



# COMPLIANCE BULLETIN

## HIGHLIGHTS

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- The 2015 Bipartisan Budget Act directed OSHA to increase civil monetary penalty amounts to account for inflation.
- OSHA's initial adjustment includes a 78 percent increase in penalty amounts for 2016.
- OSHA will adjust civil penalty amounts for inflation every year, beginning in January 2017.

## IMPORTANT DATES

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### July 1, 2016

OSHA published new penalty amounts in the Federal Register.

### August 1, 2016

New OSHA penalty amounts become effective.

**Provided By:**  
The Allen Thomas Group

## OSHA Increases Maximum Penalty Amounts

### OVERVIEW

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On July 1, 2016, the Occupational Safety and Health Administration (OSHA) issued an [interim final rule](#) that increases the civil penalty amounts the agency may impose on employers that violate workplace safety and health standards.

The increased amounts will apply for penalties proposed by OSHA on or after Aug. 1, 2016. These will include any penalties associated with violations that occurred on or after Nov. 2, 2015. OSHA will accept comments on the interim final rule until Aug. 15, 2016.

The increases, which are based on inflation, reflect an initial catch-up adjustment to update penalty levels that have not changed in over 25 years. The adjustment resulted in penalties that are about 78 percent higher than the current levels.

### ACTION STEPS

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Employers should become familiar with the new penalty amounts and review their health and safety policies to ensure compliance with all OSHA standards.

Employers that have undergone OSHA inspections on or after Nov. 2, 2015, should be aware that the increased penalty amounts will apply to them if OSHA waits until Aug. 1, 2016, or later to propose any applicable penalties.



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## Background

Under federal law, most agencies are required to account for cost-of-living increases by annually adjusting the monetary amounts they may assess as civil penalties. Because OSHA was excluded from those requirements in 1996, OSHA's penalty amounts have remained unchanged since 1990.

On Nov. 2, 2015, however, OSHA became subject to the adjustment requirements under the [Bipartisan Budget Act of 2015](#) (Act). The Act directed OSHA to make an initial "catch-up" adjustment through an interim final rule by July 1, 2016.

The Act also requires OSHA to make subsequent adjustments to the penalty amounts every year. The Office of Management and Budget must issue guidance for OSHA's next increase by Dec. 15, 2016.

## Catch-up Increase

On July 1, 2016, OSHA issued its interim final rule to implement the initial catch-up increases. The increased penalty amounts will become effective **Aug. 1, 2016**, and may apply for any violations found by OSHA since Nov. 2, 2015. The updated maximum penalty amounts are shown in the table below.

Violation	Current Maximum	Increased Penalty Amount
Non-serious hazard	\$7,000	<b>\$12,471</b>
Serious hazard	\$7,000	<b>\$12,471</b>
Posting failure	\$7,000	<b>\$12,471</b>
Willful violation	\$70,000	<b>\$124,709</b>
Repeated violation	\$70,000	<b>\$124,709</b>
Failure to correct	\$7,000 per day	<b>\$12,471 per day</b>

In addition to the increased maximums, the final interim rule increased the **minimum** penalty that OSHA may assess for willful violations. The current minimum for willful violations is \$5,000. Under the interim final rule, that minimum will increase to **\$8,908**. The Occupational Safety and Health Act (OSH Act) does not establish minimum penalty amounts for any other type of violation.

The interim final rule also clarifies that OSHA-approved state plans must provide penalty amounts that are equal to or higher than those under the federal OSH Act. State plans must make the initial increased amounts effective within six months after publication of the interim final rule (Jan. 1, 2017).

## Annual Adjustments

After the initial catch-up amounts become effective on Aug. 1, 2016, OSHA must update its maximum penalty amounts based on the Consumer Price Index each year. The first annual inflation adjustment will be allowed for 2017. OSHA is required to publish annual updates reflecting the annual increases. These updates must be published in the Federal Register by Jan. 15 of each year.