active, the procedures established in Section (C)(3) Mobile Worksites of this Program Directive will be followed.
- d) The scope of the scheduled SVEP-initiated PIC will be either a comprehensive health inspection or a comprehensive safety inspection. The type is not dependent on the nature of the violative condition(s) cited during the initiating inspection, however, the violative condition(s) that triggered the SVEP criteria will be evaluated as part of the SVEP-initiated PIC regardless of the type (health or safety) unless there are justifications for why they should not, or cannot, be evaluated during the SVEP-initiated PIC. Those justifications will be documented in the SVEP-initiated PIC case file.
- e) Oregon OSHA will code and schedule all SVEP-initiated PICs in the OTIS Inspection Scheduling module within the "For Cause Scheduling" List. The Enforcement Analyst in the Central Office will follow these steps:

1. In OTIS, within the Inspection Scheduling module, open the "For Cause Scheduling" List.
2. Within this, select "New."

Within the EDS Data detail tab:

3. Set the reason to "Administrator Discretion - SVEP"
4. Set the status to "Pending"
5. Set the "CSHO Assigned"
 - o The CSHO who conducted the initiating inspection will be entered as the "CSHO Assigned" ^[See (C)(1) NOTE 6]. This assignment may be updated at a later time.
6. Set the "Initiating Inspection No." by selecting the original inspection (initiating inspection) that triggered the SVEP designation.

7. Enter descriptive information into the “Notes” that describes that this is an “SVEP-initiated Programmed Inspection for Cause” and include the qualifying SVEP criteria described in Section B, Criteria for a SVEP Case.
 Example: “SVEP-initiated Programmed Inspection for Cause. SVEP-1 — Fatality/Catastrophe Criteria”
 8. Select “Save”
 9. Once the SVEP-initiated PIC has been assigned to the actual ^[See (C)(1) NOTE 6] CSHO who will open and conduct the SVEP-initiated PIC, update the “CSHO Assigned” field.
 10. Once the SVEP-initiated PIC has been assigned to the actual CSHO who will open and conduct the SVEP-initiated PIC, update the “Status” field from “Pending” to “Assigned.”
- f) **Recording and Tracking Inspections in OIS.** Within OIS, the Enforcement Analyst at the Central Office will designate the initial inspection that triggered the SVEP case inclusion criteria in accordance with the “Initial SVEP Inspections” procedures established in Section XX, Recording and Tracking Inspections of CPL 02-00-169, effective September 15, 2022, and the associated SVEP OIS Recording /Tracking Desk Aid version 1.0.
- g) Effective the day after the Citation and Notification of Penalty for the initiating inspection has been delivered ^[See (C)(1) NOTE 2 & 3] to the employer, the SVEP-initiated PIC is eligible to be opened.

NOTE: The priority of a SVEP-initiated PIC will be evaluated in accordance with Oregon OSHA’s inspection priorities established in OAR 437-001-0055, Priority of Inspections and Chapter 1, Section VI of the FIRM. PICs such as an SVEP-initiated PIC are a lower priority than imminent danger, fatality, catastrophe, or accidents, complaints, and referrals; however, they are higher in priority than programmed inspections or follow-up inspections.

NOTE: At the time of the opening conference, Oregon OSHA consultation activities will be suspended and remain suspended until all enforcement activities — including appeals-related activities — are concluded.

- h) The Enforcement Analyst at the Central Office will monitor the “For Cause Scheduling” List. A Statewide Enforcement Manger will be notified when the scheduled SVEP-initiated PIC approaches one year from the delivery date of the initiating inspection. A Statewide Enforcement Manager is responsible for ensuring that a CSHO opens and conducts the SVEP-initiated PIC. The Enforcement Analyst will ensure the associated inspection number is entered into OTIS, or the justifications for not conducting the SVEP-initiated PIC in accordance with Section (C)(2) of this Program Directive have been added.

