



## OSHA and EPA Penalties Set to Increase in 2021

Fines and penalties issued by the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) are set to increase in 2021 as a result of annual inflationary adjustments.

Many environmental lawyers can recite verbatim “\$25,000 per day, per violation” from federal [environmental laws](#), as can health and safety lawyers the [OSH Act’s](#) \$7,000 penalty provision for serious and other-than-serious violations (and \$70,000 for willful and repeat violations). But the OSH Act and most federal environmental statutes were passed upwards of 40–50 years ago. And so in 2015 Congress passed the Federal Civil Penalty Inflation Adjustment Act of 2015 (Inflationary Adjustment Act), which directs federal agencies to annually adjust civil penalties for inflation by January 15 of each new calendar year in order to maintain the deterrent effect of civil penalties by translating originally enacted statutory civil penalty amounts to today’s dollars.

### **EPA’s 2021 Penalties**

Effective December 23, 2020, EPA’s new inflation-adjusted civil penalties range largely between approximately \$50,000 and \$75,000. [85 Fed. Reg. 83818 \(Dec. 23, 2020\)](#).

For example:

- \$102,638 – Clean Air Act civil judicial penalties under 42 USC 7413(b);
- \$48,762/390,092 – Clean Air Act administrative penalties under 42 USC 7413(d);
- \$56,540 – Clean Water Act civil penalties under 33 USC 1319(d); and
- \$76,764 – RCRA civil penalties under 42 USC 6928(g).

## **OSHA's 2021 Penalties**

As set forth in [86 Fed. Reg. 2964 \(Jan. 14, 2021\)](#), effective, January 15, 2021, [OSHA's adjusted penalties](#) are as follows:

- \$13,653 – (Serious, Other-Than-Serious, Posting, and Failure to Abate violations);
- \$136,532 – (Willful and Repeat violations).

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