

Workers' Comp & Safety News



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Compliance

December 2016/January 2017

Volume 14 • Number 6

OSHA Publishes Updated Slip, Trips and Falls Rule

In mid-November, OSHA published its long-awaited final rule on slips, trips and falls. The rule becomes effective on Jan. 17, 2017, and will affect approximately 112 million workers at seven million worksites.

In 2014, falls, slips, and trips accounted for 17 percent of all fatal work injuries, second only to transportation accidents. OSHA estimates that, on average, approximately 202,066 serious (lost-workday) injuries and 345 fatalities occur annually among workers directly affected by the final standard. It estimates the new rule will prevent 29 fatalities and more than 5,842 injuries annually.

The final rule updates OSHA's general industry [Walking Working](#)



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This Just In

Good news for workers' compensation buyers! Many workers' compensation policyholders will see lower premiums for 2017. The NCCI (National Council on Compensation Insurance) had recommended rate reductions in 21 states of the 22 it had filed advisory rates for by late October. NCCI recommends rates to the states that use its data, then insurance regulators either approve or disapprove them. This year, NCCI has advised double-digit rate decreases in seven states and single-digit decreases in 14 states.

Rating organizations such as NCCI develop these "pure premium rates" using loss and payroll data submitted by all member

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Surfaces standards specific to slip, trip, and fall hazards. Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels said, "OSHA believes advances in technology and greater flexibility will reduce worker deaths and injuries from falls." The final rule on Walking-Working Surfaces and Personal Fall Protection Systems protects workers in general industry by updating and clarifying standards and adding training and inspection requirements.

Many industry experts believe the Trump administration will let the new rule stand, since it is fairly employer-friendly. The rule gives general industry employers greater flexibility in choosing a fall protection system. As much as possible, OSHA aligned fall protection requirements for general industry with those for construction, easing compliance for employers who perform both types of activities.

For example, it eliminates the existing mandate to use guardrails as a primary fall protection method and allows employers to choose from accepted fall protection systems they believe will work best in a particular situation — an approach that has been successful in the construction industry since 1994. In addition, employers will be able to use non-conventional fall protection in certain situations, such as designated areas on low-slope roofs.

Specifics of the Rule

The final rule replaces the outdated general industry scaffold standards with a requirement that employers comply with OSHA's construction scaffold standards. The rule requires employers to protect workers from fall hazards along unprotected sides or

edges that are at least 4 feet above a lower level. It also sets requirements for fall protection in specific situations, such as hoist areas, runways, areas above dangerous equipment, wall openings, repair pits, stairways, scaffolds, and slaughtering platforms.

Employers can select from a variety of fall protection systems, including:

- ✦ **Guardrail systems**
- ✦ **Safety net systems**
- ✦ **Personal fall arrest systems** – Systems that stop a fall before the worker contacts a lower level. These consist of a body harness, anchorage, and connector, and may include a lanyard, deceleration device, lifeline, or a suitable combination. Like OSHA's construction standards, the final rule prohibits the use of body belts as part of a personal fall arrest system.
- ✦ **Positioning systems** – Equipment and connectors that, when used with a body harness or body belt, allow a worker to be supported on an elevated vertical surface, such as a wall or window sill, and work with both hands free.
- ✦ **Travel restraint systems** – An anchorage, anchorage connector, lanyard (or other means of connection) combined with body support to eliminate the possibility of a worker going over the unprotected edge or side of a walking-working surface.
- ✦ **Ladder safety systems** – A ladder safety system usually consists of a carrier, safety sleeve, lanyard, connectors, and body harness designed to prevent a worker from falling off. Cages and wells are not considered ladder safety systems.

insurance companies. Advisory pure premium rates include claims and losses and loss adjustment expenses. They do not include commissions, acquisition expenses, general expenses, taxes, dividends or profit. Insurers will include these expenses in their final premium rates.

Pure premium rates are dropping due to improvements in loss experience, higher premium volume due to the improving economy and increased competition from insurers entering the market or adding new workers' compensation products.

