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INSURANCE LOSS CONTROL ASSOCIATION

eNews

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www.insurancelosscontrol.org

**INSIDE THIS
ISSUE:**

2015 Annual Conference Topics and Presenters	2
Sponsorship Opportunities	3
Motivational Speaker	4
Fire Pumps: Test Headers	5
The Perils of PPE—Are You Prepared?	8-12



2015 Annual Conference

[Click here to register today !!](#)

The ILCA conference will be held on October 5, 6, and 7 in Mason, Ohio. The conference will be held at the Cincinnati Marriott Northeast, 9664 South Mason Montgomery Road, Mason, Ohio 45040-9397, (513) 459-9800. Rooms for the hotel will be discounted to \$116 per night for ILCA members. Members should identify themselves as coming to the ILCA conference to receive the discounted room rate. Members staying at the hotel will receive a full hot breakfast which is included in the nightly room rate. To make a room reservation by phone, call 877-204-8216. To make a room reservation online for the conference: [Book your group rate for ILCA Annual Meeting](#).

All conference registrants will have a reception Monday night, lunch on Monday and Tuesday, and snacks/beverages for breaks. We have lunch and break sponsorships available. If your company would like to sponsor a break, please contact Ron Huber rhuber187@aol.com or Kristi Ruxlow administration@insurancelosscontrol.org.

Our conference will open with Motivational Speaker, Bill Hosket, NBA Champion and Olympic Basketball Gold Medalist. We will also have a business meeting that must be conducted at each conference.

Conference cost is \$345 for members of ILCA and \$430 for nonmembers. Any group bringing 10 or more persons can take advantage of a group rate of \$325 per person.

continued on Page 2

2015 ILCA ANNUAL
CONFERENCE
OCTOBER 5—7
MASON, OH

EN EWS

The topics for the conference this year are as follows:

Topic	Speaker	Company Represented
Nanotechnology	Laura Hodson	NIOSH
Hazcom / GHS	Joseph Blower	Sheakley Uniservice, Inc.
LC / UW Working Together	Sean Benham	C N A
Machine Guarding	Brian Huber	Machine Safety Specialists, LLC
Combustible Dust	Jason Reason	Lewellyn Technology
DOT/Regulatory and Safety Compliance	Jillian Nafe	Sheakley Uniservice, Inc.
Flammable Liquids, Power Surge / Protection	Dirk Smith	Mutual Boiler Re
Solar Energy	Phil Denbow	Hartford Steam Boiler
	Tiana Cain	Central Analysis Bureau
Job Hazard Analysis	Pat McCon	Zurich Services Corporation

SPONSORSHIP OPPORTUNITIES FOR THE 2015 ANNUAL CONFERENCE

ILCA is pleased to announce the following sponsorship and advertisement opportunities available during the two and a half day conference on October 5—7, 2015.

Any company participating in sponsorship and/or advertising in the 2015 Conference will also receive free advertising in ILCA eNews for one year following the conference.

Vendor's Insert—\$150—Insertion of your company brochure and information

B&W advertisement we reproduce in black and white and include in the binder. You provide the original document. Material must be submitted by **September 18, 2015**.

Color advertisement, brochure, or flyer we will add to our binder. You provide and ship the materials in advance. These must be 3 hole punched. Materials must be submitted by **September 18, 2015**.

Exhibitor

1 Table—One day only—\$200

1 Table—Entire conference—\$350

Break—\$300

Includes: Announcement before and after break, signage, notation and thank-you in conference agenda, web link to your website and a vendor's insert in the conference binders. Get all of the possible contacts you can create by networking.

Luncheon—\$600

Includes: Announcements before and after lunch, signage, notation and thank-you in conference agenda, web link to your website, table for materials and a vendor's insert in the conference binder. Encouraged to have small logo giveaways and all the possible contacts you can create by networking. Luncheon sponsors will also receive a special mention and a 3.5"x5" advertisement space in the post-conference newsletter.

Conference Partner—\$1,500

Includes: Exhibit space and 2 full registrations. (Registrations must be in our hands by **9/10/15**). We welcome you to make a ten minute presentation to the attendees during the conference. We will insert your 3-hole punched brochure into our conference binder. This fee does not include Hotel registration.

Sponsorship opportunities are on a first come, first serve basis. Sponsorship payments must be received no later than **September 18, 2015**.

Contact Kristi Ruxlow at 309-696-2551 or by email at administration@insurancelosscontrol.org for reservations and payment information.



