



BIE SAFETY ADVISOR

OSHA Penalty Rates Increase on January 15th

The Inflation Adjustment Act requires the Department of Labor to annually adjust its civil monetary penalties to adjust for inflation no later than January 15 of each year. The Federal Register published the Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2020 on 01/15/2020. This final rule increases civil penalties the Department of Labor assesses including those issued by OSHA based on workplace inspections and potential violations of safety and health standards. The rule was effective January 15, 2020 and the increased penalty rates will apply to any penalties assessed after the effective date of the rule.

Increased penalties apply to those assessed after the effective date of the rule, therefore penalties assessed after Jan. 15, 2020, whose violations occurred after Nov. 2, 2015, will be affected by the higher penalty amounts

These are the types of violations that may be cited and the new 2020 maximum penalties:

- **Other Than Serious Violation** – A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A proposed penalty of up to \$13,494 (increased from \$13,260) for each violation is discretionary. A penalty for an other-than-serious violation may be adjusted downward by as much as 95 percent, depending on the employer's good faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business.
- **Serious Violation** – A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A mandatory penalty of up to \$13,494 (increased from \$13,260) for each violation is proposed. A penalty for a serious violation may be adjusted downward, based on the employer's good faith, history of previous violations, the gravity of the alleged violation, and size of business.
- **Willful Violation** – A violation that the employer knowingly commits or commits with plain indifference to the law. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and made no reasonable effort to eliminate it. Penalties of up to \$134,937 (increased from \$132,589) may be proposed for each willful violation, with a minimum penalty of \$9,472 for each violation. A proposed penalty for a willful violation may be adjusted downward, depending on the size of the business and its history of previous violations. Usually, no credit is given for good faith. If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or by imprisonment for up to six months, or both. A fine of up to \$250,000 for an individual, or \$500,000 for a corporation, may be imposed for a criminal conviction.
- **Repeat Violation** – A violation of any standard, regulation, rule, or order where, upon re-inspection, a substantially similar violation can bring a fine of up to \$134,937 (increased from \$132,589) for each such violation. To be the basis of a repeated citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeated citation.
- **Failure to Abate Prior Violation** – Failure to abate a prior violation may bring a civil penalty of up to \$13,494 for each day the violation continues beyond the prescribed abatement date.



Monthly Toolbox Talk

NEAR MISSES - PAY ATTENTION TO THE WARNING SIGNAL

How many times have you shrugged off a near miss? Never gave it a second thought? Next time, think twice. The difference between a near miss and an accident often is a fraction of a second or an inch. And when it happens again, that difference may not be there.

We never know when the serious injury is next.

One study shows that for every 330 incidents of the same type, 300 produce no injuries, 29 produce minor injuries and one produces a major injury. The problem is we never know which time the major injury will occur. Near misses are warnings. If we heed these warnings and look for causes, we may be able to prevent injury or damage.

Here's an example

You're going up a ramp into a building under construction. Your foot slips. Being agile and empty handed, you regain your balance with no harm done.

Another person comes along. He slips, but his reactions are a little slower than yours were. To keep from failing, he jumps off the ramp. Again no harm done.

Then comes a third person carrying a load. He has the same experience, but falls off the board with the load on top of him. He breaks his ankle.

Two warnings were ignored. Finally, someone was hurt. Now the loose cleat, sand, or mud on the board is discovered and the condition corrected. We've locked the barn after the horse has been stolen. Two of us saw the thief lurking around, but failed to take action.

Whenever you see a near miss, ask "Why?"

Suppose you're walking toward a mason's scaffold. You see a brick fall, but hear no warning shout. Ask yourself: "Why did it fall? Was it kicked loose? Is a toe board missing?" Then correct this condition if possible. If not, report it to someone who can.

Keep the right attitude

Never take the attitude that a miss is as good as a mile. The next time, it may be the last mile for you or a fellow worker. If you see an unsafe act or condition, report it, and assist in analyzing and correcting the hazard before it becomes an injury.

Safety Reminder

- See Something?
- Say Something, and
- Fix The Issue

Employee Recommendations:

HOW THIS TOPIC APPLIES TO THIS JOB:

ATTENDEES: Print Name / Signature (use back if necessary)

DATE: _____

SUPERVISOR SIGNATURE:

JOBSITE / PROJECT:

