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## *Weekly Safety Tip*

*Life Is All About Choices!®*

March 13, 2017

### **SCI Safety Tip: Fall Prevention Training for General Industry Employees (Part 2)**

*By Karen Hamel, CSP, WACH*

*Source: <http://www.ehs.today.com>*

*Date: February 3, 2017*



#### **Specific Training Requirements**

Effectively trained employees will be able to identify and recognize fall hazards in the workplace and the areas where fall events are likely to occur. For each fall hazard that is identified, employees also must understand how following the procedures that have been established will protect them from injury or death [29 CFR 1910.30(a)].

Instruction must include how to properly use any tools and equipment such as ladders and safety net systems, portable guardrails, mobile ladder stands and mobile platforms. Employees also need to understand any limitations that these devices present and how misuse can cause injury or death. If personal fall protection systems will be used, training must include proper hook-up, anchoring, tie-off techniques, inspection and equipment storage [29 CFR 1910.30(a)(3)].

Using the equipment manufacturer's specifications and instruction manuals can help simplify training on the proper care, inspection, storage and use of each item. OSHA also permits employers to

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***James Lehrke-SCI***

use "designated areas" when they determine that other fall protection methods and equipment are not feasible. When designated areas are used, employers must properly mark the areas and provide training on the procedures to be used there.

**Retraining**

Because falls continue to be a leading cause of workplace injury and death, employers need to ensure that training remains effective over time. According to the Federal Register notice, training requirements "impose an ongoing responsibility on employers to maintain worker proficiency. As such, when workers are no longer proficient, the employer must retrain them."

There is no annual retraining or other specific required interval for retraining. Some of the events that can trigger the need for retaining include: performing a job or operating equipment in an unsafe manner, a fall incident or a near miss. Changes in the workplace or in fall protection/prevention equipment also trigger retraining requirements [29 CFR 1910.30(c)].

Fall protection standards for the construction industry, coupled with advances in fall protection technology and a heightened awareness of fall hazards, have helped to reduce the number of fall-related construction injuries and deaths. Mirroring these efforts in general industry will help to simplify training requirements for many employers and provide additional levels of safety for general industry employees.

## SCI OSHA: OSHA Penalties Keep Changing, But the OSH Act Remains the Same (Part 2)

Source: <http://ehstoday.com>

By: Travis Vance

Date: March 2, 2017

29 CFR § 1903.15(d)(3)	OSH Act, at 29 U.S.C. 666(a)
<p>(d) <i>Adjusted civil monetary penalties.</i> The adjusted civil penalties for penalties proposed after January 13, 2017 are as follows:</p> <p>(1) <i>Willful violation.</i> The penalty per willful violation under section 17(a) of the Act, 29 U.S.C. 666(a), shall not be less than \$9,054 and shall not exceed <b>\$126,749</b>.</p>	<p>(a) <i>Willful or repeated violation</i> Any employer who willfully or repeatedly violates the requirements of section 654 of this title, any standard, rule, or order promulgated pursuant to section 655 of this title, or regulations prescribed pursuant to this chapter may be assessed a civil penalty of not more than <b>\$70,000</b> for each violation, but not less than \$5,000 for each willful violation.</p>
<p>(2) <i>Repeated violation.</i> The penalty per repeated violation under section 17(a) of the Act, 29 U.S.C. 666(a), shall not exceed <b>\$126,749</b>.</p>	
<p>(3) <i>Serious violation.</i> The penalty for a serious violation under section 17(b) of the Act, 29 U.S.C. 666(b), shall not exceed <b>\$12,675</b>.</p>	<p>(b) <i>Citation for serious violation</i> Any employer who has received a citation for a serious violation of the requirements of section 654 of this title, of any standard, rule, or order promulgated pursuant to section 655 of this title, or of any regulations prescribed pursuant to this chapter, shall be assessed a civil penalty of up to <b>\$7,000</b> for each such violation.</p>

It's hard to imagine that OSHA has the administrative authority to adopt regulations permitting it to issue penalties in the case of a willful or repeat citation of up to \$126,748 pursuant to a statute that specifically caps its penalties at \$70,000. Or, for serious citations, promulgating a regulation permitting penalties of up to \$12,675 pursuant to a statute that specifically caps fines at \$7,000.

