



Here OSHA Goes Again: 2019 Increases to Maximum Penalty Amounts Announced

Insights

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Employers will be facing higher penalties from the federal Occupational Safety and Health Administration (“Fed-OSHA”) in 2019. On January 15, 2019, Fed-OSHA announced that it plans to increase the maximum penalty an employer can be issued for serious and other than serious citations to \$13,260, and the highest amount that can be issued for repeat and willful violations to \$132,598. Fed-OSHA’s announcement regarding the increases can be found here: <https://www.osha.gov/penalties/2019InflationAdjustments.pdf> and a chart containing all increases by the agency is below:

Type of Violation	Penalty
Serious	\$13,260 per violation
Other-Than-Serious	
Posting Requirements	
Failure to Abate	\$13,260 per day beyond the abatement date
Willful or Repeated	\$132,598 per violation

Employers should get used to annual increases to maximum Fed-OSHA penalty amounts. The January 15 penalty increase occurred pursuant to the Federal Penalties Inflation Adjustment Act Improvements Act of 2015, (the “Inflation Law”) which directed several agencies in 2015 to adjust their penalties for inflation to “catch up” for the lack of previous increases, and every year thereafter. Prior to the implementation of the Inflation Law, Fed-OSHA’s maximum penalties for serious and repeat citations were much lower, at \$7,000 and \$70,000, respectively.

The implementation of Fed-OSHA’s new penalty increases will not take effect until they are published in the Federal Register. Although the Inflation Law requires agencies to publish their annual penalty increases by January 15 of each year, that was delayed this year due to the partial government shutdown. As Fed-OSHA explained in its announcement, “[t]he Final Rule [updating the penalty amounts] will not go into effect until it is published in the Federal Register. The effective date will be the date of publication, and the increased penalty levels will apply to any penalties assessed after the effective date of the increase.”

Look for Fed-OSHA to continue to increase penalties every January. If you are located in a state where a state agency enforces the OSH Act, maximum penalty amounts may differ. Please contact counsel if you need guidance concerning this issue.

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