



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

**Effective February 1, 2023**

# 2023 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, 2023

### Part 2: Violations Occurring On or After February 1, 2023

This part shall be used to assess penalties for violations occurring on or after February 1, 2023, where penalties are being assessed before February 1, 2023.

**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	\$156,259 per violation	\$11,162 per violation
Repeat	\$156,259 per violation	\$11,162 per violation
Serious	\$15,625 per violation	\$1,116* per violation
Other than serious	\$15,625 per violation	\$0 per violation
Failure to abate	\$15,625 per day unabated beyond the abatement date**	N/A
Posting requirements	\$15,625 per violation	\$0

\*For a repeated other-than-serious violation that otherwise would have no initial penalty, a GBP penalty of \$446 shall be proposed for the first repeated violation, \$1,116 for the second repeated violation, and \$2,232 for a third repetition.

\*\*Generally limited to 30 days maximum

## Part 2: Violations Occurring On or After February 1, 2023

### Table S-2: Violation Gravity Definitions

The gravity of a violation is defined by the gravity-based penalty (GBP):

- A high gravity violation is one with a GBP of \$15,625
- A moderate gravity violation is one with a GBP ranging from \$8,929 to \$13,394
- A low gravity violation is one with a GBP of \$6,696

### Table S-3: GBP for Serious Violations

Severity + Probability = GBP

Severity	Probability	GBP	Gravity	OIS Code
High	Greater	\$15,625	High	10
Medium	Greater	\$13,394	Moderate	5
Low	Greater	\$11,162	Moderate	5
High	Lesser	\$11,162	Moderate	5
Medium	Lesser	\$8,929	Moderate	5
Low	Lesser	\$6,696	Low	1

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

Severity	Probability	GBP
Minimal	Greater	\$1,000 - \$15,625
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:

- **\$446** for the first repeated violation,
- **\$1,116** for the second repeated violation, and
- **\$2,232** for a third repetition.

**Part 2: Violations Occurring On or After February 1, 2023**

**Table S-6: Serious Willful Violations**

<b>Total percent reduction for size and/or history</b>	<b>High Gravity</b>	<b>Moderate Gravity</b>	<b>Low Gravity</b>
0%	\$156,259	\$133,932	\$111,617
5%	\$148,446	\$127,236	\$109,468
10%	\$140,632	\$120,539	\$100,455
15%	\$132,820	\$113,842	\$94,872
20%	\$125,007	\$107,147	\$89,294
25%	\$117,194	\$100,450	\$83,712
30%	\$109,381	\$93,752	\$78,133
40%	\$93,755	\$80,359	\$66,971
50%	\$78,130	\$66,967	\$55,809
60%	\$62,504	\$53,574	\$44,646
70%	\$46,877	\$40,179	\$33,485
80%	\$31,253	\$26,785	\$22,323
90%	\$15,625	\$13,393	\$11,162

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

- A GBP of \$2,232 shall normally be proposed for each record (i.e., either medical record or exposure record, on an individual employee basis).
- A maximum GBP of \$15,625 may be proposed for such violations.

## 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 maximum<sup>1</sup> 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 15<sup>th</sup> 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 1<sup>st</sup>. The new amounts apply to penalties assessed on or after February 1<sup>st</sup>. 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 1<sup>st</sup>. AKOSH will also need to update OIS to fully implement the new penalties.

Steps for updating the FOM Penalties Supplement:

1. **For the February 1<sup>st</sup>, 2024 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 1<sup>st</sup>.

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