



Tides Keep Rising: MSHA Penalties Increase For 2023

Insights

1.18.23

No penalty is a good penalty, but many Department of Labor fines just got worse – including those that can be assessed against mine operators. The agency just published a final rule that increases the maximum civil penalties that federal agencies can assess against employers, in accordance with a federal law that mandates automatic increases based upon inflation. And penalties issued by the Mine Safety and Health Administration (MSHA) did not escape this increase.

List of Increases

Any violation of the Mine Act or MSHA regulations that the agency assesses on or after January 15 will be calculated using these increased amounts. For MSHA, the increase affects all maximum penalties and some minimum penalties.

Effective immediately, penalties are as follows:

Violation	2022 Penalty	2023 Penalty
Regular Assessment	\$79,428 (maximum)	\$85,580 (maximum)
Penalty Conversation Table	\$148-\$79,428	\$159-\$85,580
104(d)(1) Citation	\$2,648 (minimum)	\$2,853 (minimum)
104(d)(2) Order	\$5,293 (minimum)	\$5,703 (minimum)
103(j) Timely Notification	\$6,620 (minimum)	\$7,133 (minimum)
Failure to Abate	\$8,605 (maximum)	\$9,271 (maximum)
Smoking Standard	\$363 (maximum)	\$391 (maximum)
Flagrant	\$291,234 (maximum)	\$313,790 (maximum)

Remember that MSHA applies the penalty increase based upon the date that it assesses the penalty, and not when it issues the penalties. Before paying any fine that MSHA assesses, consider contacting your Fisher Phillips counsel for guidance.

Fisher Phillips will continue to monitor these developments and will provide timely updates to our clients and friends as they occur. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. For further information, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Mine Safety and Health team](#).

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