- i) Before conducting the SVEP-initiated PIC closing conference with the employer, the assigned CSHO will first review the proposed violation(s), if any, with their Field Office Enforcement Manger and a Statewide Enforcement Manager. The Statewide Enforcement Manager will communicate the proposed violation(s), or lack thereof, to the Administrator.
- j) After conferring with the Administrator about the proposed violations, or lack thereof, a Statewide Enforcement Manager will communicate back to either the assigned CSHO or their Field Office Enforcement Manager indicating when the SVEP-initiated PIC’s closing conference can proceed.
- k) The violation(s), if any, that are the result of the SVEP-initiated PIC will be evaluated before they are issued from the Central Office to determine if they trigger one or more of the SVEP case criteria described Section B, Criteria for a SVEP Case.
 - In the event that the SVEP-initiated PIC **does not** yield violations that trigger one or more of the SVEP case criteria described Section B, Criteria for a SVEP Case, proceed to Section D, SVEP Case Removal Criteria and Procedures.
 - In the event that the SVEP-initiated PIC results in one of more violations that trigger the SVEP case criteria described in Section B, Criteria for a SVEP Case, continue with the following procedure:
 - 1) The Enforcement Analyst in the Central Office will change the status of the SVEP-initiated PIC within the EDS Data detail tab from “Pending” to “Completed – SVEP.”
 - 2) The Enforcement Analyst will update the notes section within the EDS Data tab to reflect that the completed SVEP-initiated PIC resulted in additional SVEP qualifying violations and that a second (new) SVEP-initiated PIC will be entered into the For Cause scheduling list and added to the monthly SVEP report.

NOTE: See “Initiating inspection” in the Terminology section for additional description.

 - 3) After the initiating inspection (completed SVEP-initiated PIC) is entered in the For Cause list, follow steps (b) through (k) above for the new SVEP-initiated PIC.

(C)(1) NOTE 1: The purpose of the SVEP-related comprehensive Programmed Inspection for Cause (SVEP-initiated PIC) is for the protection of employees at a

place of employment where the Administrator has determined that the employer has a history of non-compliance.

(C)(1) NOTE 2: An employer's appeal of the violation(s) on the initiating inspection that satisfy one or more criteria for SVEP case inclusion will not suspend or delay the opening of the SVEP-initiated PIC.

(C)(1) NOTE 3: Oregon OSHA requires abatement of all serious violations even when they have been appealed by the employer, as well as abatement of other-than serious violations that have become a final order. For these reasons, confirmation of abatement of the cited violation(s) associated with the initiating inspection will not delay or suspend the opening of the SVEP-initiated PIC.

(C)(1) NOTE 4: While the SVEP-initiated PIC will typically be at the establishment location in Oregon where the initiating inspection was conducted, the Administrator may select another employer location within Oregon based on their discretion (such as limited resources) to determine if the employer is failing to address similar related hazards at other locations in Oregon. This may also occur if the initiating inspection was at a mobile or remote job site no longer active in Oregon, but the employer continues to have other job sites in Oregon.

(C)(1) NOTE 5: In accordance with ORS 654.067(1)(c),(2) & (3), while a comprehensive PIC is required to be opened within one year of the closing conference where an accident investigation revealed that a violation has caused or contributed to a work-related fatality (See ORS 654.067(2) and OAR 437-001-0057(8)(a)(A)); three or more willful violations occur at a place of employment within a 12-month period (See ORS 654.067(2) and OAR 437-001-0057(8)(a)(B)); or three or more repeat violations occur at a place of employment within a 12-month period (See ORS 654.067(2) and OAR 437-001-0057(8)(a)(C)), Administrator's discretion to conduct a comprehensive Programmed Inspection for Cause as established by ORS 654.067(1)(c) and OAR 437-001-0057(8)(b)) is not curbed by the amount of time for which the inspection must be opened.

