

OSHA Update - New Fines, Requirements

Amundsen Davis OSHA Legal Update

August 1, 2016

Increasing Fines:

In late 2015, we reported that OSHA updated its fine schedule, increasing maximum fines for all citations by approximately 80%, meaning maximum fines went up from \$7,000 to \$12,600 for a "serious" violation and from \$70,000 to a staggering \$126,000 for a "willful" violation. Please note that these fines went into effect on August 1, 2016, are here to stay.

New Requirements:

In May of this year, we reported that OSHA had passed a new rule requiring electronic reporting for virtually all employers with more than twenty employees. Included in that rule were other new requirements, including the requirement that employers implement procedures to ensure accurate reporting of injuries and illnesses by its employees without fear of retaliation from the employer or the other employees. Additionally, by way of this requirement, OSHA is further signaling that it will not tolerate, and will cite employers for maintaining, "safety incentive programs" that intentionally or unintentionally discourage employees from reporting injuries or illnesses (i.e. if no injuries for one month, everyone gets a gift card or a half day).

Please note that new electronic reporting requirements are being phased in starting in 2017, but that the other requirements set forth in the new rule go into effect August 10, 2016. Employers should update their safety plans and other written processes and procedures accordingly.

Press Releases:

On August 1, 2016, OSHA cited a shipyard operator \$1,395,000 for twenty-four alleged OSHA violations, including fourteen "willful" violations. While the fine amount is staggering, equally as concerning is the press release for the citations, which goes to great lengths to damage the employer and its reputation, even identifying the employer's insurance provider by name. Notably, OSHA summarizes the employer's OSHA history from as far back as 1972, signaling that once an employer receives OSHA citations, those citations are 'in play' forever.

Conclusion:

Going forward, employers should be aware of OSHA's drastically increasing fine schedule, its every-changing requirements, and its increasingly antagonistic tone towards employers. Based on OSHA's clear intention to increase its presence in

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Matthew Horn
Partner

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all industries, employers would be prudent to confirm that their facilities, systems, and processes satisfy the applicable standards. The failure to do this now will likely result in multiple citations and significant fines when OSHA comes to the door.

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