



OSHA Penalties Skyrocket

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OSHA civil penalties jumped dramatically on August 1, 2016, creating a daunting burden for employers. Last year, Congress enacted the Federal Civil Penalties Inflation Adjustment Act Of 2015. The Act directed federal agencies to adjust their civil penalties annually to account for inflation. But that's not all. It also required them to make adjustments to account for any inflation that had not been taken into account since the date their penalties were first enacted or 1990, whichever was later. For OSHA, this meant its penalties had to be increased by 78%.

Beginning August 1, 2016, citations issued by OSHA for violations that occurred after November 2, 2015 ? when the Act took effect ? nearly doubled. For example, maximum penalties for serious and other-than-serious violations increased from \$7,000 per violation to \$12,471. Likewise, maximum penalties for willful and repeat violations increased from \$70,000 per violation to \$124,709.

States such as Virginia and South Carolina that implement and enforce their own OSHA programs must also adopt the maximum penalty levels set by the U.S. Department of Labor. OSHA says it will continue to provide penalty reductions based on the size of the employer and other factors in an effort to mitigate the impact of penalty increases on smaller businesses; however, such discretionary guidance offers little solace for many businesses when the size of the penalty before any reductions has grown so significantly.

What's the best way for employers to avoid penalties? Review your safety programs to ensure compliance with applicable safety and health regulations, and make any necessary adjustments. A single willful or repeat violation could cripple many businesses.

Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114?74, title VII, §701(b), 129 Stat. 599 (11/02/2015); 81 Fed. Reg. 43430 (July 1, 2016).

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