(C)(1) NOTE 6: The CSHO who conducts the SVEP-initiated PIC is not required to be the same CSHO who conducted the initiating inspection. The Field Office Enforcement Manger, in collaboration with a Statewide Enforcement Manager, will determine which CSHO is the most appropriate to conduct the SVEP-initiated PIC. When a Statewide Enforcement Manager learns that a cited employer/operation has moved to a different location within Oregon that is outside the Enforcement Field Office boundary where the initiating inspection was conducted, Oregon OSHA can inspect the new location. A Statewide Enforcement Manager will coordinate between the applicable Field Office Enforcement Managers to determine the most appropriate CSHO to re-assign the SVEP-related PIC to. The re-assignment should be based on the type of comprehensive PIC (health or safety) to be conducted, opportunity to cross train staff, and/or best use of limited resources.

2. Justification for Not Conducting a Scheduled SVEP-initiated PIC

Examples of justifications for not conducting an SVEP-initiated PIC may include any of the following:

- (1) worksite/workplace closed and there is no other active employer location within Oregon OSHA's jurisdiction
- (2) employer is out of business
- (3) the violations alleged through the initiating inspection that triggered SVEP case inclusion in accordance with Section B, Criteria for a SVEP Case of this Program Directive no longer meets any of the SVEP case criteria because the qualifying citation(s) have been amended, withdrawn, or vacated ^[See (C)(2) NOTE 1 & 2]

When Oregon OSHA has compelling reasons for not conducting a scheduled SVEP-initiated PIC, the following procedure will be followed:

- a) When there is a compelling reason(s) ^[See (C)(2) NOTE 3 & 4] for not conducting a scheduled SVEP-related PIC, the CSHO, their Field Office Enforcement Manager, and a Statewide Enforcement Manager must review them together.
- b) A Statewide Enforcement Manager will present the compelling reasons to the Administrator. When the Administrator, after hearing the justifications, determines that there is a compelling reason(s) for not conducting the scheduled SVEP-initiated PIC, detailed and descriptive justifications will be documented by the Statewide Enforcement Manager within the "Notes" section of the EDS Data tab within the For Cause Scheduling module for the scheduled SVEP-initiated PIC.
 - The name of the individual entering the justifications into the notes section will be included, as well as the date of entry.
- c) The status of the scheduled SVEP-initiated PIC in the "Detail" section within the EDS Data tab will be changed from "Pending" to "Cancelled – SVEP" by the Statewide Enforcement Manager who entered the detailed justification notes.

(C)(2) NOTE 1: Justification example #3 above is only valid when Oregon OSHA amends or withdraws, before the opening conference of the scheduled SVEP-initiated PIC inspection, the violation(s) from the initiating inspection that triggered the SVEP case inclusion so as the violation(s) no longer meets one or more criteria for SVEP case inclusion.

(C)(2) NOTE 2: Justification example #3 above is only valid when a final order from the Oregon Worker's Compensation Board is issued vacating the violation(s) that met the SVEP case inclusion criteria prior to the opening conference of the scheduled SVEP-initiated PIC, and Oregon OSHA has not appealed the Board's decision.

(C)(2) NOTE 3: A "complied with during inspection" condition for the initiating inspection does not delay or suspend the opening of the SVEP-initiated PIC.

(C)(2) NOTE 4: Oregon OSHA requires abatement of all serious violations even when they have been appealed by the employer as well as abatement of other-than serious violations that have become a final order. For these reasons, confirmation of abatement of the cited violation(s) from the initiating inspection that meet one or more of the criteria for SVEP case inclusion will not delay or suspend the opening of the scheduled SVEP-initiated PIC.

3. Mobile Worksites

Oregon OSHA intends for any SVEP-initiated PIC for a mobile and/or temporary worksite — such as those found in construction, forestry activities, and/or landscaping — to be comprehensive in scope, which generally will include an onsite inspection of an active mobile and/or temporary worksite, as well as a continuation of the same inspection at the employer’s primary office location within Oregon OSHA’s jurisdiction. The purpose of including the primary office location as well as a mobile worksite within the scope of the SVEP-initiated PIC is to fully evaluate an employer’s efforts to ensure employee health and safety when they have mobile worksites.