Bill Hosket
Professional and Olympic Basketball Player

Bill Hosket was born and raised in Dayton, Ohio. He was the Ohio High School Basketball Player of the Year in 1964 and went on to play at The Ohio State University where he was All Big 10 and All American, as well as Academic All-American. He was on the Gold Medal winning team for the United States at the 1968 Olympic Games in Mexico City. Bill played in the NBA and was on the 1970 New York Knicks World Championship team.

He has served on the USA Olympic Basketball Committee. He is a member of The Ohio State University Athletic Hall of Fame. He is also a board member of the Ohio State School Athletic Association Foundation. In 2001, he was named as a member of the Ohio State University All-Century basketball team. Bill was an executive in the paper industry for over 25 years and currently is a partner in an insurance agency. For many years he was a television analyst for The Ohio State University basketball games.

2015 ILCA ANNUAL
CONFERENCE

OCTOBER 5—7
MASON, OHIO



Coffee Break Training - Fire Protection Series

Fire Pumps: Test Headers

No. FP-2015-29 July 21, 2015

Learning Objective: The student will be able to describe the parts and functions of a fire pump test header.

This assembly of fire protection valves attached to the side of a building is called a "fire pump test header." It consists of a manifold connected to the discharge side of a stationary fire pump and, in this case, has six threaded 2 1/2-inch (64-millimeter (mm)) hose station outlets connected to it.

National Fire Protection Association (NFPA) 20, *Standard for the Installation of Stationary Pumps for Fire Protection* requires a means for conducting annual flow tests on stationary fire pump assemblies to ensure that the pump meets its performance requirements and does not need repair. Annual pump tests are required by the model fire codes and refer to NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems* for test criteria.

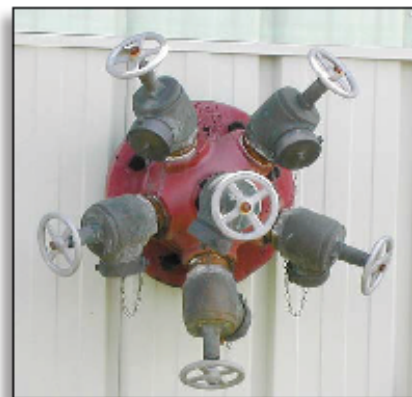
Fire pump tests are generally conducted by one or more qualified people who monitor the pump during operation, track its performance, and watch for such potential failures as partially closed valves, overheating, cavitation, obstructions or excessive leaks.

During pump testing, the technicians will attach 2 1/2-inch (64-mm) hoses to each hose station. A smooth bore nozzle or "Underwriter's playpipe" will be attached to the discharge end of the hose where pitot readings can be taken to convert discharge pressure to flow. The pump is run through a series of operational tests to assess its performance and determine if it is in peak operating condition.

NFPA 20 allows the use of a test header or flow meter. Where a test header is employed, one rule of thumb to determine the pump size to which it is connected is to count the number of hose outlets and multiply by 250 gallons per minute (gpm) (946 liters per minute (Lpm)). In the photograph, six hose stations multiplied by 250 gpm (946 Lpm) is an indicator that the fire pump is listed to deliver 1,500 gpm (5,676 Lpm). If a flow meter is installed, it may discharge through a large-diameter orifice that has no hose outlets.

Operations personnel should understand the difference between the test header and a fire department connection that may be located nearby. Often, they look remarkably similar. Proper signage installed and inspected during the fire protection system installation and good preincident planning will aid in reducing confusion during emergencies. The test header is for water discharge, and the fire department connection is intended for an engine or pumper to supplement the water-based fire protection system from another source, such as public water main, tank or reservoir.

For more information, consider enrolling in the National Fire Academy (NFA) course "Water-based Fire Protection System Plans Review" (R/N0137). Information and applications can be obtained at <http://apps.usfa.fema.gov/nfacourses/catalog/details/10562>. The course is available at the NFA in Emmitsburg, Maryland, or through your state fire service training agency.



This test header is used to conduct annual flow tests to verify fire pump operation.



Eligible for Continuing Education Units (CEUs)

For archived downloads, go to:

http://www.usfa.fema.gov/training/coffee_break/

The Perils of PPE—Are You Prepared?

