OSHA Penalty Reductions Support Safety-Conscious Employers and Small Businesses

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The penalty structure for OSHA violations is contained in Section 7 of the Occupational Safety and Health Act. Congress initially made clear that the penalties are not necessarily intended as punishment for violations but should serve as a deterrent to future violations. Recent changes to the penalty structure show an increasing focus on, and support for, smaller businesses and businesses with a clean safety record.

Previously, a penalty reduction level of up to 70% based upon certain factors was only available for businesses with 10 or fewer employees. That reduction level has been expanded and now includes businesses who employ up to 25 employees. Accordingly, a reduction is now available to a significant number of additional employers which could not benefit prior to the recent policy revision.

In addition, new guidelines authorize a 15% penalty reduction for employers who immediately take steps to address or correct a hazard. Furthermore, employers (1) who have never been inspected by federal or state OSHA representatives or (2) who have not been inspected in the previous five years and have no serious, willful, or failure-to-abate violations are eligible for a 20% penalty reduction.

The impact of these reductions cannot be immediately assessed. Some of the reductions are already applicable to certain employers, although the base of employers who may qualify for reductions is broadened and enhanced. It does appear that OSHA has committed to assisting smaller businesses, and businesses who have a past history of safe and committed work practices. Deputy Secretary of Labor Keith Sonderling commented that: “Small employers who are working in good faith to comply with complex federal laws should not face the same penalties as large employers with abundant resources. By lowering penalties on small employers, we are supporting the entrepreneurs that drive our economy and giving them the tools they need to keep our workers safe and healthy on the job while keeping them accountable.”

We Can Help

Employers with OSHA-related questions may contact Larry L. Cash, Scott Simmons or any member of Miller & Martin’s Labor and Employment group.