When Oregon OSHA has reason to believe that a mobile and/or temporary worksite is no longer active (or is nearing completion) and was the location of the initiating inspection, Oregon OSHA will pursue either Options A, B, or C below to ensure that a scheduled SVEP-initiated PIC can be conducted. Oregon OSHA intends to use Option A or Option B over Option C when feasible, as both provide the greatest opportunity to evaluate the hazards at an active mobile worksite without first providing the employer an opportunity to coach, council, correct, or otherwise mitigate the behavior of employees or the hazards that may exist at the mobile worksite to be inspected.

- a) **Option A: Subpoena for other mobile worksites.** Prior to issuing the Citation and Notification of Penalty for the initiating inspection, consider issuing an administrative subpoena to one or more employer representatives that Oregon OSHA believes is in possession of information about where other mobile worksites are located with employees presently working, or are expected to be working, within the next 12 months. See FIRM Chapter 3, Section IX, Administrative Subpoena. Once the information about other active or future mobile worksites is obtained, proceed with Option B.

NOTE: In accordance with ORS 654.067(4) and ORS 654.991(2) of the OSEA and OAR 437-001-0060 Advanced Notice, do not provide prior notice about when or where a future inspection will occur.

- b) **Option B: Start at a mobile worksite.** When one or more active mobile sites within Oregon OSHA’s jurisdiction are known, the SVEP-initiated PIC should be opened at one mobile worksite that is suspected of presenting the greatest amount of risk to employees. The inspection opening conference and the walk-around portion, including interviews at the mobile worksite, will be conducted on the same day when feasible.

The main office or home-based office is generally where safety and health programs, injury & illness records, and/or training records are found. The inspection of an office may include a shop or yard if employees work there on a periodic basis. This may consist of machinery, equipment, company vehicles used by employees, or storage areas. The CSHO should avoid inspecting an employer's personal property, such as equipment or personal vehicles that are not used by employees. If the office is their home, the CSHO should not enter unless invited by the employer. The CSHO's safety is the first consideration. Consider going with another CSHO, or your Field Office Enforcement Manager, if there is reason to believe the situation could be hostile. Try not to intrude on their personal lives or interfere with any family function.

NOTE: Review the Potential Threat Log prior to opening a SVEP-initiated PIC at a home-based office.

- c) **Option C:** Start at the employer's office, then proceed to a mobile worksite. When options A or B above are not feasible, the CSHO should start at the employer's main office or home-based office as appropriate. This is often where safety and health programs, injury & illness records, and/or training records are found. The inspection of an office may include a shop or yard if employees work there on a periodic basis. This may consist of machinery, equipment, company vehicles used by employees, and/or storage areas. The CSHO should avoid inspection an employer's personal property, such as equipment or personal vehicles that are not used by employees. If the office is their home, the CSHO should not enter unless invited by the employer. The CSHO's safety is the first consideration. If the only way to locate the employer is at their home, consider going with another CSHO, or your Field Office Enforcement Manager, if there is reason to believe the situation could be hostile. Try not to intrude on their personal lives or interfere with any family function.

NOTE: Review the Potential Threat Log prior to opening a SVEP-initiated PIC at a home-based office.

After the opening conference and program review at the office or home-based office, ask the employer for a list of mobile sites where employees are currently working or intend to be working. Proceed to one of the sites and continue the inspection. If the employer refuses to provide locations, inform the employer that Oregon OSHA will begin the process of issuing an administrative subpoena for that information. Meanwhile, the CSHO should promptly notify their Field Office Enforcement Manager that the employer is refusing to provide information about current mobile sites. The Field Office Enforcement Manager will promptly notify a Statewide Enforcement Manager, who will then send a notification to Oregon OSHA's enforcement staff to respond specifically to them with any information about where the employer is currently working within Oregon OSHA's jurisdiction.