If your workers' compensation rates are higher than you think they should be, please contact us for a review of your claims experience and coverage.



General Safety

The key takeaway: Employers must provide additional protection to workers any time they are at a height of six feet or more (construction industry) or four feet or more (general industry) off the ground.

In addition to implementing OSHA's new rule, employers can take additional common sense steps to reduce slip, trip and fall hazards. Regularly check your premises for the following:

Trump and Workers' Compensation

What will Donald Trump's election mean for workers' compensation?

Although we don't have a crystal ball, we do expect to see some changes.

- ✱ Are aisles and corridors clear and wide enough for easy passage? If not, remove clutter or obstructions.
- ✱ Can you clearly see any level changes, steps or obstructions? If not, upgrade lighting and/or install reflective safety striping.
- ✱ Are there electric cords snaking across areas where people walk? If so, additional outlets (including floor outlets) can reduce this hazard.

For more information on the new slip, trip and fall rule or other suggestions for improving worker safety, please contact us. ■

Since workers' compensation is administered by the states, any presidential election would have little direct effect on comp. However, it can have indirect effects.

Some employers and insurers feared that the Department of Labor was gearing up to create another National Commission on Workers' Compensation, modeled after the National Commission on State Workmen's Compensation Laws created by the Occupational Safety and Health Act of 1970. The Commission evaluated state workers' compensation laws using five major objectives. Its 1972 report, which concluded that "... [state workers'] compensation laws are in general neither adequate nor equitable," led to major system reforms.

In 2016, the Department of Labor published *Does the Workers' Compensation System Fulfill Its Obligations to Injured Workers?* In this report, the DOL pointed out that workers' compensation insurance costs paid by employers declined by 59 percent between 1991 and 2013. From the early 1990s to 2013, benefits per \$100 of payroll have declined from a high of

\$1.65 to \$0.98 in 2013.

During the same time, the share employers pay of the overall costs of occupational injury and illness—an estimated \$206 billion in 2013—has shrunk to only 20 percent, according to a study published in the *Journal of Occupational and Environmental Medicine* (Leigh JP, Marcin JP. "Workers' compensation benefits and shifting costs for occupational injury and illness," 2012;54:445-450). Workers and other social benefit systems, "... including Social Security retirement benefits, Social Security Disability Insurance, Medicare, and, most recently, the Affordable Care Act..." are picking up the slack.

Another report, *The Uncompensated Worker: The Financial Impact of Workers' Comp on Injured Workers & Their Families*, by Work Comp Central, expanded on the same theme. It took a closer look at the shortfalls the current workers' compensation system creates for injured workers in several ways:

- ✱ Formulas for calculating replacement wages: Most states calculate benefits using a percentage of a



- workers' pre-injury income. In the majority of states, benefits are at least 15 percent lower than their pre-injury wages.
- ✱ Waiting periods: Most states have a waiting period of one or more days during which an injured worker receives no pay, despite having a valid occupational injury.
- ✱ Benefit caps: Most states cap benefits at a certain maximum weekly amount, regardless of the worker's pre-injury wage.

A Hillary Clinton administration might have used these studies to springboard stronger safety and health initiatives. However, many industry and political observers expect the Department of Labor under Donald Trump's administration to back away from any commissions, studies or federal workers' compensation standards. They expect to see few, if any, new safety and health regulations proposed and also much less emphasis on enforcement of existing regulations.

The Affordable Care Act and Workers' Compensation

Donald Trump's promised rollback of the Affordable Care Act could create some problems for workers' compensation. The ACA has covered some 25 million people who previously lacked health insurance. Having health insurance coverage tends to reduce cost-shifting to the workers' compensation system, as workers with health insurance have less temptation to pass off non-occupational injuries as occupational injuries.

Consulting firm Cognizant's report, *The Affordable Care Act and Its Impact on Workers' Compensation*, looked at Massachusetts' Health Care Reform Act to predict what effect the ACA might have on cost-shifting. Published in 2015, before the ACA was

fully implemented, the report found that emergency room visits billed to workers' compensation dropped by 7.2 percent in Massachusetts post-reform.