By Mark A. Lies II¹ and Patrick D. Joyce²

INTRODUCTION

Since 1974, OSHA has had regulations which required employers to provide personal protective equipment (PPE) to employees as protection for their eyes, face, head, and extremities, as well as protective clothing, respiratory devices, and protective shields and barriers. The employer determines what PPE is required through a “hazard assessment,” which must be memorialized in writing. In addition, the employer is required to ensure that employees actually use the PPE when exposed to the hazard and that the PPE be maintained in a sanitary and reliable condition so that it would function as intended. Throughout the history of the regulations, there have been ongoing disputes between employers and OSHA over when an employer needs to perform a hazard assessment. For example, does an employer need to conduct a hazard assessment for each individual worksite or can it do one “global” assessment for multiple worksites. In addition, there is often the question of what is required for a hazard to be significant enough that it requires the use of PPE. For example, are employees exposed to a hazard for a sufficient amount of time and degree for PPE to be required? Is there sufficient data in terms of actual experience with injuries or illnesses experienced at the workplace (or within the employer’s industry) to support the need for PPE?

This article discusses a recent Review Commission decision, *Sec’y of Labor v. Wal-Mart Distrib. Ctr.* No. 6016, OSHRC Docket No. 08-1292, 25 OSHC (BNA) 1396 (OSHRC April 27, 2015), outlining when an employer can and cannot conduct or rely upon a “global” hazard assessment for PPE in the workplace as well as when a hazard is significant enough that it requires the use of PPE.

¹ Mark A. Lies, II is an attorney in the Environmental, Safety and Toxic Tort Group in the Chicago office of Seyfarth Shaw LLP. Mr. Lies is a partner who focuses his practice in the areas of products liability, occupational safety and health, workplace violence, construction litigation and related employment litigation. Mr. Lies can be contact at miles@seyfarth.com (312/460-5877).

² Patrick D. Joyce is an attorney in the Environmental, Safety and Toxic Tort Group in the Chicago office of Seyfarth Shaw LLP. Mr. Joyce is a staff attorney who focuses his practice in the areas of occupational safety and health, environmental litigation, environmental counseling, and construction litigation. Mr. Joyce can be contacted at pjoyce@seyfarth.com (312/460-5964).

EMPLOYER DUTY TO CONDUCT PPE ASSESSMENT

As a starting point, OSHA regulations have long required an employer to conduct a hazard assessment to determine if hazards are present, or likely to be present, which necessitate the use of PPE (29 CFR 1910.132(d)(1)). In that regard, employers are required to conduct a broad assessment of the various aspects of the job to determine whether the following hazards to employees may be present:

- Hazards of process or environment
- Chemical hazards
- Radiological hazards
- Mechanical irritants

Which are likely to be encountered in the workplace in a manner capable of causing injury or impairment to the body through

- Absorption
- Inhalation, or
- Physical contact.

This assessment requirement has existed since 1994 and employers are subject to citation for failure to perform the assessment. Many employers are unaware that there is a requirement for an initial written certification that such hazard assessment has been performed (29 CFR 1910.132(d)(2)), which OSHA will request if an inspection is conducted involving PPE compliance and will cite as a violation if it is not forthcoming. There is also a requirement for a second written certification by the employer that it trained the employees in how to use the PPE and that the employees “understood” the training. (29 CFR 1910.132(f)(2).

WHERE A HAZARD ASSESSMENT MUST BE CONDUCTED

For employers that have multiple worksites, they often ask whether a hazard assessment must be conducted for each individual worksite or if a “global” hazard assessment is sufficient. The answer is: it depends. Sec’y of Labor v. Wal-Mart Distrib. Ctr. No. 6016 discusses the requirements for an employer to be able to use a “global” hazard assessment for compliance purposes.

OSHA cited a company distribution facility in New Braunfels, Texas for not having conducted a PPE hazard assessment under 29 CFR 1910.132(d)(1). The company operates nearly 120 distribution facilities similar to the New Braunfels facility nationwide. The company argued it did not need to conduct a hazard assessment at its New Braunfels facility because it had

Completed a hazard assessment at its Searcy, Arkansas facility, and the company's distribution centers across the country were sufficiently similar that the Searcy hazard assessment could act as a "global" assessment for all distribution facilities.

OSHA, on the other hand, argued that the language of 29 CFR 1910.132 (d)(1) requires a hazard assessment at each individual worksite unless the employer verifies that the work conditions at its facilities are equivalent.

