

Today OSHA announced that it is changing its internal policies to increase penalties that it issues.

In order to qualify for a 10% discount for a clean OSHA history, the employer must have had no OSHA citations in the last 5 years (was 3 years).

In addition, for the first time, if an employer does have a high gravity Serious citation or greater (for any violation) in its history, then a 10% penalty increase will be added.

OSHA has also expanded the period for which prior citations will be used as a Repeat from 3 years to 5 years. This means that if an employer has 2 similar violations any time in 5 years they can be subject to a \$70,000.00 Repeat penalty.

The new policy also limits the right of Area Directors (the individuals who approve and sign citations) to reduce penalty by only 30%. Any greater reduction must be approved by one of 10 Regional Administrators.

**A new 20% penalty reduction is available if employers agree to hire a third-party safety consultant. Although not spelled out in the memo, when a consultant is part of an OSHA settlement OSHA usually attempts to negotiate that reports from the consultant be submitted to OSHA.**

Gravity based penalties have also been revised so that the minimum increases from \$1000 to \$3000.

Good faith discounts for having entered into partnerships with OSHA have been eliminated.

Reductions for small employers have been reduced from 60% for the smallest employers -- to a maximum of 40% for the smallest employers. Any employer with more than 250 employees in the entire company (not just the location), is not entitled to any size reduction.

Finally, OSHA will no longer add up the percentages of the few remaining discounts and apply the total percentage, instead they will be applied serially - thereby changing the value of the discounts dramatically.

As OSHA notes in closing:

"These changes will serve to generally increase the overall dollar amount of all penalties. Furthermore, the average penalty for a serious violation will increase from approximately \$1,000 to an average of \$3,000 to \$4,000."