

JANUARY 23, 2023 | MSHA INSPECTIONS, CITATIONS & ENFORCEMENT

MSHA Releases Increased Penalties for 2023

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Adhering to what is now an annual requirement since the passage of the [Inflation Adjustment Act in 2016](#), on January 13th, the Mine Safety & Health Administration (MSHA) published a [Final Rule updating the penalties](#) used when assessing fines for citations and orders for the coming year. The increased penalties will determine assessments for mine production operators and independent contractors for all citations and **orders** assessed after January 15th. This annual update to MSHA's penalty authority is tied to national inflation metrics, meaning when there is significant inflation in the economy, the penalty increase is greater. This year, the penalty increase is slightly above 7% from 2022.

For the most basic citations, like 104(a) Citations, the increase is minimal. The statutory minimum penalty for regularly assessed penalties increases from \$148 to \$159. The increase becomes more noticeable when citations and orders are classified more seriously and therefore creep further up MSHA's regular assessment penalty conversion chart. For example, the statutory maximum for regularly assessed penalties under [30 C.F.R. Section 100.3](#) is now \$85,580, up from \$79,428 in 2022.

Other increases of note include:

- Minimum Penalty for 104(d)(1) Citation/Order
 - An increase from \$2,648 to \$2,853
- Minimum Penalty for 104(d)(2) Order
 - An increase from \$5,293 to \$5,703
- Minimum Penalty for Failure to Notify MSHA of an Accident within 15 Minutes
 - An increase from \$6,620 to \$7,133 (*the maximum follows Section 100.3 max listed above*)
- Maximum Daily Penalty for Failing to Abate MSHA Citation (104(b) Order)
 - An increase from \$8,605 to \$9,271
- Maximum Penalty for Flagrant Violations under Section 110(b)(2)
 - An increase from \$291,234 to \$313,790

Annually, MSHA has until January 15th of each calendar year to increase the penalty assessment limits. The new penalties will become evident as mine operators begin to receive Proposed Assessments and Statements of Accounts from MSHA following the issuance of citations or orders from now forward in 2023. The increase in

penalties in no way impacts mine operators' option to contest any assessed citation or order, and as penalties continue to increase MSHA may find more operators contesting to ease the financial burden.

(For more information on the history of these increases see our 2016 blog post on the implementation of the Inflation Adjustment Act and its Catch-up Provisions by the Department of Labor)