The Administrative Law Judge agreed with OSHA's interpretation and the OSHA Review Commission affirmed this decision, finding that the company's reliance on the Searcy hazard assessment for New Braunfels misapplied the requirements of the standard. The company was relying on physical uniformity among all distribution centers, but the Review Commission said that the standard does not address workplace layout, it addresses employee work conditions. Further, the preamble to 29 CFR 1910.132 (d)(1) indicates that the hazard assessment needs to take into account the hazards that are likely to be present at particular workplaces and that the written certification required under 29 CFR 1910.132(d)(2) requires the employer to identify the individual workplace evaluated.

The Review Commission found that the company's after-the-fact assertion that the New Braunfels and Searcy distribution centers had similar work conditions was not a defense. Rather, the Review Commission held that the verification of the equivalency of work conditions needs to take place as part of the initial hazard assessment for each individual facility.

WHEN A HAZARD IS SERIOUS ENOUGH TO REQUIRE PPE

The company was also cited for an alleged failure to provide PPE to protect employees who worked as "order fillers" at the New Braunfels distribution center. The order fillers label merchandise and unload it from wooden pallets stacked on multi-level module shelves, working 10-hour shifts to separate the contents of the pallets onto conveyor belts and ultimately into boxes to be sent out to company stores.

OSHA alleged that order fillers were exposed to eye hazards from wood chips and debris from damaged pallets as they slide forward within the module storage shelves. According to OSHA, the wood chips and debris would fall through metal slats in the shelves, potentially striking the order fillers in the eyes and face. OSHA also alleged that dust from the pallets could irritate the order fillers' eyes.

To establish PPE requirement, a hazard must be present. Therefore, OSHA's initial burden is to establish that the employer had actual or constructive "notice" of the risk, that is, a reasonably prudent employer would recognize a hazard requiring the use of PPE in this particular work activity. Industry practice and custom can aid in determining whether PPE should be required in a particular circumstance, though it is not the only determining factor.

The company argued that it was not “on notice” of the risk to the order fillers because the recorded eye/face injuries relied upon by OSHA to issue the citation were “infrequent and incidental” and thus a reasonable person would not have known that PPE should be required. OSHA was only able to prove that three order filler injuries at New Braunfels were related to debris and dust from pallets striking an order filler in the face or eyes. The company calculated an injury incidence rate of 0.32 percent.

The Review Commission agreed that such statistical information was important in determining whether the company was put “on notice” of the potential for injuries and the need for PPE. While the Review Commission did not endorse the methods the company used to determine its injury rate of 0.32 percent, the Review Commission did find that because there were only three eye/face injuries to order fillers over two years in an order filler population of sixty workers, there was not sufficient evidence to show Wal-Mart had either actual or constructive knowledge of the need for PPE. As a result, the citation was vacated.

POTENTIAL CIVIL AND CRIMINAL LIABILITY

This decision does not mean an employer has to provide different PPE for each individual facility or even conduct a full hazard assessment for individual facilities. It does mean that if an employer wishes to rely on a “global” or even “regional” hazard assessment, the employer must conduct an equivalency investigation as a part of the initial hazard assessment for each individual facility. Equivalency does not only mean that the physical layout of facilities are the same, it also means that work practices and work conditions are similar. If the employer can verify that work conditions between multiple worksites are equivalent, use of a “global” hazard assessment will be permissible, and the employer does not need to prepare an individual hazard assessment at that facility.

This decision also means that employers may use statistical arguments regarding actual experience with injuries and illnesses to rebut OSHA’s findings that the employer was “on notice” that there was a potential for injuries and that PPE was required. This is especially beneficial for very large employers where correlation of types of categories of injuries to specific tasks or groups may be difficult.

In the event that OSHA were to issue citations to an employer relating to PPE, they can take two forms. There are civil citations against the employer for violations of the regulations that can range from Non-Serious (up to \$7,000) to Repeat or Willful (which can involve penalties up to \$70,000). In addition, there can be criminal liability if the PPE certificates referenced above are false. Criminal liability can be asserted against the employer, as well as against employee who created the false certification.

CONCLUSION

Since OSHA continues its focus on PPE compliance, employers must now focus on their compliance efforts including:

- (1) verifying their initial PPE hazard assessment and written certification, including a detailed description of how the determination was made that PPE was or was not required;
- (2) equivalency of work conditions if a “global” hazard assessment is used,
- (3) Confirming employee training on the use of PPE and written certification,
- (4) Developing policies on issuance of PPE, use of employee supplied PPE, inspection and replacement program for use of PPE and finally, discipline for loss or intentional damage to PPE.



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