

## **BIE SAFETY ADVISOR**

# OSHA Penalty Rates Increase on January 15<sup>th</sup>

The Inflation Adjustment Act requires the Department of Labor to annually adjust its civil monetary penalties for inflation no later than January 15 of each year. The Federal Register published the Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2021 on January 15, 2021. 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.

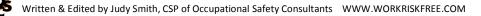
The rule was effective January 15, 2021 and the increased penalty rates will apply to any penalties assessed after the effective date of the rule. So penalties assessed after Jan. 15, 2021, whose violations occurred after Nov. 2, 2015, will be affected by the higher penalty amounts

These are the types of violations that may be cited and the new 2021 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 penalty of up to \$13,653 (increased from \$13,494) 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 penalty of up to \$13,653 per violation (increased from \$13,494) is mandatory. 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 \$136,532 (increased from \$134,937) for each willful violation can be imposed. A 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 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 \$136,532 (increased from \$134,937) per 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 (increased from \$13,653) for each day the violation continues beyond the prescribed abatement date.



### **Monthly Toolbox Talk**

#### Working Around Heavy Equipment

#### Moving Equipment

The best way to avoid danger from self-propelled units, such as cranes, dozers, loaders, and trucks, is to keep our eyes open and stay out of the way. The operator does his or her best to keep from running over anyone, but with all of the commotion on a construction site and the large blind spots many pieces of equipment have, he/she might not see you. And don't rely on hearing a horn or back-up alarm. A construction site, as you know, is not only busy, it's noisy too.

#### **Riding On or In Heavy Equipment**

Only ride in approved seats. Do not stand or ride on running boards, drawbars, truck beds, trailers, forks, or buckets. Riding on the top of a load is especially dangerous. You could fall off if the load shifts or be crushed when going under low clearances. When riding in transport vehicles, keep your arms and legs inside where they belong and use the seatbelt.

#### Walking Beside Equipment

Don't walk alongside moving equipment. You could be injured or killed if the vehicle slides or turns, or if the load shifts, or if you slip. Don't walk under loads on cranes or hoists. Be careful not to touch the frame of a crane when there are power lines in the area. If the crane touches one of them, you'll be electrocuted. Also, electricity can jump several feet depending on voltage and weather conditions. Stay clear of crane counterweights that could strike you when swinging a load.

#### **Other Equipment**

Moving equipment of any kind can be dangerous. Stay off portable staging, scaffolding or work platforms while it's being moved, unless it is designated for you to be on it.

#### Seatbelts

Always wear your seatbelt when operating heavy equipment. Seatbelts prevent injuries and protect the operator by keeping him or her inside the cab. Also, seatbelts help protect the operator should the piece of equipment be struck by another vehicles, especially large trucks on roadways.

#### Accessing and Exiting the Cab

Many employee injuries occur when operators improperly access or exit the cab as a result of slipping or jumping down onto uneven ground. These injuries typically involve a shoulder knee or ankle injury. Always face the piece of equipment and maintain 3-point contact (Two hands and one foot or two feet and one hand). Never jump down. Also before climbing into the cab, make sure your boots are free of mud or materials that could cause you to slip.

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