

## FACT SHEET

### U.S. Department of Labor Inflation Adjustment Act Interim Final Rules

On November 2, 2015 Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Inflation Adjustment Act) – as part of the Bipartisan Budget Act of 2015. The new law directs agencies to adjust their civil monetary penalties for inflation every year.

Congress often adds penalties to laws to encourage greater compliance. These penalties, however, are less effective when they haven't been raised for decades to keep up with inflation. Recognizing this, Congress passed a law in 1990 directing agencies to adjust their civil monetary penalties to keep up with inflation, defining a civil monetary penalty as a penalty for a specific amount or maximum amount set by Federal law that is assessed or enforced by a Federal agency.

But a low cap on these increases together with complicated rounding rules kept many penalties from accomplishing Congress's stated goal of keeping up with inflation over time. Furthermore, some agencies, such as the Occupational Safety and Health Administration, were exempt from the 1990 law, so the agency's penalties have not increased since 1990. That is why Congress passed the Inflation Adjustment Act in 2015 to begin annually adjusting penalties using a more straightforward method than the 1990 law.

The new law directs each agency across the federal government to determine the last time their penalties were increased (other than under the prior inflation act) and to publish interim final rules to adjust their penalties for inflation from that date. The amount of the increase may not exceed 150% of the existing penalty amount. The law provides that the rules should be published no later than July 1, 2016.

The Department of Labor published two interim final rules to adjust its penalties for inflation:

- (1) One DOL-only rule covering the vast majority of penalties assessed by the Department's Employee Benefits Security Administration, Mine Safety & Health Administration, Occupational Safety and Health Administration, Office of Workers' Compensation Programs, and Wage and Hour Division; and
- (2) A second rule jointly with the Department of Homeland Security to adjust the penalties associated with the H-2B temporary guest worker program.

These rules apply the 2015 Inflation Adjustment Act's clear formula on how to determine the proper adjustment for each penalty. The rules are also informed by [further guidance](#) released by the Office of Management and Budget to ensure uniform implementation of these penalties across agencies.

The rules published under the 2015 Inflation Adjustment Act will modernize some penalties that have long lost ground to inflation:

- OSHA's penalties – which have not been raised since 1990 – will increase by 78%, with its top penalty for serious violations rising from \$7,000 to \$12,471 and its top penalty for willful or repeated violations rising from \$70,000 to \$124,709.
- OWCP's penalty for failure to report termination of payments made under the Longshore and Harbor Workers' Compensation Act has only increased \$10 since 1927, and will rise from \$110 to \$275.
- WHD's penalty for willful violations of the minimum wage and overtime provisions of the Fair Labor Standards Act will rise from \$1,100 to \$1,894.

These penalty increases will also deter violations, which will provide a significant benefit not only for workers but also for responsible employers who will have a more level playing field when competing with employers who are not following the law.

The new civil penalty amounts are applicable only to civil penalties assessed by the Department after August 1, 2016, whose associated violations occurred after November 2, 2015, the date of enactment of the Inflation Adjustment Act.

More information on the individual penalty adjustments can be found on a chart available at <https://www.dol.gov/sites/default/files/2016-inflation-penalty-chart.pdf>