D. SVEP Log Removal Criteria and Procedures

As established in Section (C)(1)(a) above, the For Cause List in OTIS is Oregon OSHA's SVEP Log. Once an employer has been added to the For Cause List, the employer cannot be removed, as the list will be maintained for perpetuity, however, the status of the employer on the For Cause List can be amended. The employer can be removed from federal OIS but not Oregon's OTIS. Follow these procedures to correctly maintain the status of SVEP employers on the For Cause List (Oregon SVEP Log) and update federal OIS:

1) General

This instruction applies to the following four SVEP-initiated PIC conditions:

- Inspection was completed and no citations were alleged. See Section (D)(1)(a).
- Inspection was completed and citations were alleged, however, they do not trigger further SVEP case inclusion criteria. See Section (D)(1)(b).
- Inspection was completed and citations were alleged, additional SVEP case inclusion criteria was triggered. See Section (D)(1)(c).
- Scheduled SVEP-initiated PIC was cancelled. See Section (D)(1)(d).

a) **COMPLETED without Citations Issued:**

After following the procedures established in Section (C)(1)(a) – (k) of this Program Directive, the SVEP-initiated PIC that results in no violations being alleged will be updated within the "For Cause Scheduling" as follows:

1. In OTIS, within the Inspection Scheduling module, open the "For Cause Scheduling" List.
 - Within this list, identify and open the appropriate SVEP-initiated SVEP inspection that was completed without any citations being alleged.

Within the EDS Data detail tab:

2. Update the status from "Assigned" to "Completed - SVEP"
3. Select "Save"
4. **Recordkeeping and Tracking Inspections in OIS.** Within OIS, the Enforcement Analyst at the Central Office will update the initial inspection that triggered the SVEP case inclusion criteria following the "Post Citation SVEP Action" procedures established in Section XX, Recording and Tracking Inspections of CPL 02-00-169, effective September 15, 2022, and the associated "Severe Violator Enforcement Program OIS Recording/ Tracking Desk Aid, version 1.0."

b) **COMPLETED with Citation(s) that Do Not Trigger a New SVEP-initiated PIC:**

After the Citation and Notification of Penalty has been issued from the Central Office, the scheduled SVEP-initiated PIC within the “For Cause Scheduling” will be updated as follows:

1. In OTIS, within the Inspection Scheduling module, open the “For Cause Scheduling” List.
 - Within this list, identify and open the appropriate SVEP-initiated SVEP inspection that was completed with citations being alleged that do not trigger additional SVEP Case inclusion.

Within the EDS Data detail tab:

2. Update the status from “Assigned” to “Completed - SVEP.”
3. Enter descriptive information into the “Notes” that describe that this SVEP-initiated PIC has been completed and was issued with citations. Additionally, note that prior to the citation(s) being issued from the Central Office, those citation(s) were reviewed in accordance with the SVEP case criteria as established in Section B, Criteria for a SVEP Case of this Program Directive and were determined not to meet the criteria.
4. Select “Save”
5. **Recordkeeping and Tracking Inspections in OIS.** Within OIS, the Enforcement Analyst at the Central Office will update the initial inspection that triggered the SVEP case inclusion criteria following the “Post Citation SVEP Action” procedures established in Section XX, Recording and Tracking Inspections of CPL 02-00-169, effective September 15, 2022, and the associated "Severe Violator Enforcement Program OIS Recording/Tracking Desk Aid, version 1.0."

c) **COMPLETED with Citation(s) that Trigger a New SVEP-initiated PIC:**

After the Citation and Notification of Penalty has been issued from the Central Office, the scheduled SVEP-initiated PIC within the “For Cause Scheduling” will be updated as follows:

1. In OTIS, within the Inspection Scheduling module, open the “For Cause Scheduling” List.
 - Within this list, identify and open the appropriate SVEP-initiated SVEP inspection that has been completed with citations that have triggered additional SVEP case inclusion.

Within the EDS Data detail tab:

2. Update the status from “Assigned” to “Completed - SVEP”
3. In the “Notes,” enter descriptive information that this SVEP-initiated PIC

has been completed and was issued with citations. Also note that prior to the citation(s) being issued from the Central Office, those citation(s) were reviewed in accordance with the SVEP case criteria as established in Section B, Criteria for a SVEP Case of this Program Directive and were determined to meet the criteria; and that an additional SVEP-initiated PIC will be added to the “For Cause List” and scheduled for inspection. It will also be noted that this current SVEP-initiated PIC will become the “initiating inspection” for the new SVEP-initiated PIC when it is added.

4. Select “Save”
5. **Recordkeeping and Tracking Inspections in OIS.** Within OIS, the Enforcement Analyst at the Central Office will update the initial inspection that triggered the SVEP case inclusion criteria following the “Post Citation SVEP Action” procedures established in Section XX, Recording and Tracking Inspections of CPL 02-00-169, effective September 15, 2022, and the associated "Severe Violator Enforcement Program OIS Recording/Tracking Desk Aid, version 1.0."

d) **CANCELLED:**

When it has been determined that an initiating inspection triggered a SVEP-initiated PIC will not be conducted for reasons that are justified in accordance with Section (C)(2) Justifications for Not Conducting an SVEP-initiated PIC of this Program Directive, the “For Cause Scheduling” List will be updated as follows:

1. In OTIS, within the Inspection Scheduling module, open the “For Cause Scheduling” list.
 - Within the For Cause list, identify and open the appropriate scheduled SVEP-initiated PIC.

Within the EDS Data detail tab:

2. Update the status from “Assigned” to “Cancelled - SVEP”
3. As described in Section (C)(2)(b) of this Program Directive, a Statewide Enforcement Manger will enter detailed and descriptive justifications within the “Notes” section. They will include their name and the date that the justifications were entered.
4. Select “Save”
5. **Recordkeeping and Tracking Inspections in OIS.** Within OIS, the Enforcement Analyst at the Central Office will update the initial inspection that triggered the SVEP case inclusion criteria following the “Post Citation SVEP Action” procedures established in Section XX, Recording and Tracking Inspections of CPL 02-00-169, effective September 15, 2022, and the associated "Severe Violator Enforcement Program OIS Recording/Tracking Desk Aid, version 1.0."

E. Referral to/from Federal OSHA or State Plans

1. Referrals from Federal OSHA

When an employer has a presence within Oregon OSHA’s jurisdiction, Oregon OSHA will accept SVEP-related referrals from federal OSHA for evaluation, which must include all relevant facts regarding any inspections conducted pursuant to the federal SVEP, as established by CPL 02-00-169, effective September 15, 2022. Referrals from federal OSHA (letter or memorandum) to Oregon OSHA should be sent through the Regional Administrator to the Oregon OSHA Administrator through the Federal Liaison at the Oregon OSHA Central Office. The referral will be entered into OTIS and be identified as referral from Federal OSHA.

2. Referrals from State Plans

When an employer has a presence within Oregon OSHA’s jurisdiction, Oregon OSHA will accept SVEP-related referrals from a State Plan for evaluation, which must include all relevant facts regarding any SVEP-related inspections. Referrals from State Plans to Oregon OSHA should be sent to the Oregon OSHA Administrator through the Federal Liaison at the Central Office. The referral will be entered into OTIS and be identified as referral from a State OSHA.

3. Referrals to Federal OSHA

In Oregon, the following SVEP inclusion criteria established in Section B, Criteria for a SVEP Case of this Program Directive contain SVEP inclusion criteria more stringent than the criteria established by CPL 02-00-169, effective September 15, 2022:

- SVEP-2 (PIC/Administrator)
- SVEP-3 (PIC/Willful)
- SVEP-4 (PIC/Repeat)

Oregon OSHA will refer all SVEP cases to federal OSHA and include information related to SVEP-2 (PIC/Administrator), SVEP-3 (PIC/Willful), and SVEP-4 (PIC/Repeat) notifying them that these three may not trigger federal SVEP case inclusion criteria. Referrals to federal OSHA, including all relevant facts, will be sent through the Federal Liaison in the Central Office.

4. Referrals to State Plans

Oregon OSHA will send SVEP-related referrals to the administration of State Plan states where the headquarters of an employer operating within Oregon OSHA’s jurisdiction resides in a State Plan State, and that employer has triggered a SVEP case criteria in Oregon.

EFFECTIVE

DATE: This directive is effective immediately and will remain in effect until canceled or superseded.

History: Issued 12-9-2010; Revised 1-28-2011, 10-6-2012, 9-20-2018, 2-22-2019, and 3-31-2025.