



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 16, 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 16:

Serious Violations

- Penalty minimum: \$1,116 per violation
- Penalty maximum: \$15,625 per violation

Other-Than-Serious Violations

- Penalty minimum: \$0
- Penalty maximum: \$15,625 per violation

Willful or Repeated Violations

- Penalty minimum: \$11,162 per violation (except that for a repeated other-than-serious violation that otherwise would have no initial penalty, a Gravity Based 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)
- Penalty maximum: \$156,259 per violation

Violation of Posting Requirements

- Penalty minimum: \$0

- Penalty maximum: \$15,625 per violation

Failure-to-Abate Violations

- Penalty minimum: N/A
- Penalty maximum: \$15,625 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 16, 2023, including for employers who currently have an open inspection with OSHA.

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 any of the 22 State Plans covering both private sector and state and local government workers, or the seven State Plans covering only state and local government workers), civil penalty amounts may differ. In North Carolina, for example as discussed here, employers may be surprised to learn that North Carolina OSHA's maximum penalties more than doubled on October 1, 2022 — and these penalties will now increase every January to match the maximum penalties available to Federal OSHA discussed above.

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, any member of the Workplace Safety 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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