



State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Program Directive #19-11

Date: February 1, 2019
To: All AKOSH Staff
From: Terre L. Gales, Deputy Director *TLG*
Subject: 2019 FOM Penalties Supplement

This program directive, PD 19-11, is adopted as the 2019 FOM Penalties Supplement.

This program directive incorporates the annual adjustment to civil penalties for inflation.

This program directive is effective immediately. Please ensure that all members of your staff receive a copy of this program directive and understand how to implement it.

Attachment: 2019 FOM Penalties Supplement

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**State of Alaska
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Effective February 1, 2019

2019 FOM Penalties Supplement

Executive Summary

This document is a supplement to chapter 6 of the AKOSH Field Operations Manual, PD 19-06. The purpose of this document is to aid AKOSH personnel in proposing initial penalties for violations of Alaska’s occupational safety and health standards.

How to Use This Supplement

Chapter 6 of the AKOSH Field Operations Manual provides the policies for proposing penalties for violations. It contains references to the tables contained within this supplement. To use this manual, first identify the appropriate part of the supplement based on the violation date of a citation. The “penalties decision chart” is a helpful tool to identify the correct part. Turn to that part, and use the appropriate table as referenced in the Field Operations Manual.

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Part 2: Violations Occurring On or After February 1, 2019

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This part shall be used to assess penalties for violations occurring on or after February 1, 2019, where penalties are being assessed before February 1, 2020.

Table S-1: Statutory Maximum and Minimum Penalties

Set by AS 18.60.095 and further defined under 8 AAC 61.140

Violation Type	Maximum	Minimum
Willful	\$132,598	\$9,472
Repeat	\$132,598	N/A
Serious	\$13,264	N/A*
Other than serious	\$13,264	N/A
Failure to abate	\$13,264 per day unabated beyond the abatement date**	N/A
Posting requirements	\$13,264	N/A

*Although not a statutory requirement, it is AKOSH policy that when a proposed penalty for a serious violation would amount to less than \$924, a \$924 penalty shall be proposed for that violation

**Generally limited to 30 days maximum

Table S-2: Violation Gravity Definitions

The gravity of a violation is defined by the gravity-based penalty (GBP):
<ul style="list-style-type: none"> • A high gravity violation is one with a GBP of \$13,264 • A moderate gravity violation is one with a GBP ranging from \$7,577 to \$11,366 • A low gravity violation is one with a GBP of \$5,683

Table S-3: GBP for Serious Violations

Severity + Probability = GBP

Severity	Probability	GBP	Gravity	OIS Code
High	Greater	\$13,264	High	10
Medium	Greater	\$11,366	Moderate	5
Low	Greater	\$9,472	Moderate	5
High	Lesser	\$9,472	Moderate	5
Medium	Lesser	\$7,577	Moderate	5
Low	Lesser	\$5,683	Low	1

Part 2: Violations Occurring On or After February 1, 2019

Table S-4: GBP for Other-Than-Serious Violations

Severity	Probability	GBP
Minimal	Greater	\$1,000 - \$13,264
Minimal	Lesser	\$0

Table S-5: Repeat Other-Than-Serious, No Initial Penalty

For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty shall be proposed as follows:
<ul style="list-style-type: none"> ➤ \$378 for the first repeated violation, ➤ \$947 for the second repeated violation, and ➤ \$1,895 for a third repetition.

Table S-6: Serious Willful Violations

Total percent reduction for size and/or history	High Gravity	Moderate Gravity	Low Gravity
0%	\$132,598	\$113,652	\$94,716
5%	\$125,968	\$107,969	\$89,980
10%	\$119,338	\$102,287	\$85,244
15%	\$112,708	\$96,604	\$80,507
20%	\$106,078	\$90,922	\$75,773
25%	\$99,449	\$85,239	\$71,037
30%	\$92,819	\$79,556	\$66,301
40%	\$79,559	\$68,191	\$56,830
50%	\$66,299	\$56,826	\$47,358
60%	\$53,039	\$45,461	\$37,886
70%	\$39,779	\$34,096	\$28,415
80%	\$26,520	\$22,730	\$18,943
90%	\$13,260	\$11,365	\$9,472

Table S-7: Failure to Provide Access to Medical and Exposure Records

<ul style="list-style-type: none"> ➤ A GBP of \$1,895 shall normally be proposed for each record (i.e., either medical record or exposure record, on an individual employee basis). ➤ A maximum GBP of \$13,264 may be proposed for such violations.
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Appendix A

Purpose:

This appendix provides instructions for updating the AKOSH Penalties Supplement when maximum penalty adjustments occur.

Background:

Following the *Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, federal OSHA began adjusting its maximum¹ penalties according to the Consumer Price Index for All Urban Consumers (CPI-U). Alaska was required to follow suit, and Alaska's initial penalty adjustment went into effect on October 20, 2018.

No later than January 15th each year, the United States Department of Labor will publish a notice in the Federal Register with OSHA's new maximum penalties for that year. Alaska follows suit by publishing the pamphlet, "*Alaska Occupational Safety and Health Civil Penalties*" which goes into effect on February 1st. The new amounts apply to penalties assessed on or after February 1st. Alaska's maximum penalties must be the same as those for federal OSHA.

Penalty Adjustments:

The FOM Penalties Supplement must be updated yearly by February 1st. AKOSH will also need to update OIS to fully implement the new penalties.

Steps for updating the FOM Penalties Supplement:

1. **For the February 1st, 2020 Penalties Supplement only:** Identify the year's CPI multiplier in the Federal Register notice. Multiply all penalties in the supplement by that amount, rounding to the nearest dollar.
2. Check the results against federal OSHA's updated OIS penalties. If a rounding discrepancy exists (\$1), use the federal penalty amount.
3. Re-name the supplement for the year when it becomes effective. Publish with an effective date of February 1st.

¹ Where the term maximum is used, it also refers to the minimum penalty for willful violations.