



Nothin' Gets Them Down: OSHA's Maximum Penalties *Jump* (But Only a Little)

Insights

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The Department of Labor has just published its increases to the maximum civil penalties that can be assessed against employers by the U.S. Occupational Safety and Health Administration (OSHA). The increases are based on annual cost-of-living adjustments and, for 2021, are relatively modest.

Effective immediately, all **penalties assessed after January 15, 2021** are increased as follows:

<u>Violation</u>	<u>2020 Penalty</u>	<u>2021 Penalty</u>
Serious		
Other than Serious	\$13,494 per violation	\$13,653 per violation
Posting Requirements		
Failure to Abate	\$13,494 each day beyond the abatement date	\$13,653 each day beyond the abatement date
Willful or Repeat	\$134,937 per violation	\$136,532 per violation

These increases, while disappointing and disruptive to your business, are not a big surprise. In 2015, Congress passed the Federal Penalties Inflation Adjustment Act to adjust monetary penalties assessed by OSHA and other agencies. The aim of this law was to adjust these penalties for inflation and to continue to deter violations of federal laws intended to protect workers.

Applying the words of Van Halen's monster hit, *Jump*, OSHA penalties "might as well jump" because "nothin' gets [OSHA] down."

The penalties will apply to all citations issued by OSHA beginning January 15, 2021, including for employers who currently have an open inspection with OSHA. Going forward, you can count on OSHA continuing to increase civil penalties in January of each year. With ongoing COVID-19 concerns and several changes to OSHA expected under the Biden Administration, the agency's enforcement resources should increase over the next few years. OSHA will now have higher maximum penalty amounts at its disposal to enforce safety and health regulations.

If you do business in a state where a state agency enforces the OSH Act, such as North Carolina, South Carolina, Virginia, or California, civil penalty amounts may differ. Before paying any fine

assessed by OSHA or a state agency, contact your Fisher Phillips counsel for guidance.

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