

**U.S. Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number: 02-10-201-10-105, to the Assistant Secretary for Occupational Safety and Health.

WHY READ THE REPORT

Occupational Safety and Health Administration's (OSHA) use of penalty assessments and the impact on workplace safety and health have been subjects of OIG and GAO reports since September 1987. As recently as August 2004, GAO reported that OSHA had not effectively evaluated its penalty assessments.

In setting penalty amounts, OSHA is required to consider the seriousness of violations, as well as employer's size, good faith, and history. While penalty reductions are not mandated, OSHA's policies are intended to (1) encompass the general character of an employer's safety and health performance and (2) use significant penalty reductions to provide incentives for employers to abate workplace violations voluntarily. In total, penalty reductions can be as much as 100 percent.

For inspections OSHA conducted between July 2007 and June 2009, 98 percent of citations received penalty reductions, with reductions totaling \$351 million. A driving factor for reducing penalties was the employer's right to contest an inspection, which could delay abatement and continue to expose employees to hazards. Officials maintained that reduced penalties would lead to quicker and more comprehensive abatement. By effectively using penalty reductions, OSHA could potentially reduce the risk of future injuries, illnesses, and fatalities.

WHY OIG CONDUCTED THE AUDIT

The objective of this audit was to answer the question: Has OSHA effectively evaluated the impact of penalty reduction incentives on workplace safety and health?

The audit covered 49,192 Federal OSHA inspections of non-Federal employers initiated between July 2007 and June 2009. The inspections resulted in 142,187 citations and \$523.5 million in penalties which were reduced by \$351.2 million (67 percent).

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2010/02-10-201-10-105.pdf>

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OSHA NEEDS TO EVALUATE THE IMPACT AND USE OF HUNDREDS OF MILLIONS OF DOLLARS IN PENALTY REDUCTIONS AS INCENTIVES FOR EMPLOYERS TO IMPROVE WORKPLACE SAFETY AND HEALTH

WHAT OIG FOUND

OSHA has not effectively evaluated the impact of \$351 million in penalty reductions as an incentive for employers to improve workplace safety and health. Small employers received the largest reductions (78 percent), but generally had the worst safety and health history — more inspections, more fatalities, and more high-gravity serious (likely to cause death) and repeat violations.

OSHA did not always consider an employer's overall safety and health performance when reducing penalties, in part because its information system cannot effectively track violations company-wide. We found 4,791 employers with a history of serious violations had received penalty reductions of \$86.6 million. Half of these employers received reductions of \$42.6 million on subsequent inspections where a similar standard was violated indicating the employer's hazard corrections may not have been comprehensive and company-wide.

We found as much as \$127 million (36 percent) in penalty reductions may not have been appropriately granted. Specifically, reductions granted in consideration of the employers' size resulted in what amounts to an entitlement as 98 percent of all citations were reduced at the maximum rate. OSHA can limit size reductions for small employers with the more serious violations, but its use of that policy was minimal and up to \$91.8 million of reductions may have been granted inappropriately. Another \$2.3 million of reductions exceeded limits set forth in the directives.

OSHA Area Directors did not document the justification for reductions resulting from informal settlement agreements, for an estimated 49 percent of reductions or \$31.8 million.

Finally, we found that OSHA incorrectly granted history reductions of \$1.1 million to employers with prior violations.

WHAT OIG RECOMMENDED

The OIG made 11 recommendations to the Assistant Secretary for Occupational Safety and Health to commit the necessary resources to effectively evaluate the impact of penalty reductions, improve information systems, and revise and implement policies and procedures.

OSHA provided comments on our report expressing concerns about some audit findings and recommendations. Based on OSHA's response, we clarified two recommendations, but our overall conclusions remain unchanged.