It also pointed out that the Affordable Care Act encourages prevention and wellness by covering many of these benefits with no deductible. Wellness initiatives reduce employers' medical costs about \$3.27 for every dollar spent. Wellness programs can help reduce comorbidity factors, such as obesity, that increase the costs of treating occupational injuries and illnesses. Therefore, any change that discourages wellness or prevention could have an effect on employers' workers' compensation costs.

Finally, Trump has promised massive investment in infrastructure projects. These types of projects usually involve heavy construction—i.e., high-risk jobs, which could increase injury rates.

The bottom line? Aside from minimizing any expansion of OSHA regulation or enforcement, a change in administration will have little direct, immediate impact on your workers' compensation. Indirect changes could take a while to be felt in the system.

For more information on trends affecting your workers' compensation costs, please contact us. ■

Ensuring Worker Safety Abroad

Although terrorism attacks get all the press, Americans traveling or working abroad are far more likely to fall victim to robbery, kidnap or rape. According to the Global Terrorism Database, 80 Americans (including perpetrators) died in terrorist attacks between 2004 to 2013. This excludes deaths in Afghanistan and Iraq, the majority of which are combat-related.

In some countries, risk of robbery, kidnap and rape are higher than in the U.S. To protect your workers who travel abroad and minimize your liability, they should know the risks of the areas they will visit and how to protect themselves.

Before Traveling

- ✦ **Research.** Before a trip abroad, travelers should gain a general understanding of the country's cultural, economic and political situation. The U.S. State Department issues Consular Information Sheets for every country of the world with information on such matters as the health conditions, crime, unusual currency or entry requirements, any areas of instability, and the location of the nearest U.S. embassy or consulate in the subject country. Travelers should also check the State Department's current list of travel advisories before leaving at www.state.gov/travel.
- ✦ **Learn something about local customs and cultural taboos.** Knowledge of local customs can help business travelers win friends and avoid causing offense. As an example of a cultural taboo, people in Arabic cultures consider it an insult to show someone the soles of your shoes,

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yet Americans often sit cross-legged with their soles showing. Knowledge of the local language—even basics such as “please” and “thank you”—also show respect for the host country.

- ✦ Learn something about local laws. While in a foreign country, travelers are subject to its laws.

Many countries have very strict laws about carrying drugs—even ones prescribed by a doctor. Carry only the amount needed in the original container. Consider carrying a copy of your written prescription and your doctor’s phone number, in case you run out.

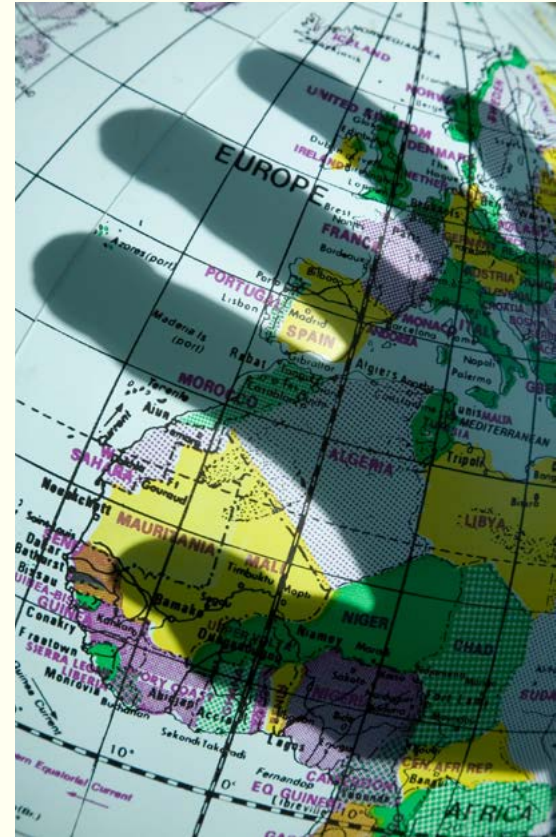
- ✦ Check with the [Centers for Disease Control](#) (CDC) for health warnings and vaccination recommendations for the countries you will be visiting.
- ✦ Pack with safety in mind. Where possible, travelers should try to blend in with the locals or to be as inconspicuous as possible. Avoid bright colors, designer labels, ostentatious jewelry, expensive luggage—anything that suggests wealth or screams “American.”
- ✦ Plan travel arrangements carefully. The safest floors are the second and third floors of most hotels. Staying in a ground-floor room makes you vulnerable to break-ins, while upper floors might be out of the reach of fire-fighting equipment. Avoid rooms with shared balconies.
- ✦ Obtain a valid passport and visas, if needed. Make sure to fill in the emergency information page of your passport.

- ✦ Leave copies of your itinerary, passport and airline tickets with a relative or friend and with someone in the office.

- ✦ Register with the nearest U.S. embassy or consulate through the [State Department’s travel registration website](#). Registration will make your presence and whereabouts known in case it is necessary to contact you in an emergency

- ✦ Check insurance coverages. In general, workers’ compensation applies to injuries occurring in the jurisdiction(s) named in your policy. In some countries, visitors are entitled to free emergency medical treatment; however, standards might not be up to those of U.S. hospitals. A separate foreign workers’ compensation policy will cover your employees for work-related injuries incurred overseas; some will also cover injuries incurred on personal time while on an overseas business assignment. Look for a policy that covers medical evacuation services, which can cost \$50,000 or more.

Companies that send workers overseas should also consider buying kidnap and ransom insurance. Virtually unheard of in the U.S., kidnap for ransom is growing in certain parts of the world. According to *Risk Management* magazine (September 2003) 10,521 executive kidnappings occurred worldwide between 1993 and 2001. According to consulting firm Capital International Management Services, Inc., 70 percent of kidnappings are resolved by ransom payment. Kidnap and



ransom insurance covers ransom payments for your employees who are kidnapped. Perhaps more importantly, though, this coverage gives employers access to experts in hostage negotiation, who can help handle a kidnapping situation more effectively.

For more information on protecting your workers when they travel overseas, please call us. ■

Winter's Temperatures Bring Risk of Hypothermia and Frostbite.



Whenver temperatures drop and wind speed increases, heat leaves the body more rapidly. This can lead to hypothermia and/or frostbite

Hypothermia: Prolonged exposure to cold can deplete the body's stored energy, resulting in hypothermia, or abnormally low body temperature. A too-low body temperature affects the brain, making the victim unable to think clearly or move well.

Symptoms of hypothermia include shivering, fatigue, loss of coordination, confusion and disorientation. If the condition progresses, victims can have no shivering, blue skin, dilated pupils, slowed pulse and breathing and loss of consciousness.

Hypothermia is serious and requires immediate medical help. Until victims can receive medical help, warm them by moving them to a

warm location, removing wet clothing and warming the body's core first with an electric blanket if available, or warm blankets or skin-to-skin contact if not available. Warm beverages (non-alcoholic) can help if the victim is conscious.

Frostbite: Frostbite results from freezing of the skin and underlying tissues. Symptoms include numbness, tingling or stinging, aching, bluish or pale, waxy skin. Affected areas lose color and feeling. Frostbite can permanently damage body tissues, and severe cases can lead to amputation. Workers with reduced blood circulation or who are not dressed properly have an increased risk of frostbite, which occurs most often in the extremities and ears and nose.

To treat frostbite:

- ✦ Move the victim to a warm room.
- ✦ Avoid rubbing the affected area or walking on frostbitten feet or toes—this increases damage.
- ✦ Immerse the affected area in warm—not hot—water. If not available, warm the affected area using body heat; for example, the heat of an armpit can warm frostbitten fingers.
- ✦ Avoid using high-heat sources such as heating pads, heat lamps, stoves or radiators for warming. Affected areas are numb and can easily burn.

The best medicine for cold stress is prevention. For suggestions on protecting your workers from cold-related injuries, please contact us. ■

