faith," size of business, and history of previous violations. A reduction of up to 20 percent may be given for "good faith" Evidence of good faith includes awareness of the OSHAct and any overt indications of the employer's desire to comply with the Act A reduction of up to 10 percent may be given for business size measured in terms of the number of employees employed by the employer A reduction of up to 20 percent may be given for a favorable history regarding previous violations Normally, such history is based on the employer's past experience under the OSHAct However, in certain cases, the employer's past history under other federal or applicable state safety and health statutes may be considered The penalty adjustment factors are applied to the "unadjusted penalty" to determine the "adjusted penalty"

The "adjusted penalty" is further reduced by 50 percent (the abatement credit) if the employer corrects the violation within the abatement period specified in the citation This reduction is made at the time the proposed penalty is calculated to determine the proposed penalty to be assessed for each violation

Serious violations. The law requires that any employer who has received a citation for a serious violation must be assessed a proposed civil penalty of up to $1000 for each such violation Due to the severity of a serious violation, the amount of the proposed penalty for each cited serious violation is usually calculated from a base of $1000 (the unadjusted penalty), which is the maximum penalty allowed The unadjusted penalty may then be adjusted downward by up to 50 percent, depending on the employer's good faith, size of business, and history of violations, just as in the case of non-serious violations. However, the additional 50 percent "abatement credit" applicable to non-serious violations is *not* applicable to serious violations

Imminent danger Penalties may be proposed in cases of imminent danger even though the employer immediately eliminates the imminence of such danger or initiates steps to abate such danger If the danger is abated, the situation can be reduced in gravity to the "serious" category, and some to the "non-serious" category—all dependent on what was done to remove the imminence and how much of the hazard is removed.

Notice of proposed penalty. Once the proposed penalties for the serious and/or non-serious violations have been calculated, the "Notification of Proposed Penalty" is prepared and sent to the employer by certified mail either with the citation or soon thereafter.

Notice of failure to correct. The Act provides that any employer who fails to correct an uncontested violation within the abatement period may be assessed a proposed penalty of up to $1000 for each day that the violation continues after the expiration of the abatement period This penalty provision can be applied when a followup inspection discloses that the employer has not abated a violation for which a citation has been issued and the citation and proposed penalty have become final In such cases, a "Notification of Failure to Correct Violation and of Proposed Additional Penalty" is used to notify the employer, this again is sent by certified mail

Time for payment of penalties. When a citation and/or proposed penalty is uncontested, the payment is due after the lapse of 15 working days following receipt of the penalty notice When a citation and/or penalty are contested, the payment (if any) is not due until the final order of the Occupational Safety and Health Review Commission or the appropriate Circuit Court of Appeals is issued

Contested Cases

An employer has the right to contest an OSHA action if he feels that such action is not justified The employer may contest a citation, a proposed penalty, a notice of failure to correct a violation, the time allotted for abatement of an alleged violation, or any combination of these * An employee or

* The regulations concerning the rules of procedure for contested cases adopted by the Occupational Safety and Health Review Commission are codified in Title 29, C F R , Chapter XX, Part 2200