OSHA's administrative interpretation of the OSH Act to permit it to increase its penalties to an amount higher than those specifically enumerated in the OSH Act likely is untenable. Look for the Trump administration to attempt to undo OSHA's penalty increases, both



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Quick Tips for Healthy Living

Choosing a Weight Loss Plan and Weight Control Guidelines

This is the time of year that many people turn to quick weight loss plans to prepare for spring break or (hopefully) warmer weather. Before committing to a program that may not be safe for your health, consider the following questions.

1. **Is this plan nutritionally adequate?**  
Are you able to consume foods from all of the major and necessary food groups? The plan should contain dairy products, protein-rich foods, vegetables, fruits, and grain products.
2. **Does this plan include adequate calories?**  
A weight-loss plan under 1200 calories is not recommended without care from a physician.
3. **What are the “gimmicks” being used to “sell” the plan?**  
Are the marketing strategies harmless or potentially dangerous? A plan needs to have some advertising to be profitable and often includes marketing that makes the plan look new and different. Look for red flags such as plans based on only one type of food or those that rely on drugs or pills.
4. **Is the plan practical?**  
Make sure you are not only able to maintain the plan year-round, but that the recommended foods are easy to obtain. The foods should be affordable, generally liked, and available at the grocery store where you typically shop. You should also be allowed to eat your favorite foods occasionally.
5. **Does the plan promise realistic weight loss goals?**  
Weight may come off quickly during the first two weeks of a new diet due to changes in the body’s water balance. Although it depends on body size and activity levels, women should lose about one to two pounds per week while men should lose between two and four pounds. Weight loss that occurs faster may be dangerous.
6. **Does the plan include behavior modification tips?**  
Besides hunger, people may eat due to stress or boredom, to be sociable, or in response to cues such as smell or sight. Learning what triggers eating and finding ways to control those triggers should be part of the plan.
7. **Is there a plan for maintaining weight loss?**  
If the plan is short-term, being able to maintain the weight loss when the diet is complete should be a goal of the plan.

This information is for educational purposes only and should not replace the advice of your health care provider. Please consult your provider if you believe you have a health problem.

pursuant to the rulemaking process, and by appointing judges who are strict statutory interpreters, like Supreme Court nominee Neil Gorsuch.

State OSHA Plans’ Complaints About New Regulations

The rules adopted by OSHA pursuant to the Inflation Law already have been challenged, including by the state OSHA plans. In an Aug. 15, 2016, letter from Occupational Safety and Health State Plan Association to federal OSHA, the leaders of the more than 20 state OSHA plans questioned if OSHA’s new rules were proper, given that the OSH Act was never amended:

The Occupational Safety and Health Administration (OSHA) of the United States Department of Labor published an interim final rule that adjusts the amounts of civil penalties assessed or enforced in its regulations as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

While we understand the need for the regulation in that context, we are concerned that the language of the rule could be misunderstood to mandate that states more closely mirror federal penalty practices, which is not required by the OSH Act and has not been the past practice of federal OSHA.

As some of our members have noted, the OSH Act does not explicitly say that State Plans must have the same maximum penalty authority as Federal OSHA.

Without commenting on this issue, we acknowledge that federal OSHA has historically taken that position. In this instance, Congress did not amend the OSH Act, so Federal OSHA satisfied the congressional directive to increase its own penalties through rulemaking. However, the rule unfortunately seems to address a broader range of penalty issues. . . .

Several state OSHA plans have indicated that they will not increase their penalties until the OSH Act is amended. Look for these challenges to continue.

Employers likely will join the fight to challenge OSHA’s increased penalties and there seems to be merit to that argument. We will keep you updated as this matter unfolds.

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THINK SAFETY TODAY**