



It Must Be Nice: OSHA Penalties Automatically Increase, Putting Pressure on Employers to Comply with Workplace Safety Obligations

Insights

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The U.S. Department of Labor has just published its yearly increases to the maximum civil penalties that may be assessed via citations against employers by the Occupational Safety and Health Administration (OSHA) as a result of workplace safety and health inspections. These penalties will apply to all citations issued by OSHA beginning January 15, including for employers who currently have an open inspection with OSHA.

Summary of Penalties

The following is a summary of the maximum and minimum penalties that may be assessed by OSHA as of January 15:

Serious Violations

- Penalty minimum: \$1,036 per violation
- Penalty maximum: \$14,502 per violation

Other-Than-Serious Violations

- Penalty minimum: \$0
- Penalty maximum: \$14,502 per violation

Willful or Repeated Violations

- Penalty minimum: \$10,360 per violation
- Penalty maximum: \$145,027 per violation

Violation of Posting Requirements

- Penalty minimum: \$0
- Penalty maximum: \$14,502 per violation

Failure-to-Abate Violations

- Penalty minimum: N/A
- Penalty maximum: \$14,502 per day unabated beyond the abatement date (generally limited to 30 days maximum)

Again, these penalties will apply to all citations issued by OSHA beginning January 15, 2022, including for employers who currently have an open inspection with OSHA. These increases are not, however, the proposed increases we previously discussed — which are part of President Biden’s Build Back Better proposal and would require Congressional authorization. As a reminder, that bill would increase the maximum fine for serious citations to \$70,000 and willful or repeat violations of OSHA workplace safety rules to \$700,000 with a \$50,000 minimum.

Even without Congressional action, you can count on OSHA continuing to increase civil penalties in January of each year. In 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 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.

If you do business in a state where a state agency, rather than Federal OSHA, enforces the OSH Act (such as Tennessee, South Carolina, North Carolina, California, or elsewhere), civil penalty amounts may differ.

Conclusion

You should understand the full impact of accepting OSHA citations without contesting them. Before paying any fine assessed by OSHA or a state agency, contact the author of this insight, another member of our Workplace Safety and Catastrophe Management Practice Group, or your Fisher Phillips attorney for guidance. Make sure you are subscribed to Fisher Phillips’ Insight System to get the most up-to-date information on OSHA issues.

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